



Bid Specifications for:  
**North White Plains Community Center Renovation**  
10 Clove Road, North White Plains NY 10603

Town of North Castle  
15 Bedford Road  
Armonk New York 10504  
Phone: 914-273-3000 ext. 191

Deadline for Sealed Bid Submittal:  
**11:00 A.M. E.S.T. on January 5, 2021**

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## SECTION A

### NOTICE TO BIDDERS

NOTICE IS HEREBY GIVEN that the Town of North Castle will receive sealed bids for **North White Plains Community Center Renovation**, located at the 10 Clove Road, North White Plains, New York 10603 within the Town of North Castle, Westchester County, New York. Sealed bids for performing the work herein described will be received **by mail** at the Office of the Town Clerk, Town of North Castle, 15 Bedford Road, Armonk, New York 10504, until **11:00 A.M. E.S.T. on January 5, 2021**, and immediately thereafter the bids will be publicly opened and read aloud. **Due to COVID-19, Town Offices are not open to the public. Any bidder or member of the public who wishes to view the bid opening via Zoom should provide their contact info to Alison Simon, Town Clerk, at [asimon@northcastleny.com](mailto:asimon@northcastleny.com) at least one day prior to the bid opening.**

The project consists of Interior and Exterior renovations including a new generator and HVAC equipment as fully illustrated, noted and detailed in architectural drawings technical specifications prepared by Sullivan Architecture, PC of White Plains, New York and consulting engineers.

Complete specifications and bid forms may be obtained on or after **November 23, 2020** at the following link: <https://www.northcastleny.com/home/pages/bids-and-rfps-0>. Potential bidders who have downloaded the Bid Documents shall provide their contact information to Town Administrator Kevin Hay [khay@northcastleny.com](mailto:khay@northcastleny.com) in the event any addendums to the Bid Documents are issued.

**A pre-bid site visit will be conducted on Monday, November 30, 2020 at 9:00 A.M. at the North White Plains Community Center, 10 Clove Road, North White Plains, NY 10603. Due to COVID-19, all interested bidders must be preregistered for the pre-bid site visit by contacting Kevin Hay [khay@northcastleny.com](mailto:khay@northcastleny.com). Specific guidelines will be provided.**

Bids shall be made on the Proposal Forms furnished with the Specifications and must be accompanied by a Bid Bond acceptable by the Town, or a certified cashier's check, drawn on a solvent bank, in the amount of not less than 5% of the total amount of the Bid. Bidders who submit certified checks must accompany them with a Consent of Surety from a recognized Bonding Company. Checks shall be made payable to the Town of North Castle, New York, and are to be held by the Town as a guarantee for the proper execution and delivery of the Contract and Bonds to secure the faithful performance thereof. In default of such execution and delivery of Contract and Bonds, the amount of the deposit represented by the check shall be forfeited to and retained by the Town of North Castle as liquidated damages.

Bids shall be enclosed in a sealed envelope bearing the name and address of the Bidder, addressed and **must be mailed** to Alison Simon, Town Clerk, 15 Bedford Road, Armonk, New York 10504 and endorsed "**North White Plains Community Center Renovation**".

**Please Note: Contractor / Bidder is required to submit a Subcontractor List naming each Subcontractor and the amount to be paid to each, in a sealed second envelope within the sealed bid envelope, per WICKS Reform 2008.**

The Town of North Castle reserves the right to reject any and all bids, to waive any informality in any Bid, and to award the Contract to other than the lowest Bidder if deemed in the best interest of the Town to do so.

Dated: November 23, 2020

TOWN OF NORTH CASTLE  
BY: Alison Simon, Town Clerk

## **SECTION B**

### **INSTRUCTIONS TO BIDDERS**

#### **DOCUMENTS**

Complete sets of bidding documents will be issued for bidding purposes as stated in the "Notice to Bidders". A complete set of documents consists of the following:

- A. Instructions to Bidders including Summary
- B. A copy of the Technical Specifications, Drawings with Details and Notes
- C. Addenda (if any)

#### **PROPOSALS**

To be considered, Proposals on the forms included herein, must be in accordance with these Instructions to Bidders. All bids must be submitted on the prescribed forms which are included herein, such forms also being found in the specifications as Section C. All blank spaces for bid prices must be filled in, in both words and figures, either typed or in ink.

Proposals that contain any omission, erasures, alterations, additions, or items not called for in itemized Proposal, or that contain irregularities of any kind, may constitute sufficient cause for rejection of the bid. In case of any discrepancy in the price or amount bid in the Proposal, the price, as expressed in words, shall govern. All bids must be submitted in sealed envelopes addressed to Alison Simon, Town Clerk, Town of North Castle, 15 Bedford Road, Armonk, New York 10504 and be clearly identified with: (1) Project Name: **North White Plains Community Center Renovation** and 2) Name of Bidder and Address.

Proposals shall be signed with bidder's name typed or printed below signature. The Bidder's seal, if a corporation, shall be affixed under the Bidder's signature. Telephone, telegraphed or "faxed" bids will not be accepted.

If a separate set of proposal sheets is issued, they may be used with the understanding that all instructions and conditions of the contract documents are the same as if these pages were bound herein.

#### **QUALIFICATIONS OF BIDDERS**

The Contractor is required to complete the detailed "Statement of Bidders' Qualifications" and provide the required submission. Sufficient information should be provided for the Town to adequately evaluate the Contractor's ability to service the Town. Should insufficient space be available to fully address each request, additional information should be included by attachment.

The Town may make such investigations as it deems necessary to determine the qualifications of the Bidder to perform the work, and the Bidder shall furnish information and data for this purpose as may be required. The Town reserves the right to reject any bid if the evidence submitted by a Bidder, or the investigation of such Bidder, fails to satisfy the Town, that the Bidder is properly qualified to carry out the obligations of the bid. Fraudulent statements shall cause rejections of Proposal and bid security.

## **CONDITIONS OF WORK**

Each Bidder must familiarize themselves fully of the conditions and requirements relating to the circumstances and labor under which work will be performed at 10 Clove Road, North White Plains, New York 10603. Failure to do so will not relieve a successful Bidder of their obligation to furnish all requirements, materials and labor necessary to carry out the provisions of the Contract and to complete the work for the consideration set forth in the bid. **Bidder certifies that it has examined the site and existing conditions.** Bid shall include the complete costs of furnishing all materials, labor, equipment, certifications and standards necessary to supply the requested services in accordance with the Contract Specifications and all other expenses incidental thereto. Local and State sales taxes shall not be included in the bid.

Insofar as possible, any Contractor in the carrying out of his work must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor, or of the proper functioning of the existing facilities of adjacent or contingent properties.

**A pre-bid site visit will be conducted on November 30, 2020 at 9:00 A. M. at the North White Plains Community Center, 10 Clove Road, North White Plains, New York 10603.**

## **ADDENDA AND INTERPRETATION**

Every request for information or interpretation of Bidding Documents must be addressed in writing to Karl Ackermann, AIA – Sullivan Architecture, PC [kackermann@sullivanarch.com](mailto:kackermann@sullivanarch.com) and copy Town Administrator Kevin Hay at [khay@northcastleny.com](mailto:khay@northcastleny.com), to be given any consideration and must be received at least ten (10) days prior to the date fixed for the opening of bids. Any and all such interpretations, and any supplemental instructions, will be in the form of written Addenda and will be emailed to all prospective Bidders. The failure of any Bidder to receive any such Addenda will not relieve the Bidder of any obligation under the Bid as submitted. The receipt of any Addenda shall be noted on the "Bid Form". All potential bidders must register as a project bidder with the Town's representative Kevin Hay in order to facilitate the method of Addenda distribution, if any.

## **BID SECURITY**

Each Bidder is required to deposit at the time of submission of their bid, a Bid Bond or certified check in an amount representing five (5%) per cent of the bid payable to the Owner, which amount the bidder agrees is to be forfeited as liquidated damages and not as a penalty, if in case of award of the contract and thereafter fail to execute a Contract with the Owner under the conditions of this Proposal or to furnish the bonds required for the faithful performance of this contract. Bidders who submit certified checks must accompany them with a Consent of Surety from a recognized Bonding Company agreeing to supply a Performance Bond and Labor and Materials Bond if the contract is awarded to the Bidder.

Such bid security will be returned to all except the three lowest Bidders within ten (10) working days after the formal opening of bids, and the remaining bid security will be returned to the other Bidders after the Owner and the accepted Bidder have executed a Contract. In the event that no Contract has been executed within seventy-five (75) calendar days after the date of the opening of bids; upon the demand of the Bidder so long as the Bidder has not been notified of the acceptance of the bid, the bidder's bid security will be returned. The Bid Security of the successful Bidder will be retained until the signing of the Agreement and the filing and approval of the bonds and insurance certificates.

## **INSURANCE REQUIRED**

The successful Bidder will be required to procure and pay for insurance, in accordance with the provisions listed in SECTION I.

- 1) Worker's Compensation
- 2) N.Y.S. Disability
- 3) Commercial General Liability Policy
- 4) Comprehensive Automobile Policy
- 5) Umbrella Liability
- 6) Professional Liability
- 7) Owners & Contractors Protective Liability Policy
- 8) Bid, Performance, and Labor & Material Bonds
- 9) Property Insurance
- 10) ~~Asbestos/Lead Abatement and Environmental Clean-up~~

## **SECURITY AND FAITHFUL PERFORMANCE**

The Contractor shall, prior to execution of the contract, submit two separate executed bonds: (1) a Performance Bond in an amount equal to one hundred percent (100%) of the accepted bid as security for the faithful performance of the terms, covenants and conditions of the Contract, and (2) a Labor and Materials Bond for the full amount of the contract price guaranteeing the full payment of all persons performing labor or furnishing material or rentals under the Contract. (Refer to Section C - BID for amount)

The Bonds shall be prepared as specified in Section E, Performance Bond and Labor and Materials Bond, and shall have as Surety thereon such Surety Company or companies as acceptable to the Owner and are authorized to transact business in the State of New York.

## **GUARANTEE**

The Contractor shall guarantee all materials and workmanship for one (1) year in accordance with all conditions set forth in the specifications. The guarantee shall be provided in the form of a bond equivalent to one hundred (100) percent of the Contract. The bond shall be prepared as specified herein and shall be posted prior to final payment.

Neither the final certificate of payment nor any provision in the Contract nor prior or entire use of the improvements embraced in this contract by the Town or the public constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

## **FORM OF AGREEMENT**

The form of the agreement is included in these documents in SECTION D.

## **AWARD**

The Contract will be awarded to the lowest responsible bidder pursuant to the provisions of the General Municipal Law. The Town Board reserves the right to determine responsibility based on an evaluation of

the Contractor's qualifications, experience, organization, finances, past performances, and other applicable factors. The Town Board further reserves the right to reject any and all bids.

In evaluating the bids, the Town shall consider the qualifications of the bidders, whether or not the bids comply with the prescribed requirements, and alternatives and unit prices if requested in the Bid Form. Town shall evaluate the qualifications and experience of the bidder, subcontractors, and partners as presented herein and shall conduct such investigations as he deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of the bidders, to perform the service in accordance with the Contract Documents. The Contract shall be awarded to the lowest bidder whose evaluation by the Town indicates to the Town that the award will be in the best interest of the Town

**OWNER (when referenced herein)**

Town of North Castle, Westchester County, New York.

**SALES TAX EXEMPTION**

Under Chapter 513 of the Laws of the New York 1974, all materials and supplies sold to a Contractor and which are to become an integral, component part of a structure, building or real property owned by an exempt organization such as the Town of North Castle, are exempt from the payment of New York State Sales or compensatory use taxes. Therefore, the Contractor should not include any amount in its bid price to cover sales taxes for the above items.

**REQUIRED SUBMISSIONS**

Prior to award, the successful bidder will be required to meet the following requirements:

1. The successful bidder, if the business is not registered in New York State, must provide the Town with a certificate issued by the Secretary of State of New York stating that the Corporation is authorized to do business within the state and is presently in good standing. If the entity to whom the bid is awarded is not a corporation, it would be required that the entity's certificate of doing business, which should be on file in the County Clerk's Office, be provided. (This would also hold true in the case of joint ventures which would be required to disclose the underlying entities which make up the joint venture and supply the requisite certificate of doing business for each entity.)
2. A statement by the successful bidder that no officer, director or stockholder (if less than 10 stockholders) of the successful bidder is an officer or employee of the Town or is a relative of any such Town Official or employee. If such officer, director or stockholder does exist, their names and relationship shall be disclosed to the Town.
3. ALL materials, information, licenses and any other information as indicated in this document.

**INSTRUCTIONS TO BIDDERS  
SUMMARY**

**PROJECT**

A. Project Name: **NORTH WHITE PLAINS COMMUNITY CENTER RENOVATION**

B. Owner's Name: **TOWN OF NORTH CASTLE**

C. Summary Project Description:

The project consists of Interior and Exterior renovations including a new generator and HVAC equipment as fully illustrated, noted and detailed in the architectural drawings technical specifications prepared by Sullivan Architecture, PC and OLA Consulting Engineers.

**CONTRACT DESCRIPTION**

A. Contract Type: A single prime contract based on a Stipulated Price.

**DESCRIPTION OF ALTERATIONS WORK**

A. Scope of demolition and removal work is shown on drawings.

B. Scope of alterations work is shown on drawings.

**OWNER OCCUPANCY**

A. The building owner intends to suspend occupancy to the existing building during the entire construction period or as long as toilet facilities are not available.

B. Cooperate with the Town of North Castle to minimize conflict and to facilitate building operations.

C. Electrical power shall be available at all times. Limited interruption of electric power shall be allowed during switchover from sources only.

1. All swing overs of power to the source shall be undertaken between 8 AM and 3 PM on Monday through Friday only unless permission is granted by the Superintendent of Recreation.
2. Temporary power shall be provided during any power interruptions which will last for a period of time two hours or longer.

D. Schedule the Work to accommodate the public and staff occupancy.

**CONTRACTOR USE OF SITE AND PREMISES**

A. Construction Operations: Limited to areas noted on Drawings.

B. Arrange use of site and premises to allow for the continued occupancy of the building.

C. Provide public access to and from site as required by law and by the Office Staff.

1. Emergency Building Exits During Construction: Keep all exits required by code open during construction period; provide temporary exit signs if exit routes are temporarily altered.
2. Do not obstruct roadways, sidewalks, or other public ways without permit.

D. Existing building spaces may not be used for storage without prior approval of the building management.

E. Time Restrictions:

1. Limit conduct of especially noisy interior work to the hours between 8 AM and 4 PM on weekdays.

F. Utility Outages and Shutdown:

1. Do not disrupt or shut down utility services to the building, including but not limited to power, gas, domestic cold and hot water systems, without 7 days' notice to the Town of North Castle.
2. Prevent accidental disruption of utility services to other facilities.

### **WORK SEQUENCE**

- A. Construct Work in stages during the construction period. Provide a detailed phasing description of work to be performed to be agreed with Sullivan Architecture, PC and the Town of North Castle.
- B. Coordinate construction schedule and operations with Sullivan Architecture, PC and the Town of North Castle.
- C. Secure all permits from the Town of North Castle Building Department prior to the commencement of work. No fees will be charged for any Town permits required.

**SECTION C**

**BID PROPOSAL FOR**

**North White Plains Community Center Renovation**

10 Clove Road, North White Plains NY 10603

To:

TOWN CLERK  
TOWN OF NORTH CASTLE  
15 BEDFORD ROAD  
ARMONK, NEW YORK 10504

Bid Submitted By:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(email address)

1. I/We do hereby declare that I/We have carefully examined the Notice to Bidder, the Drawings, the Requirements, and the Specifications relating to the above entitled matter and the work, and have also examined the sites.
2. I/We do hereby offer and agree to furnish all materials, to fully and faithfully construct, perform and execute all work in the above titled matter in accordance with the Requirements and Specifications relating thereto, and to furnish all labor, tools, implements, models, forms, transportation and materials necessary and proper for the purpose for the price/prices as given on the bid forms.
3. I/We do hereby declare that the prices so stated cover all expenses of every kind incidental to the completion of said work, and the contract therefore, including all claims that may arise through damages or any other cause whatsoever.
4. I/We do hereby agree that I/We will execute a contract therefore, containing all the terms, conditions, provisions and covenants necessary to complete the work according to the Requirements and Specifications therefore within **thirty (30) business days** after the award of the contract and if I/We fail to execute said Contract within said period of time, that the Town Board shall have the power to rescind said award and also that the said Board shall retain the proceeds of the certified check, or require the payment of the sum of the bid bond.
5. I/We do declare and agree I/We will commence the work within the specified amount of time after the contract execution and will complete the work fully and in every respect including

approval by the Town of North Castle on or before the time specified in said contract and do authorize the said Board, in case of failure to complete the work within such specified time to employ such men, equipment and materials as may be necessary for the proper completion of said work and to deduct the cost thereof from the amount due under the contract. The Contract execution will serve as the official notification to commence work.

