General Conditions of the Contract for Construction
For Design-Bid-Build
Connecticut Department of Administrative Services

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ARTICLE 1
DEFINITIONS

WHENEVER THE FOLLOWING TERMS, OR PRONOUNS IN PLACE OF THEM, ARE USED THE INTENT AND MEANING SHALL BE AS FOLLOWS:

1.1 ACCEPTANCE: The Owner's acknowledgement of the Work from the Contractor upon certification by the Construction Administrator and Architect or Engineer that all Work has been completed.

1.2 ADDITIONAL OR DELETED WORK: Work required by the Department that, in the judgment of the Com-missioner, involves any addition to, deduction from, or modification of the Work required by the Contract Documents.

1.3 AGENCY: The (User) Agency of the State of Connecticut having administrative authority of the facility in which the Work is being performed.

1.4 APPLICATION FOR PAYMENT, PARTIAL PAYMENT OR REQUISITION: Contractor's certified request for payment for completed portions of the Work and, if the Contract so provides, for materials or equipment suitably stored pending their incorporation into the Work.

1.5 ARCHITECT OR ENGINEER: A sole proprietor, partnership, firm, corporation or other business organization under Contract with the Owner, commissioned to prepare Contract Drawings and Specifications, to advise the Owner and in certain cases, to perform regular inspections during construction and when authorized to perform the duties of the Construction Administrator.

1.6 AS-BUILT DRAWINGS: Construction Drawings revised by the Contractor to show all significant Modifications made during the construction process.

1.7 BASE BID: Monetary value stated in the Bid Proposal Form as the sum for which the Bidder offers to perform the Work described in the Bidding Documents, exclusive of adjustments for Supplemental Bids.

1.8 BID BOND: Form of Bid Security executed by the Bidder as Principal and by a Surety to guarantee that the Bidder will enter into a Contract within a specified time and furnish any required bond as mandated by Connecticut General Statute Section 4b-92.

1.9 BIDDER: A sole proprietor, partnership, firm, corporation or other business organization submitting a Bid on the Bid Proposal Form for the Work contemplated.

1.10 BIDDING DOCUMENTS: Collectively, the Bidding Requirements and the proposed Contract Documents, including any addenda issued prior to receipt of Bids.

1.11 BID OR BID PROPOSAL FORM: A complete and duly signed proposal to perform Work (or a designated portion thereof) for a stipulated sum submitted in accordance with the Bidding Documents.

1.12 BID SECURITY: Certified check or Bid Bond submitted with Bid Proposal Form, which provides that the Bidder, if awarded the Contract, will execute such Contract in accordance with the requirements of the Bidding Documents.

1.13 BUILDER'S RISK INSURANCE: A specialized form of property insurance which provides coverage for loss or damage to the Work pursuant to the Contract Documents.

1.14 CASH ALLOWANCE: An amount established in the Contract Documents for inclusion in the Contract Sum to cover the cost of prescribed items not specified in detail, and as shown in the Allowance Schedule.

1.15 CERTIFICATE OF ACCEPTANCE: A document issued by the Owner to the Contractor stating that all Work specified in the Certificate of Acceptance has been completed and accepted by the Owner.

1.16 CERTIFICATE OF COMPLIANCE: A document stating that for the portion of the Project completed, either the design portion or the construction portion, has been performed in substantial compliance with all applicable building codes.

1.17 CERTIFICATE OF OCCUPANCY: Document is-sued by the authority having jurisdiction certifying that all or a designated portion of a building is approved for its designated use.

1.18 CERTIFICATE OF SUBSTANTIAL COMPLE-TION: A document prepared by the Architect or Engineer and approved by the Owner on the basis of an inspection stating:

1.18.1 that the Work, or a designated portion thereof, is determined to be Substantially Complete;

1.18.2 the date of Substantial Completion;

1.18.3 the responsibilities of the Owner and the Contractor for security maintenance, heat, utilities, damage to the Work and insurance; and

1.18.4 the time within which the Contractor shall complete the remaining Work.

1.19 CHANGE ORDER: Written authorization signed by the Owner, authorizing a modification in the Work, an adjustment in the Contract Sum, or an adjustment in the Con-tract Time.

1.20 COMMISSIONER: The State of Connecticut, Department of Construction Services (CT DCS) Commissioner acting directly or through specifically authorized CT DCS personnel or agent(s) having authority to perform duties defined in Article 25.

1.21 COMMISSIONING AGENT (CxA): An independent entity under contract directly with the Owner or Owner's Representative responsible for performing the specified commissioning procedures.

1.22 CONSTRUCTION ADMINISTRATOR: A sole proprietor, partnership, firm, corporation or other business organization, under Contract or employed by the Owner commissioned and/or authorized to oversee the fulfillment of all requirements of the Contract Documents. The authorized Construction Administrator may be a Department of Construction Services Assistant Project Manager, Department of Construction Services Project Manager, a Clerk of the Works, an Architect, a Consulting Architect, a Consulting Construction Administrator, a Consulting Engineer etc. or any other designee as authorized and identified by the Owner.

1.23 CONSTRUCTION CHANGE DIRECTIVE: A written authorization signed by the Owner, directing a modification in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum, Contract Time or both. Any Construction Change Directive effecting an adjustment to the Contract Sum or Contract Time shall result in a Change Order.

1.24 CONTRACT DOCUMENTS OR CONTRACT: The Agreement between Owner and Contractor, Conditions of the Contract (General Conditions, Supplementary Conditions, General Requirements and other Conditions), Drawings, Specifications, and Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract, all of which shall constitute the Contract.

1.25 CONTRACTOR OR GENERAL CONTRACTOR: A sole proprietor, partnership, firm or Corporation, under direct Contract with the Department of Construction Services, responsible for performing the Work under the Contract Documents. Whenever the words "Contractor" or "General Contractor" are used it shall be understood to mean Contractor.

1.26 CONTRACTOR'S LIABILITY INSURANCE: Insurance purchased and maintained by the Contractor that insures the Contractor for claims for property damage, bodily injury or death.

1.27 CONTRACT START DATE OR DATE OF COMMENCEMENT OF THE WORK: The date, specified by the Owner in the Notice to Proceed, on which the Contractor is required to start the Work.

1.28 CONTRACT SUM: The sum stated in the Contract, which is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

1.29 CONTRACT TIME: The period of time allotted in the Contract Documents for Substantial Completion of the Work, including authorized adjustments thereto. The Contract Time is the sum of all Working Days and Non-Working Days as further defined herein and specified in the Contract Documents.

1.30 DAY: Whenever the word Day is used it shall be understood to mean calendar day stated on the Bidding Documents, unless stated otherwise.

1.31 DEPARTMENT OF CONSTRUCTION SERVICES (CT DCS) PROJECT MANAGER: The individual employed by the Owner, designated and authorized by the Commissioner, to be responsible for the overall management and oversight of the Project, and to represent the (User) Agency.

1.32 DIESEL VEHICLE EMMISSIONS CONTROL: The reduction of air pollution emissions from diesel powered vehicles through the use of diesel engine emission control technologies.

1.33 EQUAL(S): Any deviation from the Specification which is defined as follows: A replacement for the specified material, device, procedure, equipment, etc., which is recognized and accepted as substantially equal to the first listed manufacturer or first listed procedure specified after review by the Architect/Engineer, and may be rejected or approved at the sole discretion of the Owner. All equals must be substantially equivalent to the first manufacturer or first procedure listed in the Specifications with reference to all of the following areas: the substance and function considering quality, workmanship, economy of operation, durability, and suitability for purposes intended; size, rating, and cost. The equal does not constitute a modification in the scope of Work, the Schedule, or Architect/Engineer's design intent of the specified material, device, procedure, equipment, etc.

1.34 FINAL INSPECTION: Review of the Work by the Architect or Engineer and Owner to determine whether Acceptance has been achieved.

1.35 FINAL PAYMENT: The last payment made by the Owner to the Contractor, made after notice of the Acceptance. Payment shall include the entire unpaid balance of the Contract Sum as adjusted by modifications.

1.36 GENERAL CONDITIONS: The General Conditions of the Contract for Construction, part of Division 00 of the Specifications.

1.37 GENERAL REQUIREMENTS: That part of the Contract Documents entitled General Requirements, which is Division 01 of the Specifications.

1.38 GUARANTEE: See Warranty.

1.39 LIQUIDATED DAMAGES: A sum established in a Contract, usually as a fixed sum per Day, as the predetermined measure of damages to be paid to the Owner due to the Contractor's failure to complete the Work within the Contract Time.

1.40 LUMP SUM: An item or category priced as a whole rather than broken down into its elements.

1.41 MOBILE SOURCE: A source designed or constructed to move from one location to another during normal operation except portable equipment and includes, but is not limited to, automobiles, buses, trucks, tractors, earth moving equipment, hoists, cranes, aircraft, locomotives operating on rails, vessels for transportation on water, lawnmowers, and other small home appliances.

1.42 NON-WORKING DAYS: All Saturdays, Sundays, Legal State Holidays (12), and any other Days identified in the Contract Documents that the Contractor is not permitted to execute the Work. The restriction of Non-Working Days may be suspended upon the approval or direction of the Commissioner.

1.43 NOTICE TO BIDDER: A notice contained in the Bidding Document informing prospective Bidders of the opportunity to submit Bids on a Project.

1.44 NOTICE TO PROCEED: Written notice, issued by the Commissioner or the Commissioner's authorized representative, to the Contractor authorizing the Contractor to proceed with the Work and establishing the date for commencement of the Contract Time.

1.45 OWNER OR DEPARTMENT: The State of Connecticut, Department of Construction Services acting through its Commissioner or specifically authorized Department personnel or agent.

1.46 OVERHEAD: Indirect costs including: supervision (any position over the foreman), field and home office expense, insurance, and small tools and consumables.

1.47 PAYMENT, BOND, LABOR BOND OR MATERIAL BOND: A bond in which the Contractor and the Contractor's surety guarantee to the Owner that the Contractor will pay for labor and materials furnished for use in the performance of the Contract, as required by Connecticut General Statutes Section 49-41.

1.48 PERFORMANCE BOND OR SURETY BOND: A bond in which the Contractor and the Contractor's surety guarantee to the Owner that the Work will be performed in accordance with the Contract Documents, as required by Connecticut General Statutes Section 49-41.

1.49 PERFORMANCE SPECIFICATION: A description of the desired results or performance of a product, material, assembly, procedure, or a piece of equipment with criteria for identifying the standard.

1.50 PLANS OR DRAWINGS: All Drawings or reproductions of Drawings pertaining to the construction of the Work contemplated and its appurtenances.

1.51 PROJECT: The total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.52 PROJECT MANUAL: The set of documents assembled for the Work which includes, but is not limited to, Contract Documents, Bidding Requirements, Sample Forms, General Conditions of the Contract for Construction, General Requirements, and the Specifications.

1.53 PROPRIETARY SPECIFICATION: A specification that describes a product, procedure, function, material, assembly, or piece of equipment by trade name and/or by naming the manufacturer(s) or manufacturer's procedure, exact model number, item, etc., of those products acceptable to the Owner.

1.54 RETAINAGE: A percentage of each Application for Payment and a percentage of the total Contract Sum retained by the Owner.

1.55 SCHEDULE: A Critical Path Method (CPM) or Construction Schedule as required by the Contract Documents which shall be a diagram, graph or other pictorial or written Schedule showing all events expected to occur and operations to be performed and indicating the Contract Time, start dates, durations and finish dates as well as Substantial Completion and Acceptance of the Work, rendered in a form permitting determination of the optimum sequence and duration of each operation.

1.56 SCHEDULE OF VALUES: A document furnished by the Contractor to the Architect or Engineer and Owner stating the portions of the Contract Sum allocated to the various portions of the Work, which is to be used for reviewing the Contractor's Applications for Payment.

1.57 SECONDARY SUBCONTRACTOR: A sole proprietor, partnership, firm or Corporation under direct Contract with the Subcontractor to the General Contractor.

1.58 SENSITIVE RECEPTOR SITES: Areas where concentrations of diesel emissions may be harmful to sensitive populations, including, but not limited to, hospitals, school and university buildings being occupied during a student semester, residential structures, daycare facilities, elderly housing, and convalescent facilities.

1.59 SHOP DRAWINGS: Drawings provided to Architect or Engineer and Owner by a Contractor that illustrate construction, materials, dimensions, installation, and other pertinent information for the incorporation of an element or item into the construction as detailed Contract Documents.

