

# *Board of Education*

## SPECIAL MEETING

Thursday, April 9, 2020 – 6:00 p.m.

### **Broadcasted Live from City Hall**

Aldermanic Chambers, 235 Grand Street, Waterbury, CT

***In an effort to adhere to social distancing guidelines, this meeting will be held without normal in-person public access and public comment. However, the meeting will be broadcasted live on the City of Waterbury's Government Access Channel (Comcast Channel 96, Frontier Channel 6096).***

***For additional information regarding agenda items please visit [www.waterbury.k12.ct.us/board](http://www.waterbury.k12.ct.us/board) and refer to the April 9, 2020 Meeting Agenda or email [cswain@waterbury.k12.ct.us](mailto:cswain@waterbury.k12.ct.us).***

## A G E N D A

### **1. Silent Prayer**

### **2. Pledge of Allegiance to the Flag**

### **3. Roll Call**

### **4. Communications**

- a. Copy of communication dated March 11, 2020 from Civil Service certifying Jason Rosado for the position of HVAC Foreman.
- b. Copy of communication dated March 16, 2020 from Civil Service certifying Tenzin Tsephel for the position of Paraprofessional.
- c. Copy of communications dated March 16, 2020 from Civil Service to Kelly Schipritt and Terra Saunders regarding offer of employment for the position of Lunchroom Aide.
- d. Copy of communication dated March 16, 2020 from Civil Service certifying Howard Gordon for the position of Maintainer I.
- e. Copy of communication dated March 17, 2020 from Civil Service certifying Krista DiFiore for the position of Provisional Cook.
- f. Copy of communication dated March 17, 2020 from Civil Service certifying Reynaldo Melendez for the position of Supervisor of Custodial Services.
- g. Email communication dated March 20, 2020 from CABE regarding Policy Highlights.
- h. Email communication dated March 25, 2020 from Deborah Vassar regarding naming of Crosby gym.
- i. Email communication dated April 3, 2020 from CABE regarding Policy Highlights.

### **5. Approval of Minutes** – March 5, 2020 Workshop and March 26, 2020 Special Meeting.

### **6. Superintendent's Announcements**

### **7. President's Comments**

### **8. Committee on Building & School Facilities** - Commissioner Jason Van Stone

- 8.1 Request approval of Amendment One to the Agreement with Newfield Construction, LLC for Construction Manager at Risk services for the Wendell Cross Project.

## **9. Committee on Finance – Commissioner Orso**

- 9.1 Transfers in the 2019/2020 fiscal year budget.
- 9.2 Request approval of an Operations & Maintenance Services Agreement with Bay State Elevator Company for elevator maintenance and repairs.
- 9.3 Request approval of an Operations & Maintenance Services Agreement with Trane U.S., Inc. for chiller maintenance and repairs.
- 9.4 Request approval of a Maintenance Services Agreement with SNE Building Systems, Inc for building automation services.
- 9.5 Request approval of a Construction Contract with Bay State Elevator Company for cylinder replacement at Regan School.
- 9.6 Request approval to participate in the Healthy Food Certification Program per CGS 10-215f.
- 9.7 Request approval of the food and beverage exemption statement for the Healthy Food Certification relative to CGS 10-221q.
- 9.8 Request approval to apply for the Individual with Disabilities Act (IDEA) 2021 Grant.

## **10. Superintendent's Notification to the Board**

### **10.1 Teacher new hires:**

<u>Name</u>		<u>Assignment</u>		<u>Effective</u>
Bolduc	Kathryn	Reed	English/LA	02/24/2020
Carter	SaQueen	Crosby	Spec Ed	03/05/2020
Correa	Jennifer	Wilby	Biology	03/10/2020
Erdmann	Michael	Wilby	Special Ed	03/30/2020
Fortier	Joseph	Waterbury Arts	Guidance Counselor	03/30/2020
Hargrave	Philip	Bunker Hill	Art	03/12/2020
Iannicell	Carmela	Kennedy	Social Worker	03/30/2020
Lehane	Danielle	Gilmartin	Social Worker	03/30/2020
Moquete	Geraldine	Crosby	SLP	03/16/2020
Noss	Alysha	Sprague	Pre-k Reg Ed	02/03/2020
Rivera Gierbolini	Jose Miquel	Hopeville	Bil Gr 5	02/07/2020
Samuels	Julia	Carrington	Social Worker	03/26/2020
Selvarajan	Jayalalitha	Reed	Gr. 2	03/12/2020
Torres-Dozier	Bianca	Enlightenment	Social Worker	03/30/2020

## 10.2 Academic Achievements effective March 1, 2020:

<u>Last Name</u>	<u>First Name</u>	<u>Degree From</u>	<u>Degree To</u>	<u>University</u>
April	Meghan	BA/3	MA/3	U of St. Joseph
Belancik	Benjamin	MA/6	MA+15/6	U of St. Joseph
Blaschke	Jennifer	BA+15/5	MA/5	Quinnipiac U
Boll	Deana	BA/2	MA/2	U of St. Joseph
Brittingham	Michele	6 YR/12	6 YR+15/12	Dominican U of CA
Burns	Richard	MA+15/7	6 YR/7	Augustana U/Colorado State U
Capaldo	Christine	MA+15/9	6 YR/9	Augustana U
Carroll	Amy	6 YR+15/6	PhD/6	WCSU
Cassone	Kelley	MA/5	6 YR/5	U of St. Joseph/ U of Bpt.
Cavallo	Angelica	MA/5	MA+15/5	U of Bpt./Dominican U of CA
Ciaramella	Nicole	BA+15/4	MA/4	U of St. Joseph
Connor	Heather	6 YR /7	6 YR+15/7	U of New Eng./Sac. Heart U
Croce	Kelly	MA/12	MA+15/12	Dominican U of CA
Durante	Janelle	BA+15/3	MA/3	Walden U
Evanoski	Jessica	BA+15/5	MA/5	U of St. Joseph
Freitas	Ashley	MA/5	MA+15/5	CCSU
Gibson	Jaclyn	6 YR /7	6 YR+15/7	U of Bpt.
Grant	Nataine	6 YR /7	6 YR+15/7	Walden U
Hanley	Jessica	BA+15/4	MA/4	U of Bpt.
Hanlon	Rebecca	BA/3	BA+15/3	SCSU
Haxhia	Robert	MA/5	MA+15/5	CCSU
Lanza	Jessica	MA+15/4	6 YR/4	Loyola Marymount U
Lokites	Alana	BA+15/3	MA/3	SCSU
Lombardo	Kiley	6 YR/3	6 YR+15/3	U of Bpt.
Mancuso	Abby	BA/2	BA+15/2	Western Governors U
Milkovic	Katherine	MA/8	MA+15/8	Augustana U
Pape	Anne	MA+15/7	6 YR/7	Quinnipiac U
PasnickA	Sarah	BA+15/3	MA/3	U of St. Joseph
Pierz	Robin	MA+15/8	6 YR/8	Widener U
Provoost	Jacqueline	6 YR /7	6 YR+15/7	Andrews U
Radzimirski	Abigail	BA+15/3	MA/3	WCSU
Richardson	Melissa	MA/4	MA+15/4	U of New H./ Sac. Heart U
Samuels	Anita	6 YR+15/9	PhD/9	U of New Eng.
Stofi	Maribeth	6 YR/12	6 YR+15/12	U of St. Joseph
Tehan	Kyle	BA/3	BA+15/3	Adams State U
Torres	Jessica	BA+15/3	MA/3	CCSU
Yamashita-Iverson	Kazumi	MA+15/11	6 YR/11	U of Bpt.

## 11. Adjournment

# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON BUILDING AND SCHOOL FACILITIES**

Item #8.1

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Building & School Facilities recommends that the Waterbury Board of Education approve Amendment No. One to the Agreement with Newfield Construction Group, LLC for Construction Manager at Risk Services for the Wendell Cross Pre-K to 8<sup>th</sup> Grade School Construction Project.

Approved:

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Jason Van Stone



OFFICE OF THE DIRECTOR OF FINANCE  
**THE CITY OF WATERBURY**  
CONNECTICUT

Date: April 7, 2020

To: Paul Pernerewski, President, Board of Aldermen  
Members, Board of Aldermen  
Board of Education Commissioners  
Mayor Neil M. O'Leary  
Dr. Verna Ruffin, Superintendent of Schools  
William Clark, Waterbury Public Schools Chief Operating Officer

From: Michael LeBlanc, Director of Finance *ML*

Subject: Amendment No. 1 to Agreement with Newfield Construction Group, LLC for Construction Manager at Risk Services for the Wendell L. Cross Pre-K to 8<sup>th</sup> Grade School Construction Project – RFP No. 6337

Kindly give favorable consideration by approving the attached Amendment No. 1 to the Agreement with Newfield Construction Group, LLC to provide construction manager at risk services for the construction of the Pre-K to 8<sup>th</sup> Grade School Wendell L. Cross School.

This Amendment No. 1 establishes a Guaranteed Maximum Price (GMP) of \$40,686,638 for the Construction of the Wendell L. Cross Pre-K to 8<sup>th</sup> Grade School. The GMP is comprised of a Pre-construction Services GMP (Phase I & Phase II) in the amount of \$10,563,795 and a Phase III - Construction Services GMP in the amount of \$30,122,843. The Construction Manager (Newfield Construction Group, LLC) guarantees not to exceed the amount provided for in this Guaranteed Maximum Price Amendment, subject to additions and deductions for Changes in the Work and other adjustments as provided for in the Contract Documents. Such maximum sum as adjusted by approved Changes in the Work is referred to in the Contract Documents as the Guaranteed Maximum Price.

Additionally, this Amendment No. 1 establishes that the date of final Substantial Completion as provided for in Section 8.3 of the Agreement shall be amended to July 31, 2021, provided that, as of July 15, 2021 any required interior and exterior areas shall be available for access to necessary City personnel including but not limited to information technology, inspection, Board of Education administrators and professionals and vendors associated with the Project.

The current approved Project Budget of \$46,213,082 provides funding for the Construction GMP of \$40,686,638, Project Soft Costs of \$4,302,112 and a Project Management Contingency of \$1,224,332 or 3% of the Construction GMP.

**AMENDMENT NO. 1 TO AGREEMENT BETWEEN  
CITY AND CONSTRUCTION MANAGER**

**GUARANTEED MAXIMUM PRICE FOR ADDITIONAL PRE-CONSTRUCTION SERVICES AND FOR  
CONSTRUCTION PHASE WORK**

Pursuant to Articles 4, 5, 6 and 7 of the Agreement for Construction Manager at Risk Services dated June 5, 2019 between **The City of Waterbury, Connecticut** (the "City") and **Newfield Construction Group, LLC** (the "Construction Manager") (the "Agreement"), for the Wendell L. Cross Pre-K to 8th Grade School Construction Project, located in Waterbury, CT (the "Project"), the City and the Construction Manager hereby establish the following Guaranteed Maximum Price ("GMP") and Contract Time for the Work as set forth below.

**ARTICLE I**

**GUARANTEED MAXIMUM PRICE FOR ADDITIONAL PRE-CONSTRUCTION SERVICES**

The Construction Manager's GMP for the Additional Pre-Construction Services Work as set forth in the Agreement and herein, including the estimated Cost of the Work as defined in Articles 4, 5 and 7 and the Construction Manager's Fee as defined in Article 5, is **TEN MILLION FIVE HUNDRED SIXTY-THREE THOUSAND SEVEN HUNDRED NINETY-FIVE DOLLARS AND THIRTEEN CENTS (\$10,563,795.13)**, based upon the following:

Exhibit A        October 7, 2019 Notice to Proceed with Additional Pre-Construction Services: Pre-Demolition of Hazardous Materials, Demolition of Buildings and/or Portions of Buildings; and Disposal and Management of Demolition Debris, including all exhibits and attachments.

Exhibit B        March 6, 2020 Notice to Proceed with Phase 2 Services: Site Construction Services, Landscaping, Concrete & Metals, including all exhibits and attachments.

**ARTICLE II**

**GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION PHASE WORK**

The Construction Manager's GMP for the Construction Phase Work as set forth herein, including the estimated Cost of the Work as defined in Articles 4, 6 and 7 and the Construction Manager's Fee as defined in Article 6, is - **THIRTY MILLION ONE HUNDRED TWENTY-TWO THOUSAND EIGHT HUNDRED FORTY-TWO DOLLARS AND FOURTY-NINE CENTS (\$30,122,842.49)**, based upon the following:

Exhibit A GMP Summary

Exhibit B CM Staffing and Reimbursables

Exhibit C Allowances

Exhibit D Alternates

Exhibit E Assumptions and Exclusions

Exhibit F Contract Documents- Lists of Specifications, Drawings, Bulletins

Exhibit G Unit Prices

Exhibit H Construction Schedule

**ARTICLE III  
CONTRACT TIME**

The date of final Substantial Completion as provided for in Section 8.3 of the Agreement shall be amended to July 31, 2021, provided that, as of July 15, 2021 any required interior and exterior areas shall be available for access to necessary City personnel including but not limited to information technology, inspection, Board of Education administrators and professionals and vendors associated with the Project. City shall provide the Construction Manager with a list of personnel that require access with the corresponding areas they need access to at least two (2) business days prior to their expected presence at the Project. Construction Manager shall ensure that all areas to be accessed pursuant to this provision, including but not limited to ingress and egress areas, achieve regulatory standards and are safe and appropriate for City personnel.

**ARTICLE IV  
NOTICE**

Section 14.6 of the Agreement is amended to include the following person for whom notice shall be provided with respect to the Construction Manager:

Mr. Tom DiMauro  
Vice President  
Newfield Construction Group, LLC  
225 Newfield Avenue  
Hartford, CT 06106

CITY

The City of Waterbury, CT

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name and Title)

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

CONSTRUCTION MANAGER

Newfield Construction Group, LLC

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name and Title)

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

**Wendell Cross Elementary School, Phase 3**  
**Guaranteed Maximum Price (GMP)**

Bid Package	Firm	Value
3.01 Cleaning	Orissa	75,600.00
3.02 Masonry	Connecticut Mason Cont.	3,087,000.00
3.03 General Trades	Scope Construction	4,557,000.00
3.04 Visual Display/Toilet Rm. Equip.	Scope Construction	included above
3.05 Roofing	Young Developers	1,034,000.00
3.06 Firestopping	New Haven Firestop	130,000.00
3.07 Aluminum Openings	Lockheed Window	1,691,000.00
3.08 Drywall	Conn Acoustics	2,910,389.00
3.09 Acoustical Ceilings	J&J Acoustics	467,190.00
3.10 Resilient Floors	Barall & Konover	878,000.00
3.11 Tile & Carpet	Barall & Konover	175,000.00
3.12 Painting	M&P Painting	242,900.00
3.13 Food Service Equipment	11400 Inc.	343,600.00
3.14 Fire Protection	W&M Fire Protection	440,000.00
3.15 Plumbing, 3.16 Mechanical (combo)	Sullivan/Benson Co.	7,529,000.00
3.16 Mechanical	Sullivan/Benson Co.	included above
3.17 Electrical	Statewide Electric	3,317,000.00
3.18 Fire Alarm	Net Services	248,000.00
Total Trade Contractor Costs		27,125,679.00
CM Staffing		1,365,810.00
CM Reimbursables		271,460.00
Heat Energy Consumption Allowance		250,000.00
Site Security Allowance		185,000.00
CM Contingency (1% )		273,756.79
CM Fee (1.2%)		351,440.47
State Permit Fee		(12,632.26)
CM Performance & Payment Bond (.68%)		201,453.50
Total		30,011,967.49
Pre-construction Fee		110,875.00
Total Phase 3 GMP		30,122,842.49

GMP Summary		
Phase 1 GMP	Abatement & Demo	1,544,080.18
Phase 2 GMP	Site, Concrete & Steel	9,019,714.95
Phase 3 GMP	Building Construction	30,122,842.49
Total		40,686,637.62



**Exhibit B**  
**CM Staffing and Reimbursables**

March 10, 2020

<b>Wendell Cross Elementary School</b>				
	<b>Phase 3 (17 months)</b>			
	<b>Qty</b>	<b>Unit</b>	<b>Unit cost</b>	<b>Ext</b>
<b>CM Staffing Phase 3</b>				
Project Manager	3287	MH	125.00	410,875.00
Superintendent	3114	MH	120.00	373,680.00
Asst. Super/QC	2595	MH	110.00	285,450.00
Project Engineer 1	3114	MH	70.00	217,980.00
BIM Coordinator	345	MH	105.00	36,225.00
Safety Officer(Credit from Ph 2)	(160.00)	MH	85.00	(13,600.00)
Safety Consultant	69.00	Inspec	800.00	55,200.00
<b>Total Phase 3 CM Staff</b>				<b>1,365,810.00</b>
<b>Phase 3</b>				
<b>Reimbursables</b>				
Office Trailer	17	mo	1,500.00	25,500.00
Trailer Install Remove	0	ea	10,000.00	0.00
Office Furniture	0	ea	5,000.00	0.00
Office Equipment	0	ea	5,000.00	0.00
Office Supplies	17	mo	200.00	3,400.00
Postage Fedx	17	mo	500.00	8,500.00
Copier	17	mo	500.00	8,500.00
Computers	0	ea	2,500.00	0.00
IT Support	17	mo	350.00	5,950.00
Internet	17	mo	150.00	2,550.00
Payroll	17	mo	800.00	13,600.00
Procure	30,270,000	\$	0.001	30,270.00
Telephones Equip. Installed	0	ea	1,500.00	0.00
Telephones Monthly	17	mo	400.00	6,800.00
Cell Phones	17	mo	750.00	12,750.00
Office Utilities	17	mo	500.00	8,500.00
Water Coffee	17	mo	125.00	2,125.00
First Aid	0	ea	2,500.00	0.00
Signage	0	ea	3,000.00	0.00
Reproduction	0	ea	7,500.00	0.00
Photos	17	mo	400.00	6,800.00
GL Insurance	30,270,000	\$	0.0045	136,215.00
<b>Total Ph 3 Reimbursables</b>				<b>271,460.00</b>

**EXHIBIT C  
ALLOWANCES**

**Construction Manager/Owner Allowances**

	<u>Value</u>
1. Heat Energy Consumption	\$250,000.00
2. Site Security	\$185,000.00

All allowance values are included in the GMP value.

**EXHIBIT D  
ALTERNATES**

There are no Alternates for the Phase 3 GMP.

**EXHIBIT E  
ASSUMPTIONS AND EXCLUSIONS**

**All items below are excluded from Newfield's Guaranteed Maximum Price.**

1. All City of Waterbury building permit fees for the general building permit and all other permits.
2. Applicable Connecticut Sales and Use taxes.
3. Builder's Risk Insurance Coverage and deductibles for Builder's Risk claims.
4. Modifications to the existing elevator in excess of \$25,000.00.
5. The GMP value is based on the assumption that the recommended trade contractors accept the award.
6. Formal acceptance of this GMP on or before June 1, 2020 is required to maintain the GMP schedule and cost. City approved contract awards must proceed by March 19, 2020.
7. Resource and cost loaded schedules will not be provided.
8. Removal of all polluted, hazardous, petroleum impacted or contaminated soils not identified in the documents. All hazardous materials testing, hazardous materials monitoring, soils characterizations and required hazardous materials final reports.
9. Special inspection services, testing for special inspection requirements. Owner required testing not indicated in the documents. Storm water inspections, reports, monitoring and sampling.
10. All second shift and overtime work. We have assumed Project work will be performed Monday through Friday, on first shift. Limited Saturday work has been included for critical trades. CM supervision is included for this work .
11. A fourteen calendar day Design Team review period for all submittals has been assumed. A seven calendar day Design Team response time for Requests for Information has been assumed.
12. Technology equipment (except for equipment shown in the Contract Documents), furniture, fixtures and equipment including administration of purchases, delivery and installation.
13. FFE, Technology and other Town vendors shall include disposal of all their waste including cardboard. Town vendors shall provide ceiling tile replacement, floor and door protection as required for their work. These items are not included in the GMP.
14. Playscape equipment and surfacing (except base shown in the Contract Documents) including administration of purchases, delivery and installation. Town vendor shall provide protection of landscaped area and hardscapes. Repairs caused by the installation of the playscapes are not included.
15. Contingencies- An Owner Controlled Contingency is not included in the GMP. A Construction Manager's Contingency (CM Contingency) is included. All unused portions of the CM Contingency shall be credited back to the Owner.

16. Where the specifications include a list of approved manufacturers and vendors, it is assumed that the listed manufacturers and vendors products will not require different or additional infrastructure, supports, electrical feed sizes, power requirements or modifications to any other building component other than what is shown on the Contract Documents.
17. Out of scope items are items that are not shown in the Contract Documents including but not limited to design deficiencies, unforeseen conditions and Owner requested items.
18. Change Orders- The Construction Manager's Fee (1.2%) and Insurance (.45%) shall be added to the cost of the work for all change orders. Bonding costs shall be reconciled and adjusted as required at the end of the Project per OSCG Guidelines.
19. Construction Manager/Owner Allowances- All unused portions of Construction Manager/Owner Allowances shall be credited back to the Owner including the Construction Manager's Fee.

**EXHIBIT F  
CONTRACT DOCUMENTS**

1. Project specifications. List attached.
2. Project drawings. List attached
3. Bulletins. List attached.

List of Specifications**DIVISION 00 – BIDDING AND PROCUREMENT REQUIREMENTS**

001100	INVITATION TO BID	2
002100	INSTRUCTIONS TO BIDDERS, AIA DOCUMENT A701	10
002213	SUPPLEMENTAL INSTRUCTION TO BIDDERS	1
002400	BID PACKAGES	56
003126	EXISTING HAZARDOUS MATERIALS INFORMATION (Phase II)	1
	HAZARDOUS BUILDING MATERIALS INSPECTION REPORT (Phase II)	
003132	GEOTECHNICAL DATA (Phase II)	2
	GEOTECHNICAL REPORT (Phase II)	
003135	CONTRACT COMPLIANCE DOCUMENTS	39
004126	BID PROPOSAL FORM	6
005200	AGREEMENT BETWEEN THE CONSTRUCTION MANAGER & TRADE CONTRACTOR	25
005400	CITY HIRING ORDINANCE	12
005900	CONTRACTOR'S QUALIFICATION STATEMENT, AIA DOCUMENT A305	4
006100	BID BOND, AIA DOCUMENT A310	2
007100	AGREEMENT & GENERAL CONDITIONS BETWEEN THE CITY OF WATERBURY & NEWFIELD CONSTRUCTION	133
007200	SPECIAL PROJECT CONDITIONS	31
007343	WAGE RATES	40

**DIVISION 01 - GENERAL REQUIREMENTS**

011000	SUMMARY	7
012200	UNIT PRICES	2
012600	CONTRACT MODIFICATION PROCEDURES	3
012900	PAYMENT PROCEDURES	5
013100	PROJECT MANAGEMENT AND COORDINATION	10
	CAD FILES AGREEMENT	1
	REVIT FILES AGREEMENT	1
013200	CONSTRUCTION PROGRESS DOCUMENTATION	9
013300	SUBMITTAL PROCEDURES	13
014000	QUALITY REQUIREMENTS	8
014104	SPECIAL INSPECTIONS AND STRUCTURAL TESTING	4
014200	REFERENCES	2
015000	TEMPORARY FACILITIES AND CONTROLS	9
	PROJECT SIGN (Phase I)	1
015713	TEMPORARY EROSION AND SEDIMENTATION CONTROLS	11
015714	TEMPORARY DUST CONTROL	4
016000	PRODUCT REQUIREMENTS	9
017300	EXECUTION	7

017329	CUTTING AND PATCHING	4
017419	CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL	7
017423	FINAL CLEANING	3
017700	CLOSEOUT PROCEDURES	5
017823	OPERATION AND MAINTENANCE DATA	8
017839	PROJECT RECORD DOCUMENTS	4
017900	DEMONSTRATION AND TRAINING	7
018113	SUSTAINABLE DESIGN REQUIREMENTS	7
	CTHPB PROPOSED PROJECT STRATEGY CHECKLIST	1
018119	INDOOR AIR QUALITY REQUIREMENTS	7
019113	GENERAL COMMISSIONING REQUIREMENTS	44

#### **DIVISION 02 – EXISTING CONDITIONS (Phase II)**

024113	UTILITY DEMOLITION AND ABANDONMENT	11
024116	STRUCTURE DEMOLITION	8
024123	SITE DEMOLITION	6
028100	TRANSPORTATION & DISPOSAL OF MISCELLANEOUS MATERIALS	4
028200	ASBESTOS ABATEMENT	22
028319	LEAD PAINT AWARENESS	9
028416	HANDLING OF PCBs / DEHP AND MERCURY	4
028433	PCB-CONTAINING BUILDING MATERIALS	19

#### **DIVISION 03 - CONCRETE**

031004	CONCRETE FORMWORK (Phase II)	4
032004	CONCRETE REINFORCEMENT (Phase II)	4
033004	CAST-IN-PLACE CONCRETE (Phase II)	12
033200	SITE CAST-IN-PLACE CONCRETE (Phase II)	20
034500	PRECAST ARCHITECTURAL CONCRETE	12