6. I/We agree that the Town of North Castle reserves the right to select any one, combination of, or all the Bid items in this proposal for the Contractor to complete without affecting any of the Bid prices.
7. I/We hereby affirm that by submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under the penalty of perjury, that to the best of their knowledge and belief:
  - (a) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
  - (b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
  - (c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not submit a bid for the purpose of restricting competition.
  - (d) No member of the Town Board or any officer or employee of the Town of North Castle, New York, or person whose salary is payable in whole or in part from the said Town treasury is, shall be or become interested, directly, as a contracting party, partner, stockholder, surety or otherwise, in this bid, or in the performance of the contract, or in the supplies, materials or equipment and work of labor to which it relates, or in any portion of the profits thereof.
8. I/We do hereby further agree that this proposal is a firm bid and shall remain in effect for a period of at least **sixty (60) calendar days** from the date of the opening of bids, and that with said period of sixty (60) calendar days, the Town will accept or reject this proposal, or this period may be extended by mutual agreement.
9. I/We do hereby declare that, if this is a corporate bid, I have been duly authorized to act as the signatory on this proposal in behalf of this corporation.
10. I/We hereby affirm, under penalty of perjury, the truth of all statements in this proposal.
11. I/We hereby agree that I/We accept the unit prices on the following pages, for the various items of work, should this contract require unit prices.
12. I/We hereby agree that I/We shall make no claim on account of any variation of the estimated quantities of work to be done, whether the actual quantities are greater, smaller or completely deleted. A change in the quantity of any item shall not be regarded as sufficient ground for a change in the price of that item.

---

(Legal Name of Bidder, Partner or Corporate Officer)

By: \_\_\_\_\_

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

(Authorized Signature)

Corporate Seal (if incorporated)

Bidder acknowledges receipt of Addenda as follows:

\_\_\_\_\_

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

Signature

\_\_\_\_\_

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

Signature

\_\_\_\_\_

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

Signature

**BID**

I \_\_\_\_\_,  
Individual \_\_\_\_\_ Office Held \_\_\_\_\_  
Of \_\_\_\_\_  
\_\_\_\_\_  
Company Name \_\_\_\_\_ Address \_\_\_\_\_

**Submit herewith the total costs for:**

**North White Plains Community Center Renovation  
10 Clove Road, North White Plains NY 10603**

The contractor shall supply all necessary labor, material, equipment, etc. for **Interior and Exterior Additions/ Alterations** in accordance with the plans and specifications prepared by Sullivan Architecture, PC and consulting engineers.

1) **The total cost for the described base scope services as follows:**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )  
Written in words

2) **The total cost for the described add / deduct alternate services as follows:  
add/deduct alternates 1 – 6**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )  
Written in words

**Alternate Bid Breakdown – Provide each add/ deduct alternate price below which is reflected in total #2 above.**

**The total cost for the described add alternate 1**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )  
Written in words

**The total cost for the described add alternate 2**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )  
Written in words

**The total cost for the described add alternate 3**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )  
Written in words

**The total cost for the described deduct alternate 4**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Written in words**

**The total cost for the described add alternate 5**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Written in words**

**The total cost for the described add alternate 6**

\$ \_\_\_\_\_ (\$ \_\_\_\_\_ )

**Written in words**

In case of a discrepancy between the price in words and the price in numbers, the price in words shall govern.

The following is a list of locations where we have performed work of similar character and magnitude, together with references (beginning with the most recent):

Name of Client	Scope of Work	Period of Contract	References & Telephone #
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The full names and places of residence of all persons and parties interested as principals in the foregoing proposal are as follows:

Name	Title	Address
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Signature of Bidder: \_\_\_\_\_

FEIN: \_\_\_\_\_

Business Address: \_\_\_\_\_

Place of Residence: \_\_\_\_\_

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

**BIDDER BY**

---

(Printed Name of Partner or Corporate Officer)

(Corporate Seal)

---

Signature

---

Date

---

Secretary of Corporate Bidder

## SUBCONTRACTOR LIST

North White Plains Community Center Renovation, 10 Clove Road, North White Plains NY 10603

Contractor/Bidder Name \_\_\_\_\_

**Please Note: Contractor / Bidder is required to submit this completed page in a sealed second envelope within the sealed bid envelope, naming each Subcontractor and the amount to be paid to each, per WICKS Reform 2008. <https://www.nysenate.gov/legislation/laws/GMU/101>**

### **Subcontractor for Mechanical:**

Company Name \_\_\_\_\_

Address/Phone No. \_\_\_\_\_

(Price in words) \_\_\_\_\_

(Price in figures) \_\_\_\_\_

### **Subcontractor for Electrical:**

Company Name \_\_\_\_\_

Address/Phone No. \_\_\_\_\_

(Price in words) \_\_\_\_\_

(Price in figures) \_\_\_\_\_

### **Subcontractor for Plumbing:**

Company Name \_\_\_\_\_

Address/Phone No. \_\_\_\_\_

(Price in words) \_\_\_\_\_

(Price in figures) \_\_\_\_\_

### **Subcontractor for Fire Protection:**

Company Name \_\_\_\_\_

Address/Phone No. \_\_\_\_\_

(Price in words) \_\_\_\_\_

(Price in figures) \_\_\_\_\_

**STATEMENT OF BIDDER'S QUALIFICATIONS**

It is the intent of the Town to execute an agreement with a duly licensed and qualified Contractor that can provide reliable and uninterrupted quality services. The Contractor must possess the licenses, financial resources, experience, technical and management qualifications, equipment, vehicles, and manpower and facilities necessary to assure that the requirements of the Town will be met throughout the term of this Agreement.

The Contractor is, therefore, required to provide the following information with regard to its company and organization. Sufficient information should be provided to the Town to adequately evaluate the Contractor's ability to service the Town. Should sufficient space be available to fully address each request, additional information should be included by attachment herein.

**COMPANY INFORMATION**

Bidder: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ email: \_\_\_\_\_

Contact: \_\_\_\_\_ Type of Organization: \_\_\_\_\_

Name of Parent Company, if applicable: \_\_\_\_\_

Name of Affiliate Companies, if applicable: \_\_\_\_\_

Identity of Joint Venture Partners, if any: \_\_\_\_\_

Brief history of Bidder(s) involved in the Proposal (attach additional sheets if necessary):

\_\_\_\_\_  
\_\_\_\_\_

Has Bidder ever failed to complete any contract awarded to it? \_\_\_\_\_

If so, state name of owner, reason therefore and bonding company: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Has any officer of partner of Bidder ever failed to complete a contract handled in his/her name?

\_\_\_\_\_

If so, state name of individual, name of owner, reason therefore, and bonding company:

\_\_\_\_\_  
\_\_\_\_\_

Has any facility that you operated been the subject of administrative or judicial action for alleged violation of environmental or public health laws or regulations? If so, state the details and disposition:

\_\_\_\_\_  
\_\_\_\_\_

**FINANCIAL & LEGAL INFORMATION**

Financial Statement:

Bidders shall attach a complete financial statement for the most recently completed fiscal year. Statement must be prepared by a Certified Public Accountant according to accepted accounting principles.

Bank References:

Bank	Address	Name & Telephone Number of Contact Person
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Has your organization ever failed to complete any work awarded? Yes \_\_\_\_ No \_\_\_\_

If yes, where and why: \_\_\_\_\_

Has your organization ever been party to a civil, criminal, or administrative proceeding or is your organization currently in litigation of any kind? Yes \_\_\_\_ No \_\_\_\_

If \_\_\_\_\_ yes, \_\_\_\_\_ provide \_\_\_\_\_ details:

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Has your organization or any officer or partner of your organization or person listed in previous sections ever been convicted of any criminal conduct or been found in violation of any environmental law or regulation administered by New York, other states, the United States or another country?

Yes \_\_\_\_ No \_\_\_\_

If yes, provide details: \_\_\_\_\_

Is your organization, or any officer or partner of your organization, a party to any ongoing court proceeding, administrative consent agreement negotiation, or similar ongoing administrative enforcement action not already disclosed in this section. Yes \_\_\_\_ No \_\_\_\_

If yes, provide details: \_\_\_\_\_

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Surety:

Bidder shall provide the name, address, telephone number and contact person for the surety firm provided guarantees under this Contract:

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Financial References:

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## STATEMENT OF NON-COLLUSION

*(To be completed by Each Bidder)*

In accordance with Section 103(d) General Municipal Law, effective September 1, 1966, every bid or proposal hereafter made to a political subdivision of the State or any public department, agency, or official thereof or to a fire district or any agency or official thereof for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed to by the bidder and affirmed by such bidder as true under the penalties of perjury; non-collusive bidding certification.

- A. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:
- (1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or any competitor.
  - (2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor.
  - (3) No attempt has been made or will be made by the bidder to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.
- B. The person signing this bid or proposal certifies that they have fully informed themselves regarding the accuracy of the statements contained in this certification, and under the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the bidder, as well as the person signing in its behalf.
- C. That attached hereto (if a corporate bidder) is a certified copy of resolution authorizing the execution of this certificate by the signator of this bid or proposal in behalf of the corporate bidder.

RESOLUTION

Resolved that \_\_\_\_\_  
(Name of Corporation)

be authorized to sign and submit the bid or proposal of this Corporation for the **North White Plains Community Center Renovation, 10 Clove Road, North White Plains, New York 10603.**

and to include in such bid or proposal the STATEMENT OF NON COLLUSION required by SECTION 103(d) of the General Municipal Law as the act and deed of such corporation, and for any inaccuracies or misstatements in such certificate this corporate bidder shall be liable under the penalties of perjury.

The foregoing is a true and correct copy of the resolution adopted by the  
\_\_\_\_\_

Corporation at a meeting of the Board of Directors held on the \_\_\_\_\_

day of \_\_\_\_\_, 2020.

(SEAL OF THE CORPORATION)

\_\_\_\_\_  
Secretary

**STATEMENT OF IRAN DIVESTMENT ACT**

No contract may be awarded to any persons determined to be engaged in investment activities in Iran as indicated by New York State Office of General Services.

Every written offer made to the Town of North Castle must contain the following statement subscribed and affirmed by the offeror as true under penalties of perjury:

By the submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in case of joint offer each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each offeror is not on the list created pursuant to State Financial Law §165-a(3)(b).

The Town of North Castle may award an offer to an offeror who cannot make the statement of non-investment on a case-by-case basis if:

The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

The Town of North Castle makes the determination that the goods or services are necessary for the Town to perform its functions and that, absent such an exemption, the Town would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

Company Title/Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

**STATEMENT OF SEXUAL HARASSMENT POLICY**

Every written offer made to the Town of North Castle must contain the following statement subscribed and affirmed by the offeror as true under penalties of perjury:

By the submission of this offer, each offeror and each person signing on behalf of any offeror certifies, and in case of joint offer each party thereto certifies as to its own organization, under penalty of perjury, that to the bidder has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment training to all employees pursuant to State Finance Law § 139-L.

Company Title/Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

OFFER OF SURETY

(To be completed by Each Bidder)

In the event the above Proposal is accepted and the undersigned is awarded the Contract for the work, the undersigned offers as surety for faithful performance, bond and/or bonds to protect labor and materials, the following surety:

\_\_\_\_\_  
SURETY COMPANY

Signed \_\_\_\_\_

(Bidder)

CERTIFICATE OF SURETY is to be signed by a duly authorized official, agent or attorney of the Surety Company.

In the event that the above Proposal is accepted and the contract for the work is awarded to

said \_\_\_\_\_

(Bidder's Name)

the \_\_\_\_\_

(Surety)

(Company)

will execute the Surety Bonds as herein before provided.

Signed: \_\_\_\_\_

(Authorized Official, Attorney or Agent)

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

**Important: This page must be filled out when certified check is submitted in lieu of bid bond, or bid may be rejected.**

**SECTION D**

**AGREEMENT**

*(Upon award)*

**FOR**

**North White Plains Community Center Renovation**  
**10 Clove Road, North White Plains NY 10603**

THIS AGREEMENT made this \_\_\_ day of \_\_\_\_\_, 2021 by and between \_\_\_\_\_. (hereinafter called the "Contractor") and the Town of North Castle, New York hereinafter called the "Town".

WITNESSETH, that the Contractor and the Town for the considerations stated herein mutually agree as follows:

Article 1. Statement of Work. The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, appurtenances, equipment and services, including utility and transportation services and perform and complete all work and required supplemental work for the completion of this Contract in strict accordance with the hereinafter referenced Contract Documents including all Addenda thereto as specified by the Town of North Castle, New York.

Article 2. The Contract Price. The Town will pay the Contractor for the performance of the Contract in U.S. Dollars and with current funds, for the total quantities of work performed at the stated prices stipulated in the Bid for the respective items of work completed subject to additions and deductions as may be provided in the GENERAL CONDITIONS. The Town will issue a Purchase Order for the total dollar amount once the contract is awarded. The Contractor will provide invoices for services rendered.

Article 3. Contract Documents. The Contract Documents shall consist of the following (including their attachments and exhibits):

- |    |  |    |                            |
|----|--|----|----------------------------|
| a. | This Agreement   | f. | Technical Specifications   |
| b. | Addenda (if any)   | g. | General Conditions         |
| c. | Notice to Bidders  | h. | Performance Bond           |
| d. | Instructions to Bidders                                      | i. | Labor and Materials Bond   |
| e. | Signed copy of Bid, with<br>all attachments required for bid | j. | Certificates of Insurance  |
|    |  | k. | Statement of Non-Collusion |

This Agreement, together with other Documents enumerated in this Article 3, which said other Documents are as fully a part of the Contract as if hereto attached or herein repeated, forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component the part first enumerated in this Article 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in **two (2)** original copies on the day and year first above written.

ATTEST:

\_\_\_\_\_  
(Contractor)

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

Title \_\_\_\_\_

ATTEST

\_\_\_\_\_  
(Owner)

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

Title Town Supervisor \_\_\_\_\_

STATE OF NEW YORK

SS.:

COUNTY OF WESTCHESTER

On the \_\_\_\_\_ day of \_\_\_\_\_ 2021, before me personally came \_\_\_\_\_

to me known, who, being by me duly sworn, did depose and say that he resides at

\_\_\_\_\_ that he is the \_\_\_\_\_

of the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that is was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEW YORK

SS.:

COUNTY OF WESTCHESTER

On the \_\_\_\_\_ day of \_\_\_\_\_ 2021, before me personally came MICHAEL J. SCHILIRO, to me

known, who, being by me duly sworn, did depose and say that he maintains an office at Town Hall, 15

Bedford Road, Armonk, New York; that he is the Supervisor of the Town of North Castle, the municipal

corporation described in and which executed the foregoing instrument; that he knows the seal of said

corporation; that the seal affixed to said instrument is such corporate seal; that is was so affixed by order

of the Town Board of the said corporation; and that he signed his name thereto by like order.

\_\_\_\_\_  
NOTARY PUBLIC

**SECTION E**

**PERFORMANCE AND LABOR & MATERIALS BONDS**

*Performance Bond and Labor & Materials Bond are required upon award*

**SECTION F**

**GENERAL RELEASE**

(To Be Submitted with Requisition for Final Payment)

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
for \_\_\_\_\_ (Contractor)  
and in consideration of the sum of \_\_\_\_\_  
lawful money of the United States of America, to it in hand paid by

\_\_\_\_\_  
(Owner/Contracting Agency)

have remised, released, quit-claimed, and forever discharged, and by these presents do for its successors and assigns remise, release, quit-claim, and forever discharge the said

\_\_\_\_\_, and  
(Owner/Contracting Agency)

its successors and assigns and administrators, of and from any and all manner of action and actions, caused and causes of action, suits, debts, dues, sum and sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contract, controversies, agreements, promises, variances, trespasses, damages, judgments, patents, extents, executions, claims and demands whatsoever in law and unity which against the said

\_\_\_\_\_  
(Owner/Contracting Agency)

now have or which heirs, executors, or administrators hereafter can, shall, or may have, for upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of the date of these presents rising out of the construction, in accordance with contract entered into between parties hereto, dated \_\_\_\_\_, Two Thousand and \_\_\_\_\_, any admittance or supplements thereto.