1.60 SPECIFICATIONS: The description, provisions and other requirements pertaining to the method and manner of performing the Work and/or to the quantities and quality of materials to be furnished under the Contract.

1.61 SUBCONTRACTOR: A sole proprietor, partnership, corporation or other business organization under direct Contract with the Contractor supplying labor and/or materials for the Work at the site of the Project.

1.62 SUBMITTALS: Documents including, but not limited to, samples, manufacturer's data, Shop Drawing, or other such items submitted to the Owner and Architect or Engineer by the Contractor for the purpose of approval or other action, as required by the Contract Documents.

1.63 SUBSTANTIAL COMPLETION: The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents.

1.64 SUBSTITUTION: Any deviation from the specified requirements, which is defined as follows: A replacement for the specified material, device, procedure, equipment, etc., which is not recognized or accepted as equal to the first manufacturer or procedure listed in the Specification after review by the Architect/Engineer, and may be rejected or approved by the Owner. The Substitution is not equal to the specified requirement in comparison to the first manufacturer or first procedure listed in the Specifications in one or more of the following areas: the substance and function considering quality, workmanship, economy of operation, durability, and suitability for purposes intended; size, cost, and rating. The Substitution constitutes a modification in the scope of Work, the Schedule, or the Architect/Engineer's design intent of the specified material, device, procedure, equipment, etc.

1.65 SUPERINTENDENT: The Contractor's representative at the site who is responsible for continuous field supervision, coordination, in, completion of the Work, and, unless another person is designated in writing by the Contractor to the Owner and the Construction Administrator, for the prevention of accidents.

1.66 SUPPLEMENTAL BID: The monetary value stated in the Bid to be added to the amount of the Base Bid if the corresponding Work, as described in the Bidding Documents, is accepted.

1.67 SUPPLEMENTARY CONDITIONS: An extension in the Bid to be added to the amount of the Base Bid if the corresponding Work, as described in the Bidding Documents, is accepted.

1.68 THRESHOLD LIMIT BUILDING: Any proposed (new) structures or additions as defined by the Connecticut General Statutes Section 29-276b.

1.69 UNIT PRICE: The monetary value stated by the Owner or the Contractor, as a price per unit of measurement for materials or services as described in the Contract Documents and/or Bidding Documents.

1.70 WARRANTY: A written, legally enforceable assurance of specified quality or performance of a product or Work or of the duration of satisfactory performance.

1.71 WORK: The construction and services required by the Contract Documents, and including all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project and "Work Phase".

1.72 WORK PHASE: Construction of the Project by sequence or time intervals, which may include but not be limited to separate Construction Start Dates, Substantial Completion Dates, Application for Payments, Change Orders, Liquidated Damages**,** Retainage, and Subcontractors for each Work Phase.

ARTICLE 2
CONDITIONS OF WORK

2.1 The Contractor shall carefully examine and study the conditions under which the Work is to be performed and the site of the Work, and compare the Contract Documents with each other and to information furnished by the Owner including but not limited to the Plans and Specifications, the form of the Contract, General Conditions, Supplementary Conditions, General Requirements, Bonds and all other Contract Documents associated with the Work.

2.2 The Contractor shall report to the Construction Administrator all errors, inconsistencies or omissions discovered. The Contractor shall not be liable to the Owner for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor recognized such errors, inconsistencies or omission and failed to report it to the Construction Administrator. If the Contractor performs any actions or construction activity knowing it involves an error, inconsistency or omission in the Contract Documents without notice to the Construction Administrator, the Contractor shall assume responsibility for such performance and related costs for the correction and shall not be allowed to submit any claim related to error, inconsistencies or omission.

2.3 The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Construction Administrator at once; and it will be assumed that the Contractor has been satisfied as to all requirements of the Contract Documents. Any deterrent conditions at the site of the Work which are obvious and apparent upon examination of the site but are not indicated on the Plans shall be corrected by the Contractor without additional compensation.

2.4 In performing the Work, the Contractor must employ such methods or means as will not cause any interruption of or interference with the Work of any other Contractor, nor any inordinate disruption with the normal routine of the Owner, institution or Agency operating at the site.

2.5 No claims for additional compensation will be considered when additional costs result from conditions made known to, discovered by, or which should have been discovered by, the Contractor prior to Contract signing.

2.6 All Communications from the Contractor concerning proposed changes to the Contract Sum, Contract Time, or Work shall be in writing.

2.7 The Contractor shall perform the Work in accordance with the Contract Documents and approved Submittals pursuant to Article 5.

ARTICLE 3
CORRELATION OF CONTRACT DOCUMENTS

3.1 The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. Where discrepancies or conflict occur in the Contract Documents the following order of precedence shall be utilized:

3.1.1 Amendments and addenda shall take precedence over previously issued Contract Documents.

3.1.2 The Supplementary Conditions take precedence over the General Conditions.

3.1.3 The General Conditions take precedence over the General Requirements.

3.1.4 The Specifications shall take precedence over the Plans.

3.1.5 Stated dimensions shall take precedence over scaled dimensions.

3.1.6 Large-scale detail Drawings shall take precedence over small-scale Drawings.

3.1.7 The Schedules contained in the Contract Documents shall take precedence over other data on the Plans.

3.2 Neither party to the Contract shall take advantage of any obvious error or apparent discrepancy in the Contract Documents. The Contractor shall give immediate written notification of any error or discrepancy discovered to the Construction Administrator, who shall take the necessary actions to obtain such corrections and interpretations as may be deemed necessary for the completion of the Work in a satisfactory and acceptable manner. The Contractor shall then promptly proceed under the direction of the Owner and the provisions of Article 13. The Contractor's failure to provide immediate notice shall mean the Contractor will not be entitled to any additional compensation, either monetary or Contract Time adjustment, with respect to any discrepancy.

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

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

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

3.6 In accordance with C.G.S. Section 4a-1, wherever the term "Commissioner of Construction Services" is used in the "Bidding Documents" or "Project Manual" the term "Commissioner of Administrative Services" shall be substituted in lieu thereof; and wherever the term "Department of Construction Services" is used in "Bidding Documents" or "Project Manual", the term "Department of Administrative Services" shall be substituted in lieu thereof.

ARTICLE 4
COMMENCEMENT AND PROGRESS OF WORK

4.1 The Work shall start upon the date given in the Notice to Proceed. The Contractor shall complete all the Work necessary for Final Payment, including but not limited to Substantial Completion, Contract close-out, testing and demonstration of all systems as required for Acceptance, punchlist Work, training and submission of Record Documents, manuals, Guarantees and Warranties as stated in the Contract Document.

4.2 Time is of the essence with respect to the Contract Time. By executing the Contract, the Contractor confirms and agrees that the Contract Time is a reasonable period to perform the Work. The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor may, at his discretion, plan to complete the Work and achieve Substantial Completion in less time than the Contract Time.

4.3 The Contractor's early completion Schedule notwithstanding, the Owner reserves the right to order Modifications to the Work in accordance with Article 13 at any time during the Contract Time.

4.4 The Contractor shall not be entitled to costs for delay due to Owner ordered Modifications or any other circumstances for the period of time between the Contractor's elected early completion and the end of the Contract Time. Such costs include, but are not limited to, extended home office costs, field office costs, or supervisory and management costs incurred in performance of the Work. Early completion of the Work shall not merit additional compensation.

4.5 If the Contractor is delayed at any time in the progress of Work by acts of God, such as fire or flood or any action, injunction or stop order issued by any court, judge or officer of the court or any other court action beyond the Owner's control, then the Contract Time may be extended by Change Order for such reasonable time as demonstrated by the Contractor's Schedule and as the Owner may determine that such event has delayed the Work. In any event, the granting of an extension of time shall be solely within the discretion of the Owner.

4.6 Except as otherwise may be provided herein, extensions of time shall be the Contractor's sole remedy for such delay. No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance in the orderly progress of Work caused by the aforesaid causes.

4.7 The Contractor acknowledges that the Contract amount includes and anticipates any and all delays, whether avoidable or unavoidable, from said orders, which may issue from any court, judge, court officer, or act of God, and that such delays shall not, under any circumstances, be construed as compensable delays.

4.8 Any extension of the Contract Time shall be by Change Order pursuant to Article 13.

4.9 The Contractor shall employ a competent project manager who shall represent the Contractor. Communications given to the project manager shall be binding as if given to the Contractor. The project manager will be employed full time on the Project and be located and assigned to the Project site during and for the duration of the Work.

4.10 The Contractor shall employ a competent Superintendent and necessary assistants who will be in attendance at the project site during the performance of the Work.

4.11 Upon execution of the Contract, materials may be purchased. No material escalation costs will be valid or compensable unless the Owner directs, in writing, a delay in the procurement.

ARTICLE 5
SUBMITTALS, PRODUCT DATA, SHOP DRAWINGS AND SAMPLES

5.1 Contractor shall review, approve, and submit to the Construction Administrator all Submittals including but not limited to, product data, Shop Drawings, and samples, with such promptness as to cause no delay in the Work.

5.2 Correction or approval of such Submittals, Shop Drawings, product data and samples will be made with reasonable promptness by the Architect or Engineer. Approval will be general only and shall not relieve the Contractor from responsibility for errors in dimensions, for construction and field coordination of the Work or for any departure from the Contract Documents, unless such departure has received the Owner's written approval.

5.3 No Work governed by such Shop Drawings, Schedules or samples shall be fabricated, delivered or installed until approved by the Architect or Engineer.

5.4 No damages for delays or time extensions will be granted, even if approvals deviate from the approved Schedule.

ARTICLE 6
SEPARATE CONTRACTS

6.1 The Owner reserves the right to perform Work in connection with the Contract with the Owner's own forces, or to let separate contracts relating to the Contract (Project) site or in connection with Work on adjoining sites. In such cases, the Contractor shall afford such parties reasonable opportunity for storage of materials and equipment and coordinate and connect the Work with the work on adjoining sites or other Projects, and shall fully cooperate with such parties in the matter required under Article 7 herein.

6.2 Contractors working in the same vicinity shall cooperate with one another and, in case of dispute, decision of the Owner shall be final and binding to all Contractors involved, including Contractors under separate Contracts.

6.3 The Contractor shall assume all liability, financial or otherwise, in connection with this Contract and shall protect and hold harmless the Owner from any and all damages or claims that may arise because of inconvenience or delay which the Contractor may cause other Contractors. If the Contractor experiences a loss because of the presence and operations of other Contractors working adjacent to or within the limits of the same Project, then as between the Owner and the Contractor, the Contractor shall bear such loss.

6.4 Insofar as possible, the Contractor shall arrange the Work and shall place and dispose of the materials being used so as not to interfere with the operations of other Contractors adjacent to or within the limits of the same Project. The Contractor shall join its Work with that of others in an acceptable manner, and perform the Work in proper accordance with that of the others.

6.5 In no event shall the Owner be responsible for any claim or damages that are the result of the Contractor's failure to coordinate the Work with any other Contractor or Subcontractor.

ARTICLE 7
COOPERATION OF TRADES

7.1 The Contractor shall be responsible for and shall control all activities of their Subcontractors. The Subcontractors shall consult and cooperate with one another. Each Subcontractor shall furnish all necessary information to other Subcontractors and shall lay out and install their own Work so as to avoid any delays or interference with the Work of others.

7.2 Any cost or changes, cutting and/or repairing, made necessary by the failure to observe the above requirements shall be borne by the party or parties responsible for such failure or neglect or their faulty Work installed.

ARTICLE 8
DAMAGES

8.1 The Liquidated Damages, provided in the Bidding Documents, will be assessed at two distinct times, as follows:

8.1.1 Liquidated Damages – Substantial Completion:
If the Contractor fails to achieve Substantial Completion of the Work by the Substantial Completion Date, and such delay is not otherwise excused under this Contract, then the Contractor agrees to pay to the Owner Liquidated Damages for the dollar amount specified in the Bid Proposal Form for this Project, for each Day beyond Substantial Completion that the Contractor fails to achieve Substantial Completion. The parties to this Contract acknowledge and agree that the actual damages that are to be anticipated as a result of the neglect, failure, or refusal of the Contractor to substantially complete the Project by the established Substantial Completion Date are uncertain in amount or extremely difficult to determine. Accordingly, the parties to this Contract do intend and in fact now agree to liquidate damages in advance and stipulate that the amount set forth in this subparagraph is reasonable and an appropriate remedy and is intended to constitute compensatory damages and does not constitute a penalty of any kind. The parties understand and agree that, by including a provision for Liquidated Damages in this Contract, or in pursuing any relief pursuant to such provision:

.1 the parties do not intend to set a price for the privilege not to perform;

.2 the availability of Liquidated Damages may not be relied upon as a basis for argument that the Owner has an adequate remedy at law; and

3 the remedies available to the Owner under this Agreement are cumulative and not exclusive.