#### **DIVISION 04 - MASONRY**

042000	UNIT MASONRY	26
044313.16	ADHERED STONE MASONRY VENEER	9

#### **DIVISION 05 - METALS**

051204	STRUCTURAL STEEL (Phase II)	5
052004	STEEL JOISTS (Phase II)	3
053004	METAL DECKING (Phase II)	4
054000	COLD FORMED METAL FRAMING	9
054404	COLD FORMED METAL ROOF TRUSS SYSTEMS	9
055000	METAL FABRICATIONS	10
055100	METAL STAIRS	9
057300	DECORATIVE METAL RAILINGS	8
057500	DECORATIVE FORMED METAL	6



**DIVISION 06 – WOOD, PLASTICS, AND COMPOSITES**

061053	MISCELLANEOUS ROUGH CARPENTRY	7
061600	SHEATHING	10
064023	INTERIOR ARCHITECTURAL WOODWORK	15

**DIVISION 07 - THERMAL AND MOISTURE PROTECTION**

071326	SELF-ADHERING SHEET WATERPROOFING (Phase II)	8
072100	THERMAL INSULATION	8
072113	FOUNDATION INSULATION (Phase II)	4
072713	SHEET AIR BARRIERS	9
072729	WATER-RESISTIVE AIR-BARRIER MEMBRANES	8
073113	ASPHALT SHINGLES	8
074646	FIBER CEMENT SIDING	8
075423	THERMOPLASTIC POLYOLEFIN (TPO) ROOFING	13
076200	SHEET METAL FLASHING AND TRIM	10
077100	ROOF SPECIALTIES	9
077253	SNOW GUARDS	3
078100	APPLIED FIREPROOFING	9
078413	PENETRATION FIRESTOPPING	9
078446	FIRE-RESISTIVE JOINT SYSTEMS	7
079200	JOINT SEALANTS	12
079500	EXPANSION CONTROL	8

**DIVISION 08 – OPENINGS**

081113	HOLLOW METAL DOORS AND FRAMES	10
081416	FLUSH WOOD DOORS	7
083113	ACCESS DOORS AND FRAMES	6
083313	COILING COUNTER DOORS	9
083453	BULLET RESISTANT OPENING PROTECTION	12
084113	ALUMINUM-FRAMED ENTRANCES AND STOREFRONTS	14
084433	FIRE-RATED GLAZED CURTAIN WALLS	11
087100	DOOR HARDWARE	17
	OPENINGS SCHEDULE	15
088000	GLAZING	15
088300	MIRRORS	6
088853	SECURITY GLAZING	12
089119	FIXED LOUVERS	6

**DIVISION 09 – FINISHES**

092116	GYPSUM BOARD ASSEMBLIES	18
092116.23	GYPSUM BOARD SHAFT WALL ASSEMBLIES	7
093100	TILING	13
095113	ACOUSTICAL PANEL CEILINGS	10
096466	WOOD ATHLETIC FLOORING	9

096513	RESILIENT BASE AND ACCESSORIES	8
096516	RESILIENT SHEET FLOORING	9
096519	RESILIENT TILE FLOORING	10
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T1.6	MAIN LEVEL TECHNOLOGY - AREA D
T1.4	MAIN LEVEL TECHNOLOGY - AREA B
T1.7	UPPER LEVEL TECHNOLOGY - AREA A
T1.2	LOWER LEVEL TECHNOLOGY - AREA D
T2.1	LARGE SCALE PLANS & DATA RACK ELEVATIONS
T2.3	TECHNOLOGY DETAILS
T2.2	TECHNOLOGY DETAILS
T1.8	UPPER LEVEL TECHNOLOGY - AREA B

Bulletins

<u>Bulletin</u>	<u>Date Issued</u>
3.1	February 6, 2020
3.2	February 11, 2020
3.3	February 12, 2020
3.4	February 19, 2020
3.5	February 21, 2020
3.6	February 26, 2020
3.7	February 27, 2020

**EXHIBIT G  
UNIT PRICES**

The unit prices listed below do not include a Construction Manager's Fee.

The following unit prices shall be the basis for computing extra costs to the contract for additional work. For deleted work, the credit to the contract shall be the same. Unit prices shall include costs for all materials, equipment, tools, small tools, labor, permits, fees, overhead, profit, supervision, home office support, project management, estimating, safety, travel, shop drawings and as built drawings for all parties involved in the work. Unit prices shall apply to both the trade contractors and their subcontractors. All work is to be accomplished in accordance with applicable Sections of the Specifications and State and federal regulations.

C.Y.= cubic yard	S.F.= square foot	GB= glove bag
S.Y.= square yard	HR= hour	GAL= gallon
L.F.= linear foot	LB= pound	EA=Each

**BID PACKAGE 3.02 MASONRY****1. Loose Lintels:**

Description: Loose lintels including detailing and shop drawings according to Division 05 Section "Metal Fabrications."

\$3.25/LB.

**BID PACKAGE 3.03 GENERAL TRADES****2. Miscellaneous Metals:**

Description: Miscellaneous sections, including detailing and shop drawings according to Division 05 Section "Metal Fabrications."

\$6.00/LB.

**BID PACKAGE 3.17 ELECTRICAL****3. Duplex Receptacle:**

Description: Duplex receptacle including 50-feet of wiring materials according to Division 26 Section "Electrical."

\$171.76/EA.

4. Quad Receptacle:

Description: Quad receptacle including 50-feet of wiring materials according to Division 26 Section "Electrical."

\$178.02/EA.

5. Outlet Box:

Description: Outlet box including wiring raceway for CATV, telephone or data according to Division 27 "Telecommunications" Sections.

\$297.89/EA.

6. Exit Light:

Description: Exit light, including 30-feet of wiring, according to Division 26 Section "Electrical."

\$277.46/EA.

7. Ceiling Mounted Occupancy Sensor:

Description: Ceiling mounted occupancy sensor including 50' of wiring, power packs, testing and adjusting according to Division 26 "Electrical".

\$294.63/EA.

8. Wall Mounted Occupancy Sensor:

Description: Wall mounted occupancy sensor including 50' of wiring, backbox, raceway, testing and adjusting according to Division 26 "Electrical".

\$246.28/EA.

9. Motion Detector:

Description: Motion detector according to Division 28 "Electronic Safety and Security".

\$242.49/EA.

10. Card Reader:

Description: Provide wall mounted card reader including 50' of wiring, raceway, programming, testing and commissioning according to Division 28 "Electronic Safety and Security".

\$1,109.49/EA.

11. Door Contact:

Description: Provide door jamb mounted door contact including 20' of wiring, raceway, programming, testing, and commissioning according to Division 28 "Electronic Safety and Security".

\$295.02/EA

BID PACKAGE 3.18 FIRE ALARM

12. Fire Alarm Horn/Strobe:

Description: Fire Alarm Horn/Strobe, including 30-feet of wiring, raceway, programming, testing, and commissioning in accordance with Division 26 "Electrical" and Division 28, " Electronic Safety and Security".

\$305.00/EA.

13. Fire Alarm Pull Station:

Description: Fire alarm manual pull station, including 30-feet of wiring, raceway, programming, testing, and commissioning in accordance with Division 26 "Electrical" and Division 28 "Electronic Safety and Security".

\$335.00/EA.

14. Fire Alarm Smoke Detector:

Description: Ceiling mounted fire alarm smoke detector including 30' of wiring, raceway, programming, testing and commissioning in accordance with Division 26 "Electrical" and Division 28 "Electronic Safety and Security".

\$350.00/EA.

15. Fire Alarm Duct Smoke Detector:

Description: Duct mounted fire alarm smoke detector including 5' long sampling tube, 30' of wiring, raceway, programming, testing, and commissioning in accordance with Division 26 "Electrical" and Division 28 "Electronic Safety and Security".

\$680.00/EA



Exhibit H Wendell Cross Elementary School Page 1 of 1

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Item	Task	Start	Finish	Predecessors	Successors	Total
112	Install Guardrails Along Bus Roadway	Mon 6/1/21	Fri 6/18/21 1:13		118	75 days
113	Prop & Install Curbing & Valdes in Lower Parking Area / Drive Loop	Mon 6/1/21	Fri 6/18/21 1:17		119	0 days
114	Prop & Install 3x6 Slats from Upper Parking Area to Lower Parking Area	Mon 6/1/21	Fri 6/18/21 1:17		119	0 days
115	Install Fencing Along Sequential Retaining Wall	Mon 6/1/21	Wed 5/16/21 1:13		131	6 days
116	Install Dumpster Enclosure	Mon 6/1/21	Fri 6/18/21 1:16			70 days
117	Prop & Install Flagpole Base	Mon 6/1/21	Tue 5/22/21 1:15			56 days
118	Prop & Install Curbing Along Bus Roadway	Mon 6/1/21	Fri 7/2/21 1:18			60 days
119	Prop & Install Curbing Along Bus Roadway	Mon 6/1/21	Fri 7/2/21 1:18			60 days
120	Install Water Course Upper Parking Area / Drive Loop	Mon 6/1/21	Tue 5/28/21 1:13, 1:10		128	0 days
121	Install Water Course Lower Parking Area / Drive Loop	Mon 6/1/21	Mon 7/5/21 1:27		135, 129, 135	0 days
122	Install Permanent Permanent Patches on Hamilton Ave	Tue 7/1/21	Wed 7/1/21 1:28			57 days
123	Install Site Furnishings (Bollards, Signage, etc.)	Tue 7/1/21	Mon 7/19/21 1:28			48 days
124	Install Site Furnishings (Bollards, Signage, etc.)	Mon 6/22/21	Tue 7/20/21 1:46			36 days
125	Remove Erosion Control					0 days
126	Remove Erosion Control					0 days
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Exhibit H Wendell Cross Elementary School Page 4 of 14



Newfield Construction  
Wendell, Vermont, CT



Waterbury Public Schools  
Today's Students. Tomorrow's Leaders

Task Name									
Task	Subtask	Summary	Start	Finish	Subcontract	Final	2020	2021	2022
560	Install MEP Drops, Chilled Beams & Radiant Panels		20 days	Mon 11/23/20	Fri 12/18/20	561			
561	Below Ceiling Inspection		2 days	Mon 12/21/20	Tue 12/22/20	562			
562	Install Ceiling Pipes		5 days	Wed 12/23/20	Tue 12/29/20	563			
563	Install Walkways		10 days	Wed 12/30/20	Tue 1/5/21	564			
564	Install MEP Drops (Pipes, Switches, Pendant Light Fixtures, etc.)		5 days	Wed 1/6/21	Tue 1/12/21	565			
565	Re-Adjust / Re-Commission Existing Elevator A1		8 days	Mon 1/12/21	Fri 1/29/21	566			
566	Install Lockers & Accessories		5 days	Mon 1/19/21	Fri 2/5/21	567			
567	Install Whiteboards, Taskboards & Projectors		5 days	Mon 2/8/21	Thu 2/11/21	568			
568	Install Doors & Hardware		5 days	Mon 2/8/21	Thu 2/11/21	569			
569	Paint Final Coat		5 days	Mon 2/8/21	Thu 2/11/21	570			
570	DEMOLITION		74 days	Tue 2/23/21	Wed 5/18/21	571			
571	Install Shooting for Interior CMU Removals		5 days	Thu 4/29/21	Wed 5/12/21	572			
572	Interior CMU Removal		8 days	Thu 5/6/21	Mon 5/10/21	573			
573	Install Temp Scaffolding & Temp Roof Enclosure at Elevator A1		5 days	Wed 5/12/21	Tue 5/18/21	574			
574	Install Temp Protection Over Elevator Cdn at Elevator A1		5 days	Wed 5/12/21	Tue 5/18/21	575			
575	Demo Elevator A1 Roof		3 days	Mon 5/17/21	Thu 5/20/21	576			
576	Remove/Relocate Existing Elevator A1 Upper Level Door Jamb & Demo for New Door Opening		2 days	Mon 5/17/21	Thu 5/20/21	577			
AREA B INTERIOR									
577	Install New Underground MEP's		5 days	Thu 4/29/20	Wed 4/29/20	578			
578	Primp SDC & Insulate Vapor Emission Coating		5 days	Thu 10/8/20	Wed 10/14/20	579			
579	Install CMU Partitions		10 days	Thu 10/15/20	Wed 10/28/20	580			
580	Install MEP Drops & Scaffolding		5 days	Thu 10/15/20	Wed 10/28/20	581			
581	MEP Wall Rough-in & Blocking		5 days	Thu 10/22/20	Wed 10/28/20	582			
582	Overhead MEP's		20 days	Thu 10/29/20	Wed 11/25/20	583			
583	In-wall Inspections		1 day	Thu 10/29/20	Thu 10/29/20	584			
584	Insulation, Drywall & Taping		5 days	Fri 11/6/20	Thu 11/26/20	585			
585	Prime & 1st Coat Walls and Plasterboard Ceiling		5 days	Fri 11/6/20	Thu 11/26/20	586			
586	Install MEP Drops, Chilled Beams & Radiant Panels		10 days	Mon 11/23/20	Fri 12/4/20	587			
587	Below Ceiling Inspection		6 days	Mon 11/23/20	Thu 12/3/20	588			
588	Install Ceiling Pipes		2 days	Mon 11/23/20	Thu 12/3/20	589			
589	Install Walkways		5 days	Mon 11/23/20	Thu 12/3/20	590			
590	Install MEP Drops (Pipes, Switches, Pendant Light Fixtures, etc.)		5 days	Mon 11/23/20	Thu 12/3/20	591			
591	Re-Adjust / Re-Commission Existing Elevator A1		5 days	Mon 11/23/20	Thu 12/3/20	592			
592	Install Lockers & Accessories		5 days	Mon 11/23/20	Thu 12/3/20	593			
593	Install Whiteboards, Taskboards & Projectors		5 days	Mon 11/23/20	Thu 12/3/20	594			
594	Install Doors & Hardware		5 days	Mon 11/23/20	Thu 12/3/20	595			
595	Paint Final Coat		5 days	Mon 11/23/20	Thu 12/3/20	596			
596	DEMOLITION		74 days	Tue 2/23/21	Wed 5/18/21	597			
597	Install Shooting for Interior CMU Removals		5 days	Thu 4/29/21	Wed 5/12/21	598			
598	Interior CMU Removal		8 days	Thu 5/6/21	Mon 5/10/21	599			
599	Install Temp Scaffolding & Temp Roof Enclosure at Elevator A1		5 days	Wed 5/12/21	Tue 5/18/21	600			
600	Install Temp Protection Over Elevator Cdn at Elevator A1		5 days	Wed 5/12/21	Tue 5/18/21	601			
601	Demo Elevator A1 Roof		3 days	Mon 5/17/21	Thu 5/20/21	602			
602	Remove/Relocate Existing Elevator A1 Upper Level Door Jamb & Demo for New Door Opening		2 days	Mon 5/17/21	Thu 5/20/21	603			
LOWER LEVEL (AREA B)									
603	Install New Underground MEP's		5 days	Thu 4/29/20	Wed 4/29/20	604			
604	Primp SDC & Insulate Vapor Emission Coating		5 days	Thu 10/8/20	Wed 10/14/20	605			
605	Install CMU Partitions		10 days	Thu 10/15/20	Wed 10/28/20	606			
606	Install MEP Drops & Scaffolding		5 days	Thu 10/15/20	Wed 10/28/20	607			
607	MEP Wall Rough-in & Blocking		5 days	Thu 10/22/20	Wed 10/28/20	608			
608	Overhead MEP's		20 days	Thu 10/29/20	Wed 11/25/20	609			
609	In-wall Inspections		1 day	Thu 10/29/20	Thu 10/29/20	610			
610	Insulation, Drywall & Taping		5 days	Fri 11/6/20	Thu 11/26/20	611			
611	Prime & 1st Coat Walls and Plasterboard Ceiling		5 days	Fri 11/6/20	Thu 11/26/20	612			
612	Install MEP Drops, Chilled Beams & Radiant Panels		10 days	Mon 11/23/20	Fri 12/4/20	613			
613	Below Ceiling Inspection		6 days	Mon 11/23/20	Thu 12/3/20	614			
614	Install Ceiling Pipes		2 days	Mon 11/23/20	Thu 12/3/20	615			
615	Install Walkways		5 days	Mon 11/23/20	Thu 12/3/20	616			
616	Install MEP Drops (Pipes, Switches, Pendant Light Fixtures, etc.)		5 days	Mon 11/23/20	Thu 12/3/20	617			
617	Re-Adjust / Re-Commission Existing Elevator A1		5 days	Mon 11/23/20	Thu 12/3/20	618			
618	Install Lockers & Accessories		5 days	Mon 11/23/20	Thu 12/3/20	619			
619	Install Whiteboards, Taskboards & Projectors		5 days	Mon 11/23/20	Thu 12/3/20	620			
620	Install Doors & Hardware		5 days	Mon 11/23/20	Thu 12/3/20	621			
621	Paint Final Coat		5 days	Mon 11/23/20	Thu 12/3/20	622			
622	DEMOLITION		74 days	Tue 2/23/21	Wed 5/18/21	623			
623	Install Shooting for Interior CMU Removals		5 days	Thu 4/29/21	Wed 5/12/21	624			
624	Interior CMU Removal		8 days	Thu 5/6/21	Mon 5/10/21	625			
625	Install Temp Scaffolding & Temp Roof Enclosure at Elevator A1		5 days	Wed 5/12/21	Tue 5/18/21	626			
626	Install Temp Protection Over Elevator Cdn at Elevator A1		5 days	Wed 5/12/21	Tue 5/18/21	627			
627	Demo Elevator A1 Roof		3 days	Mon 5/17/21	Thu 5/20/21	628			
628	Remove/Relocate Existing Elevator A1 Upper Level Door Jamb & Demo for New Door Opening		2 days	Mon 5/17/21	Thu 5/20/21	629			

**Waterbury Public Schools**  
*Today's Students, Tomorrow's Leaders*Page 6 of 14

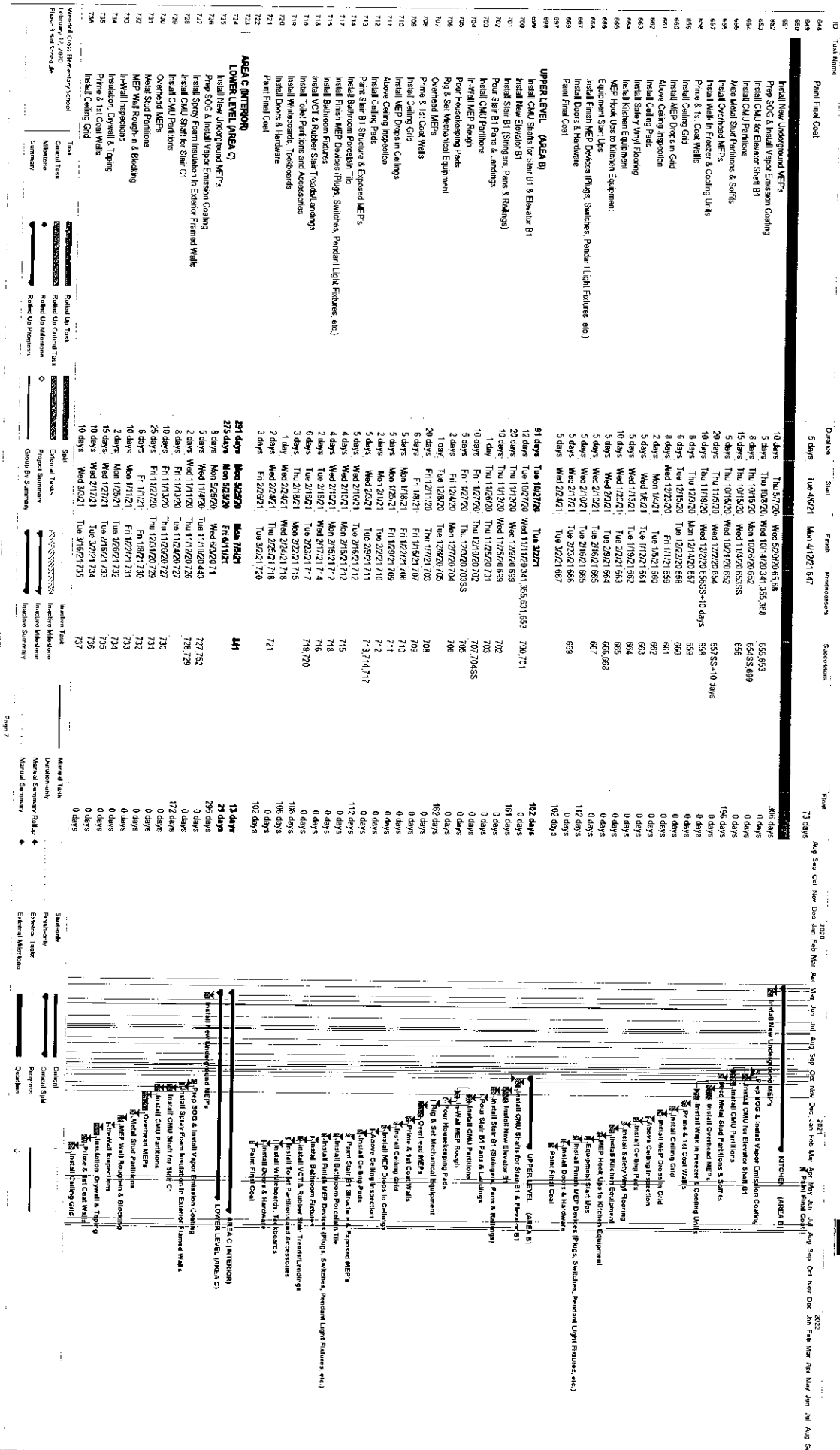


Newfield  
CONSTRUCTION  
A Division of Newfield

Newfield Construction  
Wendell Cross Elementary School  
1000 S. 10th St., Suite 100  
Wendell, ID 83793  
208.885.1234

Waterbury Public Schools  
Today's Students. Tomorrow's Leaders

Exhibit H  
Construction Schedule



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*Today's Students, Tomorrow's Leaders*