IN WITNESS WHEREOF, the undersigned Corporation has caused this agreement to be signed by its

\_\_\_\_\_ and its Corporation seal to be hereto affixed and duly attested by its

\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

ATTEST:

PRINCIPAL:

\_\_\_\_\_

\_\_\_\_\_

## **SECTION G**

### **PREVAILING WAGE RATES**

The Contractor is hereby bound to pay all labor on this project at rates no less than the Current Prevailing Wage Scales, as prepared by the New York State Labor Department. The contractor must register the project with NYSDOL and is required to obtain the latest prevailing wage rates. The contractor is also hereby bound that they are required to base bid on such prevailing wages and understood that they may change at any time. The contractor also must close out the project with NYDOL when complete.

Contractor shall agree that every mechanic, laborer and workman employed by the Contractor or any subcontractor or any other person about or upon the work contemplated by the service agreement shall be paid not less than the prevailing rate of wages, and provided not less than the prevailing supplements, as provided for by Section 220 of the New York State Labor Law, as amended from time to time. The Contractor shall acquire a schedule of such wage rates for the project as provided by the NYS Department of Labor at the following website <https://apps.labor.ny.gov/wpp/viewOriginalWageSchedule.do>.

The Contractor, and his subcontractors, shall post in a prominent accessible place on the site of the work a legible statement of all wage rates and supplements as specified in the service agreement to be paid or provided for the various classes of mechanics, workmen or laborers employed for the work contemplated by the service agreement, and showing all authorized deductions, if any, from unpaid wages actually earned.

The Contractor and each subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the service agreement shall pay each and every one of his employees engaged in such work or any part thereof the full and proper wage without any deduction or kickback whatever, excepting such deductions as are made mandatory by law. Payment to each and every employee shall be made not less often than once per week and shall be made in cash, unless payment by check is authorized by certificate of the Commissioner of Labor of the State of New York as provided by law.

## **SECTION H**

### **COMPLIANCE WITH THE LABOR LAW AND OTHER DEPARTMENT OF LABOR REGULATIONS**

The Contractor shall comply with the applicable provisions of the "Labor Law" as amended, of the State of New York. This Contract shall be void unless applicable sections of said Labor Law are complied with.

Each and every provision of law and clause required by law to be part of this Contract shall be deemed to be included herein and this Contract shall be read and enforced as though it were included herein, and, if through mere mistake or otherwise any such provision is not included, then upon the application of either party hereto, the Contract shall forthwith be physically amended to make such inclusion.

Specifically, Section 220(e), of the Labor Law, as so amended, prohibits in contracts, discrimination on account of race, creed, color, or national origin in employment of citizens upon public works.

There may be deducted from the amount payable to the Contractor by the Owner under this Contract a Penalty of five (\$5.00) dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of Section 220(e); provided, that for a second or any subsequent violation of the provisions of said paragraph, this Contract may be canceled or terminated by the Owner and all monies due or to become due hereunder may be forfeited.

## SECTION I INSURANCE

Prior to commencement of any work under this Contract and until completion and final acceptance of the work, the Contractor/Provider shall, at its sole expense, maintain the following insurance on its own behalf, and furnish to the Town of North Castle certificates of insurance evidencing same and reflecting the effective date of such coverage as follows:

The term "Contractor/Provider" as used in this indemnification agreement shall mean and include Subcontractors of every tier.

- 1) Worker's Compensation and Employers Liability Policy, covering operations in New York State. Where applicable, U.S. Longshore and Harbor Workers Compensation Act Endorsement and Maritime Coverage Endorsement shall be attached to the policy. Evidence must be provided on a C-105.2. Waiver of Subrogation to be included
- 2) Commercial General Liability Policy, with limits of no less than \$1,000,000 Each Occurrence/\$2,000,000 General Aggregate limits for Bodily Injury and Property Damage, and shall include coverage for:
  - A. Premises & Operations
  - B. Products/Completed Operations;
  - C. Independent Contractors;
  - D. Personal & Advertising Injury
  - E. Blanket Contractual Liability
  - F. XCU
  - G. Town of North Castle and their assigns, officers, employees, volunteers, representatives and agents should be named as an "Additional Insured" on the policy using ISO Additional Insured Endorsement CG 20 10 11/85 or an endorsement providing equivalent or broader coverage and shall apply on a primary and non-contributory basis, including any self-insured retentions. The Certificate of Insurance should show this applies to the General Liability coverage on the certificate, and Additional Insured Endorsement shall be attached.
  - H. To the extent permitted by New York law, the Contractor/Provider waives all rights of subrogation or similar rights against Town of North Castle, assigns, officers, employees, volunteers, representatives and agents.
  - I. Cross Liability coverage (Commercial General Liability and Business Automobile Liability policies only).
  - J. Coverage for athletic participants must be included if renter is an athletic team or league.
  - K. Coverage must be written on an Occurrence Policy Form.
- 3) Comprehensive Automobile Policy, with limits no less than \$1,000,000 Bodily Injury and Property Damage liability including coverage for owned, any auto non-owned, and hired private passenger and commercial vehicles.
  - A. Town of North Castle and their assigns, officers, employees, representatives and agents should be named as an "Additional Insured" on the policy. The Certificate of Insurance should show this applies to the Automobile Liability coverage on the certificate, and Additional Insured Endorsement shall be attached.
  - B. To the extent permitted by New York law, the Contractor/Provider waives all rights of subrogation or similar rights against Town of North Castle, assigns, officers, employees, representatives and agents.
  - C. If applicable, policy should be specifically endorsed to cover snow plow operations.

- 4) Umbrella Liability, with limits of no less than \$1, 000,000 Each Occurrence/ \$1, 000,000 General Aggregate, including coverage for General Liability, Automobile, Workers Compensation and Professional Liability (if applicable).
  - A. Coverage must be written on an Occurrence Policy Form.
- 5) Professional Liability (if applicable), with limits no less than \$1,000,000. Per Claim.
- 6) Owners & Contractors Protective Liability Policy, (if applicable) with limits no less than \$1,000,000 Per Occurrence/\$2,000,000 Aggregate shall be taken out with the Town of North Castle as the Named Insured, and maintained during the life of this contract which will protect the Town of North Castle from claims for damages for personal injury, liability, accidental or wrongful death, as well as property damage which may arise from operations under this contract whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either party.
- 7) Bid, Performance and Labor & Material Bonds, if required in the specifications, these bonds shall be provided by a New York State admitted surety company, in good standing.
- 8) Property Insurance, the Contractor shall cover materials being installed onsite, in transit, and/or at any other location.
- 9) Asbestos/Lead Abatement and Environmental Clean-Up, (if applicable). Coverage for the removal of asbestos and/or lead and related pollution events, including coverage for third-party liability claims for bodily injury, property damage and clean-up costs. \$1,000,000 per occurrence/\$2,000,000 aggregate including Products and Completed Operations. If a retroactive date is used, it must pre-date the inception of the contract
- 10) Certificates shall provide that thirty (30) days written notice prior to cancellation or expiration be given to the Town of North Castle. Policies that lapse and/or expire during term of work shall be recertified and received by the Town of North Castle no less than thirty (30) days prior to expiration or cancellation.

**NOTE: The above listed Minimum Insurance Requirements may be increased upon the review and determination of the Town's Risk Management Committee.**

The Contractor/Provider shall furnish to Town of North Castle Certificates of Insurance as evidence of coverage prior to commencement of work and naming Town of North Castle as an Additional Insured **by endorsement**. The Contractor/Provider acknowledges that failure to obtain such insurance on behalf of the Town of North Castle constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the Town of North Castle. The failure of the Town of North Castle to object to the contents of the certificate or absence of same shall not be deemed a waiver of any and all rights held by the Town of North Castle.

The cost of furnishing the above insurance shall be borne by the Contractor/Provider, there will be no direct payment for this work. Cost will be deemed to have been included in the price bid for all scheduled items.

All carriers listed in the certificates of insurance shall be A.M. Best Rated A VII or better and be admitted in the State of New York.



TOWN OF NORTH CASTLE  
15 Bedford Road ~ Armonk, NY 10504  
(914) 273-3000  
[www.NorthCastleNY.com](http://www.NorthCastleNY.com)

## **Indemnification and Hold Harmless Agreement**

To the fullest extent permitted by law, Contractor/Provider shall indemnify, hold harmless and defend Town of North Castle, and agents and employees of any of them from and against all claims, damages, losses or expenses including but not limited to attorney's fees arising out of or resulting from the performance of the agreement, provided any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting there from, and (b) is caused in whole or in part by any act or omission or violation of statutory duty or regulation of the Contractor/Provider or anyone directly or indirectly employed by it or anyone for whose acts it may be liable pursuant to the performance of the agreement.

Notwithstanding the foregoing, Contractor/Provider's obligation to indemnify Town of North Castle, and agents and employees of any of them for any judgment, mediation or arbitration award shall exist to the extent caused in whole or in part by (a) negligent acts or omissions, or (b) violations of regulatory or statutory provisions of the New York State Labor Law, OSHA, or other governing rule or applicable law; by the Contractor/Provider anyone directly or indirectly employed by it or anyone for whose acts it may be liable in connection to such claim, damage, loss and expense. The obligation of the Contractor/Provider to indemnify any party under this paragraph shall not be limited in any manner by any limitation of the amount of insurance coverage or benefits including worker's compensation or other employee benefit acts provided by the Contractor/Provider.

Company Title/Name: \_\_\_\_\_

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

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

Nature/Scope of Work Being Performed: \_\_\_\_\_

# **North White Plains Community Center Renovation**

## **10 Clove Road, White Plains NY 10603**

### **SECTION J**

#### **NON-DISCRIMINATION CLAUSE**

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, color, or national origin. Such action shall be taken with reference, but not limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.
- B. The Contractor will send to each labor union or representative of workers with which it has or is bound by a collective bargaining or other agreement or understand, a notice, to be provided by the Commission of Human Rights, advising such labor union or representative of the Contractor's agreement under clauses "a" through "h" hereinafter called "non-discrimination clauses", and requesting such labor union or representative to agree in writing, whether in such collective bargaining or other agreement or understanding or otherwise, that such labor union or representative will not discriminate against any member or applicant for membership because of race, creed, color, or national origin, and will take affirmative action to insure that they are afforded equal membership opportunities without discrimination because of race, creed, color, or national origin. Such action shall be taken with reference, but not be limited to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay, or other forms of compensation, and selection for training or retraining including apprenticeship and on-the-job training. Such notice shall be given by the Contractor, and such written agreement shall be made by such labor union or representative, prior to the commencement of performances of this contract. If such labor union or representative fails or refuses so to agree in writing, the Contractor shall promptly notify the Commission for Human Rights of such failure or refusal.
- C. The Contractor will post and keep posted in conspicuous places, available to employee and applicants for employment, notices to be provided by the Commission for Human Rights setting forth the substance of the provisions of clauses "a" and "b" and such provisions of the State's Laws against discrimination as the Commission for Human Rights shall determine.
- D. The Contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, or national origin.
- E. The Contractor will comply with the provision of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the Commission

for Human Rights under these non-discrimination clauses and such sections of the Executive Law, and will, permit access to books, records, and accounts by the Commission for Human Rights, and Owner representatives/counsel clauses and such sections of the Executive Law and Civil Rights Law.

- F. This Contract may be forthwith canceled, terminated, or suspended in whole or in part, by the Contracting agency upon the basis of a finding made by the Commission of Human Rights that the Contractor has not complied with these non-discrimination clauses, and the Contractor may be declared ineligible for future contracts made by or on behalf of the Owner/Contracting Agency until it has satisfied the Commission for Human Rights that it has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the Commission for Human Rights after conciliation efforts by the Commission have failed to achieve compliance with these non-discrimination clauses and after a verified complaint has been filed with the Commission, notice thereof has been given to the Contractor and an opportunity has been afforded to be heard publicly before three members of the Commission. Such sanctions may be imposed and remedies otherwise provided by law.
- G. If this Contract is canceled or terminated under clause "f", in addition to other rights of the Owner provided in this contract upon its breach by the Contractor, the Contractor will hold the Owner harmless against any additional expenses or costs incurred by the Owner in completing the work or in purchasing the services, materials, equipment, or supplies contemplated by this contract, and the Owner may withhold payments from the Contractor in an amount sufficient for this purpose and recourse may be held against the surety on the performance bond if necessary.
- H. The Contractor will include the provision of clauses "a", through "g" in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within jurisdictional locale of the Project being contracted by the Owner. The Contractor will take such action in enforcing such provisions of such subcontract or purchases the Owner/Contracting Agency may direct, including sanctions or remedies for non-compliance. If the Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Contracting Agency/Owner, the Contractor shall promptly so notify the Owner's Representatives/Counsel, requesting intervention and protect the interests of the Owner (Contracting Agency's jurisdictional area).

## SECTION K

### **General Conditions**

Note: The headings of the articles herein are intended for convenience or reference only and shall not be considered as having any bearing on their interpretation.

#### **101 DEFINITIONS**

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

- A. The term "**Contract**" means the Contract executed by the Owner and the Contractor.
- B. The term "**Owner**" means the Town of North Castle, which is authorized to undertake this Contract.
- C. The term "**Contractor**" means a person, firm or corporation entering into the Contract with the Owner to perform and complete the work involved in this Contract.
- D. The term "**Subcontractor**" means a person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the Contractor.
- E. The term "**Project Area**" means the area shown on the drawings in the immediate vicinity of the work or that area in the immediate vicinity of the work, unless otherwise defined in the Special Conditions.
- F. The term "**Owner's Representative**" means the person in charge, serving the Owner with administration and/or inspection services, his successor, or any other person or persons, employed by said Owner for the purpose of administering the work embraced in this Contract.
- G. The term "**Town Engineer**" shall be used synonymously with the term "**Owner's Representative**".
- H. The term "**Town**" means the Town of North Castle, New York, within which the Project Area is situated.
- I. The term "**Contract Documents**" means and shall include the Documents listed in Section D - Article 3 of the Agreement.
- J. The term "**Plans**", "**Drawings**" or "**Contract Drawings**" means the drawings listed in the Schedule of Drawings.
- K. The term "**Technical Specifications**" or "**Supplemental Technical Specifications**" means that part of the Contract Documents which describes, outlines and stipulates, the quality of materials to be furnished; the quality of workmanship required; measurement and payment.

- L. The term "**Addendum**" or "**Addenda**" means any changes, revisions or clarifications of the Contract Documents which have been duly issued by the Owner to prospective Bidders prior to the time of receiving Bids.

### **102 SUPERINTENDENCE BY CONTRACTOR**

- A. Except where the Contractor is an individual and personally supervises the work, the Contractor shall provide a competent superintendent, satisfactory to the Owner, for the work at all times during working hours with full authority to act for the Contractor. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work. Should, in the opinion of the Owner, any language barrier exist between the superintendent and the Owner, the Contractor will employ a qualified interpreter.
- B. Unless otherwise indicated on the Specifications, the Contractor is responsible for lay-out of the work including surveying required and he shall be responsible for all work executed by him under the Contract. The Contractor shall verify all figures, elevations, etc. before proceeding with the work and will be held responsible for any error resulting from failure to do so.

### **103 SUBCONTRACTS**

- A. The Contractor shall not execute an agreement with any Subcontractor or permit any Subcontractor to perform any work included in this Contract until written approval of such Subcontractor from the Owner has been received.
- B. The Contractor shall be as fully responsible to the Owner for the acts and omissions of Subcontractors, and of persons either directly or indirectly employed by it, as the Contractor is for the acts and omissions of persons directly employed by it. All Subcontractors must have adequate superintendence on the work site when they are performing work.
- C. The Contractor shall cause appropriate provision to be inserted in all Subcontracts relative to the work to require compliance by each Subcontractor with the applicable provisions of the Contract for the work embraced in this Contract.
- D. Nothing contained in the Contract shall create any contractual relation between any Subcontractor and the Owner.