8.1.2 Liquidated Damages – Acceptance:
If the Contractor fails to complete all of the Work required for Acceptance of the Work within ninety (90) Days of Substantial Completion then the Contractor agrees to pay to the Owner Liquidated Damages for the dollar amount specified in the Bid Proposal Form for each Day in excess of ninety (90) Days beyond the Substantial Completion Date that the Contractor fails achieve Acceptance. The parties to this Contract acknowledge and agree that the actual damages that are to be anticipated as a result of the failure of the Contractor to complete all of the Work required for Acceptance within ninety (90) Days of the established Substantial Completion Date are uncertain in amount or extremely difficult to determine. Accordingly, the parties to this Contract do intend and in fact now agree to liquidate damages in advance and stipulate that the amount set forth in this subparagraph is reasonable and an appropriate remedy and is intended to constitute compensatory damages and does not constitute a penalty of any kind. The parties understand and agree that, by including a provision for Liquidated Damages in this Contract, or in pursuing any relief pursuant to such provision:

.1 the parties do not intend to set a price for the privilege not to perform;

.2 the availability of Liquidated Damages may not be relied upon as a basis for argument that the Owner has an adequate remedy at law; and

.3 the remedies available to the Owner under this Agreement are cumulative and not exclusive.

8.2 The Liquidated Damages or any portion thereof may be waived at the sole discretion of the Commissioner.

8.3 No payment by the Owner, either partial or final, shall be construed to waive the Owner's right to seek Liquidated Damages.

8.4 In the event a court determines that the Contract herein is null and void for any reason, Contractor agrees that Contractor will not seek or pursue any lawsuit or claim for damages, including, but not limited to, claims for loss of Overhead or anticipated profits, against the Owner and the Owner shall not be liable for any damages which Contractor may incur as a result of such decision. In addition, if the court enjoins the Owner from entering into or proceeding with the Contract herein, the Owner shall not be liable for any damages arising out of or relating to the award of such Contract which Contractor may have incurred as a result of the injunction.

ARTICLE 9
MINIMUM WAGE RATES

9.1 In accordance with the provisions of the Connecticut General Statutes Section 31-53, the following applies:

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

9.2 Each Contractor who is awarded a Contract on or after October 1, 2002 shall be subject to provisions of the Connecticut General Statutes, Section 31-53 as amended by Public Act 02-69, "An Act Concerning Annual Adjustments to Prevailing Wages." No wage adjustment will be made to the Contract for any wage increase under this Article.

ARTICLE 10
POSTING MINIMUM WAGE RATES

10.1 The Contractor shall post at conspicuous points on the site of the Contract a Schedule showing all determined wage rates for all trades and all authorized deductions, if any, from wages to be paid.

10.2 The Contractor shall provide weekly certified payrolls to the Owner for all persons working on the site.

ARTICLE 11
CONSTRUCTION SCHEDULES

11.1 Unless otherwise specified in the Contract Documents, within twenty-one (21) Days from the Contract Start Date, the Contractor shall submit the following to the Owner for approval:

> **11.1.1** A comprehensive Schedule of Submittals required by the Specifications. Said Schedule shall include Submittal dates, required approval dates and date material must be on site.
>
> **11.1.2** The Contractor shall allow a minimum of 14 Days for the Owner and its agents' review of Submittals. No extension of the Contract Time shall be granted for revisions and resubmission. Further, the Contractor shall allow a minimum of eight weeks for testing and Acceptance of the Work by the Owner.
>
> **11.1.3** When the Contract Documents specify a "CPM Schedule" a detailed Critical Path Method Schedule is required using software approved by the Owner and/or Construction Administrator with as many activities as necessary to make the Schedule an effective tool for planning and monitoring the progress of the Work. The Contractor shall show all pertinent activities requiring coordination between trades.
>
> **11.1.4** When the Contract Documents specify a "Construction Schedule" a detailed Construction Schedule is required using software approved by the Owner as a horizontal bar chart with a separate bar for each major portion of the Work or operation to make the Schedule an effective tool for planning and monitoring the progress of the Work.

11.2 Unless otherwise specified under the Contract Documents, the Contractor shall provide a monthly update of the CPM Schedule or Construction Schedule in the format required by the Owner as well as a disk of the updated Schedule and program. If, in the opinion of the Owner, the Work is falling behind Schedule, the Contractor shall submit a revised Schedule demonstrating a recovery plan to ensure Substantial Completion of the Work within the Contract Time.

11.3 Overtime, increased manpower, and additional shifts: If ordered by the Owner in writing, the Contractor shall work overtime, and/or add additional manpower and/or shifts:

11.3.1 If the Contractor is not behind Schedule, the Owner will pay the Contractor the actual additional premium portion of the wages for overtime or additional shift work not included in the Contract price, but the Contractor shall not be entitled to Overhead and Profit.

11.3.2 If the Contractor, through its sole or partial fault or neglect is behind Schedule, the Owner may order the Contractor, at the Contractor's expense, to increase its manpower or to work any overtime or additional shifts or take other action necessary to expedite the Work to meet the Project Schedule.

11.3.3 If the Schedule is shown to be more than 21 Days behind in any critical activity, overtime, increase manpower and/or additional shifts shall be implemented immediately regardless of who is at fault. A disagreement over the cause of the impact will not relieve the Contractor from the obligation of complying with this Article. Once liability for the impact is determined, compensation will be determined in accordance with 11.3.1 or 11.3.2.

11.3.4 The Owner reserves the right to suspend activity under Paragraph 11.3. Suspension shall be in writing and at the sole discretion of the Commissioner.

11.4 Requisitions for partial payment will not be processed until the Contractor has complied with this requirement.

ARTICLE 12
PREFERENCE IN EMPLOYMENT

12.1 Should this Contract be for the construction or repair of any building, then in the employment of labor to perform the Work specified herein, preference shall be given to citizens of the United States, who are, and continuously for at least three (3) months prior to the date hereof, have been residents of the labor market area, as established by the State of Connecticut Labor Commissioner, in which such Work is to be done, and if no such qualified person is available, then to citizens who have continuously resided in the county in which the Work is to be performed for at least three (3) months prior to the date hereof, and then to citizens of the state who have continuously resided in the State at least three months prior to the date hereof.

12.2 Should this Contract be for a public works project other than for the construction, remodeling or repairing of public buildings covered by Connecticut General Statutes 31-52, then in the employment of mechanics, laborers or workmen to perform the Work specified herein, preference will be given to residents of the state who are, and continuously for at least six (6) months prior to the date hereof have been residents of this State, and if no such person is available then to residents of other states.

12.3 The provisions of this Article shall not apply where the state or any subdivision thereof may suffer the loss of revenue granted or to be granted from any Agency or Department of the federal government as a result of this Article or regulations related thereto.

ARTICLE 13
COMPENSATION FOR CHANGES IN THE WORK

13.1 At any time, without invalidating the Contract and by a written order and without notice to the sureties, the Owner, through the Construction Administrator, may order modifications in the Work consisting of additions, deletions or other revisions. Upon request, the Contractor shall supply the Construction Administrator promptly with a detailed proposal for the same, showing quantities of and Unit Prices for the Work and that of any Subcontractor involved.

13.2 Modifications to the Work will be authorized by a written Change Order, or if necessary to expedite the Work, a written Construction Change Directive, issued by the Owner as provided for in Article 25. Change Orders and Construction Change Directives shall be processed in accordance with the terms of the Contract Documents. Upon receipt of the written Change Order, the Contractor shall proceed with the Work when and as directed.

13.3 If a Change Order makes the Work less expensive for the Contractor, the proper deductions shall be made from the Contract Sum, said deductions to be computed in accordance with the provisions listed in this Article 13.

13.4 The Contractor shall not be entitled to an extension of time if in the opinion of the Owner the Additional Work in conjunction with the Work can be performed without impact on the Contract Time.

13.5 The Contractor may request, and the Owner may grant additional Contract Time when, in the opinion of the Owner, the Contractor has demonstrated that the Additional Work cannot be performed in conjunction with the Work without impact on the original Substantial Completion and/or Acceptance (if applicable) date.

13.6 The amount of compensation to be paid to the Contractor for any Additional or Deleted Work that results in a Change Order shall be determined in one of the following manners:

13.6.1 AMOUNT OF COMPENSATION FOR CHANGE ORDER COSTS: LABOR, EQUIPMENT, BENEFITS AND MATERIAL:

13.6.1.1 Unit Price: As stated in the Contract Documents.

13.6.1.2 Unit Price: As subsequently agreed upon by the Contractor and Owner

13.6.1.3 Lump Sum: Agreed upon sum by the Owner and the Contractor. The Owner may rely on costs, prices, and documentation provided by the Contractor or Subcontractor in agreeing to a Lump Sum. If the Owner believes that additional information is necessary to substantiate the accuracy of the cost, the Owner reserves the right to request and receive additional information from the Contractor. The Lump Sum must be based upon the following itemized costs:

13.6.1.3.1 Labor: (Contractor's or Subcontractor's own forces) No Change Order Proposal shall be negotiated if the request is solely for the increased labor rate over those originally carried by the Contractor in its original bid. Additional foreman hours shall not be included unless additional crews are added and/or a compensable time extension is granted. Project Executive time shall not be included as a direct cost as it is part of the overhead mark-up allowed. Project manager hours shall not be included unless a compensable time extension is granted.

13.6.1.3.2 Material: (Actual cost to the Contractor or Subcontractor) Cost shall not be based upon list pricing unless it reflects the actual prices being paid and no discounts or other offsets are being received by the Contractor or Subcontractor. No Change Order Proposal shall be negotiated if the request is solely for the escalation of material prices over those originally carried by the Contractor in its original bid.

13.6.1.3.3 Benefits: (The established rates of the following benefit costs inherent to the particular labor involved):

13.6.1.3.3.1 Workers Compensation.

13.6.1.3.3.2 Federal Social Security.

13.6.1.3.3.3 Connecticut Unemployment Compensation.

13.6.1.3.3.4 Fringe Benefits.

13.6.1.4 Rented Equipment: (Used directly on the Work and by the Contractor's or Subcontractor's own forces).

13.6.1.5 Owned Equipment: (Used directly on the Work and by the Contractor's or Subcontractor's own forces). Daily rate is not to exceed 3% of the monthly rental rate as identified by a nationally recognized construction cost estimating guide or service.

13.6.1.6 Small Tools:
Include items such as shovels, picks, rakes, ladders, and power tools which are expected to be utilized on a project. Trade related equipment, hand tools, and power tools normally supplied with the labor or are normally expected to be owned in the performance of the typical work for a trade are not compensable. These costs shall not be approved as part of the Direct Cost of a Change Order as they are included in the Contractor's overhead mark-up percentage.

13.6.2 OVERHEAD AND PROFIT PERCENTAGES: (Maximum allowable percentages applied to labor, equipment, and material)

13.6.2.1 Contractor's mark-up for Work performed by its own forces:

Change Order Amount	Overhead and Profit
$0 to $5,000	20%
$5,001 to $15,000	17%
$15,001 to $25,000	15%
$25,000 and greater	12%

13.6.3 OVERHEAD AND PROFIT PERCENTAGES: (Maximum allowable percentages applied to labor, equipment, benefits and material)

13.6.3.1 Contractor's mark-up for Work performed by its Subcontractor's forces and not allowable for any subsidiary in which the Contractor has a majority ownership:

Change Order Amount	Overhead and Profit
$0 and greater	6%

13.6.4 OVERHEAD AND PROFIT PERCENTAGES: (Maximum allowable percentages applied to labor, equipment, benefits and material) Subcontractor's mark-up for Work performed by its own forces:

Change Order Amount	Overhead and Profit
$0 to $5,000	20%
$5,001 to $15,000	17%
$15,001 to $25,000	15%
$25,000 and greater	12%

13.6.5 OVERHEAD AND PROFIT PERCENTAGES: (Maximum allowable percentages applied to labor, equipment, benefits and material)

13.6.5.1 Subcontractor's mark-up for Work performed by its Secondary Subcontractor's forces. Limited to one level (tier) below the Subcontractor and not allowable for any subsidiary in which the Subcontractor has a majority ownership.