Exhibit H Wendell Cross Elementary School Page 10 of 14

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Newfield  
Construction

Newfield Construction  
Wendell, CT  
Wendell Cross Elementary School

Waterbury Public Schools  
Today's Students, Tomorrow's Leaders

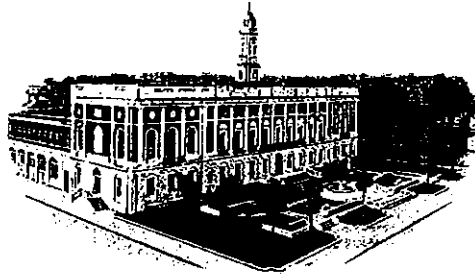
Exhibit H  
Construction Schedule

Task Name	Duration	Start	Finish	Predecessors	Task	2021	2022
Install Exterior MEP Devices	3 days	Wed 10/20/20	Fri 10/30/20 405				
<b>NORTH ELEVATION (AREA C)</b>							
Exterior Framing Blocking & Sheathing	10 days	Mon 10/26/20	Fri 11/13/20				
Install Cement Board Panel, AVB & Rigid Insulation	6 days	Mon 10/26/20	Mon 10/26/20 388				
Install CMU Back Up for Stone Veneer	3 days	Mon 10/26/20	Mon 10/26/20 409				
Install Brick & Stone Veneer	20 days	Tue 10/27/20	Thu 11/05/20 410				
Install Aluminum Windows & Storefronts	5 days	Fri 11/27/20	Thu 12/03/20 412				
Install Misc Cementitious Trim	2 days	Fri 11/27/20	Thu 12/03/20 414				
Install Joint Sealants	2 days	Tue 12/08/20	Mon 12/14/20 415				
Wash / Clean Veneer	2 days	Tue 12/08/20	Wed 12/09/20 416				
Install Exterior MEP Devices	5 days	Mon 12/14/20	Fri 12/18/20 418				
<b>ROOF (AREA C)</b>							
Install Soffit Framing	26 days	Mon 10/26/20	Mon 11/16/20				
Install Roof & Fascia Blocking	5 days	Tue 10/27/20	Mon 10/27/20 378				
Install Cementitious Fascia & Soffit	5 days	Tue 10/27/20	Mon 10/27/20 437				
Install Vented Roof Insulation Panels	3 days	Tue 10/27/20	Thu 10/27/20 438				
Install Ice & Water Shield	3 days	Fri 10/23/20	Tue 10/27/20 439				
Install Dip Edge, Asphalt Shingles & Ridge Vent	5 days	Wed 10/28/20	Tue 11/03/20 440				
<b>Roof Weather Tight (AREA C)</b>							
Install Aluminum Gutters & Downspouts	4 days	Tue 11/24/20	Tue 11/24/20 441				
Install Misc Roof Accessories (Snow Guards, Etc.)	2 days	Wed 11/25/20	Thu 11/25/20 442				
<b>AREA D (New Addition)</b>							
<b>PENTHOUSE (AREA D)</b>							
Prep & Pour Penthouse Slab	45 days	Mon 09/28/20	Fri 10/23/20				
Install Wall Framing, Blocking & Sheathing	5 days	Mon 09/28/20	Fri 09/28/20 159				
Install AVB & Rigid Insulation (Cement Faced)	2 days	Mon 09/28/20	Fri 09/28/20 488				
Create Temp Opening & Temp Protection for DOAS Riggings	1 day	Wed 09/30/20	Wed 09/30/20 247, 490				
Install Metal Lath, Mortar Bed & Stone Veneer	8 days	Tue 10/06/20	Mon 10/12/20 491				
Install Architectural Louvers	2 days	Tue 09/22/20	Wed 09/23/20 492				
Install Soffit Framing	2 days	Tue 09/22/20	Wed 09/23/20 493				
Install Cementitious Fascia & Soffit	2 days	Tue 09/22/20	Wed 09/23/20 494				
Install Roof Insulation, Hardboard & Ice and Watershield	2 days	Tue 09/22/20	Fri 09/25/20 495				
Install Dip Edge & Asphalt Shingles	2 days	Tue 09/22/20	Fri 09/25/20 496				
<b>Penthouse Weather Tight (AREA D)</b>							
Prep & Set DOAS Unit & Misc MEP Equipment	8 days	Wed 10/07/20	Mon 10/12/20 498				
Install Temp Riggings Opening (Complete Wall Construction & Louvers)	1 day	Tue 10/06/20	Wed 10/07/20 500				
Install Joint Sealants	1 day	Tue 10/06/20	Wed 10/07/20 501				
Wash / Clean Veneer	2 days	Wed 10/07/20	Thu 10/08/20 502				
Install Exterior MEP Devices	2 days	Wed 10/07/20	Fri 10/09/20 502				
<b>NORTH ELEVATION (AREA D)</b>							
Install CMU Back Up	8 days	Mon 10/26/20	Wed 11/04/20 158, 490				
Exterior Framing Blocking & Sheathing	12 days	Mon 10/26/20	Wed 11/04/20 159, 490				
Install Cement Board Panel, AVB & Rigid Insulation	8 days	Mon 10/26/20	Fri 11/06/20 491				
Install CMU Back Up for Stone Veneer	4 days	Mon 11/09/20	Thu 11/09/20 491				
Install Brick & Stone Veneer	35 days	Fri 11/20/20	Thu 12/17/20 492				
Install Aluminum Windows & Storefronts	10 days	Fri 11/27/20	Thu 12/17/20 493				
Install Misc Cementitious Trim	5 days	Fri 11/27/20	Tue 12/01/20 494				
Install Joint Sealants	3 days	Fri 11/27/20	Tue 12/01/20 495				
Wash / Clean Veneer	3 days	Wed 12/02/20	Fri 12/04/20 496				
Install Exterior MEP Devices	3 days	Mon 12/07/20	Fri 12/11/20 497				
<b>WEST ELEVATION (AREA D)</b>							
Install CMU Back Up	8 days	Tue 10/27/20	Mon 11/02/20 498				
Exterior Framing Blocking & Sheathing	8 days	Tue 10/27/20	Mon 11/02/20 499				
Install AVB & Rigid Insulation (Cement Faced)	3 days	Wed 11/11/20	Fri 11/13/20 499				
Install CMU Back Up for Stone Veneer	3 days	Mon 11/16/20	Wed 11/18/20 499				
Install Damage Fabric & Cement Siding	5 days	Mon 11/16/20	Wed 11/25/20 500				
Install Metal Lath, Mortar Bed & Stone Veneer	10 days	Fri 11/27/20	Thu 12/17/20 501				
<b>WEST ELEVATION (AREA D)</b>							
Install CMU Back Up	8 days	Tue 10/27/20	Mon 11/02/20 498				
Exterior Framing Blocking & Sheathing	8 days	Tue 10/27/20	Mon 11/02/20 499				
Install AVB & Rigid Insulation (Cement Faced)	3 days	Wed 11/11/20	Fri 11/13/20 499				
Install CMU Back Up for Stone Veneer	3 days	Mon 11/16/20	Wed 11/18/20 499				
Install Damage Fabric & Cement Siding	5 days	Mon 11/16/20	Wed 11/25/20 500				
Install Metal Lath, Mortar Bed & Stone Veneer	10 days	Fri 11/27/20	Thu 12/17/20 501				

Today's students, tomorrow's leaders

[illegible]

MICHAEL LeBLANC  
DIRECTOR OF FINANCE



PHONE: (203) 574-6840

OFFICE OF THE DIRECTOR OF FINANCE

**THE CITY OF WATERBURY**  
CONNECTICUT

October 7, 2019

Mr. Tom DiMauro  
Mr. Damien Davis  
Newfield Construction Group, LLC  
225 Newfield Avenue  
Hartford CT 06106

Re: Construction of Wendell L. Cross Pre-K to 8th Grade School  
Notice To Proceed With Additional Pre-Construction Services: Pre-Demolition of  
Hazardous Materials, Demolition of Buildings and/or Portions of Buildings; and Disposal  
and Management of Demolition Debris.

Dear Mr. DiMauro & Mr. Davis,

This letter serves as the City of Waterbury's formal "NOTICE TO PROCEED" to Newfield Construction Group, LLC's ("Newfield") for the Additional Pre-Construction Services of Pre-Demolition of Hazardous Materials, Demolition of Buildings and/or Portions of Buildings; and Disposal and Management of Demolition Debris (collectively the "Additional Pre-Construction Services") as provided for in Article 5 of the Agreement between the City of Waterbury and Newfield Construction Group, LLC for Construction Manager at Risk Services for the Construction of Wendell L. Cross Pre-K to 8th Grade School dated June 5, 2019 (the "Agreement").

The Additional Pre-Construction Services are to be performed in compliance with the Newfield Proposal, including Exhibits A through G, dated October 1, 2019 and attached to this letter as Exhibit A, for a guaranteed maximum price of **One Million Five-Hundred Forty-Four Thousand Eighty Dollars and 18/100 Cents (\$1,544,080.18)**.

Attached to this letter is Revised Purchase Order #169516 originally dated June 5, 2019 which has been revised to an amount of \$4,314,916 to incorporate bid package 1.01 Demolition in the amount of \$1,150,000.00. Terms for performance of services and payment for the Additional Pre-Construction Services and date of substantial completion are as set forth in the Agreement.

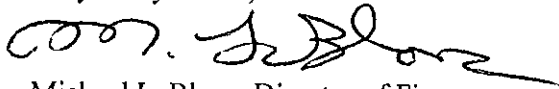
The City reserves its right to withhold as retainage five (5 %) percent of any payment (or monetary sum otherwise required by law) owed to Newfield to be withheld from payments to

Newfield until such time as Newfield's work and services to be provided under the Agreement are fully completed and accepted in writing by the City. The retainage to be withheld does not include additional sums that the City may withhold due to Newfield's failure to comply with provisions of the Agreement.

The guaranteed maximum price for the Additional Pre-Construction Services shall be included in the First Amendment to the Agreement with the Construction Phase services to be provided and any other pre-construction phase services the City and Newfield agree upon in accordance with Section 5.1.3 of the Agreement.

Kindly contact me should you have any questions or require additional information.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "M. LeBlanc", written over a horizontal line.

Michael LeBlanc, Director of Finance

Cc: *via email:*

William F. Clark, Esq, Chief Operating Officer, Waterbury Public Schools  
Kenneth Russo, CPE, Senior Project Manager, Waterbury Development Corporation  
Michael A. Sorano, AIA, Vice President, Friar Architecture  
Bryce Sens, RA, Senior Project Manager, Friar Architecture



October 1, 2019

Newfield Construction Group, LLC  
225 Newfield Avenue  
Hartford CT 06106

PROPOSAL: Wendell L. Cross Pre-K to 8th Grade School  
Additional Pre-Construction Services: Pre-Demolition of Hazardous Materials,  
Demolition of Buildings and/or Portions of Buildings; and Disposal and Management of  
Demolition Debris.

#### **GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION PHASE WORK**

Pursuant to Paragraph 5.1 of the Agreement for Construction Manager at Risk Services dated June 5, 2019 between The City of Waterbury, Connecticut (the "City") and Newfield Construction Group, L.L.C (the "Construction Manager") (the "Agreement"), for the Wendell L. Cross Pre-K to 8<sup>th</sup> Grade School Construction Project, located in Waterbury, CT (the "Project"), the City and the Construction Manger hereby establish a Guaranteed Maximum Price ("GMP") and Contract Time for the Additional Pre-Construction Services of Pre-Demolition of Hazardous Materials, Demolition of Buildings and/or Portions of Buildings; and Disposal and Management of Demolition Debris (collectively the "Additional Pre-Construction Services") as set forth below.

#### **GUARANTEED MAXIMUM PRICE**

The Construction Manager's proposed Guaranteed Maximum Price ("GMP") for the Additional Pre-Construction Services as set forth herein, including the estimated Cost of the Work as defined in Articles 6 and 7 and the Construction Manager's Fee as defined in Article 6, is **One Million Five Hundred Forty Four Thousand Eighty Dollars and 18/100 Cents (\$1,544,080.18)**, based upon the following:

Exhibit A GMP Summary

Exhibit B CM Staffing and Reimbursables

Exhibit C Allowances

Exhibit D Assumptions and Exclusions

Exhibit E Contract Documents- Lists of Specifications, Drawings, Bulletins

Exhibit F Unit Prices

Exhibit G Construction Schedule

#### **CONTRACT TIME**

The date of Substantial Completion is as set forth in the Agreement.

**Wendell Cross Elementary School, Phase 1**  
**Guaranteed Maximum Price (GMP)**

<b>Bid Package</b>	<b>Firm</b>	<b>Value</b>
1.01 Demolition	American	1,150,000.00
Total Trade Contractor Costs		1,150,000.00
CM Staffing		65,125.00
CM Reimbursables		65,105.00
Utility Company Fees Allowance		40,000.00
Advertising Allowance		10,000.00
Electrical Consumption Allowance		150,000.00
Phase 1 Survey Allowance		5,000.00
CM Contingency (1% of Trade Costs)		34,500.00
CM Fee (1.2%)		15,475.50
CM Performance & Payment Bond (.68%)		8,874.68
Total Phase 1 GMP		1,544,080.18

**Exhibit B**  
**CM Staffing and Reimbursables**

October 1, 2019

<b>Wendell Cross Elementary School</b>					
<b>Phase 1</b>					
<b>CM Staffing</b>					
Superintendent (Pre-con)				65,125.00	
<b>Phase 1</b>					
<b>Reimbursables</b>					
Office Trailer	3	mo	1,500.00	4,500.00	
Trailer Install Remove	1	ea	10,000.00	10,000.00	
Office Furniture	1	ea	5,000.00	5,000.00	
Office Equipment	1	ea	5,000.00	5,000.00	
Office Supplies	3	mo	200.00	600.00	
Postage Fedx	3	mo	500.00	1,500.00	
Copier	3	mo	500.00	1,500.00	
Computers	1	ea	2,500.00	2,500.00	
IT Support	3	mo	350.00	1,050.00	
Internet	3	mo	150.00	450.00	
Payroll	3	mo	800.00	2,400.00	
Procure	1,500,000	\$	0.001	1,500.00	
Telephones Equip. Installed	1	ea	1,500.00	1,500.00	
Telephones Monthly	3	mo	400.00	1,200.00	
Cell Phones	3	mo	750.00	2,250.00	
Office Utilities	3	mo	500.00	1,500.00	
Water Coffee	3	mo	125.00	375.00	
First Aid	1	ea	2,500.00	2,500.00	
Signage	1	ea	3,000.00	3,000.00	
Reproduction	1	ea	7,500.00	7,500.00	
Photos	3	mo	400.00	1,200.00	
GL Insurance	1,500,000	\$	0.0045	6,750.00	
Project Sign	1	ea	1,330.00	1,330.00	
<b>Total Reimbursables</b>				<b>65,105.00</b>	

**EXHIBIT C  
ALLOWANCES****Construction Manager/Owner Allowances**

	<u>Value</u>
1. Utility Company Fees	\$40,000.00
2. Advertising	\$10,000.00
3. Electrical Consumption	\$150,000.00
4. Phase 1 Survey	\$ 5,000.00

All allowance values are included in the GMP value.

**EXHIBIT D  
ASSUMPTIONS AND EXCLUSIONS**

**All items below are excluded from Newfield's Guaranteed Maximum Price.**

1. All City of Waterbury building permit fees for the general building permit and all other permits.
2. Applicable Connecticut Sales and Use taxes.
3. Builder's Risk Insurance Coverage and deductibles for builders risk claims.
4. Night watchman and security services.
5. Rock investigation, excavation and removal.
6. Removal of all polluted, hazardous, petroleum impacted or contaminated soils not identified in the documents.
7. All hazardous materials testing, hazardous materials monitoring, soils characterizations and required hazardous materials final reports.
8. Special inspection services, testing for special inspection requirements. Owner required testing not indicated in the documents.
9. All second shift and overtime work. We have assumed Project work will be performed Monday through Friday, on first shift.

**EXHIBIT E**  
**CONTRACT DOCUMENTS**

1. Project specifications. List attached.
2. Project drawings. List attached
3. Bulletins. List attached.

**List of Specifications****DIVISION 00 – INFORMATION AVAILABLE TO BIDDERS**

001100	INVITATION TO BID
002100	INSTRUCTIONS TO BIDDERS, AIA DOCUMENT A701
002213	SUPPLEMENTAL INSTRUCTION TO BIDDERS
002400	BID PACKAGES
003113	PRELIMINARY CONSTRUCTION SCHEDULE
003126	EXISTING HAZARDOUS MATERIALS INFORMATION HAZARDOUS BUILDING MATERIALS INSPECTION REPORT
003135	CONTRACT COMPLIANCE DOCUMENTS
004126	BID PROPOSAL FORM
005200	FORM OF AGREEMENT BETWEEN THE CONSTRUCTION MANAGER & TRADE CONTRACTOR
005400	CITY HIRING ORDINANCE
005900	CONTRACTOR'S QUALIFICATION STATEMENT, AIA DOCUMENT A305
006100	BID BOND, AIA DOCUMENT A310
007100	AGREEMENT & GENERAL CONDITIONS BETWEEN THE CITY OF WATERBURY & NEWFIELD CONSTRUCTION
007200	SPECIAL PROJECT CONDITIONS
007343	WAGE RATES

**DIVISION 01 - GENERAL REQUIREMENTS**

011000	SUMMARY
012200	UNIT PRICES
012600	CONTRACT MODIFICATION PROCEDURES
012900	PAYMENT PROCEDURES
013100	PROJECT MANAGEMENT AND COORDINATION
013200	CONSTRUCTION PROGRESS DOCUMENTATION
013300	SUBMITTAL PROCEDURES
014000	QUALITY REQUIREMENTS
014200	REFERENCES
015000	TEMPORARY FACILITIES AND CONTROLS PROJECT SIGN
016000	PRODUCT REQUIREMENTS
017300	EXECUTION
017329	CUTTING AND PATCHING
017419	CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL
017700	CLOSEOUT PROCEDURES

**DIVISION 02 – EXISTING CONDITIONS**

024113	UTILITY DEMOLITION AND ABANDONMENT
024116	STRUCTURE DEMOLITION
024123	SITE DEMOLITION
028100	TRANSPORTATION & DISPOSAL OF MISCELLANEOUS MATERIALS

028200	ASBESTOS ABATEMENT
028319	LEAD PAINT AWARENESS
028416	HANDLING OF PCBs / DEHP AND MERCURY
028433	PCB-CONTAINING BUILDING MATERIALS



List of Drawings

COVER

C-1.0 OVERALL SITE PLAN FOR REFERENCE ONLY

C-1.2 SITE DEMOLITION PLAN

SL-01 SITE LOGISTICS PLAN

HA-100 HAZMAT ABATEMENT BASEMENT LEVEL

HA-101 HAZMAT ABATEMENT FIRST FLOOR

D1.1 DEMOLITION BASEMENT PLAN

D1.2 DEMOLITION FIRST FLOOR PLAN

Bulletins

<u>Bulletin</u>	<u>Date Issued</u>
1.1	August 30, 2019
1.2	September 12, 2019

**EXHIBIT F  
UNIT PRICES**

The unit prices listed below do not include a Construction Manager's Fee.

The following unit prices shall be the basis for computing extra costs to the contract for additional work. For deleted work, the credit to the contract shall be the same. Unit prices shall include costs for all materials, equipment, tools, small tools, labor, permits, fees, overhead, profit, supervision, home office support, project management, estimating, safety, travel, shop drawings and as built drawings for all parties involved in the work. Unit prices shall apply to both the trade contractors and their subcontractors. All work is to be accomplished in accordance with applicable Sections of the Specifications and State and federal regulations.

cu yd= cubic yard (measured in place)	sf= square foot	fit= fittings	gal= gallon
sq yd= square yard	hr= hour	cont= container	
lf= linear foot	lb= pound	cu ft= cubic foot	

**BID PACKAGE 1.01 DEMOLITION**

Item No. 1 – MINI CONTAINMENT PREPARATION TO ENCLOSE ASBESTOS ABATEMENT (up to 100 SF of material removal)

\$ 1,000.00 per containment

Item No. 2 – SMALL CONTAINMENT PREPARATION TO ENCLOSE ASBESTOS ABATEMENT (>100-250 SF of material removal)

\$ 1,800.00 per containment

Item No. 3 – MEDIUM CONTAINMENT PREPARATION TO ENCLOSE ASBESTOS ABATEMENT (>250-750 SF of material removal)

\$ 2,500.00 per containment

Item No. 4 – LARGE CONTAINMENT PREPARATION TO ENCLOSE ASBESTOS ABATEMENT (>750-2,500 SF of material removal)

\$ 5,000.00 per containment

Item No. 5 – ASBESTOS MUDDER PIPE FITTING INSULATION REMOVAL AND DISPOSAL AS ACM

\$ 16.00 per fitting

Item No. 6 – ASBESTOS MUDDER PIPE FITTING INSULATION REMOVAL AND DISPOSAL AS ACM VIA GLOVE BAG

\$ 75.00 per glove bag

Item No. 7 – ASBESTOS PIPE INSULATION REMOVAL AND DISPOSAL AS ACM

\$ 12.00 per linear foot

Item No. 8 – ASBESTOS ROOF DRAIN FITTING INSULATION REMOVAL AND DISPOSAL AS ACM  
VIA GLOVE BAG

\$ 125.00 \_\_\_\_\_ per glove bag

Item No. 9 – ASBESTOS ROOF DRAIN INSULATION REMOVAL AND DISPOSAL AS ACM

\$ 25.00 \_\_\_\_\_ per linear foot

Item No. 10 – ASBESTOS FIRE DOOR CORE INSULATION REMOVAL AND DISPOSAL AS ACM

\$ 125.00 \_\_\_\_\_ per door unit

Item No. 11 – ASBESTOS FLOOR TILE AND MASTIC REMOVAL AND DISPOSAL AS ACM

\$ 2.50 \_\_\_\_\_ per square foot

Item No. 12 – ASBESTOS PAINT ON DUCTWORK REMOVAL AND DISPOSAL AS ACM

\$ 3.00 \_\_\_\_\_ per square foot

Item No. 13 – ASBESTOS PAPER ON LIGHT FIXTURES REMOVAL AND DISPOSAL AS ACM

\$ 35.00 \_\_\_\_\_ per light unit

Item No. 14 – ASBESTOS CEMENT PANEL REMOVAL AND DISPOSAL AS ACM

\$ 6.00 \_\_\_\_\_ per square foot

Item No. 15 – ASBESTOS BLACK TAR AND ASSOCIATED PIPE REMOVAL AND DISPOSAL AS ACM

\$ 15.00 \_\_\_\_\_ per linear foot

Item No. 16 – ASBESTOS DUCT PIN GLUE REMOVAL AND DISPOSAL AS ACM

\$ 3.00 \_\_\_\_\_ per square foot

Item No. 17 – BOILER AND ASSOCIATED COMPONENTS DISMANTLING AND CLEANING AND  
THE REMOVAL AND DISPOSAL OF MATERIALS WITH THE EXCEPTION OF METAL AS ACM

\$ 12,000.00 \_\_\_\_\_ per unit

Item No. 18 – ASBESTOS EXTERIOR DOOR CAULKING REMOVAL AND DISPOSAL AS ACM

\$ 10.00 \_\_\_\_\_ per linear foot

Item No. 19 – ASBESTOS EXTERIOR WINDOW CAULKING REMOVAL AND DISPOSAL AS ACM

\$ 10.00 \_\_\_\_\_ per liner foot

Item No. 20 – ASBESTOS EXTERIOR EXPANSION JOINT REMOVAL AND DISPOSAL AS ACM

\$ 10.00 \_\_\_\_\_ per linear foot

Item No. 21 – ASBESTOS EXTERIOR CAULKING ON WALL PANELS REMOVAL AND DISPOSAL AS ACM

\$ 10.00 \_\_\_\_\_ per linear foot

Item No.22 – ASBESTOS EXTERIOR CAULKING ON SOFFITS REMOVAL AND DISPOSAL AS ACM

\$ 10.00 \_\_\_\_\_ per linear foot

Item No. 23 – ASBESTOS EXTERIOR LOUVER/WALL VENT CAULKING REMOVAL AND DISPOSAL AS ACM

\$ 10.00 \_\_\_\_\_ per linear foot

Item No. 24 – ASBESTOS DAMP-PROOFING BARRIER SYSTEM ASSOCIATED WITH EXTERIOR BRICK AND CMU WALL REMOVAL AND DISPOSAL AS ACM

\$ 15.00 \_\_\_\_\_ per square foot

\$ 185.00 \_\_\_\_\_ per ton

Item No. 25 – ASBESTOS WINDOW GLAZING COMPOUND REMOVAL AND DISPOSAL AS ACM

\$ 200.00 \_\_\_\_\_ per window unit

Item No. 26 – ASBESTOS DAMP-PROOFING BARRIER SYSTEM ASSOCIATED WITH CONCRETE FOUNDATION REMOVAL AND DISPOSAL AS ACM

\$ 30.00 \_\_\_\_\_ per square foot

\$ 185.00 \_\_\_\_\_ per ton

Item No. 27 – ASBESTOS DAMP-PROOFING ASSOCIATED WITH METAL STRUCTURAL MEMBERS REMOVAL AND DISPOSAL AS ACM

\$ 15.00 \_\_\_\_\_ per square foot

\$ 165.00 \_\_\_\_\_ per ton

Item No. 28 – ASBESTOS ADHESIVE AND INSULATION ASSOCIATED WITH SUB GRADE CONCRETE FOUNDATION WALL REMOVAL AND DISPOSAL AS ACM

\$ 30.00 \_\_\_\_\_ per square foot

\$ 185.00 \_\_\_\_\_ per ton

Item No. 29 – ASBESTOS CEMENT PIPE ASSOCIATED WITH SUBGRADE DRAINAGE SYSTEM AND UTILITIES REMOVAL AND DISPOSAL AS ACM

\$ 25.00 per linear foot (assume no more than 18" Diameter)

Item No. 30 – ASBESTOS TAR PAPER ON GYPSUM ROOF DECK REMOVAL AND DISPOSAL AS ACM

\$ 8.00 per square foot

Item No. 31 – ASBESTOS ROOF FLASHING REMOVAL AND DISPOSAL AS ACM

\$ 5.00 per square foot

Item No. 32 – INCINERATOR AND CHIMNEY COMPONENTS CLEANING AND THE REMOVAL AND DISPOSAL OF MATERIALS WITHIN BRICK ENCLOSURES AS ACM

\$ 7,000.00 per unit

Item No. 33 – ASBESTOS COATED/WAPPED ELECTRICAL WIRE INSULATION

\$ 2.00 per linear foot

Item No. 34 – ASBESTOS GLUE DAUB AND ASSOCIATED CHALKBOARD REMOVAL AND DISPOSAL AS ACM

\$ 10.00 per square foot

Item No. 35 – EXTERIOR DOOR CAULKING COMPOUND REMOVAL AND DISPOSAL AS ACM AND PCB >1 PPM BUT < 50 PPM EXCLUDED PRODUCT WASTE

\$ 16.00 per linear foot

Item No. 36 – EXTERIOR WINDOW CAULKING COMPOUND REMOVAL AND DISPOSAL AS ACM AND PCB >1 PPM BUT < 50 PPM EXCLUDED PRODUCT WASTE

\$ 16.00 per linear foot

Item No. 37 – EXTERIOR DOOR CAULKING COMPOUND REMOVAL AND DISPOSAL AS PCB >1 PPM BUT < 50 PPM EXCLUDED PRODUCT WASTE

\$ 16.00 per linear foot

Item No. 38 – EXTERIOR WINDOW CAULKING COMPOUND REMOVAL AND DISPOSAL AS PCB >1 PPM BUT < 50 PPM EXCLUDED PRODUCT WASTE

\$ 16.00 per linear foot

Item No. 39 – INTERIOR PAINT ON CONCRETE BLOCK WALL REMOVAL AND DISPOSAL AS PCB ?  
50 PPM BULK PRODUCT WASTE

\$ 25.00 per square foot

\$ 165.00 per ton

Item No. 40 – INTERIOR PAINT ON CONCRETE BLOCK WALL REMOVAL AND DISPOSAL AS PCB  
>1 PPM BUT < 50 PPM EXCLUDED PRODUCT WASTE

\$ 20.00 per square foot

\$ 155.00 per ton

Item No. 41 – INTERIOR PAINT ON PLASTER REMOVAL AND DISPOSAL AS PCB ? 50 PPM  
BULK PRODUCT WASTE

\$ 25.00 per square foot

\$ 165.00 per cubic yard

Item No. 42 – INTERIOR PAINT ON PLASTER WALL REMOVAL AND DISPOSAL AS PCB >1 PPM  
BUT < 50 PPM EXCLUDED PRODUCT WASTE

\$ 20.00 per square foot

\$ 155.00 per cubic yard

Item No. 43 – INTERIOR PAINT ON METAL REMOVAL AND DISPOSAL AS PCB >1 PPM BUT <  
50 PPM EXCLUDED PRODUCT WASTE

\$ 20.00 per square foot

\$ 155.00 per ton

Item No. 44 – INTERIOR PAINT ON WOOD REMOVAL AND DISPOSAL AS PCB ? 50 PPM BULK  
PRODUCT WASTE

\$ 25.00 per square foot

\$ 165.00 per cubic yard

Item No. 45 – INTERIOR PAINT ON WOOD REMOVAL AND DISPOSAL AS PCB >1 PPM BUT < 50 PPM  
EXCLUDED PRODUCT WASTE

\$ 6.00 per square foot

\$ 165.00 per cubic yard

Item No. 46 – PETROLEUM IMPACTED SOIL REMOVAL AND DISPOSAL

\$ 135.00 \_\_\_\_\_ per ton

Item No. 47 – PETROLEUM IMPACTED CONCRETE REMOVAL AND DISPOSAL

\$ 135.00 \_\_\_\_\_ per ton

Item No. 48 – REMOVAL OF LEAD BASED PAINT FROM METAL AND DISPOSAL TO  
ACCOMMODATE TIE-INS (EPA RRP WORK)

\$ 125.00 \_\_\_\_\_ per square foot

Item No. 49 – DISPOSAL OF PETROLUUM IMPACTED LIQUIDS

\$ 15.00 \_\_\_\_\_ per gallon.