### **104 OTHER CONTRACTS**

The Owner reserves the right to let other contracts in connection with this work or to perform work related to this project with its own forces. The Contractor shall offer other Contractors and the Owner reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and/or coordinate his work with theirs. The Contractor shall cooperate fully with such other Contractors, by scheduling his own work with that to be performed under other Contracts as may be directed by the Owner. The Contractor shall not permit or commit any act which will interfere with the performance of work by any other Contractor as scheduled.

Wherever work being done by the Town or Municipal forces, or other Contractors is contiguous to work covered by this Contract, the respective rights of the various interests

involved shall be established by the Owner, to secure the completion of the various portions of the work in general harmony.

If any part of the Contractor's work depends for proper execution or results upon the work of others, the Contractor shall inspect and promptly report to the Owner's Representative in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results.

#### **105 RESPONSIBILITIES OF CONTRACTOR**

Except as otherwise specifically stated in the Contract Documents the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fees or other expenses and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to complete this Contract in every respect within the specified time.

#### **106 FITTING AND COORDINATION OF THE WORK**

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all Trades, Subcontractors, Material and Workers engaged upon this Contract. The Contractor shall be prepared to guarantee to each of the Subcontractors locations and measurements which they may be required for the fitting of their work to all surrounding work. The Contractor shall, at his own expense, effect all cutting, fitting, or patching of his work required to make the same conform to the Contract Drawings and Specifications and, except with consent of the Owner, not to cut or otherwise alter the work of any other Contractor.

#### **107 MUTUAL RESPONSIBILITY OF CONTRACTOR**

If, through acts or neglect on the part of the Contractor, any other Contractor or Subcontractor shall suffer loss or damage on the work, the Contractor shall settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the Owner on account of any damage alleged to have been so sustained, the Owner will notify the Contractor, who shall defend and pay all costs and expenses, in connection therewith and will in all other respects, including, but not limited to attorney's fees and court costs, hold harmless the Owner and Owner's Representative.

#### **108 ASSIGNMENT OR NOVATION**

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities or responsibilities under this Contract without the written consent of the Owner; provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the Owner. No assignment or novation shall expressly provide that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered and materials, tools and equipment supplied for the performance of the work under this Contract in favor of all persons, firms or corporations rendering such labor or services or supplying such materials, tools or equipment.

#### **109 PROGRESS SCHEDULE**

The Contractor shall submit within five (5) calendar days after execution of the Agreement, a carefully prepared and realistic Progress Schedule showing the proposed dates of starting and

completing of each and every item of work on each and every section of work in accordance with these Specifications if applicable to this specific Contract. The Progress Schedule shall include as a minimum:

- A. The project name, number and geographic location.
- B. The Contract time, Contract Beginning date, and ending date.
- C. The time of beginning and completion of each significant phase of this Contract.

The Progress Schedule shall show the plan of work and the proposed method of carrying out this work including a full statement of the equipment to be used.

Said schedule will be reviewed or updated weekly unless otherwise permitted by the Owner. No payments will be approved without a revised/updated Progress Schedule approved by the Owner.

### **110 COMMUNICATIONS**

- A. All notices, demands, requests, instructions, approvals, proposals and claims must be in writing.
- B. Any notice to or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Agreement (or at such other office as the Contractor may from time to time designate), or if deposited, in the United States mail in a sealed, postage-prepaid envelope or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.
- C. All papers required to be delivered to the Owner shall, unless otherwise specified in writing to the Contractor, be delivered to the Town Board, Town of North Castle, Town Hall, 15 Bedford Road, Armonk, New York, 10504 with copies mailed directly to Town Clerk and any notice to or demand upon the Owner shall be sufficiently given if so delivered, or if deposited, in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said Owner at such address as the Owner may subsequently specify in writing to the Contractor for such purpose.
- D. Any such notice shall be deemed to have been given as of the time of actual delivery or (in case of mailing) when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt, as the case may be.

### **111 PAYMENTS TO CONTRACTOR**

- A. Partial Payments
  - (1) The Contractor shall prepare and submit to the Owner's Representative for review and approval, his requisition for partial payment as of a mutually agreed upon date at least 30 days after beginning of work, and approximately every 30 days thereafter. The amount of the payment due the Contractor shall be determined by adding the total value of work completed to date and deducting (a) five (5) percent of the total amount of work completed to date, to be retained until final payment and (b) the amount of all previous payments. Requisitions shall be based on carefully measured or computed

quantities of each item of work completed to date, and on the unit prices, if any, contained in the Agreement.

There will be no payments or partial payments to the Contractor for materials purchased and stored/stockpiled on the project site.

Monthly or partial payments made by the Owner to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. All materials and completed work covered by such monthly or partial payments shall remain the property of the Contractor and he shall be responsible for the care and protection of all materials and work upon which payments have been made. Such payments shall not constitute a waiver of the right of the Owner to require the fulfillment of all terms of the Contract and the delivery of all improvements in this Contract complete and satisfactory to the Owner in all details.

B. Final Payment

- (1) After final inspection and acceptance by the Owner of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices, if any, stipulated in the Agreement. The total amount of the final payment due the Contractor under this Contract shall be the amount computed without retainage less all previous payments. Final payment to the Contractor shall be made subject to his furnishing the Owner with a release in satisfactory form of all claims against the Owner arising under and by virtue of his Contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided elsewhere herein.
- (2) The Owner, before paying the final payment, may require the Contractor to furnish releases or receipts from all Subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor, if the Owner deems the same necessary in order to protect its interest. The Owner, however, may if it deems such action advisable, make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts. Any payment so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.
- (3) If it was necessary for the Owner to expend money for labor, materials or equipment on this project because the Contractor failed to perform satisfactorily or promptly, and a bill for such sum remains unpaid, the Owner may deduct this sum from partial payments or the final payment. Furthermore, if the specifications provide for certain work to be done by the Owner with the fee or cost to be borne by the Contractor, and a bill for such services remains unpaid, the Owner may deduct this sum from the partial or final payment.
- (4) Withholding of any amount due the Owner under the section entitled "LIQUIDATED DAMAGES" shall be deducted from the final payment due the Contractor. At the Owner's option, liquidated damages may be deducted from any partial payment.

C. Withholding Payments

Notwithstanding the above, the Owner may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the Owner and if it so elects may also withhold any amounts due from the Contractor to any Subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Owner and will not require the Owner to determine or adjust any claims or disputes between the Contractor and his Subcontractors or material dealers, or to withhold any moneys for their protection unless the Owner elects to do so. The failure or refusal of the Owner to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

D. Payments Subject To Submission Of Certificates and Guarantee Bond

Each payment to the Contractor by the Owner shall be made subject to submission by the Contractor of all written certifications required of him and his Subcontractors by the section entitled "SAMPLES CERTIFICATES AND TESTS" under the GENERAL CONDITIONS.

In addition, the final payment to the Contractor shall be made subject to the submission of a Guarantee Bond as specified within Section "B" and "E" of these Specifications.

**112 CHANGES IN THE WORK**

- A. The Owner may make changes in the work required to be performed by the Contractor under the Contract by making additions thereto, or by omitting work therefrom, without invalidating the Contract.
- B. Except for the purpose of affording protection against any emergency endangering life or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Owner authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract price will be valid unless so ordered.
- C. The Contractor agrees to perform any of the aforementioned changed work, along with all other required work found under the Contract, without delay and in accordance with good construction practices.
- D. These changes outlined above may be made without relieving or releasing the Contractor from any of his obligations under the Contract provisions, and without affecting the validity of the guaranty bonds and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is provided otherwise.
- E. All adjustments to the Contract payment provisions will be made in accordance with the following paragraphs.
  - (1) If applicable unit prices are contained in the Agreement (established as a result of either a Unit Price Bid or a Supplemental Schedule of Unit Prices), the Owner may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities

involved and the applicable unit prices specified in the Contract. Payment of unit price overruns, due to change order, may be withheld until Town Board Approval is obtained.

(2) If applicable unit prices are not contained in the Agreement, the Owner shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:

a. If the change in the work involves additional work, the procedure shall be as follows:

i) If the proposal is acceptable, the Owner will prepare the Change Order in accordance there with for acceptance by the Contractor, or

ii) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Owner may order the Contractor to proceed with the work on a Cost-Plus Basis. A Cost-Plus Basis is defined as the net cost of the work to the Contractor plus an allowance to cover overhead and profit as stipulated below:

"Net Cost of the Work" is defined as (1) gross cost of labor plus (2) net cost of materials plus (3) gross cost of equipment.

"Gross cost of labor" is defined as net cost of labor plus fringe benefits.

"Net cost of labor" is defined as the cost of required labor based on the prevailing rates established by the State Labor Department and stated in the Contract Document. No part of any salary for employees above the grade of foreman, and having general supervision of this work, will be included in this item.

"Fringe Benefits" are defined as all insurances, taxes and other benefits for the employee required by law or by union contract. In lieu of an item-by-item determination of the actual value of such fringe benefits, all fringe benefits are hereby determined to total an amount of 40% of net cost of labor, and the Contractor in submitting his bid agrees that this percentage shall be used, regardless of whether actual fringe benefits are more or less than this amount.

"Net cost of materials" shall be defined as the cost of all materials incorporated in the work, including delivery charges, less any allowable cash discounts, as shown by receipted bills.

"Gross cost of equipment" is defined as the "net cost of equipment" plus an allowance of 10% for fuel and lubricants.

"Net cost of equipment" shall be defined as a rental rate which is reasonable and based on rental rates prevailing in the area where the work is to be done. Such rental rate shall be negotiated, and shall be agreed upon in writing before the work is begun. However, in no case shall the rental exceed the rates set forth in the current edition of the "Associated Equipment Distributors Compilation of Rental Rates for Construction Equipment".

The cost of furnishing small tools and accessories and materials used for construction but not incorporated in the work shall be considered as part of the Contractor's overhead, and shall not be included in the "net cost of the work".

An allowance of 15% will be added for overhead and profit and is hereby stipulated to be in lieu of an actual determination of overhead and profit. The Contractor in submitting his bid agrees that this allowance shall be used, regardless of whether actual overhead and profit is more or less than this amount.

No percentage for overhead and profit shall be added to the amounts of equipment rental prices agreed upon. The price agreed upon shall be the total compensation allowed for use of such equipment.

- b. If the change in the work requires a reduction in the work involved, the procedure shall be as follows:
  - i) If the proposal is acceptable, the Owner will prepare the Change Order in accordance therewith for acceptance by the Contractor; or
  - ii) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Owner's Representative shall fix the cost value of the credit. The Owner may then order the Contractor to proceed with the work. Should the Contractor disagree with the cost value of the credit as fixed by the Owner's Representative, he may appeal the same in accordance with the procedures outlined in the GENERAL CONDITIONS, ARBITRATION.

F. Each Change Order shall include in its final form:

- (1) A detailed description of the change in the work.
- (2) The Contractor's proposal (if any) or a confirmed copy thereof.
- (3) A definite statement as to the resulting change in the Contract price and/or time.
- (4) The statement that the change order is subject to the approval of the Town Board.

G. Contractor shall not take advantage of any obvious error in the Specifications or any such error in the drawings or other Contract Documents. Any obvious error or discrepancy in or between any of the Contract Documents shall be immediately

reported to the Owner's Representative who shall make such corrections and interpretations as may be deemed necessary for the completion of the work in a satisfactory and acceptable manner.

### **113 CLAIMS FOR EXTRA COST**

- A. All claims between the parties, including all claims for additional compensation and/or additional time, arising out of, or in any way related to this Contract and/or the performance of the same, or its interpretation, shall within ten (10) days of the event, or action giving rise to the claim be presented to the Owner's Representative. All papers pertaining to claims shall be filed in quadruplicate. Such notice need not detail the amount of the claim but shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. In the meantime, the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived. The Contractor shall in no case allow any claim or dispute to delay the work.
- B. As soon as practicable after the final submission of all information the Owner shall make a determination of any claim. Said decision of the Owner shall be a condition precedent to any further action on the claim. However, upon certification in writing by the claimant that the claim has been submitted in its final form, the Owner shall be obliged to render a decision on said claim within sixty (60) days of the date of said certification. Should the Owner fail to render its decision within the aforementioned sixty (60) day period, its decision will not be a condition precedent to any further action on the part of the claimant.
- C. There shall be no added compensation paid for delay to the Contractor unless the Owner causes said delay by a material breach of the Contract, and compliance with the foregoing notice provisions shall be a condition precedent to the prosecution of any such claim. In any claim for delay except for "Excusable Delays and Extensions of Time" as defined in the GENERAL CONDITIONS SECTION "TERMINATION"; "DELAYS AND EXTENSIONS"; "LIQUIDATED DAMAGES" wherein it is alleged that the Contractor's equipment was caused to remain idle, only one half of the prevailing rental rates for use of said equipment will be considered as damages for idled equipment in order to allow for the absence of fair wear and tear, which allowed for in prevailing rental rates for equipment usage.
- D. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be considered unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material or performing more work, than would be reasonable estimated from the Drawings and maps issued.
- E. If, on the basis of the available evidence, the Owner determines that an adjustment of the Contract Price and/or Time is justifiable, the procedure shall be as provided in Sections - "CHANGES IN THE WORK" or "TERMINATIONS; DELAYS AND EXTENSIONS; LIQUIDATED DAMAGES" of the GENERAL CONDITIONS.
- F. In the event of an unfavorable decision by the Owner, the Contractor shall have the right to contest said decision as provided for under the provisions of the Contract.

#### **114 NO OPTIONS PAID**

It shall be clearly understood that there will be no payment for materials incorporated into the work (other than that shown on the Contract Drawings or specified) unless ordered by the Owner's Representative.

#### **115 TIME AND MATERIALS WORK NOTIFICATION**

Should the Contractor perform work in accordance with the General Conditions, "Changes in the Work", he shall give a minimum of 48 hours advance written notice prior to his anticipated beginning any work on a Cost-Plus Basis, to the Owner and specifically the Owner's Representative.

#### **116 TERMINATION: DELAYS AND EXTENSIONS: LIQUIDATED DAMAGES**

##### **A. Termination of Contract**

For its own convenience the Owner may, at any time prior to the issuance of a Notice to Proceed, void the Contract by giving unequivocal and unconditional written notice of such avoidance to the Contractor and in the event of such avoidance the Owner will not be liable to the Contractor for any claims or losses, including anticipated loss of profit and moneys expended in anticipation of performance under the Contract.

At any time subsequent to the Notice to Proceed the Owner may, at its own convenience, terminate the Contract by giving unequivocal and unconditional written notice of such termination to the Contractor. In the event of such termination by the Owner, the Owner shall be responsible to the Contractor for the following moneys only, which moneys shall be subject to legitimate charges of the Owner against the Contractor:

- (1) All reasonable cost incurred by the Contractor in performance of or in anticipation of performance of the Contract provided the Contractor shall take all reasonable steps to mitigate such damages including the return and/or resale of materials ordered; and
- (2) On Lump Sum projects, a markup of 15% for profit and overhead on the reasonable cost of the work that is completed and in place in accordance with the Contract Drawings and Specifications will be allowed. On unit price Contracts, allowances for profit and overhead shall be considered to have been included in each of the Contractor's original unit price Bid. The Contractor shall remain responsible for the work completed, in accordance with the Contract provisions.

Should any work under this Contract be subject to, or terminated by the action of any third party, governmental unit or court due to any ecological or other reason the rights of the Contractor to recover from the Owner shall be determined as set forth above.

The Owner may give notice in writing to the Contractor and his Surety of any material breach of the Contract by the Contractor to include but not be limited to any of the following:

- a. Failure to begin the work under the Contract within the time specified.

- b. Failure to perform the work with sufficient workmen, equipment or materials to insure the prompt completion of said work.
- c. Unsuitable performance of the work or failure to perform such work as shall be rejected as defective and unsuitable.
- d. Neglecting or refusing to remove material rejected as defective and unsuitable.
- e. Discontinuing the suitable prosecution of the work for a period of 72 hours, excluding Sundays and holidays without written authorization of the Owner's Representative.
- f. Failure to commence discontinued work within 72 hours after notice to resume (excluding Sundays and holidays).
- g. Becoming insolvent or declared bankrupt or commits any act of bankruptcy or insolvency.
- h. Allowing a final judgment to stand against him unsatisfied for a period of ten (10) calendar days.
- i. Making any assignment for the benefit of creditors.
- j. Violating any covenants contained in the Contract Documents.
- k. Failure to eliminate unsafe conditions within 24 hours.