Change Order Amount	Overhead and Profit
$0 and greater	6%

13.7 BOND COSTS

13.7.1 Actual additional bonding costs associated with the value of the Change Order will be compensable only when supported by written documentation by the bonding company that the Change Order requires an increase to the original Performance, Payment, Labor or Material Bond.

13.7.2 The Contractor shall notify the bonding company at each $500,000 increase to the contract value as the cumulative result of change orders. A copy of the Consent of Surety must be provided to the Owner prior to the execution of any change order which exceeds each cumulative $500,000.

13.8 Trade discounts, rebates, and amounts received from the sales by the Contractor of surplus materials and equipment shall accrue to the Owner.

13.9 If the parties cannot agree upon a Lump Sum, then the Commissioner, through the Project Manager, may at the option of the Commissioner take the following action(s):

13.9.1 Issue a Construction Change Directive for the Additional or Deleted Work. The amount of compensation shall be computed by the actual net costs to the Contractor determined by time and material or Unit Prices based upon the same information required in Subparagraphs 13.6.1.3.3.1 through 13.6.1.5:

13.9.1.1 Labor: (Contractor's or Subcontractor's own forces).

13.9.1.2 Material: (Used by Contractor's or Sub- contractor's own forces).

13.9.1.3 Benefits: (The established rates of the following benefit costs inherent to the particular labor involved):

13.9.1.3.1 Workers Compensation.

13.9.1.3.2 Federal Social Security.

13.9.1.3.3 Connecticut Unemployment Compensation.

13.9.1.3.4 Fringe Benefits.

13.9.1.4 Rented Equipment: (Used directly on the Work and by the Contractor's or Subcontractor's own forces).

13.9.1.5 Owned Equipment: (Used directly on the Work and by the Contractor's or Subcontractor's own forces). Daily rate is not to exceed 3% of the monthly rental rate that can be identified by a nationally recognized construction cost estimating guide or service.

13.9.2 Issue a Change Order adjusting the Contract Sum in the amount as determined by the Commissioner.

13.10 For any Change Order or Construction Change Directive the Contractor shall, when requested, promptly furnish in a form satisfactory to the Construction Administrator and the Owner a complete detailed accounting of all costs relating to the Additional Work, including but not limited to certified payrolls and copies of accounts, bills and vouchers to substantiate actual costs. Further, the Owner reserves the right to access and make copies of the Contractor's records at any time upon written request from the Commissioner.

13.11 Failure of the Contractor to negotiate in good faith issues of time and costs or failure to provide requested documentation within fourteen (14) Days, or a time period accepted by the Commissioner, shall constitute a waiver by the Contractor of any claim. In such cases the Owner may elect to issue a unilateral Change Order in an amount deemed to be fair and equitable by the Commissioner. The provisions hereof shall not affect the power of the Contractor to act in case of emergency, threatened injury to persons, or damage to Work on any adjoining property. In this case the Commissioner, through the Project Manager, shall issue a Change Order for such amount as the Commissioner finds to be reasonable cost of such Work.

ARTICLE 14
DELETED WORK

14.1 Without invalidating any of the terms of the Contract, the Commissioner may order deleted from the Contract any items or portions of the Work deemed necessary by the Commissioner.

14.2 The compensation to be deducted from the Contract Sum for such deletions shall be determined in the manner provided for under the provisions of Article 13 or in the event none of the provisions of Article 13 are applicable then by the value as estimated by the Owner.

ARTICLE 15
MATERIALS: STANDARDS

15.1 Unless otherwise specifically provided for in the Specifications, all equipment, materials and articles incorporated in the Work are to be new and of the best grade of their respective kinds for the purposes. Wherever in the Contract Documents a particular brand, make of material, device, or equipment is shown or specified, the first manufacturer listed in the specification section is to be regarded as the standard. When the specification is proprietary and only one manufacturer is listed, the Contractor shall use the named manufacturer and no Substitutions or Equals will be allowed.

15.2 Any other brand, make of material, device, equipment, procedure, etc. which is a deviation from the specified requirement is prohibited from use, but may be considered by the Owner for approval as an Equal or Substitution. The Contractor is to adhere to the specific requirements of the Contract Documents. Substitutions are discouraged and are only approved by the Commissioner as an exception.

15.3 Submittals – Equals and Substitution Requests:

15.3.1 Substitution of Materials and Equipment before Bid Opening. The Owner will consider requests for Equals or Substitutions, if made prior to the receipt of the Bid. The information on all materials shall be consistent with the information herein.

15.3.1.1 Statement of Variances – a statement of variances must list all features of the proposed Substitution which differ from the Drawings, Specifications and/or product(s) specified and must further certify that the Substitution has no other variant features. A request will be denied if submitted without sufficient evidence.

15.3.1.2 Substitution Denial – any Substitution request not complying with the above requirements will be denied. Substitution request sent after the deadline established in the Notice to Bidder will be denied.

15.3.1.3 An addendum shall be issued to inform all prospective Bidders of any accepted Substitution in accordance with Owner's addenda procedures.

15.3.2 Substitution of Materials and Equipment After Bid Opening: Subject to the Architect or Engineer's determination, if the material or equipment is Equal to the one specified or pre-qualified and the CT DCS Project Manager's approval of such determination, Substitution of Material or Equipment may be allowed after the Letter of Award is issued only:

15.3.2.1 If the specified or pre-qualified item is delayed by unforeseeable contingencies beyond the control of the Contractor which would cause a delay in the Project completion;

15.3.2.2 If any specified or pre-qualified item is found to be unusable or unavailable due to a change by the manufacturer or other circumstances; or

15.3.2.3 If the Contractor desires to provide a more recently developed material, equipment, or manufactured model from the same named manufacturer than the one specified or pre-qualified; or

15.3.2.4 If the specified material and/or equipment inadvertently lists only a single manufacturer.

15.4 Contractor shall submit each request for Equal or Substitution to the Architect or Engineer who shall review each request and make the following recommendations to the Owner:

15.4.1 Acceptance or non-acceptance of the adequacy of the submission and required back-up,

15.4.2 Determination of the category of the request for Substitution or Equal, and

15.4.3 Overall recommendation for approval or rejection of the Substitution or Equal. The determination of the category as a Substitution may be grounds for an immediate rejection by the Owner.

15.5 Approval of the Owner for each Equal or Substitution shall be obtained before the Contractor proceeds with the Work. The decision of the Commissioner, in this regard, shall be final and binding on the Contractor.

15.6 No extension of time will be allowed for the time period required for consideration of any Substitution or Equal. No extension of time will be allowed and no responsibility will be assumed by the Owner when a Contractor submits a request for Substitution or Equal, whether such request be approved or denied, and the Contractor shall not be entitled to any claim for damages for delay.

15.7 If the Contractor submits any request for an Equal or a Substitution, he shall bear the burden of proof that such requested Equal or Substitution meets the requirements of the Plans and Specifications.

15.8 The Contractor shall purchase no materials or supplies for the Work which is subject to any chattel mortgage or which are under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that the Contractor has good title to all materials and supplies used by him in the Work.

15.9 All products and systems supplied to the State as a result of a purchase by a Contractor shall be certified that, to the best of the supplier's knowledge, there are no materials that are classified as hazardous materials being used within the assembly. Hazardous materials include, but are not limited to, products such as asbestos, lead, and other materials that have proven to cause a health risk by their presence.

ARTICLE 16
INSPECTION AND TESTS

16.1 The purpose of the inspections will be to assure that the Work is performed in accordance with the Contract Documents. These inspections shall include, but not be limited to, all inspections and testing as required by the Owner, and any authorities have jurisdiction.

16.2 All material and workmanship, if not otherwise designated by the Specifications, shall be subject to inspection, examination and test by the Commissioner at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction is carried on. The Contract Documents additionally identify the parties responsible for performing and paying for the required testing and inspections. All required tests performed in a laboratory will be obtained and paid for by the Owner, except when the tests show the Work to be defective. The Contractor shall pay for all the costs associated with re-tests and re-inspections for all tests and inspections which fail. The Owner will issue a deduct Change Order to recover said retesting costs from the Contractor. All other tests, unless otherwise specified, shall be made at the Contractor's expense. Notice of the time of all tests to be made at the site shall be given to all interested parties, including the Owner.

16.3 Without additional cost to the Owner, the Contractor shall promptly furnish facilities, labor and materials necessary to coordinate and perform operational tests and checkout of the Work. The Contractor shall furnish promptly all reasonable facilities, labor, and materials necessary to make all such testing safe and convenient.

16.4 If, at any time before final payment and Acceptance of the Work, the Commissioner considers it necessary or advisable to examine of any portion of the Work already completed by removing or tearing out the same, the Contractor shall, upon request, furnish promptly all necessary facilities, labor, and materials. If such Work is found to be defective in any material respect, as determined by the Owner, because of a fault of the Contractor or any of the Contractor's Subcontractors, or if any Work shall have been covered without the approval or consent of the Commissioner (whether or not it is found to be defective), the Contractor shall be liable for testing costs and all costs of correction, including removal and/or demolition of the defective Work, including labor, material, and testing, including labor, material, re-testing or re-inspecting, services of required consultants, additional supervision, the Commissioner's and the Construction Administrator's administrative costs, and other costs for services of other consultants.

16.5 Cost of Systems Commissioning Retesting: The cost to retest a pre-functional or functional test, if the Contractor is responsible for the deficiency, shall be the Contractor's. If the Contractor is not responsible, any cost recovery for retesting costs shall be negotiated with the Contractor.

16.5.1 For a deficiency identified, not related to any pre-functional checklist or start-up fault, the following shall apply: The Commissioning Agent (CxA) and Construction Administrator will direct the retesting of the equipment once at no "charge" to the Contractor for their time. However, the Commissioning Agent's and Construction Administrator's time for additional testing will be charged to the Contractor.

16.5.2 The time for the Systems Commissioning Agent and Construction Administrator to direct any retesting required because a specific pre-functional checklist or start-up test item, reported to have been successfully completed, but determined during functional testing to be faulty, will be back charged to the Contractor.

16.5.3 Any required retesting by any Subcontractor shall not be considered a justified reason for a claim of delay or for a time extension by the Contractor.

ARTICLE 17
ROYALTIES AND PATENTS

17.1 If the Contractor desires to use any design, device, material or process covered by a patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the holder of said patent or copyright. The Contractor shall furnish a copy of this legal agreement to the Owner.

17.2 The Contractor shall indemnify and hold harmless the Owner and Construction Administrator for any costs, expenses and damage which it may be obliged to pay by reason of any infringement of a patent or a copyright, at any time during the prosecution or after the Final payment of the Work.

ARTICLE 18
SURVEYS, PERMITS AND REGULATIONS

18.1 Unless otherwise provided for, the Contractor shall furnish surveys necessary for the execution of the Work. The Owner will furnish the Contractor with two base lines and a benchmark.

18.2 The Contractor shall obtain and pay for permits and licenses necessary for the execution of the Work and the occupancy and use of the completed Work.

18.3 The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations including building and fire safety codes relating to the performance of the Work.

18.4 If underground utilities may be involved in part of the Work the Contractor is required to request "Call-Before-You-Dig" to verify the location of underground utilities at least (3) Working Days, as further defined under Paragraph 1.71 herein, prior to the start of any excavation. The Contractor shall also notify the Owner and Agency at least (3) Working Days prior to the start of any excavation. If "Call-Before-You-Dig" fails or refuses to respond to the Contractor's request, then the Contractor shall obtain the services of a qualified underground utility locating firm, at no additional cost to the Owner, to verify locations of underground utilities prior to the start of any excavation. The Contractor shall be held responsible for providing safety, protecting the Work and protecting workmen as necessary to perform the Work. The Contractor shall be responsible for maintaining and protecting all original utility mark-out at no additional cost to the Owner.

ARTICLE 19
PROTECTION OF THE WORK, PERSONS AND PROPERTY

19.1 The Contractor shall continuously and adequately protect the Work against damage from any cause, and shall protect materials and supplies furnished by the Contractor or Subcontractors, whether or not incorporated in the Work, and shall make good any damage unless it be due directly to errors in the Contract Documents or is caused by agents or employees of the Owner.