Item No. 50 – COMPACTED STRUCTURAL FILL IN PLACE

\$ 24.50 \_\_\_\_\_ per cubic yard

Item No. 51 – COMPACTED 1 1/4" PROCESSED STONE IN PLACE

\$ 29.50 \_\_\_\_\_ per ton

Item No. 52 – 3/4" CRUSHED STONE IN PLACE

\$ 32.00 \_\_\_\_\_ per ton

Item No. 53 – ROCK REMOVAL WITH SMALL EQUIPMENT (Compressors/Jack Hammers and hoe rams  
mounted to a skid steer)

\$ 65.00 \_\_\_\_\_ per cubic yard

Item No. 54 – ROCK REMOVAL WITH LARGE EQUIPMENT

\$ 185.00 \_\_\_\_\_ per cubic yard

Item No. 55 – SAWCUT CONCRETE SLAB

\$ 20.00 \_\_\_\_\_ per linear foot

Item No. 56 – REMOVAL AND DISPOSAL OF REINFORCED CONCRETE WALLS AND FOOTINGS

\$ 47.50 \_\_\_\_\_ per cubic yard

Item No. 57 – CLEARING AND STUMPING (cut brush and trees, remove stumps)

\$ 4,500.00 \_\_\_\_\_ per half acre



Item No. 58 – EXCAVATE AND STOCKPILE CONTAMINATED SOILS

\$ 3.00 \_\_\_\_\_ per cubic yard

Item No. 59 – LOAD (from stockpile) AND DISPOSE OF PCB CONTAMINATED SOILS, PCB >1 PPM BUT < 50 PPM

\$ 185.00 \_\_\_\_\_ per ton

Item No. 60 – LOAD (from stockpile) AND DISPOSE OF PCB CONTAMINATED SOILS, PCB  $\geq$  50 PPM

\$ 215.00 \_\_\_\_\_ per ton

TO Task Name	Duration	Start	Finish
1 Start Project	0 days	Fri 8/30/19	Fri 8/30/19
2 <del>Phase 1 Demolition &amp; Abatement</del>	<del>15 days</del>	<del>Fri 8/30/19</del>	<del>Fri 9/20/19</del>
3 <del>Phase 1 Bidding &amp; Award</del>	<del>2 days</del>	<del>Mon 9/23/19</del>	<del>Tue 9/24/19</del>
4 <del>Score Reviews</del>	<del>1 day</del>	<del>Wed 9/25/19</del>	<del>Wed 9/25/19</del>
5 <del>Award Recommendation</del>	<del>1 day</del>	<del>Thu 9/26/19</del>	<del>Thu 9/26/19</del>
6 <del>School Building Committee Approval</del>	<del>1 day</del>	<del>Fri 9/27/19</del>	<del>Fri 9/27/19</del>
7 <del>Award Contracts</del>	<del>10.5 days</del>	<del>Mon 9/30/19</del>	<del>Wed 10/2/19</del>
8 <del>Phase 1 Start Demolition &amp; Abatement</del>	<del>5 days</del>	<del>Mon 9/30/19</del>	<del>Fri 10/4/19</del>
9 <del>Phase 1 Mobilization</del>	<del>5 days</del>	<del>Mon 9/30/19</del>	<del>Fri 10/4/19</del>
10 <del>Struct-Hermal Removal &amp; Demo Plans</del>	<del>10 days</del>	<del>Mon 9/30/19</del>	<del>Fri 10/11/19</del>
11 <del>State asbestos Notification / Approval</del>	<del>3 days</del>	<del>Mon 10/7/19</del>	<del>Wed 10/9/19</del>
12 <del>Install Erosion Control &amp; Tracking Pad</del>	<del>4 days</del>	<del>Thu 10/10/19</del>	<del>Wed 10/15/19</del>
13 <del>Selective Cleaning &amp; Grubbing</del>	<del>4 days</del>	<del>Wed 10/16/19</del>	<del>Mon 10/21/19</del>
14 <del>Install Trench Construction Fence</del>	<del>5 days</del>	<del>Wed 10/16/19</del>	<del>Tue 10/22/19</del>
15 <del>Install Trench Electrical Service &amp; CM Trailer Pad</del>	<del>10 days</del>	<del>Mon 10/7/19</del>	<del>Fri 10/18/19</del>
16 <del>Selective Interior Demo (Pre-Haz Mat Removal)</del>	<del>25 days</del>	<del>Mon 10/21/19</del>	<del>Tue 11/26/19</del>
17 <del>Hermal Removal</del>	<del>5 days</del>	<del>Wed 11/27/19</del>	<del>Tue 12/3/19</del>
18 <del>Existing Utilities Demo &amp; Removal</del>	<del>2 days</del>	<del>Wed 11/27/19</del>	<del>Thu 11/28/19</del>
19 <del>Install Trench Protection @ Existing Elevator Shaft &amp; Lobbies</del>	<del>35 days</del>	<del>Wed 12/4/19</del>	<del>Wed 1/2/20</del>
20 <del>Full Building Demo</del>	<del>20 days</del>	<del>Wed 12/4/19</del>	<del>Wed 1/1/20</del>
21 <del>Selective Building Demo</del>	<del>5 days</del>	<del>Thu 1/2/20</del>	<del>Wed 1/29/20</del>
22 <del>Structural Fill @ Tunnels &amp; Building Pads</del>	<del>5 days</del>	<del>Thu 1/2/20</del>	<del>Wed 1/29/20</del>
23 <del>Install Safety Cables &amp; Trench Safety at Building &amp; Pads</del>	<del>5 days</del>	<del>Thu 1/2/20</del>	<del>Wed 1/29/20</del>
24 <del>Clean Up &amp; Demolition</del>	<del>9 days</del>	<del>Thu 1/2/20</del>	<del>Wed 2/5/20</del>
25 <del>Phase 1 Substantial Completion</del>	<del>10 days</del>	<del>Wed 2/12/20</del>	<del>Wed 2/12/20</del>
26 <del>Phase 1 Closeout Documentation</del>	<del>10 days</del>	<del>Thu 2/13/20</del>	<del>Wed 2/26/20</del>

Task		Roll Up Critical Task	Project Summary	Inactive Summary	Start-only Finish-only	Critical Spirit
Critical Task	Roll Up Milestone	Group By Summary	Manual Task	only External	Progress	Deadline
Milestone	Roll Up Progress	Inactive Task	Duration-only	tasks External		
Summary	Split	Inactive Milestone	Manual Summary Rollup	Milestone Critical		
	Roll Up Tasks	Inactive Milestone	Manual Summary			
Winfield Cross Elementary School						
August 1, 2019						
Project ID: 50146						
ACTIVE: 7						



**PURCHASE ORDER NUMBER  
169516 - REVISED**

This number must appear on all invoices, packages,  
cartons, bills of lading, and packing slips.

FOB:  
Freight Terms: Prepaid

Date: 06/05/2019

**MAIL INVOICES**

City of Waterbury  
235 Grand Street  
Waterbury, CT 06702

Board of Education  
School Business Office  
236 Grand Street  
Waterbury, Ct 06702

Bureau of Water  
21 East Aurora Street  
Waterbury, CT 06708

Water Pollution Control  
210 Municipal Road  
Waterbury, CT 06708

**Vendor:**  
8220  
Newfield Construction Inc.  
225 Newfield Ave  
Hartford CT 06106

**Ship To:**  
Finance Department  
235 Grand Street  
2nd Floor  
Waterbury CT 06702

Contact: Tom DiMauro  
Phone: 860 953-1477

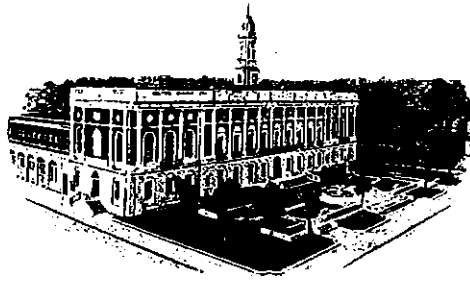
Contact: Purch Director >  
Phone: 203-674-6747

LINE	QTY	UOM	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
			Deliver on or Before June 28, 2019 unless specified by line Purchase Order Currency: US Dollars Invoice by mail Process Level: 65016		
1	436,668.0000	EA	CONSTRUCTION MANAGER'S FEE	1.0000	436,668.00
2	1,392,685.0000	EA	CONSTRUCTION STAFFING MATRIX	1.0000	1,392,685.00
3	1,139,971.0000	EA	LUMP SUM GENERAL CONDITIONS Wendell Cross Project No. 151-0295  RFP# 6337	1.0000	1,139,971.00
4	19,592.0000	EA	PRE-CONSTRUCTION MANAGER'S FEE	1.0000	19,592.00
5	176,000.0000	EA	PRE-CONSTRUCTION STAFFING MATRIX	1.0000	176,000.00
6	1,150,000.0000	EA	PHASE 1 DEMOLITION Vendor Item Number: CONSTRUCTION MANAGER'S FEE Vendor Item Desc: Revision: PO Line Add on October 7, 2019 Before Value:, After Value: PO Line	1.0000	1,150,000.00
Purchase Order Summary				Goods Total:	\$4,314,916.00
				Order Total:	\$4,314,916.00
Total Amount:					\$4,314,916.00

**THE CITY OF WATERBURY**  
Waterbury, Connecticut

*Hein McCaffery*  
Director of Purchasing

MICHAEL LEBLANC  
DIRECTOR OF FINANCE



PHONE: (203) 574-6840

OFFICE OF THE DIRECTOR OF FINANCE

**THE CITY OF WATERBURY**  
CONNECTICUT

March 6, 2020

Mr. Tom DiMauro  
Mr. Damien Davis  
Newfield Construction Group, LLC  
225 Newfield Avenue  
Hartford CT 06106

Re: Construction of Wendell L. Cross Pre-K to 8th Grade School  
Notice to Proceed With Phase 2: Site Construction, Landscaping, Concrete & Metals

Dear Mr. DiMauro & Mr. Davis,

This letter serves as the City of Waterbury's formal "NOTICE TO PROCEED" to Newfield Construction Group, LLC's ("Newfield") for the Phase 2 Services of Site Construction, Landscaping, Concrete & Metals (collectively the "Phase 2 Additional Pre-Construction Services") as provided for in Article 5 of the Agreement between the City of Waterbury and Newfield Construction Group, LLC for Construction Manager at Risk Services for the Construction of Wendell L. Cross Pre-K to 8th Grade School dated June 5, 2019 (the "Agreement").

The Phase 2 Additional Pre-Construction Services are to be performed in compliance with the Newfield Proposal, including Exhibits A through H, dated February 10, 2020 and attached to this letter as Exhibit A, for a guaranteed maximum price of **EIGHT MILLION FIVE HUNDRED TWENTY-NINE THOUSAND EIGHT HUNDRED THIRTY NINE DOLLARS AND 00/100 CENTS (\$8,529,839.00)**.

Attached to this letter is Revised Purchase Order #169516 originally dated June 5, 2019 which has been revised to include the additional amount of \$ 8,529,839.00 to incorporate bid packages 2.01, Site Construction, 2.02 Landscaping, 2.03 Concrete and 2.04 Metals. Terms for performance of services and payment for these Services and date of substantial completion are as set forth in the Agreement.

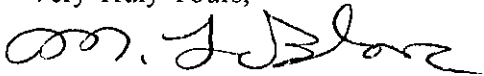
The City reserves its right to withhold as retainage five (5 %) percent of any payment (or monetary sum otherwise required by law) owed to Newfield to be withheld from payments to Newfield until such time as Newfield's work and services to be provided under the Agreement

are fully completed and accepted in writing by the City. The retainage to be withheld does not include additional sums that the City may withhold due to Newfield's failure to comply with provisions of the Agreement.

The guaranteed maximum price for the Additional Pre-Construction Services shall be included in the First Amendment to the Agreement with the Construction Phase services to be provided and with any other pre-construction phase services the City and Newfield agree upon in accordance with Section 5.1.3 of the Agreement.

Kindly contact me should you have any questions or require additional information.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "M. LeBlanc", written in a cursive style.

Michael LeBlanc, Director of Finance

Cc: *via email:*

William F. Clark, Esq, Chief Operating Officer, Waterbury Public Schools  
Kenneth Russo, CPE, Senior Project Manager, Waterbury Development Corporation  
Michael A. Sorano, AIA, Vice President, Friar Architecture  
Bryce Sens, RA, Senior Project Manager, Friar Architecture



**PURCHASE ORDER NUMBER  
169516 - REVISED**

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FOB:  
Freight Terms: Prepaid

Date: 06/05/2019

**Vendor:**  
8220  
Newfield Construction Group  
225 Newfield Ave  
Hartford CT 06106

**Ship To:**  
  
Finance Department  
235 Grand Street  
2nd Floor  
Waterbury CT 06702

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21 East Aurora Street  
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210 Municipal Road  
Waterbury, CT 06708

Contact: Tom DiMauro  
Phone: 860 953-1477

Contact: Purch Director >  
Phone: 203-574-6747

LINE	QTY	UOM	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
Deliver on or Before June 28, 2019 unless specified by line Purchase Order Currency: US Dollars Invoice by mail Process Level: 65016					
1	436,668.0000	EA	CONSTRUCTION MANAGER'S FEE AS A PERCENTAGE CMAR SERV	1.0000	436,668.00
2	1,392,685.0000	EA	CONSTRUCTION STAFFING MATRIX CMAR SERVICES	1.0000	1,392,685.00
3	1,139,971.0000	EA	LUMP SUM GENERAL CONDITIONS REIMBURSABLE COSTS CMAR SERV Wendell Cross Project No. 151-0295	1.0000	1,139,971.00
RFP# 6337					
4	19,592.0000	EA	PRE-CONSTRUCTION MANAGER'S FEE FOR EARLY BID WORK CMAR SERV	1.0000	19,592.00
5	176,000.0000	EA	PRE-CONSTRUCTION STAFFING MATRIX CMAR SERVICES	1.0000	176,000.00
6	1,150,000.0000	EA	PHASE 1 DEMOLITION demolition Vendor Item Number: CONSTRUCTION MANAGER'S FEE Vendor Item Desc:	1.0000	1,150,000.00
7	3,957,500.0000	EA	PHASE 2 SITE CONSTRUCTION FUCCI Vendor Item Number: CONSTRUCTION MANAGER'S FEE Vendor Item Desc: Revision: PO Line Add on February 26, 2020 Before Value:, After Value: PO Line	1.0000	3,957,500.00
8	77,339.0000	EA	PHASE 2.02 LANDSCAPING TC LANDSCAPING Vendor Item Number: CONSTRUCTION MANAGER'S FEE Vendor Item Desc: Revision: PO Line Add on February 26, 2020 Before Value:, After Value: PO Line	1.0000	77,339.00
***** CONTINUED *****				Total Amount:	\$12,844,755.00

**THE CITY OF WATERBURY**  
Waterbury, Connecticut

Director of Purchasing



**PURCHASE ORDER NUMBER  
169516 - REVISED**

This number must appear on all invoices, packages,  
cartons, bills of lading, and packing slips.

FOB:  
Freight Terms: Prepaid

Date: 06/05/2019

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Vendor: 8220  
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225 Newfield Ave  
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Ship To:  
Finance Department  
235 Grand Street  
2nd Floor  
Waterbury CT 06702

Contact: Tom DiMauro  
Phone: 860 953-1477

Contact: Purch Director >  
Phone: 203-574-6747

LINE	QTY	UOM	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
9	2,486,000.0000	EA	PHASE 2.04 METELS XTX ASSOCIATES Vendor Item Number: CONSTRUCTION MANAGER'S FEE Vendor Item Desc:	1.0000	2,486,000.00
10	2,009,000.0000	EA	PHASE 2.03 CONCRETE G&G CONCRETE Vendor Item Number: CONSTRUCTION MANAGER'S FEE Vendor Item Desc: Revision: PO Line Add on February 26, 2020 Before Value:, After Value: PO Line	1.0000	2,009,000.00
Purchase Order Summary					
Goods Total:					\$12,844,755.00
Order Total:					\$12,844,755.00
Total Amount:					\$12,844,755.00

**THE CITY OF WATERBURY**  
Waterbury, Connecticut

*Hein McCaffrey*  
Director of Purchasing

**Wendell Cross Elementary School, Phase 2**  
**Guaranteed Maximum Price (GMP)**

Bid Package	Firm	Value
2.01 Site Construction	C.J. Fucci	3,957,500.00
2.02 Landscaping	TC Landscaping	77,339.00
2.03 Concrete	G&G Concrete	2,009,000.00
2.04 Metals	XTX Associates	2,486,000.00
Total Trade Contractor Costs		8,529,839.00 *
CM Staffing		127,420.00
CM Reimbursables		66,850.00
Water Usage Allowance		20,000.00
CM Contingency (1% )		85,498.39
CM Fee (1.2%)		105,955.29
State Permit Fee		23,232.46
CM Performance & Payment Bond (.68%)		60,919.81
Total Phase 2 GMP		9,019,714.95

\* Value includes Alternates 1,2 & 3.



**Exhibit B**  
**CM Staffing and Reimbursables**

February 10, 2020

<b>Wendell Cross Elementary School</b>				
	<b>Phase 2 (2 months)</b>			
	<u>Qty</u>	<u>Unit</u>	<u>Unit cost</u>	<u>Ext</u>
<b>CM Staffing Phase 2</b>				
Project Manager	346	MH	125.00	43,250.00
Superintendent	346	MH	120.00	41,520.00
Project Engineer 1	346	MH	70.00	24,220.00
BIM Coordinator	46	MH	105.00	4,830.00
Safety Officer(80 hr/mo@19)	160	MH	85.00	13,600.00
<b>Total Phase 2 CM Staff</b>				<b>127,420.00</b>
<b>Phase 2</b>				
<b>Reimbursables</b>				
Office Trailer	2	mo	1,500.00	3,000.00
Trailer Install Remove	0	ea	10,000.00	0.00
Office Furniture	0	ea	5,000.00	0.00
Office Equipment	0	ea	5,000.00	0.00
Office Supplies	2	mo	200.00	400.00
Postage Fedx	2	mo	500.00	1,000.00
Copier	2	mo	500.00	1,000.00
Computers	2	ea	2,500.00	5,000.00
IT Support	2	mo	350.00	700.00
Internet	2	mo	150.00	300.00
Payroll	2	mo	800.00	1,600.00
Procure	9,000,000	\$	0.001	9,000.00
Telephones Equip. Installed	0	ea	1,500.00	0.00
Telephones Monthly	2	mo	400.00	800.00
Cell Phones	2	mo	750.00	1,500.00
Office Utilities	2	mo	500.00	1,000.00
Water Coffee	2	mo	125.00	250.00
First Aid	0	ea	2,500.00	0.00
Signage	0	ea	3,000.00	0.00
Reproduction	0	ea	7,500.00	0.00
Photos	2	mo	400.00	800.00
GL Insurance	9,000,000	\$	0.0045	40,500.00
<b>Total Ph 2 Reimbursables</b>				<b>66,850.00</b>

**EXHIBIT C  
ALLOWANCES**

**Construction Manager/Owner Allowances**

	<u>Value</u>
1. Water Usage Fees	\$20,000.00

All allowance values are included in the GMP value.

**EXHIBIT D  
ALTERNATES**

Accepted Alternate values are included in the GMP value.

	Value	Status
<b>Alternate No. 1:</b> Three Inch Bituminous Base Course.	\$45,000.00	Accepted
<b>Alternate No. 2:</b> Twenty Four Foot Wide HD Bituminous Concrete Paving Strip from Driveway to Dumpster Pad.	\$2,500.00	Accepted
<b>Alternate No. 3:</b> Five Foot Wide Bituminous Concrete Sidewalk.	\$5,000.00	Accepted

**EXHIBIT E  
ASSUMPTIONS AND EXCLUSIONS**

**All items below are excluded from Newfield's Guaranteed Maximum Price.**

1. All City of Waterbury building permit fees for the general building permit and all other permits.
2. Applicable Connecticut Sales and Use taxes.
3. Builder's Risk Insurance Coverage and deductibles for builders risk claims.
4. Night watchman and security services.
5. Removal of all polluted, hazardous, petroleum impacted or contaminated soils not identified in the documents.
6. All hazardous materials testing, hazardous materials monitoring, soils characterizations and required hazardous materials final reports.
7. Special inspection services, testing for special inspection requirements. Owner required testing not indicated in the documents.
8. All second shift and overtime work. We have assumed Project work will be performed Monday through Friday, on first shift.