The Contractor or Surety within a period of ten (10) calendar days after such notice shall take all practical action to correct said material breach. Should said action fail to meet with the approval of the Owner, the Owner may, at its discretion, order the Surety to complete the work or, without violating the Contract, take the prosecution of the work out of the hands of said Contractor and Surety.

The Owner may appropriate or use any or all materials and equipment on the ground as may be suitable and acceptable and may enter into an agreement, either by negotiation or public letting, for the completion of said Contract according to the terms and provisions thereof, or use such other methods or combinations thereof, as in its opinion shall be required or desirable for the completion of said Contract in an acceptable manner. All costs and charges incurred by the Owner together with the cost of completing the work under Contract, shall be deducted from any moneys due or which may become due said Contractor. In case such expense shall exceed the sum which would have been payable under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Owner the amount of said excess.

B. Excusable Delays and Extensions of Time

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due:

- (1) To any acts of the Government, including controls or requisitioning of materials, equipment, tools, or by labor by reason of war, National Defense, or any other national emergency.
- (2) To any acts of the Owner, caused an injunction or litigation against said Owner, by a third party.
- (3) To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor, in the performance of some other Contract with the Owner, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusually severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions.
- (4) To any delay of any Subcontractor occasioned by and of the causes specified in subparagraphs 1, 2 and 3 of this paragraph "B".

Provided, however, that the Contractor promptly notify the Owner within ten (10) days in writing of the cause of the delay. Upon receipt of such notification, the Owner shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this Contract, the delay is properly excusable, the Owner shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

No claim for damages or any claim other than for an extension of time as herein provided shall be made or asserted against the Owner or Town by reason of any delay.

C. Liquidated Damages For Delay

If the work is not completed within the time stipulated in Section "L" - SPECIAL CONDITIONS, including any extensions of time for excusable delays as herein provided, the Contractor shall pay to the Owner as fixed, agreed, and as liquidated damages (it being impossible to determine the actual damages occasioned by the delay) for each calendar day of delay, until the work is completed, the amount as set forth in Section "L" - SPECIAL CONDITIONS and the Contractor and his sureties shall be liable to the Owner for the amount thereof. Neither permission given by the Owner for the completion, nor the inspection and acceptance of such work, shall be deemed a waiver on the part of the Owner of any of his rights under this contract.

**117 OWNER'S REPRESENTATIVE'S AUTHORITY**

The Owner's Representative will decide all questions which may arise. Owner's Representative's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any questions shall arise between the parties hereto relative to said Contract, the determination or decision of the Owner's Representative shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.

## **118 TECHNICAL SPECIFICATIONS AND CONTRACT DRAWINGS**

Anything mentioned in the Technical Specifications and not shown on the Contract Plans or shown on the Contract Plans and not mentioned in the Technical Specifications shall be of like effect as if shown on or mentioned in both. In case of difference between the Contract Plans and Technical Specifications, the matter shall be immediately submitted to the Owner without whose decision said discrepancy shall not be adjusted by the Contractor. Any work performed by the Contractor without the decision of the Owner shall be at the Contractor's sole risk and expense.

## **119 REQUESTS FOR SUPPLEMENTARY INFORMATION**

It shall be the responsibility of the Contractor to make timely requests of the Owner for any additional information not already in possession which should be furnished by the Owner under the terms of this Contract, and which he will be required in the planning and execution of the work. Such requests may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and latest date by which each will be required by the Contractor. The first list shall be submitted within two (2) weeks after Contract award and shall, if requested, furnish promptly any assistance and information the Owner's Representative may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in work or to others arising from the Contractor's failure to comply fully with the provisions of this Section.

## **120 SHOP DRAWINGS**

Shop drawings are required for all manufactured items. In the case of reinforced concrete, details of reinforcing bars and form construction and materials shall be submitted in the same manner as shop drawings.

- A. All required shop drawings, machinery details, layout drawings, working drawings, material and equipment descriptions, etc., shall be submitted to the Owner's Representative in three (3) copies for review. Two (2) weeks should be allowed for checking from the date of receipt by the Owner's Representative. Digital 'pdf' format may be allowed but final approved shop drawings must be printed and provided to the owner for record. The Contractor, with the approval of the Owner's Representative, may submit manufacturer's literature as a substitute for, or supplement to, the shop drawings, etc.
- B. No construction, purchase, delivery, installation or work shall be done or made on any part or feature of this Contract which is dependent upon shop drawing review, until such review has been received from the Owner's Representative. If the Contractor proceeds without reviewed shop drawings, it shall be at the sole risk. No claim by the Contractor, for extension of the Contract time will be granted by reason of his failure in this respect.
- C. Shop drawings, etc., or printed matter shall provide all dimensions, sizes, etc., to enable the Owner's Representative to determine suitability of the construction, installation, material or layout for the purposes intended. Where needed for clarity, the drawings shall include outline, sectional views and detailed machine work, finish, etc., required. The drawings to be submitted shall be coordinated by the Contractor

with any other drawings previously reviewed, with the design and function of any equipment or structure and the Contract Drawings.

- D. By submitting shop drawings, etc., the Contractor thereby represents that he has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so and that he has checked and coordinated each shop drawing, etc., with the requirements of the work and of the Contract Documents.
- E. If any drawings includes variations from the requirements of the Contract because of standard shop practice and/or other reasons, the Contractor shall make specific mention of such variation in his letter of transmittal in order, that if acceptable, suitable action may be taken for proper adjustment of the Contract price and/or time; otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been reviewed.
- F. After review, the submittals will be stamped "No Exceptions Taken", "Make Corrections as Noted", "Amend and Resubmit" or "Rejected - See Comments ". Two (2) copies of "No Exceptions Taken" or "Make Corrections as Noted" drawings will be returned to the Contractor for his use and distribution to his suppliers and/or Subcontractors. In the case of those returned to the Contractor as "Amend and Resubmit" or "Rejected - See Comments", the Contractor shall make all indicated correction and resubmit (3) copies for review.
- E. If any drawings includes variations from the requirements of the Contract because of standard shop practice and/or other reasons, the Contractor shall make specific mention of such variation in his letter of transmittal in order, that if acceptable, suitable action may be taken for proper adjustment of the Contract price and/or time; otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been reviewed.
- F. After review, the submittals will be stamped "No Exceptions Taken", "Make Corrections as Noted", "Amend and Resubmit" or "Rejected - See Comments ". Two (2) copies of "No Exceptions Taken" or "Make Corrections as Noted" drawings will be returned to the Contractor for his use and distribution to his suppliers and/or Subcontractors. In the case of those returned to the Contractor as "Amend and Resubmit" or "Rejected - See Comments", the Contractor shall make all indicated correction and resubmit (3) copies for review.
- G. In any submission which is noted as "Same" or "Same as Noted", the review shall not extend to details or dimensions and shall not relieve the Contractor from his responsibility for compliance with the Contract Drawings and Specifications.
- H. When the Contractor proposes a revision to a previously submitted shop drawing, etc., three (3) copies shall be resubmitted for review. This resubmittal shall clearly indicate, in a revision block, the date, description and location of the revision. The letter of transmittal shall state the reasons for the revision.
- I. The Contractor shall furnish as many copies of the submittals as is necessary for the proper coordination of the work, and shall maintain a complete set of the reviewed submissions at the site of the work at all times.

- J. There will be no direct payment made for any of the above submittals, or reproducible drawings if required, but the cost thereof shall be considered as included in the general cost of the various items of work.

### **121 SAMPLES, CERTIFICATES AND TESTS**

- A. The Contractor shall submit all samples, materials, certified test reports, materials certificates, certificates of compliance, affidavits, etc., as called for in the Contract Documents or required by the Owner's Representative, promptly after award of the Contract and acceptance of the Contractor's bonds. No such materials and/or equipment, etc., shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples/certificates/tests/etc., have been approved in writing by the Owner's Representative. Any delay in the work caused by late or improper submission of the above for approval shall not be considered just cause for an extension of the Contract time.

B. Samples

Unless otherwise specified, the Contractor shall furnish the required samples without charge, and shall provide every facility for the securing of material samples. The Contractor shall provide means and assist in the verification of all scales, measures and other devices operated by the Contractor. Samples to be submitted shall be taken by the Owner's Representatives or a laboratory approved by the Owner, unless otherwise specified. All materials being used shall be subject to resembling and testing at any time during their preparation and/or use.

All samples submitted by the Contractor shall be properly identified to include, but not be limited to, the project name, project number, item number and description of material, name of the producer, place of origin, and other detailed information which will assist the Owner's Representative passing upon the acceptability of the sample. Certified test reports, materials, certificates and/or certificates of compliance required to be submitted with the sample or if permitted in lieu of samples, shall conform to the requirements stated hereafter.

C. Certified Test Report

A certified test report shall be a document containing a list of the dimensions, chemical, metallurgical, electrical and physical results obtained from an actual test of the materials involved, and shall certify that the materials meet the requirements of the Contract Drawings and Specifications, and shall also include the following information.

- (1) Item number and description of material
- (2) Date of manufacture
- (3) Date of testing
- (4) Name of organization to whom the material is consigned
- (5) Quantity of material represented, such as batch, lot, group, etc.
- (6) Means of identifying the consignment, such as label, marking, lot number, Etc.
- (7) Date and method of shipment

- (8) Name of organization performing tests

The certified test report shall be signed by an authorized and responsible agent for the organization supplying the material, and it shall be notarized.

D. Materials Certificate

A material certificate shall be a document certifying that the materials, components and equipment furnished, conform to all requirements of the Contract Drawings and Specifications. The document shall also include the following information:

- (1) Project to which the material is consigned
- (2) Name of Contractor to whom material is supplied
  
- (3) Item number and description of material
- (4) Quantity of material represented by the certificate
- (5) Means of identifying the consignment, such as label, marking, lot numbers, etc.
- (6) Date and method of shipment

E. Certificate of Compliance

A certificate of compliance shall be a document certifying that the materials, components and equipment covered by the previously submitted certified test report and materials certificate, have been installed in the work and that conform to all the requirements of the Contract Drawings and Specifications. The following information shall also be required on the document:

- (1) Project number or identification
- (2) Item number and description of material
- (3) Quantity represented by the certificate
- (4) Name of manufacturer

The certificate of compliance shall be signed by an authorized and responsible agent from the prime Contractor, and shall be notarized.

F. Tests

Tests as required by the Specifications will be made in accordance with the latest revision to the standard method in effect at the time of bidding of the American Society of Testing Materials, the New York State Department of Transportation, and American Water Works Association, the American Society of State Highway Officials or any other organization that is recognized as an authority on a particular material unless otherwise specified on the Contract Drawings or Special Conditions. Representative preliminary samples or the material proposed for use shall be submitted, without charge by the Contractor or producer for examination and tested in accordance with specified methods. All materials being used are subject to test or rejection at any time during their preparation and use.

Materials will be rejected by the Owner's Representative whenever, in his judgment, they fail to meet the requirements of the Specifications.

The Owner reserves the right to retest all materials which have been tested and accepted at the source of supply, after the same have been delivered, and to reject all material, which when retested, do not meet the requirements of the Specifications.

G. Approval/Acceptance

Approval on any materials shall be general only and shall not constitute a waiver of the Owner's right to demand full compliance with Contract Requirements. After actual deliveries, the Owner's Representative will have such check tests made as he deems necessary in each instance, and may reject materials and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Owner's Representative will have the right to cause their removal and replacement by proper materials or to demand and secure such preparation by the Contractor as is equitable.

The Owner's Representative may accept a material or combination of materials and therefore waive non-complying test results provided that all of the following conditions are met:

- (1) Results of prior and subsequent series of tests of the material or materials from the same source or sources are found satisfactory.
- (2) The incidence and degree of non-conformance with the specification requirements are, in the Engineer's judgment, within reasonable and practical limits.
- (3) The Contractor has diligently exercised material controls consistently with good practices in the Engineer's judgment.
- (4) No adverse effect on the value of serviceability of the completed work could result.

The Owner's Representative may at his discretion waive testing of extremely minor quantities of material when such material is obtained from sources that are prevalently on test.

H. Costs

Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:

- (1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, including those samples taken on the project by the Owner's Representative. The Owner shall pay all other testing costs of said samples in addition to that required within the Specifications.
- (2) The Contractor shall assume all costs of retesting.
- (3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient or for those specified.

## **122 MATERIALS AND WORKMANSHIP**

- A. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Technical Specifications as "equal to" any particular standard, the Owner's Representative shall decide the question of equality.
- B. All work performed and all materials furnished shall be in conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances shown on the Contract Drawings or indicated in the Specifications.
- C. The Contractor shall furnish to the Owner for approval the manufacturer's details and specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics and all other pertinent information as required, and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work. See Section - SAMPLES, CERTIFICATES AND TESTS.
- D. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- E. Materials specified by reference to the number or symbol of a specific standard, such as an ASTM Standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Technical Specifications, shall have full force and effect as though printed therein.
- F. The Contractor shall employ only competent and skillful people to do the work and whenever the Owner's Representative shall notify the Contractor, in writing, that any person on the work is, in his opinion, incompetent or disorderly, the Contractor shall forthwith remove such person and shall not again employ that person on any part of the work without the written consent of the Owner's Representative.
- G. The Owner may stop any work or any part of the work under the Contract if the methods or conditions are such that unsatisfactory work might result, if improper materials or workmanship is being used, or unsafe conditions exist. Any action by the Owner under this provision shall not be deemed a cause of delay and no extensions of permitted time will be granted because of such action.
- H. In the event the materials furnished or the work performed deviates from the requirements of the Contract Drawings and Specifications, but in the opinion of the Owner, constitutes substantial performance, the Owner may accept the same. Should the deviation in question result in a savings to the Contractor, the Owner will be entitled to a credit in the full amount of said savings. Should the deviation in question result in an additional cost to the Contractor, the Owner will not be liable to the Contractor for such additional cost.

If the materials or the finished product in which the materials are used or the work performed are not in conformity with the Contract Drawings and Specifications and

have resulted in an inferior or unsatisfactory product, the work and materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

### **123 PERMIT AND CODES**

- A. The Contractor shall give all notices required by and shall observe and comply with all Federal and State laws and Local by-laws, ordinances and regulations in any manner affecting the conduct of the work, and all such orders or decrees which may exist at present and those which may be enacted later, of bodies or tribunals having any jurisdiction or authority over the work. The Contractor shall indemnify and save harmless the Owner and Owner's Representative and all of its officers, agents and servants against any claim or liability arising from or based on the violation of any such law, by-law, ordinance, regulation, order or decree, whether by himself or his employees. All construction work and/or utility installations shall comply with all applicable ordinances and/or codes including any and all written waivers thereto.

Before commencing any work, the Contractor shall examine the Contract Plans and Specifications for compliance with applicable ordinances, codes, etc., and shall immediately report any discrepancy to the Owner. Where the requirements of the Contract Plans and Specifications fail to comply with such applicable ordinances, codes, etc., the Owner will adjust the Contract by Change Order to conform to such ordinances, codes, etc., (unless waivers covering the differences have been granted by the governing body or department) and make appropriate adjustment in the Contract Price.

Should the Contractor fail to observe the foregoing provisions and proceed with the construction or work and/or install any utility at variance with any applicable ordinance, code, etc., including any written waivers (notwithstanding the fact that such installation is in compliance with the Contract Plans and Specifications), the Contractor shall remove such work without cost to the Owner, but a Change Order will be issued to cover only the excess cost the Contractor would have been entitled to receive if the change had been made before the Contractor commenced work on the items involved.

- B. Unless otherwise specified, the Contractor shall at his own expense, secure and pay to the appropriate department of the Local/State/Federal Government the fees or charges for all permits.
- C. The Contractor shall comply with applicable Local/State/Federal laws, ordinances codes, etc., governing noise, the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the work under this Contract.
- D. The Contractor shall comply with all State and local wetland permits for those areas where it is necessary to encroach on the wetlands or within the wetland setback. The Contractor shall limit his disturbance within the wetland areas as much as possible. There shall be no unnecessary encroachment on any state or local wetland areas either within or outside the work area.
- E. The Contractor shall comply with all instructions of the Owner, and the ordinances, codes, etc., of the Local/State/Federal Government, regarding signs, advertising, traffic, fires, explosives, danger signals, barricades, etc.