19.2 To the extent required by law, by public authority, or made necessary in order to safeguard the health and welfare of the personnel or occupants of any of the state institutions, the Contractor shall adequately protect adjacent property and persons, and provide and maintain all facilities, including but not limited, to passageways, guard fences, lights, and barricades necessary for such protection.

19.3 The Contractor shall take all necessary precautions for the safety of employees on the Work and shall comply with applicable provisions of federal and state safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the Work is being performed. The Contractor shall also comply with the applicable provisions of the Associated General Contractors' "Manual of Accident Prevention in Construction", the standards of the Connecticut Labor Department and Occupational Safety and Hazard Association (OSHA).

19.4 The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of employees of the State and the public, and shall post danger signs warning against any dangerous condition or hazard created by such things as protruding nails, well holes, elevator hatchways, scaffolding, window openings, excavations, tripping hazards or slipping, stairways and falling materials.

19.5 The Contractor shall designate a qualified and responsible on-site staff person, whose duty shall be the prevention of accidents. The name and position of the designated person shall be reported to the Owner by the Contractor at the commencement of the Contract.

19.6 The Contractor shall at all times protect excavations, trenches, buildings, and all items of Work from damage by rain, water from melted snow or ice, surface water run off and subsurface water usual for the vicinity at the time of operations; and provide all pumps and equipment and enclosures to insure such protection.

19.7 The Contractor shall construct and maintain all necessary temporary drainage and provide all pumping necessary to keep excavation, basements, footings and foundations free of water.

19.8 The Contractor shall remove all snow and ice as may be required for access to the site and proper protection and prosecution of the Work.

19.9 The Contractor shall install bracing, shoring, sheathing, sheet piling, caissons and any other underground facilities as required for safety and proper execution of the Work, and shall remove this portion of the Work when no longer necessary.

19.10 During cold weather the Contractor shall protect all Work from damage. If low temperature makes it impossible to continue operations safely in spite of cold weather precautions, the Contractor may cease Work upon the written approval of the Commissioner.

ARTICLE 20
TEMPORARY UTILITIES

20.1 Unless expressly provided for otherwise in the Contract Documents, the Contractor shall include in the proposed contract bid price as stated on the Bid Proposal Form, the costs of all temporary utilities required for Project completion and protection of the Work. Said temporary utilities include, but are not limited to, lighting, heating, cooling, electrical power, water, telephone, sanitary facilities, and potable water.

ARTICLE 21
CORRECTION OF WORK

21.1 The Contractor shall promptly and without expense to the Owner remove from the premises all materials rejected by or unacceptable to the Commissioner as failing to conform to the Contract Documents, whether incorporated in the Work or not.

21.2 The Contractor shall promptly and without expense to the Owner replace any such materials, which do not conform to the Contract Documents, and shall bear the expense of making good all Work of other Contractors or Subcontractors destroyed or damaged by such removal or replacement.

21.3 If the Contractor, after receipt of notice from the Owner, shall fail to remove such rejected or unacceptable materials within a reasonable time as fixed in said notice, the Owner may remove and store such materials at the expense of the Contractor.

21.4 Such action shall not affect the obligation of the Contractor to replace and complete assembly and installation of the Work and to bear the expenses referred to above. Prior to the correction of rejected or unacceptable Work or if the Commissioner deems it inexpedient or undesirable to correct any portion of the Work which was rejected, deemed unacceptable, or not done in accordance with the Contract Documents, the Contract Sum shall be reduced by such amount as, in the judgment of the Commissioner, shall be equitable.

21.5 No extension of time will be given to the Contractor for correction of rejected or unacceptable Work. All significant punchlist Work shall be completed before Substantial Completion is determined. The remaining minor punchlist Work, as determined by the Commissioner, shall be completed within **ninety (90) Days** of established Substantial Completion date.

21.6 Final Payment shall not relieve the Contractor of responsibility for the defects in material or workmanship.

21.7 Unless expressly provided for otherwise in the Contract Documents, the Contractor shall remedy any rejected or unacceptable Work, and any Work found to be not conforming to the Contract Documents which is discovered within 18 Months after the date of Substantial Completion. The Contractor shall pay for any damage to other Work caused by such nonconforming Work or any damage created in correcting the nonconforming Work.

ARTICLE 22
GUARANTEES and WARRANTIES

22.1 Unless expressly provided for otherwise in the Contract Documents, the Contractor shall provide a Warranty on the Work for an **18-Month** period from the date of Substantial Completion. The Contractor shall warrant that the equipment, materials and workmanship are of good quality and new, unless permitted elsewhere by the Contract Documents, and that the Work shall be free from defects not inherent in the quality required or permitted and that the Work conforms to the Contract Documents.

22.2 Disclaimers and limitations from manufactures, Subcontractors, suppliers or installers to the Contractor shall not relieve the Contractor of the Warranty on the Work. The Contract Documents detail the related damages, reinstatement of Warranty, replacement cost and Owner's recourse.

ARTICLE 23
CUTTING, FITTING, PATCHING, AND DIGGING

23.1 The Contractor will perform or will cause the Subcontractors to perform all cutting, fitting, or patching of the portion(s) of the Work that may be required to make the several parts thereof joined and coordinated in a manner satisfactory to the Commissioner and in accordance with the Plans and Specifications.

23.2 The responsibility for defective or ill-timed Work shall be with the Contractor, but such responsibility shall not in any way relieve the Subcontractor who performed such Work. Except with the consent of the Commissioner, neither the Contractor nor any of its Subcontractors shall cut or alter the Work of any other Contractor or Subcontractor.

ARTICLE 24
CLEANING UP

24.1 The Contractor shall, on a daily basis, keep the premises free from accumulations of waste material or rubbish.

24.2 Prior to Acceptance of the Work, the Contractor shall remove from and about the site of the Work, all rubbish, all temporary structures, tools, scaffolding, and surplus materials, supplies, and equipment which may have been used in the performance of the Work. If the Commissioner in his sole discretion determines that the Contractor has failed to clean the work site, the Owner may remove the rubbish and charge the cost of such removal to the Contractor. A deduct Change Order will be issued by the Owner to recover such cost.

ARTICLE 25
ALL WORK SUBJECT TO CONTROL OF THE COMMISSIONER

25.1 The Commissioner hereby declares that the CT DCS Project Manager is the Commissioner's only authorized representative to act in matters involving the Owner's, and/or Architect's or Engineer's, ability to revoke, alter, enlarge or relax any requirement of the Contract Documents; to settle disputes between the Contractor and the Construction Administrator; and act on behalf of the Commissioner. In all such matters, the provisions of Articles 13 and 14 herein shall guide the CT DCS Project Manager.

25.2 In no event may the Contractor act on any instruction of the Agency without written consent of the Owner. In the event the Contractor acts without such consent, he does so at his own risk and at his own expense, not only for the Work performed, but for the removal of such Work as determined necessary by the Commissioner.

25.3 In the performance of the Work, The Contractor shall abide by all orders, directions, and requirements of the Commissioner at such time and places and by such methods and in such manner and sequence as the Commissioner may require.

25.4 The Commissioner shall determine the amount, quality, acceptability and fitness of all parts of the Work, shall interpret the plans, Specifications, Contract Documents and extra work orders and shall decide all other questions in connection with the Work.

25.5 The Contractor shall employ no plant, equipment, materials, methods, or persons to which the Commissioner objects and shall remove no plant materials, equipment, or other facilities from the site of the Work without the permission of the Commissioner. Upon request, the Commissioner shall confirm in writing any oral order, direction, requirement or determination.

25.6 In accordance with Section 4b-24 of the Connecticut General Statutes, the public auditors of the State of Connecticut and the auditors or accountants of the Commissioner of Construction Services shall have the right to audit and make copies *of* the books of any Contractor employed by the Commissioner.

ARTICLE 26
AUTHORITY OF THE CONSTRUCTION ADMINISTRATOR

26.1 The Construction Administrator employed by the Commissioner is authorized to inspect all Work for conformance to the Contract Documents. The Construction Administrator is authorized to reject all Work found to be defective, unacceptable and nonconforming to the Contract Documents. Such inspections and rejections may extend to all or any part of the Work, and to the preparation or manufacture of the material to be used.

26.2 The Construction Administrator is not empowered to revoke, alter, enlarge, or relax any requirements of the Contract Documents, or to issue instructions contrary to the Contract Documents. The Construction Administrator shall in no case act as foreman or perform other duties for the Contractor, nor shall the Construction Administrator interfere with the management of the Work by the Contractor. Any advice, which the Construction Administrator may give the Contractor, shall in no way be construed as binding the Commissioner or Owner in any way, nor releasing the Contractor from the fulfillment of the terms of the Contract.

26.3 In any dispute arising between the Contractor and the Construction Administrator with reference to inspection and rejection of the Work, the Construction Administrator may suspend Work on the non-compliant portion of the Work until the dispute can be referred to and decided by the Commissioner.

ARTICLE 27
SCHEDULE OF VALUES, APPLICATION FOR PAYMENT

27.1 Immediately after the signing of the Contract, the Contractor shall furnish for the use of the Commissioner, as a basis for estimating partial payments, a certified Schedule of Values, totaling the Contract Sum and broken down into quantities and unit costs, as outlined in the Contract Documents and as directed by the Owner. The Schedule of Values must reflect true costs and be in sufficient detail to be an effective tool for monitoring the progress of the Work Upon request of the Commissioner; the Contractor shall supply copies of signed Contracts, vendor quotations, etc. as back up to the Schedule of Values.

27.2 Approval of the Schedule of Values by the Commissioner is required prior to any payment by the Owner.

27.3 The Schedule of Values shall include a breakdown of the Contractor's general condition costs.

27.3.1 Non-recurring costs, (i.e. Mobilization costs, utility hook-ups, temporary heat) will be paid at the time of occurrence.

27.3.2 Reoccurring costs will be paid in proportion to the percent of completion of the Project.

27.3.3 Further detail can be found in the General Requirements 01.29.76; paragraphs 1.3.B.4 for this project.

27.4 The Schedule of Values shall include a breakdown of Contract closeout costs including systems certification testing and acceptance, training, Warranties, Guarantees, As-Built Drawings and attic stock**.**

27.5 The Contractor shall make periodic applications for payment, which shall be subdivided into categories corresponding with the approved Schedule of Values and shall be in such numbers of copies as may be designated by the Commissioner.

ARTICLE 28
PARTIAL PAYMENTS

28.1 Commissioner will examine the Contractor's Applications For Payments to determine, in the opinion of the Commissioner, the amounts that properly represent the value of the Work completed and the materials suitably stored on the site.

28.2 In making such Application For Payment for the Work, there shall not be more than **seven and five-tenths percent (7.5%)** deducted from the amount of each Application for Payment to be retained by the Owner as Retainage until Acceptance of the Work.

28.2.1 The following criteria shall be utilized in the reduction of Retainage withheld: At fifty percent (50%) completion of the Work the Retainage shall be reduced to **five percent (5%).** All subsequent Applications for Payment shall be subject to **five percent (5%)** Retainage. Upon Substantial Completion, and in the Commissioner's sole discretion and based upon the factors set forth in **Section 28.3**, the Retainage may be reduced upon the request of the Contractor and recommendation of the DAS Project Manager. In the event of a reduction in Retainage to **below five percent (5%),** the minimum Retainage withheld shall not be less than the DAS Project Manager's estimate of the remaining Work or **two and five-tenths percent (2.5%),** whichever is greater. All requests for Retainage Reduction shall be done on **CT DAS Form 7048 General Contractor Retainage Reduction Request**, a sample of which can be found at the end of these General Conditions.

28.2.2 Subsequent to Substantial Completion, in limited circumstances, at the sole discretion of the Commissioner and based upon factors set forth in Section 28.3, a reduction of Retainage below **two and five-tenths percent (2.5%)** may be considered.

28.2.3 A "Good" Contractor's Performance Evaluation score shall be defined as a minimum total score of sixty percent (60%).

28.3 The decision of the Commissioner to reduce the Retainage rate will be based upon the **Contractor's Performance Evaluation** score for completed portions of the Work as set out above and other factors that the Commissioner may find appropriate as follows:

28.3.1 The Contractor's timely submission of an appropriate and complete CPM Schedule or Construction Schedule and Schedule of Values, in compliance with the Contract requirements and the prompt resolution of the Owner's and/or Architect's or Engineer's comments on the submitted material resulting in an appropriate basis for progress of the Work.

28.3.2 The Contractor's timely and proper submission of all Contract Document required submissions: including, but not limited to, Shop Drawings, material certificates and material samples and the prompt resolution of the Owners and/or Architect's or Engineer's comments on the submitted material, resulting in an appropriate progress of the Work.