**EXHIBIT F  
CONTRACT DOCUMENTS**

1. Project specifications. List attached.
2. Project drawings. List attached
3. Bulletins. List attached.

List of Specifications**DIVISION 00 – INFORMATION AVAILABLE TO BIDDERS**

001100	INVITATION TO BID
002100	INSTRUCTIONS TO BIDDERS, AIA DOCUMENT A701
002213	SUPPLEMENTAL INSTRUCTION TO BIDDERS
002400	BID PACKAGES
003113	PRELIMINARY CONSTRUCTION SCHEDULE
003132	GEOTECHNICAL DATA
	GEOTECHNICAL REPORT
003135	CONTRACT COMPLIANCE DOCUMENTS
004126	BID PROPOSAL FORM
005200	FORM OF AGREEMENT BETWEEN THE CONSTRUCTION MANAGER & TRADE CONTRACTOR
005400	CITY HIRING ORDINANCE
005900	CONTRACTOR'S QUALIFICATION STATEMENT, AIA DOCUMENT A305
006100	BID BOND, AIA DOCUMENT A310
007100	GENERAL CONDITIONS BETWEEN THE CITY OF WATERBURY & NEWFIELD CONSTRUCTION
007200	SPECIAL PROJECT CONDITIONS
007343	WAGE RATES

**DIVISION 01 - GENERAL REQUIREMENTS**

011000	SUMMARY
012100	ALLOWANCES
012200	UNIT PRICES
012300	ALTERNATES
012600	CONTRACT MODIFICATION PROCEDURES
012900	PAYMENT PROCEDURES
013100	PROJECT MANAGEMENT AND COORDINATION
	CAD FILES AGREEMENT
	REVIT FILES AGREEMENT
013200	CONSTRUCTION PROGRESS DOCUMENTATION
013300	SUBMITTAL PROCEDURES
014000	QUALITY REQUIREMENTS
014104	SPECIAL INSPECTIONS AND STRUCTURAL TESTING
014200	REFERENCES
015000	TEMPORARY FACILITIES AND CONTROLS
015713	TEMPORARY EROSION AND SEDIMENTATION CONTROLS
015714	TEMPORARY DUST CONTROL
016000	PRODUCT REQUIREMENTS
017300	EXECUTION
017329	CUTTING AND PATCHING
017419	CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

017423	FINAL CLEANING
017700	CLOSEOUT PROCEDURES
017823	OPERATION AND MAINTENANCE DATA
017839	PROJECT RECORD DOCUMENTS
018113	SUSTAINABLE DESIGN REQUIREMENTS
	CTHPB PROPOSED PROJECT STRATEGY CHECKLIST
018119	INDOOR AIR QUALITY REQUIREMENTS

**DIVISION 02 – EXISTING CONDITIONS**

024113	UTILITY DEMOLITION AND ABANDONMENT
024123	SITE DEMOLITION
024400	CONTROL OF EXISTING FLOWS

**DIVISION 03 - CONCRETE**

031004	CONCRETE FORMWORK
032004	CONCRETE REINFORCEMENT
033004	CAST-IN-PLACE CONCRETE
033200	SITE CAST-IN-PLACE CONCRETE

**DIVISION 05 - METALS**

051204	STRUCTURAL STEEL
052004	STEEL JOISTS
053004	METAL DECKING

**DIVISION 07 - THERMAL AND MOISTURE PROTECTION**

071326	SELF-ADHERING SHEET WATERPROOFING
072113	FOUNDATION INSULATION

**DIVISION 26 – ELECTRICAL**

260533	RACEWAY AND BOXES FOR ELECTRICAL SYSTEMS
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**DIVISION 31 – EARTHWORK**

312310	EARTHWORK
312313	PREPARATION OF SUBGRADE/FINE GRADE

312314	STRUCTURAL EXCAVATION
312316	EXCAVATION FOR UTILITIES
312319	DEWATERING
312324	STRUCTURAL FILL AND FOUNDATION DRAINAGE
312326	ROCK EXCAVATION AND DISPOSAL
312329	CONTROLLED BLASTING
312543	GEOTEXTILES
315004	EARTHWORK PROTECTION

### **DIVISION 32 – EXTERIOR IMPROVEMENTS**

321119	SUBBASE AND PROCESSED AGGREGATE BASE
321216	ASPHALT PAVING
321217	BITUMINOUS CONCRETE SIDEWALK
321313	CONCRETE PAVING
321623	CURBING
321723	PAVEMENT MARKINGS
323113	CHAIN LINK FENCES AND GATES
323300	BOLLARDS
323313	BICYCLE RACKS
324000	GUARDRAIL
329200	PLANTING
329100	PLANTING SOIL
329200	TURF AND GRASS

### **DIVISION 33 – UTILITIES**

331900	WATER SUPPLY SYSTEM
333100	SANITARY SEWERS
334000	STORM DRAINAGE SYSTEM
335100	NATURAL GAS DISTRIBUTION



## List of Drawings

### COVER

### REFERENCE

R1.1 CODE INFORMATION

### CIVIL

EC-1.0 EXISTING CONDITIONS PLAN  
C-1.0 EROSION & SEDIMENTATION CONTROL PLAN  
C-2.0 SITE PREPARATION PLAN  
C-3.0 SITE LAYOUT PLAN  
C-3.1 SITE MATERIALS PLAN  
C-3.2 PAVEMENT MARKING & SIGNAGE PLAN  
C-4.0 SITE GRADING PLAN  
C-4.1 SITE DRAINAGE PLAN  
C-5.9 SITE UTILITY PLAN  
C-6.0 SITE DETAILS  
C-6.1 SITE DETAILS  
C-6.2 SITE DETAILS  
C-6.3 SITE DETAILS  
C-6.4 SITE DETAILS  
C-6.5 SITE DETAILS  
C-7.0 UPPER SEGMENTAL RETAINING WALL ELEVATION  
C-7.1 LOWER SEGMENTAL RETAINING WALL ELEVATION

### LANDSCAPE

L-1.0 PLANTING PLAN

### ARCHITECTURE

A0.1 LOWER LEVEL KEY PLAN  
A0.2 MAIN & UPPER LEVEL KEY PLAN

### STRUCTURAL

S0.0 STRUCTURAL GENERAL NOTES & TYPICAL DETAILS  
S0.1 TYPICAL FOUNDATION DETAILS  
S1.1 FOUNDATION PLAN - AREA A  
S1.2 FOUNDATION PLAN - AREA B  
S1.3 FOUNDATION PLAN - AREA C  
S1.4 FOUNDATION PLAN - AREA D  
S2.1 MAIN LEVEL FRAMING PLAN AREAS - B & C  
S2.2 MAIN LEVEL FRAMING PLAN - AREA D  
S2.3 UPPER LEVEL FRAMING PLAN - AREA A  
S2.4 UPPER LEVEL/LOW ROOF FRAMING PLAN - AREA B  
S2.5 ROOF FRAMING PLAN - AREA A  
S2.6 ROOF FRAMING PLAN - AREA B  
S2.7 ROOF FRAMING PLAN - AREA C  
S2.8 ROOF FRAMING PLAN - AREA D  
S2.9 HIGH ROOFING PLANS  
S3.1 COLUMN SCHEDULE - AREA A & AREA B  
S3.2 COLUMN SCHEDULE - AREA B  
S3.3 COLUMN SCHEDULE - AREA C  
S3.4 COLUMN SCHEDULE - AREA D

S3.5	BRACE FRAME ELEVATIONS AND DETAILS
S3.6	BRACE FRAME ELEVATIONS AND DETAILS
S3.7	BRACE FRAME ELEVATIONS AND DETAILS
S3.8	SHEAR WALL SCHEDULE
S4.1	FOUNDATION SECTIONS
S4.2	FOUNDATION SECTIONS
S4.3	FOUNDATION SECTIONS
S4.4	FOUNDATION SECTIONS
S4.5	FOUNDATION SECTIONS
S4.6	FOUNDATION SECTIONS
S4.7	FOUNDATION SECTIONS
S4.8	FOUNDATION SECTIONS
S5.1	STRUCTURAL SECTIONS
S5.2	STRUCTURAL SECTIONS
S5.3	STRUCTURAL SECTIONS
S5.4	STRUCTURAL SECTIONS
S5.5	STRUCTURAL SECTIONS
S5.6	STRUCTURAL SECTIONS
S5.7	STRUCTURAL SECTIONS
S5.8	STRUCTURAL SECTIONS
S5.9	STRUCTURAL SECTIONS
S5.10	STRUCTURAL SECTIONS

#### SITE UTILITY

SU1.0	MEP SITE UTILITY PLAN
SU2.0	SITE UTILITY DETAILS
SL1.0	SITE LIGHTING PLAN – PHASE II

#### SITE LOGISTICS

SL-01	SITE LOGISTICS PLAN PHASE I (FOR REFERENCE)
SL-02	SITE LOGISTICS PLAN PHASE II

Bulletins

Bulletin

Date Issued

2.1	December 9, 2019
2.2	December 13, 2019
2.3	December 17, 2019
2.4	December 18, 2019
2.5	December 19, 2019

**EXHIBIT G  
UNIT PRICES**

The unit prices listed below do not include a Construction Manager's Fee.

The following unit prices shall be the basis for computing extra costs to the contract for additional work. For deleted work, the credit to the contract shall be the same. Unit prices shall include costs for all materials, equipment, tools, small tools, labor, permits, fees, overhead, profit, supervision, home office support, project management, estimating, safety, travel, shop drawings and as built drawings for all parties involved in the work. Unit prices shall apply to both the trade contractors and their subcontractors. All work is to be accomplished in accordance with applicable Sections of the Specifications and State and federal regulations.

cu yd= cubic yard (measured in place)	sf= square foot	fit= fittings	gal= gallon
sq yd= square yard	hr= hour	cont= container	
lf= linear foot	lb= pound	cu ft= cubic foot	

**BID PACKAGE 2.01 Site Construction****1. Mass Earth Excavation:**

Description: Mass Earth Excavation including the completion of the excavation, formation and compaction of the subgrade, and the disposal of surplus, or unsuitable material according to Division 31 Section "Earth Moving."

\$25.00/C.Y.

**2. Trench Earth Excavation:**

Description: Trench Earth Excavation including the completion of the excavation, formation and compaction of the subgrade, and the disposal of surplus, or unsuitable material according to Division 31 Section "Earth Moving."

\$35.00/C.Y.

**3. Bituminous Concrete Pavement Light Duty:**

Description: Light Duty Bituminous Concrete Pavement including base and sub-base, according to Division 32 Section "Asphalt Paving" Detail on Sheet C6.2.

\$55.00/S.Y.

**4. Bituminous Concrete Pavement Heavy Duty:**

Description: Heavy Duty Bituminous Concrete Pavement including base and sub-base, according to Division 32 Section "Asphalt Paving" Detail on Sheet C6.2.

\$65.00/S.Y.

**5. Concrete Walk Pavement:**

Description: Concrete Walk Pavement including base and sub-base, according to Division 32 Section "Concrete Paving" Detail on Sheet C6.2.

\$15.00/S.F.

6. Precast Concrete Curbs:

Description: Precast Concrete Curbs, including base and sub-base, straight and curved, 6-inches wide, according to Division 32 Section "Curbing". Detail on Sheet C6.2.

\$35.00/L.F.

7. Cast in Place Concrete Curbs:

Description: Cast in Place Concrete Curbs, including base and sub-base, straight and curved, 6-inches wide, according to Division 32 Section "Curbing", Detail (similar) on Sheet C6.2.

\$35.00/L.F.

8. Cast-in-Place Integral Concrete Curbs and Walks:

Description: Cast-in-Place Monolithic Concrete Curbs and 5 foot wide concrete walk, according to Division 32 Section "Concrete Paving" Detail on Sheet C6.02.

\$100.00/L.F.

9. Bituminous Concrete Pavement for Patching:

Description: Bituminous Concrete Pavement for patching, according to Division 32 Section "Asphalt Paving."

\$90.00/S.Y.

10. Structural Fill:

Description: Imported Structural fill (in place) including compaction according to Division 31 Section "Structural Fill."

\$40.00/C.Y.

11. Unsuitable Soils:

Description: Remove and replace with compacted imported structural fill according to Division 31 Section "Structural Fill."

\$60.00/C.Y.

12. Common Fill:

Description: Common imported fill (in place) including compaction according to Division 31 Section "Earth Moving."

\$35.00/C.Y.

13. Granular Base Fill:

Description: Granular imported base fill (in place) including compaction according to Division 31 Section "Earth Moving."

\$45.00/C.Y.

14. 3/8" Stone:

Description: 3/8" stone including compaction according to Division 31 Section "Structural Fill".

\$30.00/Ton

15. Processed Aggregate:

Description: Processed Aggregate (in place) including compaction according to Division 31 Section "Earthwork".

\$25.00/Ton

16. Concrete Bollard:

Description: Concrete Bollard, 24" diameter concrete bollard per Detail on Sheet C6.2.

\$1,100.00/EA.

17. Steel Pipe Bollard:

Description: 6" steel pipe bollard furnished and installed according to Division 32 Section "Bollards".

\$800.00/EA.

18. 6'Foot Galvanized Steel Chain Link Fence:

Description: 6 foot Galvanized Steel Chain Link Fence according to Division 32 Section "Chain Link Fences and Gates" Detail on Sheet C-6.2.

\$35.00/L.F.

19. Mass Rock Excavation:

Description: Excavate by means of blasting and dispose of rock in a mass excavation.

\$50.00/ C.Y.

20. Trench Rock Excavation:

Description: Excavate by means of blasting and dispose of rock in a trench excavation.

\$50.00/ C.Y.

21. Mass Rock Excavation:

Description: Excavate by means of machine ripping and dispose of rock/spoils in a mass excavation.

\$150.00/ C.Y.

22. Trench Rock Excavation:

Description: Excavate by means of machine ripping and dispose of rock/spoils in a trench excavation.

\$250.00/ C.Y.

23. Mass Rock Excavation:

Description: Excavate by means of rock splitter, jack hammer or hoe ram and dispose of rock/spoils in a mass excavation.

\$155.00/ C.Y.

24. Trench Rock Excavation:

Description: Excavate by means of rock splitter, jack hammer or hoe ram and dispose of rock/spoils in a trench excavation.

\$250.00/ C.Y.

25. Clearing and Stumping:

Description: Cut trees, brush, remove stumps and dispose of offsite. Does not include re-mobilization.

\$6,750/ Half Acre

26. Slope Stabilization:

Description: Furnish, install and maintain erosion control mats for temporary erosion control on slopes in excess of 3 (horizontal) to 1 (vertical).

\$1.50/ S.F.

BID PACKAGE 2. 02 Landscaping

29. Fine Grading and Seeding: Description: Fine grading and seeding for general lawns according to Division 32 Section "Turf and Grasses."

\$0.25/S.F.

30. Fine Grading and Sod:

Description: Fine grading and sod according to Division 32 Section "Turf and Grasses."

\$1.10/S.F.

31. Conservation Seed Mix:

Description: Conservation seeding according to Division 32 Section "Turf and Grasses."

\$0.25/S.F.

BID PACKAGE 2. 03 Concrete

32. Formwork for Footings:

Description: Formwork for wall and column footings including installation bracing, and removal of formwork according to Division 03 Section "Cast-in-Place Concrete."

\$10.00/S.F. of contact surface.

## 33. Formwork:

Description: Formwork for walls, piers, grade beams and buttresses, including bracing and removal of formwork according to Division 03 Section "Cast-in-Place Concrete."

\$13.00/S.F. of contact surface for foundations up to 8 feet high.

\$16.00/S.F. of contact surface for foundations greater than 8 feet high.

## 34. Concrete:

Description: Placement and finishing of concrete for wall and column footings, walls, piers, grade beams, and buttresses, excluding formwork and reinforcing, according to Division 03 Section "Cast-in-Place Concrete."

\$225.00/C.Y.

## 35. Concrete – Slab on Grade:

Description: Placement and finishing of concrete for slabs on grade including reinforcing steel, and wire mesh with supports according to Division 03 Section "Cast-in-Place Concrete."

\$7.00/S.F.

## 36. Reinforcing Steel:

Description: Reinforcing steel including shop drawings, detailing, fabrication, and support according to Division 03 Section "Cast-in-Place Concrete."

\$1.50/LB.

## 37. Underpinning:

Description: Provide underpinning beneath existing footings to maintain 3'-6" frost protection below proposed grade. Underpinning will include a 1'-0" thick x 3'-0" wide section of concrete with a 2" gap between bottom of existing footing and top of underpinning for drypacking with grout. Include engineering costs of underpinning design.

\$1,300.00/C.Y.

BID PACKAGE 2.04 Metals

## 38. Structural Steel, more than 30 LBS/L.F. – New Construction:

Description: Erected Structural Steel of more than 30 lbs/l.f., fabricated beams, girders, and columns, including shop drawings, detailing, engineering, shop and field connections, bearing plates, and painting, according to Division 05 Section "Structural Steel Framing."

\$4,895.00/Ton



39. Structural Steel, less than 30 LBS./L.F. - New Construction:

Description: Erected Structural Steel of less than 30 lbs/l.f., fabricated beams, girders, and columns, including shop drawings, detailing, engineering, shop and field connections, bearing plates, and painting, according to Division 05 Section "Structural Steel Framing."

\$5,225.00/Ton

40. Structural Steel, more than 30 LBS./L.F. - Existing Construction:

Description: Erected Structural Steel of more than 30 lbs/l.f., fabricated beams, girders, and columns, including shop drawings, detailing, engineering, shop and field connections, bearing plates, and painting, according to Division 05 Section "Structural Steel Framing."

\$6,850.00/Ton

41. Structural Steel, less than 30 LBS./L.F. - Existing Construction:

Description: Erected Structural Steel of less than 30 lbs/l.f., fabricated beams, girders, and columns, including shop drawings, detailing, engineering, shop and field connections, bearing plates, and painting, according to Division 05 Section "Structural Steel Framing."

\$7,200.00/Ton







Task Name

- 101 Install Foundation Along East Roadway
- 102 Prep & Install Curbs & Islands in Lower Parking Area / Drive Lane
- 103 Prep & Install Site Slabs from Upper Parking Area to Lower Parking Area
- 104 Install Concrete Footings
- 105 Prep & Install Flagpole Base
- 106 Prep & Install Site Slabs from South / Southwest Side of Area D
- 107 Prep & Install Curbs Along East Roadway
- 108 Install Metal Curb Upper Parking Area / Drive Lane
- 109 Install Metal Curb Lower Parking Area / Drive Lane
- 110 Install Permanent Pavement Patches on Hamilton Ave
- 111 Install Site Landings (Behind, Shoulder - etc.)
- 112 Remove Existing Concrete

LANDSCAPING

Landscaping Schedule

- 113 Mulch
- 114 Install Concrete Pavers
- 115 Install Building Perimeter Plantings
- 116 Install Site Plantings
- 117 Install Lawn Areas
- 118 Install Concrete Slab Areas
- 119 Mulch & Watering

CONCRETE

- 120 Concrete Submittals
- 121 Rebar Detailing
- 122 Rebar Installation
- 123 Mobilization
- 124 Area A Footings & Piers
- 125 Area B Footings & Piers
- 126 Area C Footings & Piers
- 127 Area D Footings & Piers
- 128 Area E Footings & Piers
- 129 Area F Footings & Piers
- 130 Area G Footings & Piers
- 131 Area H Footings & Piers
- 132 Area I Footings & Piers
- 133 Area J Footings & Piers
- 134 Area K Footings & Piers
- 135 Area L Footings & Piers
- 136 Area M Footings & Piers
- 137 Area N Footings & Piers
- 138 Area O Footings & Piers
- 139 Area P Footings & Piers
- 140 Area Q Footings & Piers
- 141 Area R Footings & Piers
- 142 Area S Footings & Piers
- 143 Area T Footings & Piers
- 144 Area U Footings & Piers
- 145 Area V Footings & Piers
- 146 Area W Footings & Piers
- 147 Area X Footings & Piers
- 148 Area Y Footings & Piers
- 149 Area Z Footings & Piers

STEEL

- 150 Steel Submittals
- 151 Steel Detailing
- 152 Steel Fabrication
- 153 Mobilization
- 154 Area A Upper Level Framing
- 155 Area B Upper Level Framing
- 156 Area C Upper Level Framing
- 157 Area D Upper Level Framing
- 158 Area E Upper Level Framing
- 159 Area F Upper Level Framing
- 160 Area G Upper Level Framing
- 161 Area H Upper Level Framing
- 162 Area I Upper Level Framing
- 163 Area J Upper Level Framing
- 164 Area K Upper Level Framing
- 165 Area L Upper Level Framing
- 166 Area M Upper Level Framing
- 167 Area N Upper Level Framing
- 168 Area O Upper Level Framing
- 169 Area P Upper Level Framing
- 170 Area Q Upper Level Framing
- 171 Area R Upper Level Framing
- 172 Area S Upper Level Framing
- 173 Area T Upper Level Framing
- 174 Area U Upper Level Framing
- 175 Area V Upper Level Framing
- 176 Area W Upper Level Framing
- 177 Area X Upper Level Framing
- 178 Area Y Upper Level Framing
- 179 Area Z Upper Level Framing

Newfield Construction  
Wendell Cross Elementary School  
Waterbury, CT

Phase 2 Bid Schedule - Site, Landscaping, Concrete & Steel

Task Name	Start	Finish	Duration	Predecessors	Relationships	Notes
101 Install Foundation Along East Roadway	Mon 6/27/21	Fri 7/11/21	5 days			
102 Prep & Install Curbs & Islands in Lower Parking Area / Drive Lane	Fri 7/11/21	Tue 7/27/21	10 days	101	Finish-to-Finish	
103 Prep & Install Site Slabs from Upper Parking Area to Lower Parking Area	Mon 6/27/21	Mon 7/11/21	5 days			
104 Install Concrete Footings	Mon 6/27/21	Fri 7/11/21	5 days			
105 Prep & Install Flagpole Base	Mon 6/27/21	Fri 7/11/21	5 days			
106 Prep & Install Site Slabs from South / Southwest Side of Area D	Mon 6/27/21	Fri 7/11/21	5 days			
107 Prep & Install Curbs Along East Roadway	Mon 6/27/21	Fri 7/11/21	5 days			
108 Install Metal Curb Upper Parking Area / Drive Lane	Mon 6/27/21	Fri 7/11/21	5 days			
109 Install Metal Curb Lower Parking Area / Drive Lane	Mon 6/27/21	Fri 7/11/21	5 days			
110 Install Permanent Pavement Patches on Hamilton Ave	Mon 6/27/21	Fri 7/11/21	5 days			
111 Install Site Landings (Behind, Shoulder - etc.)	Mon 6/27/21	Fri 7/11/21	5 days			
112 Remove Existing Concrete	Mon 6/27/21	Fri 7/11/21	5 days			

LANDSCAPING

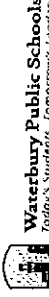
- 113 Mulch
- 114 Install Concrete Pavers
- 115 Install Building Perimeter Plantings
- 116 Install Site Plantings
- 117 Install Lawn Areas
- 118 Install Concrete Slab Areas
- 119 Mulch & Watering

CONCRETE

- 120 Concrete Submittals
- 121 Rebar Detailing
- 122 Rebar Installation
- 123 Mobilization
- 124 Area A Footings & Piers
- 125 Area B Footings & Piers
- 126 Area C Footings & Piers
- 127 Area D Footings & Piers
- 128 Area E Footings & Piers
- 129 Area F Footings & Piers
- 130 Area G Footings & Piers
- 131 Area H Footings & Piers
- 132 Area I Footings & Piers
- 133 Area J Footings & Piers
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- 135 Area L Footings & Piers
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- 147 Area X Footings & Piers
- 148 Area Y Footings & Piers
- 149 Area Z Footings & Piers

STEEL

- 150 Steel Submittals
- 151 Steel Detailing
- 152 Steel Fabrication
- 153 Mobilization
- 154 Area A Upper Level Framing
- 155 Area B Upper Level Framing
- 156 Area C Upper Level Framing
- 157 Area D Upper Level Framing
- 158 Area E Upper Level Framing
- 159 Area F Upper Level Framing
- 160 Area G Upper Level Framing
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- 170 Area Q Upper Level Framing
- 171 Area R Upper Level Framing
- 172 Area S Upper Level Framing
- 173 Area T Upper Level Framing
- 174 Area U Upper Level Framing
- 175 Area V Upper Level Framing
- 176 Area W Upper Level Framing
- 177 Area X Upper Level Framing
- 178 Area Y Upper Level Framing
- 179 Area Z Upper Level Framing



Waterbury Public Schools  
Today's Students. Tomorrow's Leaders

Task Name	Start	Finish	Duration	Predecessors	Relationships	Notes
101 Install Foundation Along East Roadway	Mon 6/27/21	Fri 7/11/21	5 days			
102 Prep & Install Curbs & Islands in Lower Parking Area / Drive Lane	Fri 7/11/21	Tue 7/27/21	10 days	101	Finish-to-Finish	
103 Prep & Install Site Slabs from Upper Parking Area to Lower Parking Area	Mon 6/27/21	Mon 7/11/21	5 days			
104 Install Concrete Footings	Mon 6/27/21	Fri 7/11/21	5 days			
105 Prep & Install Flagpole Base	Mon 6/27/21	Fri 7/11/21	5 days			
106 Prep & Install Site Slabs from South / Southwest Side of Area D	Mon 6/27/21	Fri 7/11/21	5 days			
107 Prep & Install Curbs Along East Roadway	Mon 6/27/21	Fri 7/11/21	5 days			
108 Install Metal Curb Upper Parking Area / Drive Lane	Mon 6/27/21	Fri 7/11/21	5 days			
109 Install Metal Curb Lower Parking Area / Drive Lane	Mon 6/27/21	Fri 7/11/21	5 days			
110 Install Permanent Pavement Patches on Hamilton Ave	Mon 6/27/21	Fri 7/11/21	5 days			
111 Install Site Landings (Behind, Shoulder - etc.)	Mon 6/27/21	Fri 7/11/21	5 days			
112 Remove Existing Concrete	Mon 6/27/21	Fri 7/11/21	5 days			

LANDSCAPING

- 113 Mulch
- 114 Install Concrete Pavers
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- 116 Install Site Plantings
- 117 Install Lawn Areas
- 118 Install Concrete Slab Areas
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CONCRETE

- 120 Concrete Submittals
- 121 Rebar Detailing
- 122 Rebar Installation
- 123 Mobilization
- 124 Area A Footings & Piers
- 125 Area B Footings & Piers
- 126 Area C Footings & Piers
- 127 Area D Footings & Piers
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STEEL

- 150 Steel Submittals
- 151 Steel Detailing
- 152 Steel Fabrication
- 153 Mobilization
- 154 Area A Upper Level Framing
- 155 Area B Upper Level Framing
- 156 Area C Upper Level Framing
- 157 Area D Upper Level Framing
- 158 Area E Upper Level Framing
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- 170 Area Q Upper Level Framing
- 171 Area R Upper Level Framing
- 172 Area S Upper Level Framing
- 173 Area T Upper Level Framing
- 174 Area U Upper Level Framing
- 175 Area V Upper Level Framing
- 176 Area W Upper Level Framing
- 177 Area X Upper Level Framing
- 178 Area Y Upper Level Framing
- 179 Area Z Upper Level Framing