## **124 CARE OF WORK**

- A. The Contractor shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Owner.

Materials shall be stored so as to insure the preservation of their quality and fitness for the work and shall be located so as to facilitate prompt inspection. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces and not on the ground and when directed, shall be placed in weatherproof buildings.

Stored materials, even though approved before storage, shall be inspected prior to their use in the work and shall meet the requirements of the Specifications at the time it is proposed to use them.

- B. The Contractor shall at his sole expense and without any additional cost to the Owner provide security and/or other security measures as may be reasonably required to properly protect and care for materials and work completed, and to otherwise prevent property damage and/or personal injury.
- C. In an emergency affecting the safety of life or property including adjoining property, the Contractor, without special instructions or authorization from the Owner, is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the Owner. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Owner as provided in the Section - CHANGES IN THE WORK under GENERAL CONDITIONS.
- D. The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities, adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operation. If any damage is not repaired or acceptable arrangements for repair are not made within a reasonable period of time, the Owner may act to repair such damage by Town forces or using another Contractor employed for that purpose, and the costs of such repair shall be deducted from any payment due the Contractor. If a damage claim has been referred by the Contractor to his insurance company, such referral shall in no way relieve the Contractor of his responsibilities.
- E. The Contractor shall shore up, brace, underpin, secure, and protect as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Owner, the Town and the Owner's Representative from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the Owner, Town of North Castle and the Owner's Representative may become liable in consequence of such injury or damage to the work or adjoining and adjacent structures and/or their premises.

## **125 ACCIDENT PREVENTION**

- A. The Contractor shall exercise proper precautions and safety measures at all times for the protection of persons and/or property and shall be responsible for all injuries and/or damages to all persons and/or property, either on or off the site, which occur as a result of his prosecution of the work under this Contract. The safety provisions of all applicable Local/State/Federal laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the Owner may determine to be reasonably necessary.

Machinery, equipment and trucks shall be properly guarded, and operational hazards shall be eliminated in accordance with the provisions and intent of the latest revised edition of the Manual Accident Prevention in Construction, published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable law. A copy of this manual shall be available for reference at all times in the Contractor's field office.

- B. The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment of the work under this Contract in accordance with the requirements of the applicable State/Local/Federal regulations. The Contractor shall promptly furnish the Owner with reports concerning these matters.
- C. The Contractor shall indemnify and save harmless the Owner, Town of North Castle and the Owner's Representative from any and all claims for damages resulting from personal injury, death and/or property damage, suffered or alleged to have suffered, by any person as a result of any work conducted under this Contract.

## **126 SANITARY FACILITIES**

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workers. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the Health/Sanitary Codes of the Local/State/Federal Government. Drinking water shall also be provided from an approved source. All such facilities and services shall be furnished in strict accordance with existing and governing Health/Sanitary regulations.

## **127 USE OF PREMISES**

The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract Limits as shown on the Contract Plans, as described within the Specifications, and as prescribed by ordinances or permits, or as may be described by the Owner, and shall not unreasonably encumber the site or public right-of-ways with his materials and construction equipment.

## **128 REMOVAL OF DEBRIS, CLEANING, ETC.**

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated materials and debris, and keep the Project Area and public right-of-ways reasonably clear. Upon completion of the work, prior to final inspection, the Contractor shall remove all temporary construction facilities, debris and unused materials provided for the work, and restore the complete site of the work and public

right-of-ways to a condition satisfactory to the Owner's Representative. The cost of all required cleanup shall be included in the various prices bid under this Contract.

### **129 LAYOUT OF WORK**

Unless otherwise indicated within the Specifications, the Contractor shall be responsible for all construction layout/surveying necessary to complete the improvements.

### **130 INSPECTION/ACCEPTANCE OF THE WORK**

All materials and workmanship shall be subject to inspection, examination and testing by the Owner's Representative to determine the acceptability of the work. At any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on the Contractor shall provide proper facilities for such access and inspection. The Owner's Representative shall have the right to reject defective material and workmanship or require its correction. The Owner's Representative shall have the right to reject materials which have not been approved prior to incorporation in the work, and the right to reject work that has been performed without inspection. Rejected materials shall be removed and replaced without charge. Rejected workmanship shall be corrected if possible to the Owner's Representative satisfaction without additional charge. If in the opinion of the Owner's Representative correction is not feasible, or if correction has been attempted but is not satisfactory to the Owner's Representative, the work must be removed and replaced without additional charge. If the Contractor fails to proceed at once with the correction or replacement of rejected workmanship or defective materials, the Owner may act to repair or replace rejected work or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any moneys which are due or may become due the Contractor, without prejudice to any rights or remedies of the Owner.

Neither inspection, testing, approval nor acceptance of the work in whole or in part by the Owner or its agents shall relieve the Contractor or his sureties of the full responsibility for materials furnished or work performed not in strict accordance with the Contract.

Where the Contractor has been directed to leave certain items of work exposed for inspection, and he fails to do so, he will be required to uncover such work, at his own expense.

### **131 BLASTING**

If explosives are used, all requirements for transportation, use and storage of Local/State/Federal laws and regulations must be complied with and all necessary permits and licenses be obtained by and at the expense of the Contractor. Permits and licenses inclusive of insurance policies and blasting bonds must be shown to the Owner's Representative on request.

Explosives must be carefully transported, stored, handled and used. The Contractor shall keep on the job site only such quantities of explosives as may be needed for the work underway and only during such time as they are being used. Explosives shall be stored in a secure manner in locked containers and separate from all tools. Caps and detonators shall be stored separately from other explosives. When the need for explosives is ended, all such material remaining on the job shall be promptly removed from the premises. Care must be taken that no explosives, caps or detonators are stolen or get into the hands of unauthorized persons or left unguarded where they may cause accidents.

An accurate blasting log must be maintained continuously for the duration of the Contract. The log shall record, for each shot, the location, amount of holes, depth, spacing, amount of explosive per hole, number of caps used and the exact date and time of the blast. In addition, a sketch showing displacement of direct and delay caps for each shot shall be recorded.

Explosives shall be of such power and placed and used in such quantities and positions as will not make the excavation unduly large, nor shatter unnecessarily the rock upon or against which the main or structure is to be built, nor injure adjacent persons or property, those portions of the new work or structure as may already be in place or other adjacent pipes, ducts or other structures. The quantity of explosives fired at one blast must be small enough and the time for blasting selected to avoid undue annoyance to persons owning or occupying premises near the work.

The rock must be completely matted when blasts are fired to prevent damage or injury to persons or property or the scattering of broken fragments on the adjacent ground. Adequate warning shall be given all persons in the vicinity before any blast is discharged.

When blasting is required, the operation shall be conducted with such care as not to cause damage to any of the existing underground utilities. Should such occur, the cost of repairs shall be the sole responsibility of the Contractor.

When blasting for trench excavation each shot sequence shall commence sufficiently ahead to prevent damage to the completed work and must be properly protected prior to each shot.

The provisions herein shall apply where soil formation resembles rock, whether in trench, structure or general excavation, even if it is of such a nature that it is not classified and paid for as rock excavation, and if so ordered by the Owner's Representative, will apply to openings cut through masonry, nested boulders or other materials not herein classed as rock.

In areas where the proposed construction is built against the face of rock excavation, all loosened or shattered portions of the rock must be completely removed by barring, wedging or other approved means so the masonry can be built firmly in contact with solid rock.

The Contractor shall notify each public utility or others having structures in proximity of the site, and others who may be affected, of his intention to use explosives. Said notice shall be given in accordance with the applicable regulations therefore and sufficiently in advance to enable the involved agencies/companies/persons and the Contractor to take such steps as may be necessary to protect life and property. Such notice shall not in any way relieve the Contractor of responsibility for any damage resulting from his blasting operations.

When in sufficiently close proximity to existing gas, water, sanitary, storm or other utilities and structures and all services connected thereto, the Contractor shall remove the rock by methods other than blasting, if necessary, in order to protect said utilities and their barring wedging, jack hammer, drilling, rock jacks or other such hand or machinery methods which will not damage the adjacent utility.

No explosive shall be brought into, stored or used on the site of any job by the Contractor unless and until he shall have furnished the Owner's Representative with a satisfactory certificate of insurance showing that the risks arising from the presence of and use of explosives and from blasting are included with the insurance provided by the Contractor to secure his obligations to the Owner. Insurance should also cover damage to any underground utilities or other underground facilities.

### **132 FINAL INSPECTION**

When the improvements embraced in this Contract are substantially completed, the Contractor shall notify the Owner in writing that the work will be ready for final inspection on a definite date which shall be stated in the notice. The notice will be given at least ten (10) days prior to the date stated for final inspection, and bear the signed concurrence of the representative of the Owner having charge of inspection. If the Owner determines that the status of the improvements is as represented, it will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon thereafter as is practicable. The inspection party may also include the representative of the Federal Agency, other Governmental Agencies and representatives of each department of the Town having charge of improvements of like character when such improvements are later to be accepted by the Town.

### **133 INSURANCE**

The insurance requirements for this Contract are specified in Section I of these documents.

### **134 WARRANTY OF TITLE**

No material, supplies or equipment incorporated or to be incorporated in the work shall be purchases subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies and equipment installed or incorporated in the work and upon completion of all work, shall deliver to same together with all improvements and appurtenances constructed or placed thereon by him to the Owner free from any claims, liens or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of person furnishing materials or labor to recover under any law permitting such persons to look to funds due the Contractor in the hands of the Owner. The provisions of this paragraph shall be inserted in all Subcontracts and material Contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal Contract is entered into for such materials.

### **135 GENERAL GUARANTEE**

The Contractor shall warrant all equipment, material and work performed by him for a period of one (1) year from the date of written acceptance of the work. The guarantee shall be provided in the form of a Guarantee Bond in the amount equal to one-hundred percent of the Contract. The Bond shall be prepared as specified in Section B - INSTRUCTION TO BIDDERS and Section E - PERFORMANCE BOND of these Specifications and shall be posted prior to final payment.

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the Owner or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of one (1) year from the date of written acceptance of the work. If any work is performed under the guarantee, the

bond shall be extended with respect to such repair or replacement work for a period of one (1) year from the date the repair work was completed.

### **136 NO ARBITRATION**

All claims, counterclaims, disputes and other matters in question between the Owner and the Contractor, not otherwise resolved, arising out of or relating to this agreement or its breach shall be decided in a court of competent jurisdiction. The Owner and the Contractor hereby agree that there shall be no requirement for arbitration of any controversies or disputes hereunder, all such matters to be resolved at law.

### **137 RISK OF LOSS**

The Owner assumes no responsibility for the condition of existing buildings and structures and other property within the Project Area nor for their continuance in the condition existing at the time of issuance of the Invitation for Bids or thereafter. No adjustment of Contract Price or allowance for any change in conditions which may occur after the Invitation of Bids has been issued will be made except as provided for herein.

### **138 REQUIRED PROVISIONS DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

### **139 CORRECTIONS**

The Owner's Representative shall have the right to correct any errors or omissions in the Contract, Specifications or Contract Drawings when such corrections are necessary for the proper expression of their intent.

Such corrections shall take effect from the time that the Representative gives notice thereof, and any alterations in the work rendered necessary thereby shall be made as corrected. Any conflict between the approved Contract drawings and Specifications, or any disagreement in measurements upon the Contract Drawings must be submitted to the Owner's Representative before construction of the work.

### **140 SAFETY PROVISIONS**

The safety provisions of applicable laws, building and construction codes and the safety codes approved by the State Labor Commissioner shall be observed. It shall be the responsibility of the Contractor to monitor and provide for all safety provisions.

The provisions of the Federal Occupational Safety and Health Administration's "Occupational Safety and Health Standards" and "Safety and Health Regulations for Construction" shall be observed.

Should at any time during the work under this Contract any Local/State/Federal safety inspector visit the site for the purpose of a safety inspection, the Contractor shall immediately notify the Owner's Representative.

#### **141 EXISTING IMPROVEMENTS**

The Contractor shall conduct his work so as to minimize damage to existing improvements, except where specifically stated otherwise in the Specifications or Drawings. It will be the responsibility of the Contractor to restore, as nearly as practical and to their original conditions all improvements on public or private property damaged by his operations.

The utility mains, ducts, poles and services in the construction area, where shown on the Contract Plans are at the approximate locations furnished by various utilities concerned. Whenever existing improvement information is either indicated on the Contract Plans or supplied to the Contractor at a later date, it is understood that such information is furnished in good faith for the Contractor's convenience. The Contractor must interpret this information according to his own judgment, and must make his own determinations, inclusive of further investigation and testing, regarding the location of all improvements. No claim will be allowed because of incorrect or incomplete existing improvement information.

The Contractor shall give ample notice to the various utilities so that existing lines can be marked in the field and adjustments made. The Contractor shall cooperate fully with the various utilities and shall plan his work so that the least interference is caused for all parties concerned. No additional payments shall be made to the Contractor for delays caused by utility interference. The Contractor shall support all utility lines uncovered during excavation.

#### **142 CONNECTING TO EXISTING WORK**

The Contractor shall remove such existing pavement, concrete, equipment and piping as is necessary, in order to make the proper connections to the existing work at the locations shown on the Contract Plans. Unless otherwise specified herein, no extra payment will be made for this work, but the entire cost of the same shall be included in the unit or lump sum prices Bid for the various items of the work to be done under this Contract.

#### **143 ACCESS TO SITE**

The Contractor shall make every effort to minimize damage to all access routes, and shall be required to restore them to their original condition. The Contractor shall acquire all necessary permits for working in, on or from public streets or right-of-ways and for securing additional access rights thereto with respect to the County and State Agencies.

All costs for the removal and restoration to original conditions of walls, fences, structures, utility lines, poles, guy wires or anchors, and other improvements required for passage for the Contractor's equipment shall be borne by the Contractor. The Contractor shall notify the proper authorities of the Town and all utilities of any intended modification or disruption to their property prior to the start of construction and shall cooperate with them in the scheduling and performance of his operation.

If the Contractor, by direct negotiation and bargain with any land owner, lessee or tenant, has secured any right to use more space or greater privileges than the space provided by the Owner, for purposes incidental to the performance of the Contract, then, upon request of the Owner's Representative, the Contractor shall furnish the proper evidence that such additional rights have been properly secured and assurance that no damage to or claim upon the Owner and/or Town will arise therefrom. The Owner and/or Town shall not be liable in any way for any expense incurred by the Contractor in securing any such right to use additional property.

The Contractor shall be responsible for and reimburse the Owner and/or Town and others for any and all losses, damage or expense which the Owner and/or Local Government or those others may suffer, either directly or indirectly or through any claims of any person or party, for any trespass outside the spaces, easements and right-of-ways provided by the Owner to the Contractor of any violation or disregard of the terms and conditions established for the use or occupancy of those rights or for negligence in the exercise of those rights.

The Owner may retain or deduct from any sum or sums due or to become due to the Contractor such amount or amounts as may be proper to insure the Owner and/or Town against loss or expense by reason of the failure of the Contractor to observe the limits and conditions of the rights-of-way, easements, rights-of-access, etc., provided by the Owner.

#### **144 ACCESS TO ADJACENT PROPERTIES**

The Contractor shall at all times maintain vehicular and pedestrian access to all portions of the property abutting or adjacent to construction under this Contract, all at the Contractor's sole expense. In the event that normal access is cut off to a particular property due to operations or proposed work called for under the Contract, the Contractor shall, at his sole expense, make other arrangements for access to said property satisfactory to the property owner, tenant and the Owner's Representative.

#### **145 USE OF ROADWAYS**

During the progress of the work, the Contractor shall make ample provision for both vehicular and foot traffic on any public road, and shall indemnify and save harmless the Owner from any expense whatsoever resulting from operations on/over said roadways. The Contractor shall also provide free access to all fire hydrants, water and gas valves located along the line or in the vicinity of his work. Gutters and waterways must be kept open or other provisions made for the removal of storm water. In the event of the Contractor's failure to comply with these provisions, the Owner may cause the same to be done, and will deduct the cost of such work from any moneys due or to become due the Contractor under this Contract, but the performance of such work by the Owner or at its insistence shall serve in no way to release the Contractor from his general or particular liability for the safety of the public or the work.