28.3.3 The Contractor's provision of proper and adequate supervision and home office support of the Project.

28.3.4 The Work completed to date has been installed or finished in a manner acceptable to the Owner.

28.3.5 The progress of the Work is consistent with the approved CPM Schedule or Construction Schedule.

28.3.6 All approved credit change orders have been invoiced.

28.3.7 All Change Order requests for pricing are current.

28.3.8 The Contractor has and is maintaining a clean worksite in accordance with the Contract Documents.

28.3.9 All Subcontractor payments are current at the time of reduction request.

28.3.10 Contractor is compliant with set-aside provisions of the contract.

28.3.11 Pursuant to C.G.S. Sec. 4a-101, the General Contractor shall compile evaluation information during the performance of the contract on each of its subcontractors who are performing work with a value in excess of five hundred thousand dollars ($500,000.00). The General Contractor shall complete and submit to the State of Connecticut Department of Construction Services (CT DCS) evaluations of each such subcontractor upon fifty percent (50%) completion of the project and upon Substantial Completion of the project. The General Contractor acknowledges that its failure to complete and submit these evaluations in a timely manner may, by statute; result in a delay in project funding and, consequently, payment to the General Contractor.

28.4 No payments will be made for improperly stored or protected materials or unacceptable Work.

28.5 At his or her sole discretion, the Commissioner may allow to be included in the monthly requisitions payment requests for materials and equipment stored off the site.

28.5.1 In the event the Commissioner allows the Contractor to include in its requisitions payment requests for materials and equipment stored off the site, the Contractor shall also submit any additional bonds and/or insurance certificates relating to off-site stored materials and equipment, and follow such other procedures as may be required by the State to obtain the Commissioner's approval of such requests.

28.5.2 The Architect or Engineer, or Construction Administrator shall have inspected said materials and equipment and recommended payment therefore. The Contractor shall pay for the cost of the Architect's or Engineer's, or Construction Administrator's time and expense in performing these inspection services.

ARTICLE 29
DELIVERY OF STATEMENT SHOWING AMOUNTS DUE FOR WAGES, MATERIALS, AND SUPPLIES

29.1 For each Application for Payment under this Contract, the Owner reserves the right to require the Contractor and every Subcontractor to submit a written verified statement, in a form satisfactory to the Owner, showing in detail all amounts then due and unpaid by such Contractor or Subcontractor for daily or weekly wages to all laborers employed by it for the performance of the Work or to other persons for materials, equipment or supplies delivered at the site.

29.2 The term “laborers” as used herein shall include workmen, workwomen, and mechanics.

29.3 Failure to comply with this requirement may result in the Owner withholding the Application for Payment pursuant to Article 28.

ARTICLE 30
SUBSTANTIAL COMPLETION AND ACCEPTANCE

30.1 Substantial Completion:

30.1.1 When the Contractor considers that the Work or a portion thereof is Substantially Complete, the Contractor shall request an inspection of said Work in writing to the Construction Administrator. The request shall certify that the Contractor has completed its own inspection prior to the request and that the Contractor is compliant with all requirements of Section 01 77 00 of the General Requirements. The request must also include a statement that a principal or senior executive of the Contractor is ready, willing and able to attend a walk through inspection with the Architect or Engineer.

30.1.2 Upon receipt of the request, the Architect or Engineer, Construction Administrator and Owner, will make an inspection to determine if the Work or designated portion thereof is Substantially Complete. A principal or senior executive of the Contractor shall accompany the Architect or Engineer during each inspection/re-inspection. If the inspection discloses any item, whether or not included on the inspection list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item.

30.1.3 The Contractor shall then submit a request for another inspection. The determination of Substantial Completion is solely within the discretion of the Owner. Any costs for re-inspection beyond one, shall be at the expense of the Contractor and such costs will be recovered by issuance of a credit Change Order. When the Work or designated portion thereof is determined to be Substantially Complete, the Contractor will be provided a Certificate of Substantial Completion from the Owner. The Certificate of Substantial Completion shall establish the date when the responsibilities of the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, are transferred to the Owner and shall fix the time within which the Contractor shall finish all items on the inspection list accompanying the Certificate. If the punch list is not complete in **90 Days**, the Owner reserves the right to complete the outstanding punch list items with their own forces or by awarding separate contracts and to deduct the cost thereof from the amounts remaining due to the Contractor.

30.1.4 The Certificate of Substantial Completion shall be signed by the Construction Administrator, Owner, and Architect or Engineer. Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Construction Administrator and Architect or Engineer, the Owner shall make payment reflecting adjustment in Retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

30.2 Acceptance:

30.2.1 Upon completion of the Work, the Contractor shall forward to the Construction Administrator a written notice that the Work is ready for inspection and Acceptance.

30.2.2 When the Work has been completed in accordance with terms and conditions of the Contract Documents as determined by the Owner a Certificate of Acceptance shall be issued by the Owner.

ARTICLE 31
FINAL PAYMENT

31.1 The Owner reserves the right to retain for a period of thirty (30) Days after filing of the Certificate of Acceptance the amount therein stated less all prior payments and advances whatsoever to or for the account of the Contractor.

31.2 All prior estimates and payments, including those relating to extra or additional Work, shall be subject to correction by the Final Payment.

31.3 No Application for Payment, Final or Partial, shall act as a release to the Contractor or the Contractor's sureties from any obligations under this Contract.

31.4 The Architect or Engineer and Construction Administrator will promptly issue the Certificate for Payment, stating that to the best of their knowledge, information and belief, and on the basis of their observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said Final Payment is due and payable.

31.5 Final Payment shall not be released until a Certificate of Acceptance and a Certificate of Compliance have been issued.

31.6 Neither Final Payment nor any Retainage shall become due until the Contractor submits to the Owner the following:

31.6.1 An affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied.

31.6.2 A certificate evidencing that insurance required by the Contract Documents to remain in force after Final Payment is currently in effect and will not be canceled or allowed to expire without at least 30 Days prior written notice to the Owner.

31.6.3 A written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents.

31.6.4 Written consent of surety, if any, to Final Payment.

31.6.5 If required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

ARTICLE 32
OWNER'S RIGHT TO WITHHOLD PAYMENTS

32.1 The Commissioner may withhold a portion of any Payment due the Contractor that may, in the judgment of the Commissioner, be necessary:

32.1.1 To assure the payment of just claims then due and unpaid to any persons supplying labor or materials for the Work.

32.1.2 To protect Owner from loss due to defective, unacceptable or non-conforming Work not remedied by the Contractor.

32.1.3 To protect the Owner from loss due to injury to persons or damage to the Work or property of other Contractors, Subcontractors, or others caused by the act or neglect of the Contractor or any of its Subcontractors.

32.2 The Owner shall have the right to apply any amount withheld under this Article as the Owner may deem proper to satisfy protection from claims. The amount withheld shall be considered a payment to the Contractor.

32.3 The Owner has the right to withhold payment if the Contractor fails to provide accurate submissions of Submittals, up date the status including but not limited to the following: As-Built Drawings, request for information (RFI) log, Schedule, submittal log, Change Order log, certified payrolls and daily reports and all other requirement of the Contract Documents.

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

ARTICLE 33
OWNER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

33.1 The Commissioner shall have the authority to suspend the Work wholly or in part, for such period or periods as the Commissioner considers being in the best interests of the State, or in the interests of public necessity, convenience or safety. During such periods the Contractor shall store all materials and equipment, in such a manner to prevent the materials and equipment from being damaged in any way, and the Contractor shall take precautions to protect the Work from damage.

33.1.1 If the Commissioner, in writing, orders the performance of all or any portion of the Work to be suspended or delayed for an unreasonable period of time (i.e. not originally anticipated, customary, or inherent in the construction industry) and the Contractor believes that additional compensation and/or Contract Time is due as a result of such suspension or delay, the Contractor shall submit to the Commissioner in writing a request for a Contract adjustment within 7 Days of receipt of the notice to resume Work. The request shall set forth the specific reasons and support for said adjustment.

33.1.2 The Commissioner shall evaluate any such requests received. If the Commissioner agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and that the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or Subcontractors, and was not caused by weather, then the Commissioner will make a reasonable adjustment, excluding profit, of the Contract terms. The Commissioner will notify the Contractor of the determination as to what adjustments of the Contract, if any, that the Commissioner deems warranted.

33.1.3 No Contract adjustment will be made unless the Contractor has submitted the request for adjustment within the time prescribed.

33.1.4 No Contract adjustment will be made under this Article to the extent that performance would have been suspended or delayed by any other cause within the Contractor's control or by any factor for which the Contractor is responsible under the Contract; or that such an adjustment is provided for or excluded under other term or condition of this Contract.

33.2 Termination for Convenience: Notwithstanding any provision or language in the Contract to the contrary, the State may terminate the Contract for convenience whenever the Commissioner determines at his sole discretion that such termination is in the best interests of the State. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination for Convenience specifying the extent to which performance of Work under the Contract is terminated, and the date upon which such termination shall be effective.

33.2.1 In the event of such termination, the Contractor shall be entitled to reasonable compensation as determined by the Commissioner, however, no claim for lost Overhead or Profits shall be allowed.

33.2.2 All Work and materials obtained by the Contractor for the Work, that have been incorporated into the Work, inspected, tested as required, accepted by the Commissioner, and paid for by the State, shall become the property of the State.

33.2.3 Materials obtained by the Contractor for the Work that have been inspected, tested as required, and accepted by the Commissioner, and that are not incorporated into the Work, shall, at the option of the Commissioner, be purchased from the Contractor at actual cost as shown by receipted bills. To this cost shall be added all actual costs for delivery at such points of delivery as may be designated by the Commissioner, as shown by actual cost records.

33.2.4 Termination of the Contract for convenience shall not relieve the Contractor or its surety of their responsibilities for the completed Work, nor shall it relieve the Contractor's surety of its obligations to ensure completion of the Work and to pay legitimate claims arising out of the Work.

33.3 Termination for Cause:

33.3.1 The Commissioner may give notice in writing to the Contractor and its surety of any particular delay, neglect, or default of the Contractor due to one or more of the following:

33.3.1.1 Failure to begin the Work within the time specified for same in the Contract Documents.

33.3.1.2 Failure to perform the Work with sufficient workmen, equipment or materials to ensure the prompt completion of the Work within the time specified in the Contract.

33.3.1.3 Unsuitable performance of the Work or failure to remedy or redo such work as DAS Project Manager shall reject as defective, unsuitable, or noncompliant with Contract requirements.

33.3.1.4 Failure or refusal to remove material rejected as defective, unsuitable, or noncompliant with Contract requirements.

33.3.1.5 Discontinuance of the suitable prosecution of the Work for a period of seventy-two (72) hours, excluding Saturdays, Sundays and holidays, without written authorization to do so from the DAS Project Manager.

33.3.1.6 Failure to recommence discontinued Work within forty-eight (48) hours (excluding Saturdays, Sundays and holidays) after being ordered to do so by the DAS Project Manager.

33.3.1.7 Insolvency, filing for bankruptcy or any act or occurrence that may render the Contractor financially incapable of completing the Work.

33.3.1.8 Failure to satisfy any final judgment against it for a period of thirty (30) days.

33.3.1.9 Making of any assignment for the benefit of creditors.

33.3.1.10 Violation of any provisions of the Contract Documents.

33.3.2 If the Contractor or its surety within a period of ten (10) days after the issuance of such notice does not proceed in conformance with the directions set forth therein, or fails to present a remedial plan of operation, satisfactory to the Commissioner, for remedying the acts or failures complained of in the notice, then the Commissioner may, at his discretion, order the surety to complete the Work or, without violating the Contract, take the right to control and prosecute the Work out of the hands of said Contractor and surety, terminating the Contract.

33.3.3 The Commissioner may appropriate or use any or all stockpiled materials and any and all equipment required by the Contract as may be suitable and necessary for completion of the Work and may enter into an agreement, either by negotiation or public letting, for the completion of said Contract by a party other than the Contractor, according to the terms and provisions thereof, or use such other methods or combinations thereof as in his or her opinion shall be required or desirable for the completion of the Work.