Week	Task Name	Location	Start	Finish	Days	Notes
185	Area A Upper Level Decking		Mon 4/12/20	Mon 4/12/20	1 days	
186	Area A Roof Decking		Wed 4/15/20	Wed 4/15/20	1 days	
187	Area A Roof Decking		Mon 4/20/20	Mon 4/20/20	1 days	
188	Area A Upper Level / Low Pool Framing		Tue 5/11/20	Tue 5/11/20	1 days	
189	Area A Upper Level / Low Pool Decking		Fri 5/15/20	Fri 5/15/20	1 days	
190	Area B Roof Framing		Tue 5/19/20	Tue 5/19/20	1 days	
191	Area B Roof Decking		Tue 5/22/20	Tue 5/22/20	1 days	
192	Area B Roof Decking		Wed 5/26/20	Wed 5/26/20	1 days	
193	Area C Main Level Framing		Mon 5/18/20	Mon 5/18/20	1 days	
194	Area C Main Level Decking		Mon 5/22/20	Mon 5/22/20	1 days	
195	Area C Roof Decking		Mon 5/26/20	Mon 5/26/20	1 days	
196	Area C Main Level Framing		Mon 5/26/20	Mon 5/26/20	1 days	
197	Area C Main Level Decking		Mon 5/26/20	Mon 5/26/20	1 days	
198	Area C Main Level Decking		Mon 5/26/20	Mon 5/26/20	1 days	
199	Area C Main Level Decking		Mon 5/26/20	Mon 5/26/20	1 days	
200	Area C Roof Decking		Mon 5/26/20	Mon 5/26/20	1 days	
201	Start Project (Phase 3)		Wed 12/2/20	Wed 12/2/20	1 days	
202	Phase 3 Bidding & Award		Wed 12/2/20	Wed 12/2/20	1 days	
203	Scope Review		Wed 12/2/20	Wed 12/2/20	1 days	
204	Award Recommendation		Wed 12/2/20	Wed 12/2/20	1 days	
205	School Building Committee Approval		Wed 12/2/20	Wed 12/2/20	1 days	
206	Award Contract		Wed 12/2/20	Wed 12/2/20	1 days	
207	Phase 3 Start (Balance of Trades)		Wed 12/2/20	Wed 12/2/20	1 days	
208	CONSTRUCTION		Wed 12/2/20	Wed 12/2/20	1 days	
209	Overall Phase 3 Construction		Wed 12/2/20	Wed 12/2/20	1 days	
210	TESTING & INSPECTIONS		Wed 12/2/20	Wed 12/2/20	1 days	
211	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
212	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
213	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
214	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
215	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
216	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
217	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
218	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
219	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
220	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
221	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
222	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
223	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
224	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
225	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
226	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
227	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
228	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
229	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
230	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
231	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
232	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
233	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
234	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
235	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
236	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
237	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
238	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
239	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
240	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
241	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
242	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
243	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
244	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
245	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
246	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
247	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
248	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
249	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
250	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
251	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
252	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
253	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
254	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
255	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
256	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
257	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
258	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
259	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
260	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
261	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
262	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
263	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
264	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
265	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
266	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
267	Final Inspection		Wed 12/2/20	Wed 12/2/20	1 days	
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# BOARD OF EDUCATION

*Waterbury, Connecticut*

## COMMITTEE ON FINANCE

Item #9.1

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

With the approval of the Committee on Finance, the Superintendent of Schools recommends approval of the following transfers for fiscal year 2019/2020:

DESCRIPTION	Acct Unit	Account	TO	FROM
Wilby – Teachers	86310001	51110		(\$2,975,000)
Wallace – Teachers	85210001	511102		(\$355,000)
Curriculum – Substitutes	87510301	511212		(\$370,000)
Curriculum – Supervisors	87510303	511101		(\$300,000)
District Wide – Health Benefits	87510001	522501	\$4,000,000	
<i>Transfer is needed for Education contribution to Benefits</i>				
Capital Impr. Fund BOE Unallocated	60180	547000		(\$57,500)
Central Vehicle Replacement	60185	54700	\$57,500	
<i>Transfer is needed for purchase of bucket truck.</i>				
<b>TOTAL</b>			<b>\$4,057,500</b>	<b>(\$4,057,500)</b>

Respectfully submitted,

Dr. Verna D. Ruffin  
Superintendent of Schools

Approved:

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Rocco F. Orso

# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON FINANCE**

Item #9.2

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends that the Waterbury Board of Education approve an Operations and Maintenance Services Agreement with Bay State Elevator Company for elevator maintenance and repairs at various schools.

Approved:

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Rocco F. Orso

## **Memorandum**

To: Board of Aldermen  
Board of Education

From: Chris Harmon, School Inspector

Date: April 6, 2020

Re: **Board of Education and Board of Aldermen Approval Request/Executive Summary -**  
Contract for Elevator Service Maintenance and Repairs.

The School Inspector respectfully requests your approval of the above-referenced contract in the not to exceed amount of \$127,308.00 for Elevators Service Maintenance and Repairs between the City of Waterbury and Bay State Elevator Company.

This contract was initiated under the Request for Proposal (RFP #6566). Bay State Elevator Company was deemed the most qualified lowest responsible bidder for this project after careful evaluation of their bid response by the RFP committee. Bay State Elevator Company has been servicing district elevators for the last three years under an existing agreement which is set to expire on June 30, 2020.

This contract will allow Bay State Elevator Company to continue to perform all required monthly preventive and routine maintenance, inspections, State mandated testing and repairs as required to maintain the elevators in accordance with the manufacturer's original specifications.

Accordingly, attached for your review and consideration are 12 copies of the proposed contract, plus the Vendor Award letter as prepared by the Purchasing Department, the Successful Bidder's Bid Form and Disclosure and Certification of Obligations Affidavit Regarding Outstanding Obligations Form plus a copy of the Tax Clearance issued by the Office of Tax Collections.

Please note further that one complete set of Documents, including Contract, has been placed on file with the City Clerk's Office.

Thank you.



**OPERATIONS and MAINTENANCE SERVICES AGREEMENT**  
**RFP #6566**  
**for**  
**Elevator Maintenance and Repairs**  
**between**  
**City of Waterbury**  
**and**  
**Bay State Elevator Company**

**THIS AGREEMENT**, effective on the date signed by the Mayor, is by and between the City of Waterbury, City Hall, 235 Grand Street, Waterbury, Connecticut (the "City") and Bay State Elevator Company, located at P.O. Box 910, 275 Silver Street, Agawam, Massachusetts 01001-0910, a State of Massachusetts duly registered foreign corporation (the "Bay State" or "Contractor").

**WHEREAS**, Bay State Elevator Company submitted a proposal to the City of Waterbury, Department of Education responding to **RFP # 6566** for Elevator Maintenance and Repairs; and

**WHEREAS**, the City accepted Bay State Elevator Company's proposal for **RFP # 6566**; and

**WHEREAS**, the City desires to obtain Bay State Elevator Company's services pursuant to the terms, conditions and provisions set forth in this agreement (the "Project").

**NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:**

**1. Scope of Services.** Bay State shall furnish all of the labor, services, equipment, materials, supplies, transportation, and incidentals necessary to complete the Project as specified in this agreement (also referred to herein as "Contract") and such shall be completed in a satisfactory manner, as reasonably determined by the City. All labor, services, equipment, materials, supplies, transportation, and incidentals shall comply with **(i)** any and all applicable local, state and federal laws, statutes, ordinances, rules and regulations, including without limitation all notice requirements thereunder, and **(ii)** generally accepted professional standards.

**1.1.** The Project consists of and Bay State shall provide maintenance and repairs for all Waterbury Public School elevator system at the schools listed in the Scope of Services attached hereto as part of Attachment A. Bay State shall provide emergency call back service which consists of immediately dispatching qualified employees on any day of the week, at any hour, day or night. Emergency repairs shall be made within two (2) hours to restore the equipment to operating order. Said maintenance shall include but not be limited to monthly and yearly service maintenance, examination of elevators and parts, preventative maintenance, cleaning and adjustments, lubrication of all parts motors and

machinery, testing of all elevators, performance checks, wiring, emergency repairs, renewals, and replacements as necessary and as required by manufacturer's standards and shall provide and maintain all required parts a etc. are more particularly detailed and described in the RFP# 6566 and Bay State's Response which are attached hereto and made part here of as part of Attachment A and are hereby made material provisions of this Contract. **Attachment A** shall consist of the following, which are attached hereto, are acknowledged by Bay State as having been received, or otherwise hereby incorporated by reference as noted below, and all are made a part hereof:

- 1.1.1 City of Waterbury RFP # 6566, consisting of 26 pages, (excluding Contract Compliance Documents and Sample City Contract), attached hereto;
- 1.1.2 Bay State's Response to City of Waterbury RFP # 6566, dated January 31, 2020, consisting of 10 pages (excluding Price Proposal), attached hereto;
- 1.1.3 Bay State's Revised Price Proposal, dated March 19, 2020 consisting of two pages, attached hereto;
- 1.1.4 Addenda Number to City of Waterbury RFP # 6566,
- 1.1.5 Any and all amendment(s) and Change Orders, issued by the City after execution of Contract (incorporated by reference);
- 1.1.6 Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate (incorporated by reference);
- 1.1.7 Performance Bond and Payment Bond (incorporated by reference)'
- 1.1.8 Certificates of Insurance (incorporated by reference);
- 1.1.9 Department of Environmental Protection Regulations (CWF-1 through CWF-32) (incorporated by reference);
- 1.1.10 All applicable Federal, State and local statutes, regulations charter and ordinances (incorporated by reference);
- 1.1.11 All permits and licenses (incorporated by reference).

**1.2.** The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). The City's record copy of the Contract Documents shall control and shall be effective and binding on Bay State. In the event that any provision in the Contract Documents conflict with any other provision therein, the provision in the component part of the Contract Document first enumerated below shall govern over any other component part which follows it numerically.

- 1.2.1 This Agreement
- 1.2.2 RFP #6566
- 1.2.3 Bay State's RFP

**2. Representations Regarding Qualification and Accreditation.** Bay State represents that its employees are licensed to perform the scope of work set forth in this Contract. Bay State further represents that its employees have the requisite skill, expertise and knowledge

necessary to perform the scope of work required under the terms of this Contract, including any supplementary work and the City relies upon these.

**2.1. Representations regarding Personnel.** Bay State represents that it has, or will secure at its own expense, all personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City, unless use of City employees or of personnel having a contractual relationship with the City is approved in writing. As set forth above, all the services required hereunder shall be performed by Bay State or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

**2.2. Representations regarding Qualifications.** The Consultant hereby represents that, to the extent required by Federal, State and Local statutes, regulations, codes, ordinances, and policies, that the Consultant and/or its employees be licensed, certified, registered, or otherwise qualified, the Consultant and all employees providing services under this Contract, are in full compliance with those statutes, regulations and ordinances. Upon City request, the Consultant shall provide to the City a copy of the Consultant's licenses, certifications, registrations, etc.

**3. Responsibilities of Bay State.** All data, information, etc. given by the City to Bay State and/or created by Bay State shall be treated by Bay State as proprietary to the City and confidential unless the City agrees in writing to the contrary and shall be used solely for the purposes of providing services under this agreement. Bay State agrees to forever hold in confidence all files, records, documents and other information which may come into Bay State's possession during the term of this agreement, except where a disclosure is expressly stated as a requirement of this agreement. Notwithstanding the foregoing, where a Contractor disclosure is required to comply with statute, regulation, or court order, Bay State shall provide prior advance written notice to the City of the need for such disclosure. Bay State agrees to properly implement the services required in the manner herein provided.

**3.1. Use of City Property.** To the extent Bay State is required to be on City property to render its services hereunder, Bay State shall have access to such areas of City property as the City and Bay State agree are necessary for the performance of Bay State's services under this agreement (the "Site" or the "Premises") and at such times as the City and Bay State may mutually agree. Contractor shall perform all work in full compliance with Local, State and Federal health and safety regulations. All work hereunder shall be performed in a safe manner. Contractor shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which City reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Contractor, City may, but shall not be required to, correct same at Contractor's expense. City shall confirm in writing any oral notice given within five (5) days thereafter.

**3.2. Working Hours.** To the extent Bay State is required to be on City property to render its services hereunder, Bay State shall work during the following hours: Monday through Friday 7:00 a.m. to 5:00 p.m. If any work is required after 5:00 p.m. weekdays or on Saturday, Sunday or Holidays, Bay State shall provide immediate call back service at no additional cost for all elevators and shall immediately dispatch qualified employees on any day of the week, at any hour, day or night. Emergency repairs shall be made within two (2) hours to restore the equipment to operating order. Bay State shall coordinate its schedule so that work on the Premises is performed during those hours the City sets forth in a written notice to Bay State, unless written permission is obtained from the City to work during other times. This condition shall not excuse Contractor from timely performance under the Contract. The work schedule must be agreed upon by the City and Bay State.

**3.3. Cleaning Up.** To the extent Bay State is required to be on City property to render its services hereunder, Bay State shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Contractor, its employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the project and all tools, scaffolding and surplus materials and shall leave the Premises "broom clean" or its equivalent, unless more exactly specified. In case of dispute, the City may remove the rubbish and charge the cost to Bay State.

**3.4. Publicity.** Contractor agrees not to deliberately disclose the fact that the City has entered into or terminated this Contract or disclose any of the terms of the Contract or use the City's name in connection with any publicity, unless the City gives prior written consent to such use of the City's name in each instance.

**3.5. Standard of Performance.** All labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc., either at the Premises or intended for it, shall conform in all respects with the requirements of all this agreement, and shall be the best obtainable from the crafts and trades. In all cases, the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. shall be equal to or better than the grade specified, and the best of their kind that is obtainable for the purpose for which they are intended.

1. **3.5.1** The standard of care and skill for all services performed by Bay State shall be that standard of care and skill ordinarily used by other members of Bay State's profession practicing under the same or similar conditions at the same time and in the same locality. Bay State's services rendered hereunder shall be rendered completely and by qualified personnel in accordance with standard industry practice.

**3.6. Contractor's Employees.** Bay State shall at all times enforce strict discipline and good order among its employees, and shall not employ any unfit person or anyone not skilled in the work assigned.

**3.7. Due Diligence Obligation.** Bay State acknowledges its responsibilities to examine and to be thoroughly familiar with the City's proposal document, including, but not limited to the specifications, and any addenda thereto. Bay State hereby warrants and represents that prior to the submission of its proposal during the proposal process, it reviewed or was afforded opportunity, by the City, to review all physical items, facilities, services or functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services or functions are included in this agreement and thereby warrants that:

**3.7.1** it conducted or had opportunity to conduct all Due Diligence prior to the submission of its proposal and, accordingly, any additional costs, services or products resulting from the failure of Bay State to complete Due Diligence prior to submission of its proposal shall be borne by Bay State. Furthermore, Bay State had the opportunity during the proposal process to ask questions it saw fit and to review the responses from the City;

**3.7.2** its failure or omission to make investigation and verification of data shall, in no way, be cause for future claim of ignorance of such data or conditions nor shall such failure to investigate and verify be the basis for any claim whatsoever, monetary or otherwise;

**3.7.3** it is solely responsible for resolving any issues resulting from the failure to conduct Due Diligence and shall assume any costs that may result during the implementation of the Project, including, but not limited to, adherence to specifications and pricing for the Project.

**3.7.4** it was responsible for specifying any changes and disclosing any new costs prior to the submittal of its proposal. Thus, in the event any changes or costs are disclosed by Bay State, or otherwise required, during the performance of its services, the sole responsibility for any modification, delay and cost of such changes shall reside with Bay State.

**3.7.5** has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State and Local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work;

**3.7.6** has given the City written notice of any conflict, error or discrepancy that Bay State has discovered in the Proposal Documents; and

**3.7.7** agrees that the Proposal Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

**3.8. Reporting Requirement.** Bay State shall deliver periodic, written reports to the City's Using Agency setting forth **(i)** the issue date of the report, **(ii)** the time period covered by the report, **(iii)** a brief description of the work and services completed by Bay State and/or delivered by Bay State during the time period covered by the report, **(iv)** expressed as a percentage of the total work and services required under this contract, the percentage of the total work represented by the work and services described in subsection iii above, **(v)** expressed as a percentage of this contract's Section 6 total compensation, the percentage of the total compensation represented by the work and services described in subsection iii above, **(vi)** Bay State's declaration as to whether the entirety of Bay State's work and services required in this Contract will be, or will not be, completed within the Contract's Section 6 total compensation amount, and **(vii)** any and all additional useful and/or relevant information. Each report shall be signed by a Bay State designated signatory.

NOTE: Bay State's failure to deliver any report required herein shall be deemed a material breach of this Contract, the City hereby reserving the right to exercise all available legal remedy(ies) to address said breach.

**4. Responsibilities of the City.** Upon the City's receipt of Bay State's written request, the City will provide Bay State with documents, data and other materials the City agrees are necessary and appropriate to the services to be performed by Bay State hereunder and the City will endeavor to secure, where feasible and where the City agrees it is necessary and appropriate, materials or information from other sources requested by Bay State for the purpose of carrying out the services under this Contract.

**5. Contract Time.** Bay State shall commence all work and services required under this contract on July 1, 2020 and shall complete all work and services required under this Contract on June 30, 2023. ("Contract Time").

**5.1.** Time is and shall be of the essence for all Project milestones, the Substantial Completion Date and the Final Completion Date for the Project. Bay State further agrees that the Project shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion thereof within the Contract Time stated above. It is expressly understood and agreed, by and between Bay State and City, that the Contract Time is reasonable for the completion of the Project.

**6. Compensation.** The City shall compensate Bay State for satisfactory provision of all of the goods and services set forth in this Contract as follows in this Section 6. No claims for additional compensation will be considered for conditions made known to Bay State prior to bidding. No claims for additional compensation will be considered on account of failure of Bay State to completely inform itself as required herein above.

**6.1. Fee Schedule.** The fee payable to Bay State for maintenance, emergency repairs and 5-year load tests of the Waterbury Public School Elevator System's shall not exceed **ONE HUNDRED TWENTY-SEVEN THOUSAND THREE HUNDRED EIGHT**

**DOLLARS (\$127,308.00)** for the entire three-year term of this Agreement and shall be in accordance with Bay State's Revised Cost Proposal to **RFP No. 6566**, dated March 19, 2020, attached hereto as part of **ATTACHMENT A**, with the basis of payment being as follows;

- 6.1.1 Year 1** Maintenance fee for 23 elevators  
In an amount not to exceed  
Nineteen Thousand Five Hundred Ninety-Six Dollars.....\$19,596.00
- 6.1.2 Year 2** Maintenance fee for 28 elevators  
In an amount not to exceed  
Twenty-Three Thousand Eight Hundred Fifty-Six Dollars.....\$23,856.00
- 6.1.3 Year 3** Maintenance fee for 28 elevators  
In an amount not to exceed  
Twenty-Three Thousand Eight Hundred Fifty-Six Dollars.....\$23,856.00
- 6.1.4 Total Compensation for Year 1-3 Maintenance Fees**  
An amount not to exceed  
Sixty-Seven Thousand Three Hundred Eight Dollars.....\$67,308.00
- 6.1.4 Emergency Repairs** Labor rates for emergency repairs shall  
be as set forth in Bay State's Revised Price Proposal  
set forth in Attachment A; and  
**Five –Year Full Load Test- at One Thousand Five  
Hundred and Sixty Dollars per Elevator.**  
An amount not to exceed Sixty Thousands Dollars .....\$60,000.00
- 6.1.5 TOTAL CONTRACT COMPENSATION - Not Exceed  
One Hundred Twenty-Seven Thousand Three Hundred  
Eight Dollars..... \$127,308.00**

**6.3. Limitation of Payment.** Compensation to Bay State is limited to those fees set forth in Section 6.1. above and is further limited to work **(i)** performed in fact, **(ii)** conforming with this Contract, and **(iii)** accepted in writing by a duly authorized City employee. Such compensation shall be paid by the City upon its review and approval of Bay State's invoices for payment and review of Bay State's work, Bay State employees must sign in and out at the school's main office during regular business hours, as this is where the log for business hours and payment will be kept and the said log is the only means of verification of hours of service provided during normal business days.

**6.3.1 Funding.** In the event this Contract is funded, in whole or in part, by Federal and/or State monies, grants, loans, etc., all City payment(s) shall fully comply with all relevant Federal and State statutes and regulations. In the event this Contract is 100% funded by Federal and/or State monies, grants, loans, etc.,

the aggregate sum of all City payments shall not exceed the aggregate sum of such funding.

**6.3.2** Bay State and its affiliates are hereby provided with notice that the City reserves the right, in the City's sole discretion, to offset, withhold, or otherwise reduce City payment(s) to Bay State, in an amount equaling the sum or sums of money Bay State and/or its affiliates is/are, or become delinquent or in arrears on, regarding the Vendor's and/or its affiliates real and personal property taxes and other payment obligations to the City.

**64. Review of Work.** Bay State shall permit the City to review, at any time, all work performed under the terms of this Contract at any stage of the work. Bay State shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the agreement, settlement of claims or any other matter pertaining to Bay State's demand for payment. The City shall not certify fees for payment to Bay State until the City has determined that Bay State has completed the work in accordance with the requirements of this Contract.

**6.5. Proposal Costs.** All costs of Bay State in preparing its proposal for **RFP No. 6566** shall be solely borne by Bay State and are not included in the compensation to be paid by the City to Bay State under this Contract or any other agreement.

**6.6. Payment for Services, Materials, Appliances, Employees.** Bay State shall be responsible to the City for the suitability of services, materials and equipment furnished to comply fully with the requirements set forth in this Contract. Bay State shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for subcontractors, materials, supplies and services going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this Project. Before final City payment is made, Bay State shall furnish to the City a sworn, notarized, affidavit stating that all of the foregoing payment obligations have been fully completed.

**6.7. Liens.** Neither the City's final payment nor any part of the retained percentage, if any, shall become due until Bay State, if required by the City, shall deliver to the City a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and, if required, in either case, an affidavit that so far as Bay State has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed; but Bay State may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, Bay State shall refund to the City all moneys that the City may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**7. Warranty of Bay State.** Contractor warrants to the City that all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc.



furnished under this Contract shall be new, and that all work under this Contract shall be of good quality, free from faults and defects and in conformance with this Contract for a period of no less than **one (1) year** after the termination of this Contract.

## **8. Passing of Title and Risk of Loss.**

**8.1.** City beneficial use of Project equipment, materials, site-work, etc. prior to Bay State 's final completion of the Project or prior to the City's final payment for the Project shall neither act to vest title in the City nor act to transfer risk of loss from Bay State to the City. Said title and risk shall pass to the City upon the City's final payment for the Project.

**8.2.** Contractor and its insurer shall assume the risks of loss or damage to the equipment up to and including the date title passes, except that City shall be responsible for loss or damage caused by City's gross negligence.

**8.3.** After Project equipment, materials, etc. are delivered to the Project work-site and become operable or functional, Bay State shall not thereafter remove any such equipment, materials, etc. from the Project work-site without securing the prior written consent of an authorized City Using Agency employee.

## **9. Indemnification.**

**9.1.** Bay State shall indemnify, defend, and hold harmless the City, City's Boards, and Board of Education, commissions, agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the delivery of the labor, services, equipment, materials, reports, plans, specifications, design, drawings, deliverables, incidentals, etc. provided that any such claims, suits, damages, losses, judgments, costs or expenses **(i)** are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, **(ii)** are alleged to be caused in whole or in part by any willful, intentional, negligent, or reckless act or omission of Bay State , its employees, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder; **(iii)** enforcement action or any claim for breach of Bay State 's duties hereunder or **(iv)** claim for intangible loss(es) including but not limited to business losses, lost profits or revenue, regardless of whether or not it is caused in part by a party indemnified hereunder.

**9.2.** In any and all claims against the City, Board of Education or any of City's boards, agents, employees or officers by Bay State or any employee of Bay State , any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 9 above, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Bay State or any

subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

9.3. Bay State understands and agrees that any insurance required by this Contract, or otherwise provided by Bay State, shall in no way limit the responsibility to indemnify, defend, keep and hold harmless the City, the Board of Education, any of City's boards, agents, employees as provided in this Contract.

9.4. Bay State expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by Bay State, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City and the City's boards, agents, employees or officers as provided herein.

9.5. Royalties and Patents. Bay State shall, for all time, secure to the City the free and undisputed right to the use of any and all patented articles and methods used in the work and shall defend at Contractor's own expense any and all suits for infringement or alleged infringement of such patents, and in the event of adverse award under patent suits, Bay State shall pay such awards and hold the City harmless in connection with any patent suits that may arise as a result of installations made by Bay State and as to any award made thereunder.