#### **146 INDEMNITY CLAUSE**

The Contractor agrees to protect, defend, indemnify and hold the Town of North Castle, and its employees, consultants and representatives, free and harmless from and against any and all losses, claims, liens, demands and cause of action of every kind and character including, but not limited to, the amount of judgments, penalties, interest, court costs, legal fees incurred by the Town of North Castle arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the Town of North Castle death or damages to property (including property of the Town of North Castle) and without limitation by enumeration, all other claims or demand of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of the said agreement. The Contractor agrees to investigate, handle, response to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if claims, etc. are groundless, false or fraudulent.

## **147 DISPUTES**

- A. All disputes between the parties arising out of, or in any way related to this Contract and/or the performance of the same, or its interpretation, shall within ten (10) days of the event or action giving rise to the dispute be presented to the Owner's Representative. All papers pertaining to the dispute shall be filed in quadruplicate. Such notice shall state the facts, surrounding the dispute in sufficient detail to identify the dispute, together with its character and scope. In the meantime, the Contractor shall proceed with the work under this Contract as directed. Any dispute not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the dispute is of a continuing character and notice of the dispute is not given within ten (10) days of its commencement, the dispute will be considered only for a period commencing ten (10) days prior to the receipt by the Owner's Representative of notice thereof. The Contractor shall in no case allow any dispute to delay the work under this Contract.
- B. As soon as practicable after the final submission of all information the Owner shall make a determination of the dispute. Said decision of the Owner shall be a condition precedent to any further action on the dispute. However, upon certification in writing by the claimant that the dispute has been submitted in its final form, the Owner shall be obliged to render a decision on said dispute within sixty (60) days of the date of said certification. Should the Owner fail to render its decision within the aforementioned sixty (60) day period, its decision will not be a condition precedent to any further action on the part of the claimant.
- C. Each decision by the Owner will be in writing and will be mailed to the Contractor by registered or certified mail, return receipt requested, directed to this last known address.
- D. In the event of an unfavorable decision by the Owner the Contractor shall have the right to contest said decision as provided for under the provision of the Contract. The Contractor shall in no case allow the dispute or decision to delay the work but shall notify the Owner promptly that he is proceeding with the work under protest and he may then except the matter in question from the final release.

## **148 GENERAL MUNICIPAL LAWS OF NEW YORK STATE**

The attention of the Contractor is directed to the fact that all pertinent General Municipal Laws of the State of New York shall be adhered to. In addition, this Contract is subject to all New York State statutes, including but not limited to the Town Law, Highway Law, Real Property Law and Finance Law.

## **149 "OR EQUAL" CLAUSE UNLESS OTHERWISE SPECIFIED**

Whenever a material, article or piece of equipment is identified on the Contract Drawings or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., the intent is to establish a standard. Any material, article or equipment of other manufacturers and vendors of equally high quality (particularly with regard to points specified in the Specifications) which will perform equivalently within the design ranges specified will be equally acceptable provided that the material, article or equipment so proposed is, in the opinion of the Owner's Representative, of equal substance and function. Further the manufacturer must agree to comply fully with the warranty requirements of the Specifications. The Contractor may not assume that substitute equipment

will be approved by the Owner's Representative and non-approval of said equipment will form no basis for a claim for additional compensation by the Contractor. No substitute equipment shall be purchased or installed by the Contractor without the Owner's Representative's written approval. If the Owner's Representative's approval is obtained for alternate equipment, the structures, buildings, piping or electrical necessary to accommodate the equipment and if engineering is required due to substitution of other material the Contractor shall reimburse the Owner for the engineering service. The Contractor must pay for any laboratory testing required to establish the equality of his proposal.

#### **150 CONSTRUCTION, EXCAVATION AND DEMOLITION OPERATIONS AT OR NEAR UNDERGROUND FACILITIES**

The Contractor's attention is directed to the State of New York, Department of Labor, Board of Standards and Appeals Industrial Code Rule 53 - "Construction, Excavation and Demolition Operation at or near Underground Facilities" effective April 1, 1975.

The Contractor will be required to comply with all applicable requirements of Industrial Code Rule 53.

Requests for copies by mail should be directed to State of New York, Department of Labor, Office of Public Information, State Office Building Campus, Albany, New York 11201; or, single copies may be obtained by applying in person at the Department's office in Albany or in New York City at the Department of Labor, 50 Park Place, New York, New York 10007.

#### **151 REVIEW BY OWNER**

The Owner, its authorized representatives and agents shall, at all times have access to and be permitted to observe and review all work, material, equipment, payrolls, personnel records, employment conditions, material invoices and other relevant data and records pertaining to this Contract, provided, however, that all instruction and approval with respect to the work will be given to the Contractor only by the Owner through its authorized representative or agents.

#### **152 DEDUCTIONS FOR UNCORRECTED WORK**

If the Owner deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the Owner and subject to settlement, in case of dispute, as herein provided.

#### **153 PATENTS**

The Contractor shall hold and save the Owner his representative their officers, and employees, harmless from liability of any nature of kind, including but not limited to court costs and attorney's fees, for or on account of, any patented or unpatented invention, process, article or appliance manufactured or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Technical Specifications.

#### **154 INFORMATION FROM OWNER**

In addition to showing the construction required under this Contract, the drawings may show certain information obtained by the Owner regarding conditions and features which exist at the site of the work, both at and below the surface of the ground. The Owner and his representative expressly disclaim any responsibility for the accuracy or completeness of the information given on the drawings with regard to the existing conditions and features and the

Contractor will not be entitled to any extra compensation on account of inaccuracy or incompleteness of such information. The information which is shown is only for the convenience of the Contractor, who must verify this information to his own satisfaction.

### **155 EXISTING UTILITIES, STRUCTURES AND FIXTURES**

The Contractor will be required, at its own expense, to do everything necessary to support, protect and sustain all sewers, water, gas mains or service pipes; electric light, power poles, telephone or telegraph poles, manholes, valve boxes, conduits and any and all utilities, structures or fixtures laid across or along the site of the work. In case any of the said utilities, structures or fixtures are damaged by the Contractor, they shall be repaired by the Contractor at his own expense, or by the authorities having control of the same and the expense of said repairs shall be deducted from the moneys due or to become due the Contractor under this Contract.

Should it become necessary to remove or relocate any utilities, structures or other fixtures, due to a grade and alignment conflict which would require the proposed utility, structure or fixture (excluding trench excavation, sheeting or other construction features) to occupy the same space as the existing pipe, pole, conduit and/or other fixture. The Contractor shall notify the Owner or its Representative of the obstruction and the location and the circumstances and shall cease work (which might prove detrimental to the utility, structure or fixture encountered) if necessary until satisfactory arrangements have been made with the Owners of the same to properly care for and relocate them. Should it be necessary to cease work and a delay is caused thereby, the Contractor shall have no claim for damages or any claim other than for an extension of time. See Section 113 - GENERAL CONDITIONS, CLAIMS FOR EXTRA COST.

The removal or relocation of such interferences may be done by the Owner of the interfering utility or structure with his own forces, or by a Contractor who may be engaged for such purpose, or by private Contract between the utility company and this Contractor; or alternately the Owner may be requested to cause this work to be performed under this Contract (at the utility company's expense). In the last instance, the Contractor shall perform such work under the terms of this Contract and shall be compensated as described in Section 112 - CHANGES IN THE WORK, except where SPECIAL CONDITIONS or TECHNICAL SPECIFICATIONS provide otherwise.

If the Contractor desires temporary changes of location for his convenience for any reason whatsoever, of water lines, gas lines, sewer lines, wire lines, service connections, water and gas meter boxes, valve boxes, light standards, cableways, signals and any other utilities, structure or fixtures, the Contractor shall satisfy the Owner's Representative and Owner that the proposed relocation does not interfere with his or other Contractor's operations, or the requirements of the Contract Drawings and does not cause an obstruction or a hazard to traffic. The Contractor shall make his own request to the utility companies, pipe owners or other parties affected for such relocation work. Such relocation work for the convenience of the Contractor shall be made solely at the Contractor's expense.

The Contractor shall not remove or relocate any utility, structure, or fixture without the written approval of the Owner of that utility, structure or fixture unless otherwise shown on the Contract Drawings, Specifications or ordered by the Owner's Representative.

## **156 CONTROL OF EXISTING FLOWS**

During the construction of all proposed work, the Contractor shall take every precaution and do the necessary work to maintain the flow of storm drainage, sanitary sewage and natural flows through the working areas. The Contractor is solely responsible for providing his flow control system and there shall be no separate payment for the required work. The Contractor shall be responsible for any flooding or sanitary backup on his work and to the property owners affected by such flooding or backup. The Contractor shall make such provisions as may be required by the Local, State or Federal Health officers or any other public bodies with jurisdiction over the flow of storm drainage, sanitary seepage and natural flows.

In the event the Contractor uses water from natural water sources for his operations, intake methods shall be such as to create no harmful effects; and where water is taken from a stream, reasonable flow downstream from the intake shall be maintained.

## **157 SEWAGE, SURFACE, GROUNDWATER, AND FLOOD FLOWS**

The Contractor shall furnish all the necessary equipment, shall take all necessary precautions, and shall assume the entire cost of handling any sewage, seepage, storm, groundwater, surface and flood flows which may be encountered at any time during the construction of the work. The manner of providing for these flows shall meet the approval of the Owner's Representative and the entire cost of said work shall be included in the unit or lump sum prices bid for the various items of work to be done under the Contract.

The Contractor shall employ such feasible and practical methods in his operations as will prevent pollution, sedimentation or the introduction of impurities or other objectionable materials that may become suspended or dissolved in waters reaching streams, ponds, lakes, water supplies, or other water bodies.

Water shall not be disposed of by discharging it into any street gutter, drainage channel, existing drainage system, natural stream, waterway, lake, pond, or body, etc., without the prior approval of the Authority having jurisdiction thereof. Should such approval be obtained, the Contractor shall ensure that no solids, debris, suspended soil particles, impurities, or pollutants are allowed to enter the drainage system. The Contractor shall be fully responsible for any damages to these systems resulting from his disposal methods. The Contractor shall perform any necessary measures (such as but not limited to cleanup) required to return the system to pre-construction conditions. In addition to the above, disposal on private property shall be only with the prior written permission of the property Owner.

In addition, the Contractor shall provide all necessary pumps, dams, drains, ditches, flumes, well points and other means of excluding and removing groundwater or water from any other source, from trenches, tunnels and other parts of the work and for preventing the trench slopes from sliding or caving. The Contractor shall sufficiently dewater all trenches, tunnels or other excavations to completely dry out and solidify the bottom of the trench to whatever depth is necessary below said bottom of the trench to provide a firm solid, completely dry bottom on which to place foundation material, lay pipe or build a structure.

## **158 WEATHER CONDITIONS/WORK IN FREEZING WEATHER**

In the event of temporary suspension or work, or during inclement weather, or whenever the Owner's Representative shall direct, the Contractor will, and will cause his Subcontractors to protect carefully the work and materials against damage or injury from the weather. If, in the opinion of the Owner's Representative, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to

protect the work, such materials shall be removed and replaced at the expense of the Contractor.

Unless written permission be given, work liable to be affected by frost or freezing shall be suspended during freezing weather. When work proceeds under such conditions the Contractor shall provide approved facilities for heating the materials and for protecting the finished work.

### **159 MAINTENANCE AND PROTECTION OF TRAFFIC**

The provisions herein shall be deemed in effect unless more stringent provisions are called for within the Technical Specifications. The Contractor will be required to protect and maintain pedestrians and vehicular traffic.

The Contractor shall maintain and protect traffic by so conducting his construction operations that the traveling public is subjected to a minimum of delay and hazard.

Where appropriate, barricades, red flags, and warning signs, all properly lighted, shall be placed at frequent intervals and maintained. All barricades, lights, flags, and bombs shall be maintained intact at all times overnight, over the weekends, holidays or if the project is shut down for any period of time.

Residents along the existing roads and those having business along them shall have safe means of ingress and egress at all times. Traffic shall be maintained at the intersections of all roads or streets crossing the road construction. The Contractor shall provide such adequate and proper bridges over excavations as may be necessary or directed for the purpose of accommodating pedestrians or vehicles.

In the event any portion of a public road must be closed to traffic, permission shall be secured by the Contractor from the Town Highway or County or State Highway Departments if in their jurisdiction and notice must be given by the Contractor to the Police and Fire Departments, and adequate detour sign posted.

Approved signs shall be provided along all highways while work is in progress, and where traffic direction is required, flagmen shall be designated by the Contractor to direct traffic past the equipment, machinery or construction operations. Construction equipment shall be removed entirely from the traveled roadway when work is shut down for the day and two lanes of traffic shall be maintained at night. Barricades shall be placed wherever the safety of the traveling public requires, where a road is officially closed, where an excavation is being made, or where heavy construction equipment is operating. On traveled roads, a lighted warning sign is to be placed five hundred (500) feet before the approach of barricades, or as is necessary for safety along the approach line.

### **160 HOURS OF WORK**

No work shall be performed on the job before 8:00 A.M. nor after 5:00 P.M. unless the Owner is notified, nor shall any work be done on Saturdays, Sundays, or legal holidays unless Contractor shall have given Owner written request at least forty eight (48) hours in advance and Owner finds such request necessary. No additional payment will be made by Owner for overtime work under any circumstances unless a prior written order has been issued in writing by the Owner's Representative.

### **161 WATCHMAN**

Contractor may, at his option and expense, employ a watchman to protect property at all times during which work is not under active supervision of his Construction Superintendent. The owner will not assume responsibility for losses or damage to property through theft or vandalism.

### **162 FIELD COPIES**

The Contractor shall keep one copy of the Specifications, plans and all shop drawings in good order, available to the Owner and Owner's Representative while on site. No job trailer is required for the project.

### **163 EMERGENCY WORK**

If in the opinion of the Owner's Representative the work is carried on in such fashion that the public safety, private property, streets or utilities are endangered, or that the work is carried on in such a manner as to create unnecessary inconvenience to the public the Contractor shall, immediately upon given notice, be authorized to undertake such corrective measures as may be deemed necessary to correct.

### **164 PROTECTION**

The Contractor shall protect and maintain all property, structures and utilities, whether public or private and shall provide whatever means are required to do so, as part of this Contract. The Contractor shall take steps to protect the site and neighborhood, and prevent loaded trucks from spilling material upon traveled roadways.

The Contractor must put up and maintain such barriers, signs and red lights as will effectively protect his work, materials, and prevent accidents in consequence of the work. Steps shall be taken to prevent trespass wherever the public may be endangered. The Contractor shall assume all liability occasioned in any way caused personally, either by action or neglect, including those of the agents, employees or workers.

All barricades, lights, flags, flares any other means set up to protect the public or the work from injury or damage shall be maintained overnight, over weekends and holidays, or for any duration during which the job is not complete but the work may be shut down. Additional precaution may be required in areas of heavy traffic, on weekends extended by legal holidays or when there is expectation of inclement weather.

The Contractor shall so control his operation as to prevent damage to trees and shrubs which are to be preserved. Protection may include coverings, fences and boards lashed to trees to prevent damage from blasting or machine operations or hand tunneling through root areas. The Contractor shall carefully cut off all branches of trees which may have been broken or injured during construction. All tree repairs and painting of tree wounds shall be as specified in the New York State Department of Transportation Specifications.

### **165 PAYMENT FOR GENERAL CONDITIONS**

The cost of the performance of any work required by these General Conditions shall be considered to be a part of the Contractor's Base Bid if the Contract is a Lump Sum Contract, and spread out among all the unit prices, if the Contract is a Unit Price Contract. There will be no additional payment for work required by these General Conditions.

## **166 DAMAGE TO PRIVATE PROPERTY**

Any damage to private property or facilities caused by the Contractor, shall be restored promptly and completely in the same manner as specified under the restoration provisions of these Specifications.

If the Contractor fails to repair the damage within a reasonable period of time, as determined by the Owner's Representative, the Owner may retain or deduct from any sum or sums due to the Contractor such amount or amounts as are necessary to correct the condition and employ Town forces or another Contractor to do the corrective work. The fact that the Contractor has referred a damage claim to his insurance carrier shall not constitute relieve of liability for prompt and full restoration of damage. For purposes of this section of the Contract, the Owner will treat what are essentially private facilities within a public right-of-way (including but no limited to mailboxes, shrubs, fencing, flowers and other plantings, walls, light poles, etc.,) in the same manner as described above for private property.