33.3.4 All costs and charges incurred by the Owner in connection with completing the Work, or as a result of the Contractor's default, shall be deducted from any monies due to or which may become due to the Contractor. In case such expense exceeds the sum that would have been payable under the Contract, then the Contractor and the surety shall be liable for, and shall pay to the State, the amount of the excess. Termination of the Contract shall not relieve the Contractor or its surety of their responsibilities for the completed Work, nor shall it relieve the Contractor's surety of its obligations to ensure completion of the Work and to pay legitimate claims arising out of the Work.

ARTICLE 34
SUBLETTING OR ASSIGNING OF CONTRACT

34.1 The Contract or any portion thereof, or the Work provided for therein, or the right, title, or interest of the Contractor therein may not be sublet, sold, transferred, assigned, or otherwise disposed of to any person, firm, or corporation without the written consent of the Commissioner.

34.2 No person, firm, or corporation other than the Contractor to whom the Contract was awarded shall be permitted to commence Work at the site of the Contract until such consent has been granted.

ARTICLE 35
CONTRACTOR'S INSURANCE

35.1 The Contractor shall not start Work under the Contract until they have obtained insurance as stated in SECTIONS 00 62 16 CERTIFICATE OF INSURANCE and 00 41 00 BID PROPOSAL FORM of the Project Manual and until the insurance has been approved by the Owner. The Contractor shall not allow any Subcontractor to start Work until the same insurance has been obtained by the Subcontractor and approved by the Owner or the Contractor's insurance provides coverage on behalf of the Subcontractor. The Contractor shall send Certificates of Liability Insurance to the Connecticut Department of Administrative Services/Construction Services, Office of Legal Affairs, Policy and Procurement, 450 Columbus Blvd, Suite 1302, Hartford, CT 06103-1835 unless otherwise directed in writing. For insurance definitions see Article 1 herein. Presented below is a narrative summary of the insurance required.

35.1.1 Commercial General Liability Insurance: Insurance including contractual liability, products/completed operations, broad form property damage and independent Contractors. The limits shall be no less than $1,000,000 each occurrence and $2,000,000 annual aggregate. Coverage for hazards of explosion, collapse and underground (X-C-U) and for asbestos abatement when applicable to this Contract, must also be included when applicable to the Work to be performed. The State of Connecticut, the Department of Administrative Services, and their respective officers, agents, and employees shall be named as an Additional Insured. This coverage shall be provided on a primary basis.

35.1.2 Owner's and Contractor's Protective Liability Insurance: Insurance providing a total limit of $1,000,000 for all damages arising out of bodily injury or death of persons in any one accident or occurrence and for all damages arising out of injury or destruction of property in any one accident or occurrence and subject to a total (aggregate) limit of $2,000,000 for all damages arising out of bodily injury to or death of persons in all accidents or occurrences and out of injury to or destruction of property during the policy period. This coverage shall be for and in the name of the State of Connecticut.

35.1.3 Automobile Liability Insurance: The operation of all motor vehicles including those owned, non-owned and hired or used in connection with the Contract shall be covered by Automobile Liability Insurance providing for a total limit of $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 $2,000,000. This coverage shall be provided on a primary basis. Should the Contractor not own any automobiles, the automobile & liability requirement shall be amended to allow the Contractor to maintain only hired and non-owned liability coverage.

35.1.4 Umbrella Liability Insurance: Umbrella Liability Insurance, including a drop down provision covering any exhausted underlying aggregate limits in the specified amount shown below of combined single limit each occurrence in excess of the coverages described in subsections 35.1.1 Commercial General Liability Insurance, 35.1.3 Automobile Liability, and 35.1.5 Workers' Compensation and Employer's Liability. The State of Connecticut shall be named as an additional insured. The Umbrella Liability Insurance Limits for the Contractor are based on the Contract Value as specified in the following table.

Umbrella Liability Insurance Table:			
Contract Value			**Umbrella Limit**
$1.00	to	$500,000.00	$1,000,000.00
$500,000.01	to	$1,000,000.00	$2,000,000.00
$1,000,000.01	to	$10,000,000	$5,000,000.00
$10,000,000.01	to	$30,000,000	$10,000,000.00
$30,000,000.01	to	$80,000,000	$15,000,000.00
$80,000,000.01	to	$150,000,000	$20,000,000.00
$150,000,000.01	to	$300,000,000	$25,000,000.00

35.1.5 Workers' Compensation and Employer's Liability: As required by Connecticut Law and **Employers' Liability** with a limit of not less than $100,000 per occurrence, $500,000 disease policy limit and $100,000 disease each employee. When Work is on or contiguous to navigable bodies of waterways and ways adjoining, the Contractor shall include the Federal Act endorsement for the U.S. Longshoremen's and Harbor Workers Act.

35.1.6 Special Hazards Insurance: If required, will be stated in the BID PROPOSAL FORM of this Project Manual. This includes coverage for explosion, collapse or underground damage and for asbestos abatement when applicable to this Contract and shall be no less than $1,000,000 each occurrence.

35.1.7 Builder's Risk Insurance: If required, will be stated in the BID PROPOSAL FORM of this Project Manual.

35.1.8 Inland Marine/Transit Insurance: With respect to property with values in excess of $100,000 which is rigged, hauled or situated at the site pending installation, the Contractor shall maintain inland marine/transit insurance provided the coverage is not afforded by a Builder's Risk policy.

35.1.9 When required to be maintained, the Builder's Risk and/or Inland Marine/Transit Insurance policy shall endorse the State of Connecticut as a Loss Payee and the policy shall state it is for the benefit of and payable to the State of Connecticut.

35.2 Satisfying Limits Under an Umbrella Policy: If necessary, the Contractor may satisfy the minimum limits required above for either Commercial General Liability, Automobile Liability, and Employer's Liability coverage under an Umbrella or Excess Liability policy. The underlying limits may be set at the minimum amounts required by the Umbrella or Excess Liability policy provided the combined limits meet at least the minimum limit for each required policy. The Umbrella or Excess Liability policy shall have an Annual Aggregate at a limit not less than two (2) times the highest per occurrence minimum limit required above for any of the required coverages. The State of Connecticut shall be specifically endorsed as an Additional Insured on the Umbrella or Excess Liability policy, unless the Umbrella or Excess Liability policy provides continuous coverage to the underlying policies on a complete "Follow-Form" basis.

35.3 The Contractor shall, at its sole expense, maintain in full force and effect at all times during the life of the Contract or the performance of Work hereunder, insurance coverage as described herein. Certificates shall include a minimum thirty (30)-day endeavor to notify requirement to the Owner prior to any cancellation or non-renewal.

35.4 The Contractor shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention, including any loss not covered because of the operation of such deductible, coinsurance penalty, or self-insured retention.

35.5 The requirement contained herein as to types and limits of insurance coverage to be maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor.

35.6 Indemnification and Hold Harmless Provisions:

35.6.1 The Contractor shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.

35.6.2 The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.

35.6.3 The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.

35.6.4 The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.

35.6.5 The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the policy to the Agency. The Agency shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the Agency or the State is contributorily negligent.

35.6.6 Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to any party or person described in General Conditions Article 35.

35.6.7 This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

ARTICLE 36
FOREIGN MATERIALS

36.1 Preference shall be given to articles or materials manufactured or produced in the United States, Canada, and Mexico, (the members of the North American Free Trade Agreement (NAFTA)); and the products shall meet all of the referenced standards and Specifications for conditions of performance, quality, and price with duty being equal.

36.2 Only articles or materials manufactured or produced in the United States, Canada, and Mexico, (the members of the North American Free Trade Agreement (NAFTA)), will be allowed. The foregoing provisions shall not apply to foreign articles or materials required by the Contract Documents.

36.3 Buy American Act (BAA): Any "public building" or "public work" project funded by the American Recovery and Reinvestment Act of 2009 ("ARRA") requires that "all of the iron, steel, and manufactured goods used in the project" must be "produced in the United States" in accordance with the requirements of the Buy American Act (BAA).

ARTICLE 37
HOURS OF WORK

37.1 No person shall be employed to work or be permitted to work more than eight (8) hours in any Day or more than forty (40) hours in any week for any Work provided in the Contract, in accordance with Connecticut General Statute Section 31-57.

37.2 The operation of such limitation of hours of work may be suspended during an emergency, upon the approval of the Commissioner, in accordance with Connecticut General Statute Section 31-57.

ARTICLE 38
CLAIMS

38.1 General: When filing a formal claim under Section 4-61 (referred to as "Section 4-61" below) of the Connecticut General Statutes (as revised), either as a lawsuit in the Superior Court or as a demand for arbitration, the Contractor must follow the procedures and comply with the requirements set forth in this Article. This Section does not, unless so specified, govern informal claims for additional compensation which the Contractor may bring before the Department. The Contractor should understand, however, that the Department may need, before the Department can resolve such a claim, the same kinds of documentation and other substantiation that it requires under this Article. It is the intent of the Department to compensate the Contractor for actual increased costs caused by or arising from acts or omissions on the part of the Department that violate legal or contractual duties owed to the Contractor by the Department.

38.2 Notice of Claim: Whenever the Contractor intends to file a formal claim against the Department under Section 4-61, seeking compensation for additional costs, the Contractor shall notify the Commissioner in writing (in strict compliance with Section 4-61) of the details of said claim. Such written notice shall contain all pertinent information described in Paragraph 38.5 below. Once formal notice of a claim under Section 4-61(b) (as revised) has been given to the Commissioner, the claimant may not change the claim in any way, in either concept or monetary amount, (1) without filing a new notice of claim and demand for arbitration to reflect any such change, and (2) without the minimum period of six months after filing of the new demand commencing again and running before any hearing on the merits of the claim may be held. The only exception to this limitation will be for damages that continue to accrue after submission of the notice, in ways described and anticipated in the notice.

38.3 Record Keeping: The Contractor shall keep daily records of all costs incurred in connection with its Work on behalf of the Department. The daily records shall identify each aspect of the Project affected by matters related to any claim for additional compensation that the Contractor has filed, intends to file, or has reason to believe that it may file against the Department; the specific Project locations where Project work has been so affected; the number of people working on the affected aspects of the Project at the pertinent time(s); and the types and number of pieces of equipment on the Project site at the pertinent time(s). Any potential or anticipated effect on the Project's progress or Schedule which may result in a claim by the Contractor shall be noted contemporaneously with the cause of the effect, or as soon thereafter as possible.

38.4 Claim Compensation: The payment of any claim, or any portion thereof, that is deemed valid by the Department shall be made in accordance with the following provisions of this Article:

38.4.1 Compensable Items: The liability of the Department for claims will be limited to the following specifically identified items of cost, insofar as they have not otherwise been paid for by the Department, and insofar as they were caused solely by the actions or omissions of the Department or its agents (except that with regard to payment for extra work, the Department will pay to the Contractor the Overhead and profit percentages provided for in Article 13.):

38.4.1.1 Additional Project-site labor expenses.

38.4.1.2 Additional costs for materials.

38.4.1.3 Additional, unabsorbed Project-site Overhead (e.g., for mobilization and demobilization).

38.4.1.4 Additional costs for active equipment.

38.4.1.5 For each Day of Project delay or suspension caused solely by actions or omissions of the Department either:

38.4.1.5.1 an additional ten percent (10%) of the total amount of the costs identified in Subparagraphs 38.4.1.1 through 38.4.1.4 above; except that if the delay or suspension period prevented the Contractor from incurring enough Project costs under Subparagraphs 38.4.1.1 through 38.4.1.4 during that period to require a payment by the Department that would be greater than the payment described in Subparagraph 38.4.1.5.2 below, then the payment for affected home office Overhead and profit shall instead be made in the following *per diem* amount:

38.4.1.5.2 six percent (6%) of the original total Contract amount divided by the original number of Days of Contract Time. Payment under either 38.4.1.5.1 or 38.4.1.5.2 hereof shall be deemed to be complete and mutually satisfactory compensation for any unabsorbed home office overhead and any profit related to the period of delay or suspension.

38.4.1.6 Additional equipment costs. Only actual equipment costs shall be used in the calculation of any compensation to be made in response to claims for additional Project compensation. Actual equipment costs shall be based upon records kept in the normal course of business and in accordance with generally accepted accounting principles. Under no circumstances shall Blue Book or other guide or rental rates be used for this purpose (unless the Contractor had to rent the equipment from an unrelated party, in which case the actual rental charges paid by the Contractor, so long as they are reasonable, shall be used). Idle equipment, for instance, shall be paid for based only on its actual cost to the Contractor.