9.6. In the event this Contract and/or Bay State's, or its subcontractor, work and services provisioned hereunder is/are subject to the provisions of any Federal or State statute or regulations, or the City Charter or City Ordinance, Bay State shall indemnify, defend and hold harmless the City from any fine, penalty or other amounts imposed on the City under said statutes, regulations, Charter or Ordinances, if caused by Contractor, or its subcontractor, omission or commission.

**10. Contract Bonds.** Bay State shall furnish to the City, prior to the execution of this Contract by the City, a performance bond and a payment bond each for the penal sum of One Hundred Twenty-Seven Thousand Three Hundred Eight Dollars (\$127,308.00) in a form and with a surety acceptable to the City. The bonds shall continue in effect for one year after Final Completion of the Project.

**11. Contractor's Insurance.**

11.1. Bay State shall not commence work under this Contract until all insurance required under this Section 11 has been obtained by Bay State and such insurance has been approved by the City. Bay State shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been so obtained and approved by the City. Insurance shall be provided by insurers, satisfactory to the City and authorized to do business in the State of Connecticut, an "A-" Best's Rating and at least a Class V3 or better financial size category as shown in the most current A.M. Best Company ratings.

**11.2.** At no additional cost to the City, Bay State shall purchase and maintain the insurance coverages set forth below which shall protect the City from claims which may arise out of or result from Bay State's obligation under this Contract, whether such obligations are Bay State's or subcontractor or person or entity directly or indirectly employed by said Contractor or subcontractor, or by any person or entity for whose acts said Contractor or subcontractor may be liable.

**11.3.** Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless. If any insurance required herein is to be issued or renewed on a claims made form as opposed to an occurrence form, the retroactive date for coverage shall be no later than the commencement date of this Contract and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims ("Tail Coverage") shall be available for at least 60 months.

**11.4.** The following policies with stated limits shall be maintained, in full force and effect, at all times during which the services are to be performed by Bay State:

**11.4.1 General Liability Insurance:** \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate and \$2,000,000.00 Products and completed operations aggregate

Providing coverage to protect the City for all damages arising out of bodily injuries, sickness to or death of all persons in any one accident or occurrence and for all damages arising out of destruction of property in any one accident or occurrence.

**11.4.2 Automobile Liability Insurance:** \$1,000,000.00 combined single limit (CSL)

Providing coverage to protect the City with respect to claims for damage for bodily injury and or property damage arising out of ownership, maintenance, operation, use or loading and unloading of any auto including hired & non-owned autos.

**11.4.3 Workers' Compensation:** Statutory Limits within the State of Connecticut: Employers' Liability:

EL Each Accident **\$500,000.00**

EL Disease Each Employee **\$500,000.00**

EL Disease Policy Limit **\$500,000.00**

Contractor shall comply with all State of Connecticut statutes as it relates to workers' compensation.

**11.4.4 Excess/Umbrella Liability Insurance:**

Excess or Umbrella insurance coverage that follows form or sits over General Liability, Automobile Liability and Workers Compensation insurances. **\$5,000,000.00** each Occurrence and **\$5,000,000.00** each Aggregate

**11.5. Failure to Maintain Insurance:** In the event Bay State fails to maintain the minimum required coverage as set forth herein, the City may at its option purchase same, and offset Bay State's invoices for the cost of said insurance.

**11.6. Cancellation:** The City of Waterbury shall receive written notice of cancellation from Bay State at least thirty (30) calendar days prior to the date of actual cancellation, regardless of the reason for such cancellation.

**11.7. Certificates of Insurance:** Bay State's General, Automobile and Excess Liability Insurance policies shall be endorsed to add the City as an additional insured and also provide a Waiver of Subrogation to all lines including Workers Compensation. The insurance afforded the additional insured shall be primary and non-contributory insurance and the coverage and limits provided under Bay State's policies shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Prior to the execution of this Contract by the City, Bay State shall furnish to the City, subject to City approval, certificate(s) of insurance and Additional Insured Endorsement and Waiver of Subrogation Endorsement verifying the above coverages, including the naming of the City of Waterbury, as follows: **"The City of Waterbury is listed as additional insured on all lines of coverage except Workers Compensation including waiver of subrogation to all lines of coverage as their interest may appear"**. The City's Invitation to Bid Number must be shown on the certificate of insurance to assure correct filing. Bay State must supply replacement/renewal certificates at least 30 days prior to the expiration of the policy(ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of than thirty (30) calendar days has been mailed to the City's Using Agency and a copy to the City's Office of Corporation Counsel, 235 Grand Street, Waterbury, CT 06702.

**11.8.** No later than thirty (30) calendar days after Contractor receipt, Bay State shall deliver to the City a copy of Bay State's insurance policies and endorsements and riders.

**12. Conformance with Federal, State and Other Jurisdictional Requirements.** By executing this Contract, Bay State represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by Bay State of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: EQUAL EMPLOYMENT OPPORTUNITY; COPELAND ANTI-KICKBACK ACT, as supplemented in the Department of Labor Regulations (29 CFR, Part 3); DAVIS BACON ACT as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and

Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); the HOUSING and COMMUNITY DEVELOPMENT ACT of 1974, as amended, TITLE 31 and Section 12-430(7) of the State of Connecticut General Statutes. All applicable sections of the City Charter and Code of Ordinances are incorporated by reference made a part hereof.

**12.1. Taxes-Federal, State and Local.** The City is exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation, taxes that would otherwise be imposed upon Bay State for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc. Bay State remains liable, however, for any applicable tax obligations it incurs. Moreover, Bay State represents that the bid and pricing contained in this Contract do not include the amount payable for said taxes.

**12.2. Labor and Wages-Federal and State.** Bay State and its subcontractors shall conform to Federal and State of Connecticut labor laws, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

**12.2.1** Bay State is aware of, and shall comply with, the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages for work on public facilities. The provisions of the Act are hereby incorporated by reference and made a part of this Contract. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in Conn.Gen.Statute 31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

**12.2.2** Bay State is aware of, and shall comply with, the provisions of both the Federal Davis-Bacon Act and the Federal American Recovery and Reinvestment Act of 2009, the provisions of both acts hereby incorporated by reference and made a part of this Contract. The Federal Davis-Bacon Act provides that Federal wage rate laws apply to certain federally funded contracts. The American Recovery and Reinvestment Act ("ARRA") provides that Federal wage rate laws apply to all ARRA funded contracts regardless of the contract's dollar value.

**12.3. Compliance with Chapters 34, 38, and 39 of the Code of Ordinances of the City.** By executing this Contract, Bay State represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full

compliance with the provisions of Chapters 34, 38, and 39 of the Code of Ordinances of the City and well as any other relevant provisions of the Charter and the Code of Ordinances.

**12.4. Compliance with CONN. GEN. STAT. § 4a-60g, as amended by June 2015 Special Session Public Act 15-5.**

**12.4.1 Definitions – For purposes of this paragraph:**

**i.** "Small contractor" means any contractor, subcontractor, manufacturer, service company or nonprofit corporation (A) that maintains its principal place of business in the state, (B) that had gross revenues not exceeding fifteen million dollars in the most recently completed fiscal year prior to such application, and (C) that is independent. "Small contractor" does not include any person who is affiliated with another person if both persons considered together have a gross revenue exceeding fifteen million dollars.

**ii.** "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons who (i) exercise operational authority over the daily affairs of the enterprise, (ii) have the power to direct the management and policies and receive the beneficial interest of the enterprise, (iii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, and (iv) are members of a minority, as such term is defined in subsection (a) of section 32-9n, or are individuals with a disability, or (B) which is a nonprofit corporation in which fifty-one per cent or more of the persons who (i) exercise operational authority over the enterprise, (ii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, (iii) have the power to direct the management and policies of the enterprise, and (iv) are members of a minority, as defined in this subsection, or are individuals with a disability.

**iii.** "Municipal public works contract" means that portion of an agreement entered into on or after October 1, 2015, between any individual, firm or corporation and a municipality for the construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees but excluding any project of an alliance district, as defined in section 10-262u, as amended by this act, financed by state funding in an amount equal to fifty thousand dollars or less.

**12.4.2** Bay State and subcontractor shall comply with the specific requirements of the State of Connecticut Set Aside Program, CONN. GEN. STAT. § 4a-60g, as amended by June 2015 Special Session Public Act 15-5, if the municipal public works contract awarded to the Contractor is funded in whole or in part by state funds.

**12.4.3** The Contactor shall be subject to the following set-aside requirements if the municipal public works contract, is funded in whole or in part by the State of Connecticut, and is in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), for the construction, rehabilitation, conversion, extension, demolition, or repairing of a public building or highway, or other changes or improvements in real property.

**12.4.4** Set-Aside requirements – Any contractor awarded a municipal public works contract, on the basis of competitive bidding procedures, shall comply with the following Set –Aside requirements:

- i.** set aside at least twenty-five per cent (25%) of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and
- ii.** of that portion to be set aside in accordance with Subparagraph i. of this subdivision, reserve a portion equivalent to twenty-five per cent (25%) of the total value of the contract or portion thereof to be set aside for awards to subcontractors who are minority business enterprises.

**12.4.5** Failure of Bay State or subcontractor to comply with the State of Connecticut Set-Aside requirements shall be a material breach of this Contract.

**13. Discriminatory Practices.** In performing this Contract, Bay State shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring non-discrimination in employment as herein specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this Contract. Said provisions with subcontractors shall require conformity and compliance with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

**13.1. Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because such person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

**13.2. Equal Opportunity.** In its execution of the performance of this Contract, Bay State shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship

status, age or handicap. Bay State agrees to comply with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors

**14. This Section Left Intentionally Blank.**

**15. This Section Left Intentionally Blank.**

**16. Termination.**

**16.1. Termination of Contract for Cause.** If, through any cause, Bay State shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if Bay State shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by either **(i)** giving written notice to Bay State of a date certain by which Contractor shall, to the written satisfaction of the City, cure after which and without further action by any party, such termination shall automatically become effective and binding, or **(ii)** giving written notice to Bay State specifying the effective date of such termination at least five (5) business days before the effective date of such termination.

**16.1.1** In the event of a termination, all finished or unfinished documents, data, studies, reports, plans, specifications, drawings, supplies, services, etc. prepared by Bay State under this Contract shall, at the option of the City, become the City's property, and Bay State shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

**16.1.2** Notwithstanding the above, Bay State shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Bay State, and the City may withhold any payments to Bay State for the purpose of setoff until such time as the exact amount of damages due the City from Bay State is determined.

**16.2. Termination for Convenience of the City.** The City may terminate this Contract at any time for the convenience of the City, by a notice in writing from the City to Bay State. If this Contract is terminated by the City as provided herein, Bay State will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Bay State covered by this Contract, less payments of compensation previously made.

**16.3. Termination for Non-Appropriation or Lack of Funding.** Bay State acknowledges that the City is a municipal corporation and that this Contract is subject to the appropriation and disbursement of funds by the City sufficient for this Contract for each budget year in which this Contract is in effect. Bay State therefore agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City in the event that sufficient funds to provide for City payment(s) under this



Contract is not appropriated, not authorized, or not made available, or such funding has been reduced. In the event this Contract is subject, in whole or in part, to the appropriation and disbursement of Federal and/or State funds and those Federal and/or State funds are not appropriated or are not disbursed to the City, Bay State hereby agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City.

**16.3.1 Effects of Non-Appropriation.** If funds to enable the City to effect continued payment under this Contract are not appropriated, authorized or otherwise made available by law, the City shall have the right to terminate this Contract without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to Bay State.

**16.3.2 Effects of Reduced Levels of Funding.** If funding is reduced by law, or funds to pay Bay State for the agreed to level of the products, services and functions to be provided by Bay State under this Contract are not appropriated, authorized or otherwise made available by law, the City may, upon seven (7) business days written notice to Bay State, reduce the level of the products, services or functions in such manner and for such periods of time as the City may elect. The charges payable under this Contract shall be equitably adjusted to reflect such reduced level of products, services or functions and the parties shall be afforded the rights set forth in this Contract.

**16.3.3 No Payment for Lost Profits.** In no event shall the City be obligated to pay or otherwise compensate Bay State for any lost or expected future profits.

#### **16.4. Rights Upon Termination.**

**16.4.1 Termination for Cause.** In the event the City terminates this Contract for cause, Bay State shall relinquish to the City any applicable interest, title and ownership including, but not limited to, perpetual use of any proprietary rights in and to the products and deliverables delivered to, in possession of and properly invoiced and paid for by (except to the extent such invoiced amount is disputed) the City. With regard to third party products, Bay State shall transfer all licenses which it is permitted to transfer in accordance with the applicable third party license. The City shall have no financial obligation to compensate Bay State for such terminated products unless payment is otherwise approved by the City prior to such termination. Bay State shall be liable for costs incurred by the City, including but not limited to reasonable attorney fees and all court awarded fees and costs incurred in terminating this Contract in whole or in part.

**16.4.2 Termination for Lack of Funding or Convenience.** In the event of termination by the City for lack of funding or convenience, the City shall pay Bay State for all labor, services, equipment, materials, reports, plans, specifications,

drawings, deliverables, incidentals, etc.(including any holdbacks) installed and delivered to the City as of the Termination Date and Bay State shall relinquish to the City any applicable interest, title and ownership including, but not limited to perpetual use of any proprietary rights in and to said labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. delivered to, in possession of and paid for by the City (except to the extent any invoiced amount is disputed). Bay State shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience the City and Bay State may negotiate a mutually acceptable payment to Bay State for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this Contract pertaining to changes in the Project.

**16.4.3 Assumption of Subcontracts.** In the event of termination, the City shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this Contract.

**16.4.4 Delivery of Documents.** In the event of termination, (i) Bay State shall promptly deliver to the City, in a manner reasonably specified by the City, all documents and other tangible items furnished by, or owned, leased, or licensed by, the City, and (ii) the City shall pay Bay State for all services performed and deliverables completed and accepted (pro-rated for deliverables partially completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

**16.5. Ownership of Instruments of Service.** The City acknowledges Bay State's documents, reports, plans, specifications, drawings, deliverables, etc. created and to be created pursuant to this agreement, including electronic files, are Instruments of Service. Nevertheless, the final Instruments of Service, including, but not limited to architects, engineering, construction, and similar documents, reports, plans, specifications, drawings, deliverables, etc. prepared under this agreement shall become the property of the City upon City payment for that Instrument of Service and the City reserves the right to use the Instruments of Service.

**17. Force Majeure.** Contractor shall not be held responsible for delays nor be subject to liquidated damages when such delays are caused by conditions beyond its control, including without limitation:

**17.1.** Acts of God, fire, explosion, epidemic, cyclone, flood, war, strikes, revolution, civil commotion, or acts of public enemies; and

**17.2.** Change of law and order, proclamation, regulation, ordinance, or governmental requirement.

Upon cessation of work for reason of force majeure delays, Contractor shall use its best efforts to meet the schedule set forth in Section 5 of this Contract.

**18. Subcontracting.** Bay State shall not, without the prior written approval of the City's Using Agency, subcontract, in whole or in part, any of Bay State's services. Any subcontractor so approved shall be required to secure and maintain insurance coverage equal to or better than that required of Bay State and shall name the City as an additional insured party and said subcontractors shall deliver to the City a certificate of insurance evidencing such coverages. All subcontractors shall comply with all federal, state and local, laws, regulations and ordinances but such requirement shall not relieve Bay State from its requirement that all services provided hereunder shall comply with all Federal, State and local, laws, regulations and ordinances.

**18.1.** Bay State shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by Bay State.

**18.2.** Bay State is responsible for and shall control activities of its subcontractors, and the subcontractors shall consult and cooperate with one another and other contractors working on the Project site. Each subcontractor shall furnish all necessary information to other subcontractors and shall lay out and install its own work so as to avoid any delays or interferences with the work of another. Any cost for changes, cutting and/or repairing, made necessary by failure to observe the above requirements shall be borne by Bay State or subcontractor responsible for such failure or neglect.

**18.3.** Bay State shall not, without the prior written approval of the City's Using Agency, substitute, terminate, replace or otherwise remove a subcontractor.

**19. Assignability.** Bay State shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City; provided, however, that claims for money due or to become due Bay State from the City under this Contract may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

**20. Audit.** The City reserves the right to audit Bay State's books of account in relation to this Contract any time during the period of this Contract or at any time during the twelve-month period immediately following the closing or termination of this Contract. In the event the City elects to make such an audit, Bay State shall immediately make available to the City all records pertaining to this Contract, including, but not limited to, payroll records, bank statements and canceled checks.

**21. Risk of Damage and Loss.** Bay State shall be solely responsible for causing the timely repair to and/or replacement of, City property or item(s) intended to become City property hereunder, where the need for repair or replacement was caused by Bay State, by someone under the care and/or control of Bay State, by any subcontractor of Bay State, or by any shipper or

delivery service. Bay State shall be solely responsible for all costs and expenses, including but not limited to shipping, delivery, insurance, etc, associated with the foregoing repair and replacement obligation. Further, Bay State shall be solely responsible for securing the City's written acceptance of all completed repairs and replacements required hereunder. The City hereby retains sole discretion to determine whether a repair or a replacement is the proper remedy.

**22. Interest of Contractor.** Bay State covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the Project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Bay State further covenants that in the performance of this Contract no person having any such interest shall be employed.

**23. Entire Contract.** This Contract shall constitute the complete and exclusive statement of the contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this Contract must be in writing and agreed to and executed by the City and Bay State, and must comply with the City's Charter and Code of Ordinances.

**24. Independent Contractor Relationship.** The relationship between the City and Bay State is that of client and independent contractor. No agent, employee, or servant of Bay State shall be deemed to be an employee, agent or servant of the City. Bay State shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this agreement. It is the express intention of the parties hereto, and Bay State hereby agrees and covenants, that it and any and all third party(ies) and subcontractor(s) retained by Bay State hereunder is/are not and shall not be deemed an employee of the City of Waterbury, but is/are and shall remain an independent contractor relative to the City and that nothing herein shall be interpreted or construed as creating or establishing the relationship of employer-employee between the City of Waterbury and Bay State or between the City of Waterbury and any third party(ies) or subcontractor(s). Thus, Bay State hereby covenants that it, its subcontractor(s) and third party(ies) shall not be entitled to the usual characteristics of employment, such as income tax withholding, F.I.C.A. deductions, pension or retirement privileges, Workers Compensation coverage, health benefits, etc. and that Bay State shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, representatives, subcontractors and third party(ies).

**25. Severability.** Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Contract, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this Contract shall be enforced as if this Contract was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the

provision(s) in question as originally set forth in this Contract shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

**26. Survival.** Any provisions of this Contract that impose continuing obligations on the parties shall survive the expiration or termination of this Contract for any reason.

**27. Changes in the Project: Change Orders.**

**27.1.** At the sole discretion of the City, a Change Order may be issued solely by the City to modify an existing party obligation set forth in this Contract where the scope of the Change Order is:

**27.1.1** within the scope of the original Contract OR is made pursuant to a provision in the original Contract, AND

**27.1.2** the Change Order monetary cost is charged solely against those funds encumbered for and at the time the Contract was originally executed by the City, that is those funds set forth in the original Contract as a not to exceed payment amount OR within the original Contract's contingency / allowance / reserve amount (if any is stated therein), AND

**27.1.3** The Final Completion Date has not been changed.

**27.2.** Notwithstanding the foregoing, a Change Order shall not include

**27.2.1** an upward adjustment to a Contractor's payment claim, or

**27.2.2** a payment increase under any escalation clause set forth in the original Contract, or any Change Order, or any amendment.

**27.3.** That the work and/or services contemplated are necessary does not, in itself, permit a Change Order. Should the need for a Change Order arise, the request shall be reviewed and approved by the City's Using Agency and any City designated representative(s). To be binding and enforceable, a Change Order shall thereafter be signed by both Bay State , any City designated representative(s), and a duly authorized representative of the City's Using Agency prior to Bay State 's delivery of the services, etc. contemplated in said Change Order. All Change Orders are governed by the provisions of this Contract. Any contract change NOT fully complying with this Section 27 shall be effectuated solely by an amendment to this Contract complying with Section 38.073 of the City's "Centralized Procurement System" ordinance.

**28. Conflicts or Disputes.** This Contract represents the concurrence between the City and Bay State and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the Contract, the following documents shall be used as historical documents, without regard to the order of precedence, to resolve such conflicts or

disputes, the historical documents are (i) the City's aforementioned **RFP No. 6566** and (ii) Bay State 's proposal responding to the aforementioned **RFP No. 6566**.

**28.1. Procedure.** This procedure supersedes all statements to the contrary occurring either in proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

**28.2. Presumption.** This Contract or any section thereof shall not be construed against any party due to the fact that the Contract or any section thereof was drafted by such party.

**29. Disputes; Legal Proceedings; Waiver of Trial by Jury and Continued Performance.** Bay State agrees that its waives a trial by jury as to any and all claims, causes of action or disputes arising out of this Contract or services to be provided pursuant to this Contract. Notwithstanding any such claim, dispute or legal action, Bay State shall continue to perform services under this Contract in a timely manner, unless otherwise directed by the City.

**30. Binding Contract.** The City and Bay State each bind themselves, and their successors, assigns and legal representatives to the other party to this Contract and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

**31. Waiver.** Any waiver of the terms and conditions of this Contract by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this Contract.

**32. Governing Laws.** This Contract, its terms and conditions and any claims arising there from shall be governed by the laws of the State of Connecticut.

**33. Notice.** Except as otherwise specifically prohibited in this Contract, whenever under this Contract approvals, authorizations, determinations, notices, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the City or Bay State, and delivered in hand or sent by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

Contractor: Bay State Elevator Company  
P.O. Box 910, 275 Silver Street  
Agawam, MA 01001-0910

City: City of Waterbury  
Chase Municipal Building  
235 Grand Street  
Waterbury, CT 06702

**34. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.**

The Person (the term “Person” shall herein be as defined in Section 38 of the City’s Code of Ordinances) supplying the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. under this Contract shall comply with all applicable Federal, State and Municipal statutes, regulations, charters, ordinances, rules, etc, whether or not they are expressly stated in this Contract, including but not limited to the following:

**34.1.** It shall be a material breach of this Contract, and, except as may be permitted by regulations or rulings of the City of Waterbury Board of Ethics it shall be a violation of the City’s Code of Ordinances, for any Public Official, City Employee or Member of a Board or Commission who is participating directly or indirectly in the procurement process as set forth in the City’s Code of Ordinances, including those participating in exempt transactions, to become or be the employee of any person contracting with the governmental body by whom the Official, Employee, or Board or Commission member is employed or is a member.

**34.2.** It shall be a material breach of this Contract, and it shall be a violation of the City’s Code of Ordinances for any Person to offer, give, or agree to give any current or former Public Official, Employee or Member of a Board or Commission, or for such current or former Public Official, Employee or Member of a Board or Commission to solicit, demand, accept or agree to accept from another Person, a gratuity or an offer of employment in connection with any: decision; approval; disapproval; recommendation; preparation of any part of a program requirement or a requisition; influencing the content of any specification or procurement standard; or rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or Purchase Order, or to any solicitation or proposal therefore.

**34.3.** It shall be a material breach of this Contract and it shall be a violation of the City’s Code of Ordinances for any payment, Gratuity, or offer of employment to be made as an inducement for the award of a subcontract or order, by or on behalf of a subcontractor, the prime Contractor or higher tier subcontractor or any Person associated therewith, under a Contract or Purchase Order to the City.

**34.4.** The value of anything transferred or received in violation of the City’s Charter, Code of Ordinances, and/or regulations promulgated there under, by any Person subject to said Charter and/or Ordinances may be recovered by the City.

**34.5.** Upon a showing that a subcontractor made a kickback to the City, a prime Contractor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

**34.6.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained anyone in violation of this subsection 34.6, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection 34.6 shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

**34.7.** The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has **(i)** delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owed to the City; **(ii)** filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; **(iii)** delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and **(iv)** filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection 34.7 shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

**34.8.** The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections 34.1-34.7.

**34.9.** Bay State is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, all relevant provisions of the City's Charter and all relevant provisions of the City's Code of Ordinances, including without limitation Chapters 93, titled "Discriminatory Practices", Chapter 38 titled "Centralized Procurement System", and Chapter 39 titled "Ethics and Conflict of Interest", of said Code as may be amended from time to time.

**34.10.** Bay State hereby acknowledges receipt of a copy of the Chapters 38 and 39 of City's Ordinance regarding Procurement, Ethics, and Conflicts of Interest and has familiarized itself with said Code and hereby agrees to adhere to said Code. The text of Chapters 38 and 39 of said Code may be obtained from the Office of the City Clerk of the City and on the internet at the City Clerk's web site: <http://www.waterburyct.org/content/458/539/default.aspx> [click link titled "The City of Waterbury Code of Ordinances *Passed 8/24/2009*". For Chapter 38, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 38: CENTRALIZED PROCUREMENT SYSTEM". For Chapter 39, click on "TITLE III:



ADMINISTRATION”, then click on “CHAPTER 39: ETHICS AND CONFLICTS OF INTEREST”].