## **167 RESTORATION**

All manufactured and natural features disturbed or removed for the proper completion of the work shall be reset or replaced. All man-made or natural features damaged or destroyed shall be repaired or restored to a condition equal to or better than that existing at the start of the work, with materials equal to or better than the original ones.

In cases where it is impossible to replace an item with any equivalent item (large trees, etc.) the Contractor may, subject to the approval of the Owner's Representative, substitute other similar items whose total value shall equal that of the destroyed one.

Where the work area extends onto private property, the Contractor shall make all reasonable attempts to satisfy the Owners. In case of dispute, the Owner's Representative shall be the judge as to the reasonableness of equivalency of repaired and restored features.

If the Contract Documents contain more detailed or more stringent specifications for restoration than in this section, the more detailed or stringent specifications shall take precedence over this section. Similarly, if the Contract Documents do not contain detailed specifications for restoration, then this section expresses the intent of the Owner; all published specifications of the Owner containing details of construction applicable to items of restoration (e.g. grass, pavement, trees, plantings, etc.) shall be deemed included in these Contract Documents as if set forth in full, if not actually printed herein.

All restoration work shall be guaranteed for a period of one year after completion of the project by this Contractor.

If the Contract Documents contain a specific payment clause for items of restoration, then that clause shall apply to those items of work; otherwise payment for restoration shall be as described in Payment for General Conditions.

## **SECTION L**

### **SPECIAL CONDITIONS**

#### **201 SCOPE OF WORK**

Under this Contract, the Contractor shall furnish all materials, equipment, labor, transportation and other expenses necessary for the General Construction of the work noted on contract documents. Site work in contract is noted on documents. Landscaping (plants) and mulch are not in contract.

#### **202 CONTRACT LIMITS**

The Contract limits are generally considered to be within the Town's right of way of streets and the Town owned property of the North White Plains Community Center. As is described more fully in these Contract Documents, the Contractor is to limit all activities to the immediate area of work as shown on documents and direct access to the site area via access road.

#### **203 TIME OF COMPLETION**

The Contractor shall provide the required bonds, insurance and other documents as may be required to complete this agreement within ten (10) business days of Notice of Award.

Unless directed to the contrary, the work shall commence within five (5) business days of the Contract signing.

The Contractor shall be required to complete the entire Contract as follows; Contractor must commence work on or about February 1, 2021 or sooner if awarded. The contractor must coordinate with the parks department. The contractor must be complete with the project May 31, 2021 (4 Month Duration).

#### **204 LIQUIDATED DAMAGES**

As actual damages for any delay in completion of the work which the Contractor is required to perform under this Contract are impossible to determine, the Contractor and his Sureties shall be liable for and shall pay to the Owner the sum of one hundred (100) dollars as fixed, agreed as liquidated damages for each calendar day of delay from the above stipulated completion, or as modified in accordance with the GENERAL CONDITIONS, until such work is satisfactorily completed and accepted.

#### **205 PROGRESS SCHEDULE**

Under this section the Contractor shall provide, prior to the start of construction, to the Owner's Representative a work schedule which has been coordinate with the parks department. The format of the schedule may be a bar graph, CPM diagram or other similar method. The schedule must include L-1 the various disciplines involved, the anticipated date of their commencement and the date that each discipline is planned to be completed.

Upon commencement of the work, it is understood that the Contractor will continue to work diligently until completion.

**206     WORK WITHIN EASEMENTS**

All work is to be within the right of way or on Town-owned property.

**207     POINT OF BEGINNING**

The Contractor may choose the place or point of beginning of the project, subject to the approval of the Town Highway Department; and after consideration as to the time of year or other specific concerns.

**208     OTHER CONSTRUCTION ACTIVITIES**

No other public construction activities are planned or contemplated at this time.

**209     MATERIAL/CONSTRUCTION EQUIPMENT, STAGING AND STORAGE LOCATION**

The Contractor is responsible to establish his own staging and mobilization area.

It shall be the Contractor's responsibility to meet with the Town Administrator prior to the start of any mobilization activities. At that time, the Contractor shall be prepared to discuss his particular needs as to the storage of equipment, material and tools within the SITE AREA. The Contractor is solely responsible for any necessary preparation that may be required to meet his needs. In addition, the Contractor shall be responsible for the complete restoration of the staging area to the satisfaction of the Owner's Representative.

The Contractor is responsible for the security of all equipment and material brought to the site by him. Any machinery, equipment, or tools left on the site overnight shall be locked or secured.

**210     TEST PITS**

Test pits if performed shall be solely for the convenience and expense to the Contractor.

**211     COORDINATION OF ACTIVITIES**

In addition to being responsible for coordinating activities of subcontractors working for him, the Contractor may also be required to coordinate activities with others in the vicinity.

**212     CONSTRUCTION LAYOUT** Unless otherwise mentioned elsewhere within these Specifications, It shall be the Contractor's responsibility to provide all construction layout, or offsets at his expense.

## **SECTION M**

### **LIST OF DRAWINGS – Dated 11/02/20**

#### **ARCHITECTURAL**

- A-0 TITLE SHEET
- A-1 DEMO AND DEMO RCP PLANS
- A-2 FIRST FLOOR PLAN
- A-3 POWER TELE DATA
- A-4 RCP PLAN
- A-5 ROOF PLAN
- A-6 DOOR SCHEDULE AND NOTES
- A-7 DOOR DETAILS AND PARTITION TYPES
- A-8 FINISH SCHEDULE AND NOTES
- A-9 INTERIOR TOILET ELEVATIONS AND DETAILS
- A-9.1 INTERIOR TOILET ELEVATIONS AND DETAILS
- A-9.2 INTERIOR TOILET ELEVATIONS AND DETAILS
- A-10 MILLWORK PLAN AND ELEVATIONS
- A-11 MILLWORK DETAILS / DETAILS
- A-12 WALL SECTION / DETAILS

#### **MECHANICAL**

- M0.1 – MECHANICAL SYMBOLS, ABBREVIATIONS, & NOTES
- M2.1 – MECHANICAL DEMOLITION & NEW WORK PLANS
- M5.1 – MECHANICAL DIESEL FUEL PIPING SCHEMATIC DIAGRAM
- M6.1 – MECHANICAL SCHEDULES
- M7.1 – MECHANICAL DETAILS

#### **ELECTRICAL**

- E0.1 - ELECTRICAL SYMBOLS, ABBREVIATIONS AND NOTES
- E1.1 – ELECTRICAL DEMOLITION PLAN
- E3.1 – ELECTRICAL NEW WORK POWER & RCP PLANS
- E5.1 – ELECTRICAL DIAGRAMS
- E6.1 – ELECTRICAL SCHEDULES
- E7.1 – ELECTRICAL DETAILS

## **PLUMBING**

P0.1 – PLUMBING SYMBOLS, ABBREVIATIONS, NOTES, & SCHEDULE

P2.1 – PLUMBING DEMOLITION & NEW WORK PLANS

P3.1 – PLUMBING SITE PLAN

P7.1 – PLUMBING DETAILS

## **FIRE PROTECTION**

SP0.1 – SPRINKLER SYMBOLS, ABBREVIATIONS, NOTES, SCHEDULES, & DETAILS

SP2.1 – SPRINKLER DEMOLITION & NEW WORK PLANS

## **TECHNICAL SPECIFICATIONS - Dated 11/02/20**

### **DIVISION 01 - GENERAL REQUIREMENTS**

011000 SUMMARY  
012100 ALLOWANCES  
012300 ALTERNATES  
012900 PAYMENT PROCEDURES  
013100 PROJECT MANAGEMENT AND COORDINATION  
013300 SUBMITTAL PROCEDURES  
014000 QUALITY REQUIREMENTS  
015240 CONSTRUCTION WASTE MANAGEMENT  
016000 PRODUCT REQUIREMENTS  
017300 EXECUTION  
017329 CUTTING AND PATCHING  
017700 CLOSEOUT PROCEDURES  
017839 PROJECT RECORD DOCUMENTS

### **DIVISION 02 - EXISTING CONDITIONS**

### **DIVISION 03 - CONCRETE**

033000 CAST IN PLACE CONCRETE

### **DIVISION 04 - MASONRY**

042000 UNIT MASONRY ASSEMBLIES

### **DIVISION 05 - METALS**

054000 COLD-FORMED METAL FRAMING  
055000 METAL FABRICATIONS

### **DIVISION 06 - WOOD, PLASTICS AND COMPOSITES**

061053 MISCELLANEOUS CARPENTRY  
062023 INTERIOR FINISH CARPENTRY  
066116 SOLID SURFACE FABRICATIONS

**DIVISION 07 - THERMAL AND MOISTURE PROTECTION**

- 072100 THERMAL INSULATION
- 072500 Air Barriers – Vapor Permeable
- 078446 FIRE- RESISTIVE JOINT SYSTEMS
- 079200 JOINT SEALANTS
- 073100 ASPHALT SHINGLES

**DIVISION 08 - OPENINGS**

- 081113 HOLLOW METAL DOORS AND FRAMES
- 081416 FLUSH WOOD DOORS
- 083113 ACCESS DOORS AND FRAMES
- 085113 DOOR HARDWARE
- 088000 GLAZING
- 089000 LOUVERS AND VENTS

**DIVISION 09 - FINISHES**

- 092900 GYPSUM BOARD ASSEMBLIES
- 093050 TILE SETTING MATERIALS AND ACCESSORIES
- 093100 CERAMIC TILE
- 095113 ACOUSTICAL PANEL CEILINGS
- 096500 RESILIENT FLOORING AND ACCESSORIES
- 096513 RESILIENT BASE AND ACCESSORIES
- 099000 PAINTING

**DIVISION 10 - SPECIALTIES**

- 101400 SIGNAGE – By Owner – NIC – Except ADA Site Signage
- 102113 TOILET AND URINAL COMPARTMENTS
- 102600 WALL AND DOOR PROTECTION
- 102800 TOILET ACCESSORIES
- 105200 FIRE-PROTECTION SPECIALTIES

**DIVISION 11 - EQUIPMENT**

- 113100 RESIDENTIAL APPLIANCES

**DIVISION 12 - FURNISHINGS - NOT USED**

**DIVISION 13 - SPECIAL CONSTRUCTION - NOT USED**

## **DIVISION 21 - FIRE SUPPRESSION**

- 210500 COMMON WORK RESULTS FOR FIRE SUPPRESSION
- 210517 SLEEVES AND SLEEVE SEALS FOR FIRE-SUPPRESSION PIPING
- 210518 ESCUTCHEONS FOR FIRE-SUPPRESSION PIPING
- 210523 GENERAL-DUTY VALVES FOR FIRE PROTECTION PIPING
- 210529 HANGERS AND SUPPORTS FOR FIRE SUPPRESSION PIPING AND EQUIPMENT
- 210553 IDENTIFICATION FOR FIRE-SUPPRESSION PIPING AND EQUIPMENT
- 211119 FIRE-DEPARTMENT CONNECTIONS
- 211313 WET-PIPE SPRINKLER SYSTEMS

## **DIVISION 22 - PLUMBING**

- 22 05 00 COMMON WORK RESULTS FOR PLUMBING
- 22 05 17 SLEEVES AND SLEEVE SEALS FOR PLUMBING PIPING
- 22 05 18 ESCUTCHEONS FOR PLUMBING PIPING
- 22 05 19 METERS AND GAGES FOR PLUMBING PIPING
- 22 05 23 GENERAL-DUTY VALVES FOR PLUMBING PIPING
- 22 05 29 HANGERS AND SUPPORTS FOR PLUMBING PIPING AND EQUIPMENT
- 22 05 53 IDENTIFICATION FOR PLUMBING PIPING AND EQUIPMENT
- 22 07 19 PLUMBING PIPING INSULATION AND JACKETS
- 22 11 14 NATURAL-GAS PIPING VALVES AND FITTINGS
- 22 11 16 DOMESTIC WATER PIPING
- 22 11 19 DOMESTIC WATER PIPING SPECIALTIES
- 22 11 23.21 INLINE DOMESTIC WATER PUMPS
- 22 13 16 SANITARY WASTE AND VENT PIPING
- 22 13 19 SANITARY WASTE PIPING SPECIALTIES
- 22 13 19.13 SANITARY DRAINS
- 22 42 13.13 COMMERCIAL WATER CLOSETS
- 22 42 16 COMMERCIAL LAVATORIES AND FACETS
- 22 42 16.16 COMMERCIAL SINKS
- 22 42 23 COMMERCIAL SHOWERS
- 22 47 16 WATER COOLERS

## **DIVISION 23 - HEATING VENTILATION AND AIR CONDITIONING**

- 23 05 00 COMMON WORK RESULTS FOR HVAC
- 230130 HVAC AIR DUCT CLEANING
- 230513 COMMON MOTOR REQUIREMENTS FOR HVAC EQUIPMENT
- 230517 SLEEVES AND ESCUTCHEONS FOR HVAC PIPING

230519 METERS AND GAGES FOR HVAC PIPING  
 230529 HANGERS AND SUPPORTS FOR HVAC PIPING AND EQUIPMENT  
 230553 IDENTIFICATION FOR HVAC PIPING EQUIPMENT  
 230593 TESTING, ADJUSTING, AND BALANCING FOR HVAC  
 230713 HVAC DUCTWORK INSULATION  
 230716 HVAC EQUIPMENT INSULATION  
 230719 HVAC PIPING INSULATION  
 230901 DIRECT DIGITAL CONTROL EQUIPMENT  
 230923.11 CONTROL VALVES  
 230923.12 CONTROL DAMPERS  
 230993 SEQUENCE OF OPERATION  
 231113 FACILITY FUEL-OIL PIPING  
 231213 FACILITY FUEL-OIL PUMPS  
 231323 FACILITY ABOVE GROUND FUEL OIL STORAGE TANKS  
 232116 HYDRONIC PIPING SPECIALTIES  
 232300 REFRIGERANT PIPING  
 232513 WATER TREATMENT FOR CLOSED-LOOP HYDRONIC SYSTEMS  
 232913 VARIABLE FREQUENCY DRIVES  
 233113 METAL DUCTS  
 233300 AIR DUCT ACCESSORIES  
 233600 AIR TERMINAL UNITS  
 233416 CENTRIFUGAL HVAC FANS  
 237313.16 INDOOR, CUSTOM AIR-HANDLING UNITS  
 238239.13 CABINET UNIT HEATERS

## **DIVISION 26 – ELECTRICAL**

260519 LOW-VOLTAGE ELECTRICAL POWER CONDUCTORS AND CABLES  
 260529 HANGERS AND SUPPORTS FOR ELECTRICAL SYSTEMS  
 260533 RACEWAYS AND BOXES FOR ELECTRICAL SYSTEMS  
 260543 UNDERGROUND DUCTS AND RACEWAYS FOR ELECTRICAL SYSTEMS  
 260544 SLEEVES AND SLEEVE SEALS FOR ELECTRICAL RACEWAYS AND  
 CABLING  
 260553 IDENTIFICATION FOR ELECTRICAL SYSTEMS  
 260923 LIGHTING CONTROL DEVICES  
 262416 PANELBOARDS  
 262726 WIRING DEVICES  
 262813 FUSES  
 262816 ENCLOSED SWITCHES AND CIRCUIT BREAKERS  
 263213.14 DIESEL ENGINE GENERATORS  
 263600 TRANSFER SWITCHES  
  
 265119 LED INTERIOR LIGHTING  
 265219 EMERGENCY AND EXIT LIGHTING

**DIVISION 28 – ELECTRONIC SAFETY AND SECURITY**

- 280513 CONDUCTORS AND CABLES FOR ELECTRONIC SAFETY AND SECURITY
- 283111 DIGITAL, ADDRESSABLE FIRE-ALARM SYSTEM

**DIVISION 31 – EARTHWORK**

- 312316 EXCAVATION AND FILL
- 312317 TRENCHING
- 312500 TEMPORARY SOIL, EROSION, SEDIMENT AND DUST CONTROL
- 312513 EROSION CONTROLS

**DIVISION 32 - EXTERIOR IMPROVEMENTS**

- 323126 FENCES AND GATES
- 329200 TURF AND GRASSES