38.4.1.7 Subcontractor costs limited to, and determined in accordance with, Subparagraphs 38.4.1.1 through 38.4.1.5 above and applicable statutory and case law. Such Subcontractor costs may be paid for by the Department only: (a) in the context of an informal claims settlement; or (b) if the Contractor has itself paid or legally assumed, present unconditional liability for those Subcontractor costs.

38.4.2 Excusable But Not Compensable Items: The Contractor may be allowed Days but the Department will have no liability for the following non-compensable items:

38.4.2.1 Abnormal or unusually severe weather

38.4.2.2 Acts of God

38.4.2.3 Force Majeure

38.4.2.4 Concurrent Delay

38.4.3 Non-Compensable Items: The Department will have no liability for the following specifically-identified non-compensable items:

38.4.3.1 Profit, in excess of that provided for herein.

38.4.3.2 Loss of anticipated profit.

38.4.3.3 Loss of bidding opportunities.

38.4.3.4 Reduction of bidding capacity.

38.4.3.5 Home office overhead in excess of that provided for in Subparagraph 38.4.1.5 hereof.

38.4.3.6 Attorneys fees, claims preparation expenses, or other costs of claims proceedings or resolution.

38.4.3.7 Subcontractor failure to perform

38.4.3.8 Any other consequential or indirect expenses or costs, such as tort damages, or any other form of expense or damages not provided for in these specifications or elsewhere in the Contract.

38.5 Required Claim Documentation: All claims shall be submitted in writing to the Commissioner, and shall be sufficient in detail to enable the Department to ascertain the basis and the amount of each claim, and to investigate and evaluate each claim in detail. As a minimum, the Contractor must provide the following information for each and every claim and sub-claim asserted:

38.5.1 A detailed factual statement of the claim, with all dates, locations and items of Work pertinent to the claim.

38.5.2 A statement of whether each requested additional amount of compensation or extension of time is based on provisions of the Contract or on an alleged breach of the Contract. Each supporting or breached Contract provision and a statement of the reasons why each such provision supports the claim must be specifically identified or explained.

38.5.3 Excerpts from manuals or other texts which are standard in the industry, if available, that support the Contractor's claim.

38.5.4 The details of the circumstances that gave rise to the claim.

38.5.5 The date(s) on which any and all events resulting in the claim occurred, and the date(s) on which conditions resulting in the claim first became evident to the Contractor.

38.5.6 Specific identification of any pertinent document, and detailed description of the substance of any material oral communication, relating to the substance of such claim.

38.5.7 If an extension of time is sought, the specific dates and number of Days for which it is sought, and the basis or bases for the extension sought. A critical path method, bar chart, or other type of graphical schedule that supports the extension must be submitted.

38.5.8 When submitting any claim over $50,000, the Contractor shall certify in writing, under oath and in accordance with the formalities required by the contract, as to the following:

38.5.8.1 That supporting data is accurate and complete to the Contractor's best knowledge and belief;

38.5.8.2 That the amount of the dispute and the dispute itself accurately reflects what the Contractor in good faith believes to be the Department's liability;

38.5.8.3 The certification shall be executed by:

38.5.8.3.1 If the Contractor is an individual, the certification shall be executed by that individual.

38.5.8.3.2 If the Contractor is not an individual, the certification shall be executed by a senior company official in charge at the Contractor's plant or location involved or an officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

38.6 Auditing of Claims: All claims filed against the Department shall be subject to audit by the Department or its agents at any time following the filing of such claim. The Contractor and its Subcontractors and suppliers shall cooperate fully with the Department's auditors. Failure of the Contractor**,** its Subcontractors, or its suppliers to maintain and retain sufficient records to allow the Department or its agents to fully evaluate the claim shall constitute a waiver of any portion of such claim that cannot be verified by specific, adequate, contemporaneous records, and shall bar recovery on any claim or any portion of a claim for which such verification is not produced. Without limiting the foregoing requirements, and as a minimum, the Contractor shall make available to the Department and its agents the following documents in connection with any claim that the Contractor submits:

38.6.1 Daily time sheets and foreman's daily reports.

38.6.2 Union agreements, if any.

38.6.3 Insurance, welfare, and benefits records.

38.6.4 Payroll register.

38.6.5 Earnings records.

38.6.6 Payroll tax returns.

38.6.7 Records of property tax payments.

38.6.8 Material invoices, purchase orders, and all material and supply acquisition contracts.

38.6.9 Materials cost distribution worksheets.

38.6.10 Equipment records (list of company equipment, rates, etc.).

38.6.11 Vendor rental agreements.

38.6.12 Subcontractor invoices to the Contractor, and the Contractor's certificates of payments to Subcontractors.

38.6.13 Subcontractor payment certificates.

38.6.14 Canceled checks (payroll and vendors).

38.6.15 Job cost reports.

38.6.16 Job payroll ledger.

38.6.17 General ledger, general journal (if used), and all subsidiary ledgers and journals**,** together with all supporting documentation pertinent to entries made in these ledgers and journals.

38.6.18 Cash disbursements journals.

38.6.19 Financial statements for all years reflecting the operations on the Project.

38.6.20 Income tax returns for all years reflecting the operations on the Project.

38.6.21 Depreciation records on all company equipment**,** whether such records are maintained by the company involved, its accountant, or others.

38.6.22 If a source other than depreciation records is used to develop costs for the Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all such other source documents.

38.6.23 All documents which reflect the Contractor's actual profit and overhead during the years that the Project was being performed**,** and for each of the five years prior to the commencement of the Project.

38.6.24 All documents related to the preparation of the Contractor's bid**,** including the final calculations on which the total proposed Contract bid price as stated in the Bid Proposal Form was based.

38.6.25 All documents which relate to the claim or to any sub-claim, together with all documents that support the amount of damages as to each claim or sub-claim.

38.6.26 Worksheets used to prepare the claim, which indicate the cost components of each item of the claim, including but not limited to the pertinent costs of labor, benefits and insurance, materials, equipment, and Subcontractors' damages, as well as all documents which establish the relevant time periods, individuals involved, and the Project hours and the rates for the individuals.

38.6.27 The name, function, and pertinent activity of each Contractor's or Subcontractor's official, or employee, in volved in or knowledgeable about events that give rise to, or facts that relate to, the claim.

38.6.28 The amount(s) of additional compensation sought and a break-down of the amount(s) into the categories specified as payable under Paragraph 38.4 above.

38.6.29 The name, function, and pertinent activity of each Department official, employee, or agent involved in or knowledgeable about events that give rise to, or facts that relate to, the claim.

ARTICLE 39
DIESEL VEHICLE EMISSIONS CONTROL

39.1 The Contractor shall be responsible for compliance with the following provisions:

39.1.1 All Contractor and Subcontractor diesel powered non-road construction equipment with engine horsepower (HP) ratings of 60 HP and above, that are on the Project or are assigned to the Contract for a period in excess of 30 consecutive Days, shall be retrofitted with emission control devices in order to reduce diesel emissions. In addition, all motor vehicles and/or construction equipment (both on-highway and non-road) shall comply with all pertinent State and Federal regulations relative to exhaust emission controls and safety.

39.1.2 Retrofit emission control devices shall consist of oxidation catalysts, or similar retrofit equipment control technology that is:

39.1.2.1 Included on the U.S. Environmental Protection Agency (EPA) "Verified Technology List," as may be amended from time to time http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm and

39.1.2.2 Verified by EPA to provide a minimum emissions reduction of 20% particulate matter (PM_{10}), 40% carbon monoxide (CO), and 50% hydrocarbons (HC).

39.1.3 Construction shall not proceed until all diesel powered non-road construction equipment meeting the criteria in provision 39.1.1 have been retrofitted, unless the Commissioner grants a waiver under provision 39.2.

39.1.4 The Contractor shall at least monthly, assess which diesel powered non-road construction equipment are subject to these provisions. The Contractor shall notify the CT DCS Project Manager of any violations of these provisions.

39.1.5 Idling of delivery and/or dump trucks, or other diesel powered equipment shall be limited to three (3) minutes during non-active use in accordance with the Regulations of Connecticut State Agencies Section 22a-74-18(b)(3)(C), which states, in part:

"[N]o person shall cause or allow a Mobile Source to operate for more than three (3) consecutive minutes when such Mobile Source is not in motion, except as follows:

- *When a Mobile Source is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control,*
- *When it is necessary to operate defrosting, heating or cooling equipment to ensure the safety or health of the driver or passengers,*
- *When it is necessary to operate auxiliary equipment that is located in or on the Mobile Source to accomplish the intended use of the Mobile Source,(To bring the Mobile Source to the manufacturer's recommended)*
- *When a Mobile Source is in queue to be inspected by U.S. military personnel prior to gaining access to a U.S. military installation."*

39.1.6 All Work shall be conducted to ensure that no harmful effects are caused to adjacent Sensitive Receptor Sites. Diesel powered engines shall be located away from fresh air intakes, air conditioners, and windows.

39.1.7 If any diesel powered non-road construction equipment is found to be in non-compliance with these provisions by the CT DCS Project Manager, the Contractor will be issued a Non-Conformance Notice and given a 24 hour period in which to bring the equipment into compliance or remove it from the Project. The Contractor's failure to comply with these provisions shall be reason to withhold payment as described in Article 33.

39.1.8 Any costs associated with these provisions shall be included in the general cost of the contract. In addition, there shall be no time granted to the Contractor for compliance with these provisions. The Contractor's compliance with these provisions and any associated regulations shall not be grounds for a Change Order.

39.2 The Commissioner reserves the right to waive all or portions of these provisions at his/her discretion. The Contractor may request a waiver to all or portions of these provisions with written justification to the Commissioner as to why the Contractor cannot comply with these provisions. A waiver, to be effective, must be granted in writing by the Commissioner.

ARTICLE 40
DISCLOSURE OF RECORDS

40.1 This Contract may be subject to the provisions of C.G.S. Section 1-218. In accordance with this statute, each contract in excess of two million five hundred thousand dollars ($2,500,000.00) between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to the Freedom of Information Act (FOIA) and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. 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 C.G.S. Sections 1-205 and 1-206.

ARTICLE 41
AUDIT AND INSPECTION OF PLANTS, PLACES OF BUSINESS, AND RECORDS

41.1 The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.

41.2 The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.

41.3 The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.

41.4 All audits and inspections shall be at the State's expense.

41.5 The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

41.6 The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.

41.7 The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

END

Appendix 1

7048
General Contractor (GC)
Retainage Reduction Request
Page 1 of 1

To: Department of Administrative Services (DAS) Construction Services
Office of Legal Affairs, Policy and Procurement
450 Columbus Blvd, Suite 1302 – North Tower
Hartford, CT 06103

From: General Contractor Name **General Contractor (GC)**

Subject: **DAS Project Number:** DAS Project Number
DAS Project Name: DAS Project Name
Reduction of Retainage at: Written Percent **Percent (** ## **%) Project Completion**

Date: Insert Date

In accordance with the General Conditions, Article 28 Progress Payments,
General Contractor Name
hereby requests a reduction of retainage from ##.# % to ##.# %
The following list of items required under the General Conditions is in compliance with the terms of the contract and has been verified by the General Contractor (GC).

- ☐ DAS Construction Services Contractor Performance Evaluation Score is a minimum of **(60%) Percent.**
- ☐ Timely submission of an appropriate and complete CPM Schedule and Schedule of Values, in compliance with the Contract requirements and the prompt resolution of the Owner's and/or A/E's comments on the submitted material resulting in an appropriate basis for progress of the Work.
- ☐ Timely and proper submission of all required Contract Documents submissions including but not limited to Shop Drawings, material certificates, material samples and the prompt resolution of the Owner's and/or A/E's comments on the submitted material resulting in an appropriate progress of the Work.
- ☐ Proper and adequate supervision, the office support of the Project.
- ☐ The Work completed to date has been installed or finished in a manner acceptable to the Owner.
- ☐ The progress of the Work is consistent with the approved CPM Schedule.
- ☐ All approved credit change orders have been invoiced.
- ☐ All Change Order requests for work are current.
- ☐ The site is and is maintaining a clean worksite in accordance with the Contract Documents.
- ☐ All Subcontractor payments are current at the time of reduction request.
- ☐ GC is complying with set aside provisions of the contract.

	(Written Name)	(Signature)	(Date)
General Contractor Certification:			
Project Manager Recommendation:			
ADPM Approval:			
DAS Chief Architect or Authorized Representative:			

END

CT DAS – 7048 (Rev. 07.12.19) **7000 – Construction Phase Forms**

SAMPLE