**34.11.** Bay State is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled, "Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects," and the State of Connecticut Legislature's Special Act No. 01-1.

**34.12.** Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto. In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

**34.13. INTEREST OF CITY OFFICIALS.** No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

**34.14. PROHIBITION AGAINST CONTINGENCY FEES.** Bay State hereby represents that it has not retained anyone to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage or contingency fee.

**34.15. FREEDOM OF INFORMATION ACT NOTICE.** Pursuant to State statute, in the event the total compensation payable to Bay State set forth in Section 6 herein is greater than \$2,500,000.00, the City is entitled to receive a copy of any and all Contractor records and files related to the performance of this Contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be disclosed by the City pursuant to the Act.

{Signatures to follow}

**IN WITNESS WHEREOF**, the parties hereto execute this Contract on the dates signed below.

**WITNESSES:**

**CITY OF WATERBURY**

\_\_\_\_\_

By: \_\_\_\_\_  
Neil M. O'Leary, Mayor

\_\_\_\_\_

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

**WITNESSES:**

**BAY STATE ELEVATOR COMPANY**

\_\_\_\_\_

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

Its \_\_\_\_\_

\_\_\_\_\_

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

## **ATTACHMENT A**

1. City of Waterbury RFP # 6566, consisting of 26 pages, (excluding Contract Compliance Documents and Sample City Contract) , attached hereto;
2. Bay State's Response to City of Waterbury RFP # 6566, dated January 31, 2020, consisting of 10 pages, attached hereto (excluding price proposal);
3. Bay State's Revised Price Proposal Dated March 19,2020 consisting of two (2) pages, attached hereto;
4. Addenda Number to City of Waterbury RFP # 6566,
5. Any and all amendment(s) and Change Orders, issued by the City after execution of Contract (incorporated by reference);
6. Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate (incorporated by reference);\
7. Performance Bond and Payment Bond (incorporated by reference)'
8. Certificates of Insurance (incorporated by reference)
9. Department of Environmental Protection Regulations (CWF-1 through CWF-32) (incorporated by reference);
10. All applicable Federal, State and local statutes, regulations charter and ordinances (incorporated by reference);
11. All permits and licenses (incorporated by reference).

# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON FINANCE**

Item #9.3

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends that the Waterbury Board of Education approve an Operations and Maintenance Services Agreement with Trane U.S. Inc. for chiller maintenance and repairs at various schools.

Approved:

---

Rocco F. Orso

## **Memorandum**

To: Board of Aldermen  
Board of Education

From: Chris Harmon, School Inspector

Date: April 6, 2020

Re: **Board of Education and Board of Aldermen Approval Request / Executive Summary -**  
Contract for Chillers Service Maintenance and Repairs

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The School Inspector respectfully requests your approval of the above-referenced contract in the amount of \$194,003.43 for Chiller Service Maintenance and Repairs between the City of Waterbury and Trane U.S. Inc.

This contract was initiated under the Request for Proposal (RFP #6551). Trane U.S. Inc. was deemed the most qualified responsible bidder for this project after evaluating their bid response. Trane U.S. Inc. has been servicing our chillers for the last three years under an existing chiller service maintenance contract which is set to expire on June 30, 2020

This contract will allow Trane U.S., Inc to continue to perform all required manufacture preventive maintenance, provide spring startup and routine operating inspection in order to ensure that our chillers are working at optimal performance.

Accordingly, attached for your review and consideration are 12 copies of the proposed contract, plus the Vendor Award letter as prepared by the Purchasing Department, the Successful Bidder's Bid Form and Disclosure and Certification of Obligations Affidavit Regarding Outstanding Obligations Form plus a copy of the Tax Clearance issued by the Office of Tax Collections.

Please note further that one complete set of Documents, including Contract, has been placed on file with the City Clerk's Office.

Thank you.

**OPERATIONS and MAINTENANCE SERVICES AGREEMENT**

RFP No. 6551

**for**

**Chiller Services Maintenance and Repairs**

**between**

**City of Waterbury**

**and**

**Trane U.S., Inc.**

**THIS AGREEMENT**, effective on the date signed by the Mayor, is by and between the CITY OF WATERBURY, City Hall, 235 Grand Street, Waterbury, Connecticut (the "City") and Trane U.S., Inc., located at 800- E Beaty Street, Davisson North Carolina, 28036 a State of Delaware duly registered foreign corporation, with offices located at 716 Brook Street, Suite 130, Rocky Hill, Connecticut 06067(the "Contractor").

**WHEREAS**, Trane submitted a proposal to the City responding to **RFP No. 6551** for Chiller Maintenance and Repair Services; and

**WHEREAS**, the City accepted the Contractor's proposal for **RFP No. 6551**; and

**WHEREAS**, the City desires to obtain the Contractor's services pursuant to the terms, conditions and provisions set forth in this agreement (the "Project").

**NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:**

**1. Scope of Services.** Trane shall furnish all of the labor, services, equipment, materials, tools, parts and supplies, transportation, and incidentals necessary to complete the Project as specified in this agreement (also referred to herein as "Contract") and such shall be completed in a satisfactory manner, as reasonably determined by the City. All labor, services, equipment, materials, supplies, transportation, and incidentals shall comply with **(i)** any and all applicable local, state and federal laws, statutes, ordinances, rules and regulations, including without limitation all notice requirements thereunder, and **(ii)** generally accepted professional standards.

**1.1.** The Project consists of and Trane shall provide all services to include, but not limited to, spring startup, routine operating inspection, a startup report and recommendations to School Inspector's Office, annual inspections, and annual inspection parts for the school districts HVAC chillers as set further detailed and set forth in the attached RFP and Scope of Services. Trane shall furnish and delivery of all the necessary parts, labor, material, tools, the testing of equipment required to provide service and maintenance of chillers listed on the Equipment List which is part of the Technical Specifications as more particularly detailed and described in the Bid Documents which are attached hereto as part of **Attachment A** and are hereby made material provisions of this Contract. **Attachment A** shall consist of the following, which are attached hereto, are acknowledged by Trane as having been received, or otherwise hereby incorporated by reference as noted below, and all are made a part hereof:

- 1.1.1 City of Waterbury Request for Proposal ("RFP") No. 6551, (excluding contractor compliance packet and sample City contract), consisting of 21 pages, attached hereto;
- 1.1.2 Addendum No. 1 to RFP No. 6551, dated January 6, 2020, consisting of 1 page, attached hereto;
- 1.1.3 Trane's response to RFP No. 6551, dated January 8, 2020, consisting of 17 pages, attached hereto;
- 1.1.4 Any and all amendment(s) and Change Orders, issued by the City after execution of Contract (incorporated by reference);
- 1.1.5 Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate (incorporated by reference);
- 1.1.6 Performance Bond and Payment Bond (incorporated by reference);
- 1.1.7 Certificates of Insurance (incorporated by reference);
- 1.1.8 Department of Environmental Protection Regulations (CWF-1 through CWF-32) (incorporated by reference);
- 1.1.9 All applicable Federal, State and local statutes, regulations charter and ordinances (incorporated by reference);
- 1.1.10 All permits and licenses (incorporated by reference).

**1.2** The Project also consists of and Trane shall provide and maintain at all times on hand at their facility the following critical repair parts for Chillers. These parts must be stocked and at Trane's Facility for the entire three year contract term and must be continually available for inspection. The parts must be physically inspected by the City of Waterbury, School Inspector's Office, on a quarterly basis to insure fitness for service. Trane will be in breach of this Agreement if they are not able to display all of the listed parts for inspection by the City and the City shall have the right to terminate this agreement immediately.

The parts are as follows:

	Quantity	Description	MFR. Part No,
i.	1	Local Interface Device	189XB04004001
ii.	1	PSIO Module	19XB04002601
iii.	1	Relay Module	32SM400694
iv.	1	Amplifier Module	32SM500704

**1.3.** The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). The City's record copy of the Contract Documents shall control and shall be effective and binding on the Contractor. In the event that any provision in the Contract Documents conflict with any other provision therein, the provision in the component part of the

Contract Document first enumerated below shall govern over any other component part which follows it numerically.

- 1.3.1 This Agreement
- 1.3.2 City of Waterbury RFP No. 6551
- 1.3.3 Addendum No. 1 to RFP No. 6551
- 1.3.4 Trane's Response to City of Waterbury RFP No. 6551,  
dated January 8, 2020, consisting of 17 pages
- 1.3.5 All applicable Federal, State laws and local statutes, regulations charter  
and ordinances
- 1.3.6 Technical Specifications

**2. Representations Regarding Qualification and Accreditation.** Trane represents that its employees are licensed to perform the scope of work set forth in this Contract. Trane further represents that its employees have the requisite skill, expertise and knowledge necessary to perform the scope of work required under the terms of this Contract, including any supplementary work and the City relies upon these.

**2.1. Representations regarding Personnel.** Trane represents that it has, or will secure at its own expense, all personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City, unless use of City employees or of personnel having a contractual relationship with the City is approved in writing. As set forth above, all the services required hereunder shall be performed by Trane or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

**2.2. Representations regarding Qualifications.** The Consultant hereby represents that, to the extent required by Federal, State and Local statutes, regulations, codes, ordinances, and policies, that the Consultant and/or its employees be licensed, certified, registered, or otherwise qualified, the Consultant and all employees providing services under this Contract, are in full compliance with those statutes, regulations and ordinances. Upon City request, the Consultant shall provide to the City a copy of the Consultant's licenses, certifications, registrations, etc.

**3. Responsibilities of the Contractor.** All data, information, etc. given by the City to Trane and/or created by Trane shall be treated by Trane as proprietary to the City and confidential unless the City agrees in writing to the contrary and shall be used solely for the purposes of providing services under this agreement. Trane agrees to forever hold in confidence all files, records, documents and other information which may come into the Contractor's possession during the term of this agreement, except where a disclosure is expressly stated as a requirement of this agreement. Notwithstanding the foregoing, where a Trane disclosure is required to comply with statute, regulation, or court order, Trane shall provide prior advance written notice to the City of the need for such disclosure. Trane agrees to properly implement the services required in the manner herein provided.



**3.1. Use of City Property.** To the extent Trane is required to be on City property to render its services hereunder, Trane shall have access to such areas of City property as the City and Trane agree are necessary for the performance of the Contractor's services under this agreement (the "Site" or the "Premises") and at such times as the City and Trane may mutually agree. Trane shall perform all work in full compliance with Local, State and Federal health and safety regulations. All work hereunder shall be performed in a safe manner. Trane shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which City reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Contractor, City may, but shall not be required to, correct same at Contractor's expense. City shall confirm in writing any oral notice given within five (5) days thereafter.

**3.2. Working Hours.** To the extent Trane is required to be on City property to render its services hereunder, Trane shall coordinate its schedule so that work on the Premises is performed during those hours the City sets forth in a written notice to the Contractor, unless written permission is obtained from the City to work during other times. This condition shall not excuse Trane from timely performance under the Contract. The work schedule must be agreed upon by the City and the Contractor.

3.2.1 Trans shall be responsible for performing all scheduled maintenance in accordance with the frequencies set forth in the RFP and all scheduled maintenance inspections an equipment overhauls as directed by the equipment manufacturer. These requirements are to be considered the minimum. All planned preventative maintenance is to be conducted during the hours of 8:00 and 4:00 p.m. Monday through Friday, excluding holidays, or as specified by City of Waterbury personnel and agreed by Trane.

**3.3. Cleaning Up.** To the extent Trane is required to be on City property to render its services hereunder, Trane shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Contractor, its employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the project and all tools, scaffolding and surplus materials and shall leave the Premises "broom clean" or its equivalent, unless more exactly specified. In case of dispute, the City may remove the rubbish and charge the cost to the Contractor.

**3.4. Publicity.** Trane agrees not to deliberately disclose the fact that the City has entered into or terminated this Contract or disclose any of the terms of the Contract or use the City's name in connection with any publicity, unless the City gives prior written consent to such use of the City's name in each instance.

**3.5. Standard of Performance.** All labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc., either at the Premises or intended for it, shall conform in all respects with the requirements of all this agreement,

and shall be the best obtainable from the crafts and trades. In all cases, the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. shall be equal to or better than the grade specified, and the best of their kind that is obtainable for the purpose for which they are intended.

**3.5.1** The standard of care and skill for all services performed by Trane shall be that standard of care and skill ordinarily used by other members of the Contractor's profession practicing under the same or similar conditions at the same time and in the same locality. The Contractor's services rendered hereunder shall be rendered completely and by qualified personnel in accordance with standard industry practice.

**3.6. Contractor's Employees.** Trane shall at all times enforce strict discipline and good order among its employees, and shall not employ any unfit person or anyone not skilled in the work assigned.

**3.7. Due Diligence Obligation.** Trane acknowledges its responsibilities to examine and to be thoroughly familiar with the City's proposal document, including, but not limited to the specifications, and any addenda thereto. Trane hereby warrants and represents that prior to the submission of its proposal during the proposal process, it reviewed or was afforded opportunity, by the City, to review all physical items, facilities, services or functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services or functions are included in this agreement and thereby warrants that:

**3.7.1** it conducted or had opportunity to conduct all Due Diligence prior to the submission of its proposal and, accordingly, any additional costs, services or products resulting from the failure of Trane to complete Due Diligence prior to submission of its proposal shall be borne by the Contractor. Furthermore Trane had the opportunity during the proposal process to ask questions it saw fit and to review the responses from the City;

**3.7.2** its failure or omission to make investigation and verification of data shall, in no way, be cause for future claim of ignorance of such data or conditions nor shall such failure to investigate and verify be the basis for any claim whatsoever, monetary or otherwise;

**3.7.3** it is solely responsible for resolving any issues resulting from the failure to conduct Due Diligence and shall assume any costs that may result during the implementation of the Project, including, but not limited to, adherence to specifications and pricing for the Project.

**3.7.4** it was responsible for specifying any changes and disclosing any new costs prior to the submittal of its proposal. Thus, in the event any changes or costs are disclosed by the Contractor, or otherwise required, during the performance of its

services, the sole responsibility for any modification, delay and cost of such changes shall reside with the Contractor.

**3.7.5** has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State and Local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work;

**3.7.6** has given the City written notice of any conflict, error or discrepancy that Trane has discovered in the Proposal Documents; and

**3.7.7** agrees that the Proposal Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

**3.8. Reporting Requirement.** Trane shall deliver periodic, monthly written reports to the City's Using Agency setting forth **(i)** the issue date of the report, **(ii)** the time period covered by the report, **(iii)** a brief description of the work and services completed by Trane and/or delivered by Trane during the time period covered by the report, **(iv)** expressed as a percentage of the total work and services required under this contract, the percentage of the total work represented by the work and services described in subsection iii above, **(v)** expressed as a percentage of this contract's Section 6 total compensation, the percentage of the total compensation represented by the work and services described in subsection iii above, **(vi)** the Contractor's declaration as to whether the entirety of the Contractor's work and services required in this Contract will be, or will not be, completed within the Contract's Section 6 total compensation amount, and **(vii)** any and all additional useful and/or relevant information. Each report shall be signed by Contract Manager.

NOTE: Trane's failure to deliver any report required herein shall be deemed a material breach of this Contract, the City hereby reserving the right to exercise all available legal remedy(ies) to address said breach.

**4. Responsibilities of the City.** Upon the City's receipt of the Contractor's written request, the City will provide Trane with documents, data and other materials the City agrees are necessary and appropriate to the services to be performed by Trane hereunder and the City will endeavor to secure, where feasible and where the City agrees it is necessary and appropriate, materials or information from other sources requested by Trane for the purpose of carrying out the services under this Contract.

**5. Contract Time.** Trane shall commence all work and services required under this contract on July 1, 2020 and shall complete all work and services required under this Contract on June 30, 2023 ("Contract Time").

**5.1.** Time is and shall be of the essence for all Project milestones and services to be provided to the City under this Contract. Trane further agrees that the Project shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion of the services, milestones and Contract Time. It is expressly understood and agreed, by and between Trane and City, that the Contract Time is reasonable for the completion of the Project.

**6. Compensation.** The City shall compensate Trane for satisfactory provision of all of the goods and services set forth in this Contract as follows in this Section 6. No claims for additional compensation will be considered for conditions made known to Trane prior to bidding. No claims for additional compensation will be considered on account of failure of Trane to completely inform itself as required herein above.

**6.1. Fee Schedule.** The fee payable to Trane shall not exceed **ONE HUNDRED NINETY- FOUR THOUSAND THREE DOLLARS AND FORTY-THREE CENTS (\$194, 003.43)** for the entire three (3) year period of the contract, and shall be in accordance with the Contractor's response to **RFP No. 6551** and Contractor's Bid prices dated January 8, 2020, Attached hereto as part of Attachment A, and shall also include a City controlled Contingency of **SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00)**, with the basis of payment being as follows;

- 6.1.1 Fee for Year 1 -July 1, 2020- June 30, 2021  
In an amount not to exceed  
Thirty-Eight Thousand Five Hundred One Dollars  
and Twenty-Two Cents.....\$38,501.22
- 6.1.2 City Controlled Contingency for Year 1  
July 1, 2020- June 30, 2021  
In an amount not to exceed  
Twenty –Five Thousand Dollars.....\$25,000.00
- 6.1.3 Fee for Year 2- July 1, 2021- June 30, 2022  
In an amount not to exceed  
Thirty-Nine Thousand Six Hundred Fifty-Six Dollars  
and Twenty-Eight Cents.....\$39, 656.28
- 6.1.4 City Controlled Contingency for Year 2  
July 1, 2020- June 30, 2021  
In an amount not to exceed  
Twenty –Five Thousand Dollars.....\$25,000.00
- 6.1.5 Fee for Year 3- July 1, 2022- June 30, 2023  
In an amount not to exceed  
Forty Thousand Eight Hundred Forty-Five Dollars  
and Ninety-Three Cents.....\$40,845.93

6.15 City Controlled Contingency for Year 3  
July 1, 2020- June 30, 2021  
In an amount not to exceed  
Twenty –Five Thousand Dollars.....\$25,000.00

6.1.6 **Total Compensation** shall not exceed  
One Hundred Ninety- Four Thousand Three Dollars  
And Forty-Three Cents for the entire three (3) term.....\$194,003.43

6.1.7 Technician’s Labor Rates for Contingency Services not covered under  
Service Maintenance Agreement as follow:

6.1.7.1 Labor Rate per hour  
Monday –Friday 8:00 a.m. -4:00 p.m.....\$ 158.00/hr.

6.1.7.2 After hours and Saturdays  
Two Hundred Thirty- Seven Dollars per hour...\$237.00/hr.

6.1.7.3 Sundays and Holidays  
Three Hundred Sixteen Dollars per hour.....\$316.00/hr.

**6.2. Contingency.** There shall be a contingency of Seventy-Five Thousand Dollars (\$75,000.00) for the entire-three year term of this Contract. The contingency shall be utilized for maintenance and technician services which become necessary and are not part of the scope of services under this Contract. The use of the contingency shall be at the sole discretion of the City.

**6.3. Limitation of Payment.** Compensation to Trane is limited to those fees set forth in Section 6.1. above and is further limited to work **(i)** performed in fact, **(ii)** conforming with this Contract, and **(iii)** accepted in writing by a duly authorized City employee. Such compensation shall be paid by the City upon its review and approval of the Contractor’s invoices for payment and review of the Contractor’s work.

**6.3.1 Funding.** In the event this Contract is funded, in whole or in part, by Federal and/or State monies, grants, loans, etc., all City payment(s) shall fully comply with all relevant Federal and State statutes and regulations. In the event this Contract is 100% funded by Federal and/or State monies, grants, loans, etc., the aggregate sum of all City payments shall not exceed the aggregate sum of such funding.

**6.3.2** Trane and its affiliates are hereby provided with notice that the City reserves the right, in the City’s sole discretion, to offset, withhold, or otherwise reduce City payment(s) to the Contractor, in an amount equaling

the sum or sums of money Trane and/or its affiliates is/are, or become delinquent or in arrears on, regarding the Vendor's and/or its affiliates real and personal property taxes and other payment obligations to the City.

**6.4. Review of Work.** Trane shall permit the City to review, at any time, all work performed under the terms of this Contract at any stage of the work. Trane shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the agreement, settlement of claims or any other matter pertaining to the Contractor's demand for payment. The City shall not certify fees for payment to Trane until the City has determined that Trane has completed the work in accordance with the requirements of this Contract.

**6.5. Proposal Costs.** All costs of Trane in preparing its proposal for **RFP No. 6551** shall be solely borne by Trane and are not included in the compensation to be paid by the City to Trane under this Contract or any other agreement.

**6.6. Payment for Services, Materials, Appliances, Employees.** Trane shall be responsible to the City for the suitability of services, materials and equipment furnished to comply fully with the requirements set forth in this Contract. Trane shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for subcontractors, materials, supplies and services going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this Project. Before final City payment is made, Trane shall furnish to the City a sworn, notarized, affidavit stating that all of the foregoing payment obligations have been fully completed.

**6.7. Liens.** Neither the City's final payment nor any part of the retained percentage, if any, shall become due until the Contractor, if required by the City, shall deliver to the City a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and, if required, in either case, an affidavit that so far as Trane has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed; but Trane may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, Trane shall refund to the City all moneys that the City may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**7. Warranty of the Contractor.** Trane warrants to the City that all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. furnished under this Contract shall be new, and that all work under this Contract shall be of good quality, free from faults and defects and in conformance with this Contract for a period of no less than twelve (12) months after the date of the City's written acceptance of such work.

## **8. Passing of Title and Risk of Loss.**

**8.1.** City beneficial use of Project equipment, materials, site-work, etc. prior to the Contractor's final completion of the Project or prior to the City's final payment for the Project shall neither act to vest title in the City nor act to transfer risk of loss from Trane to the City. Said title and risk shall pass to the City upon the City's final payment for the Project.

**8.2.** and its insurer shall assume the risks of loss or damage to the equipment up to and including the date title passes, except that City shall be responsible for loss or damage caused by City's gross negligence.

**8.3.** After Project equipment, materials, etc. are delivered to the Project work-site and become operable or functional, Trane shall not thereafter remove any such equipment, materials, etc. from the Project work-site without securing the prior written consent of an authorized City Using Agency employee.

## **9. Indemnification.**

**9.1.** Trane shall indemnify, defend, and hold harmless the City, City's Boards, and Board of Education, commissions, agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the delivery of the labor, services, equipment, materials, reports, plans, specifications, design, drawings, deliverables, incidentals, etc. provided that any such claims, suits, damages, losses, judgments, costs or expenses **(i)** are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, **(ii)** are alleged to be caused in whole or in part by any willful, intentional, negligent, or reckless act or omission of the Contractor, its employees, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder; **(iii)** enforcement action or any claim for breach of Trane's duties hereunder or **(iv)** claim for intangible loss(es) including but not limited to business losses, lost profits or revenue, regardless of whether or not it is caused in part by a party indemnified hereunder.

**9.2.** In any and all claims against the City, Board of Education or any of City's boards, agents, employees or officers by Trane or any employee of Trane, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 9 above, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Trane or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

9.3. Trane understands and agrees that any insurance required by this Contract, or otherwise provided by Trane, shall in no way limit the responsibility to indemnify, defend, keep and hold harmless the City, the Board of Education, any of City's boards, agents, employees as provided in this Contract.

9.4. Trane expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City and the City's boards, agents, employees or officers as provided herein.

9.5. Royalties and Patents. Trane shall, for all time, secure to the City the free and undisputed right to the use of any and all patented articles and methods used in the work and shall defend at Contractor's own expense any and all suits for infringement or alleged infringement of such patents, and in the event of adverse award under patent suits, Trane shall pay such awards and hold the City harmless in connection with any patent suits that may arise as a result of installations made by Trane and as to any award made thereunder.

9.2. In the event this Contract and/or the Contractor's, or its subcontractor, work and services provisioned hereunder is/are subject to the provisions of any Federal or State statute or regulations, or the City Charter or City Ordinance, Trane shall indemnify, defend and hold harmless the City from any fine, penalty or other amounts imposed on the City under said statutes, regulations, Charter or Ordinances, if caused by Contractor, or its subcontractor, omission or commission..

**10. Contract Bonds.** Trane shall furnish to the City, prior to the execution of this Contract by the City, a performance bond and a payment bond each for the penal sum of One Hundred Ninety-Four Thousand Three Dollars and Forty-three Cents (\$ 194,003.43) in a form and with a surety acceptable to the City. The bonds shall continue in effect for one year after Final Completion of the Project.

**11. Contractor's Insurance.**

11.1. Trane shall not commence work under this Contract until all insurance required under this Section 11 has been obtained by Trane and such insurance has been approved by the City. Trane shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been so obtained and approved by the City. Insurance shall be provided by insurers, satisfactory to the City and authorized to do business in the State of Connecticut, an "A-" Best's Rating and at least a Class V3 or better financial size category as shown in the most current A.M. Best Company ratings.

11.2. At no additional cost to the City, Trane shall purchase and maintain the insurance coverages set forth below which shall protect the City from claims which may arise out of or result from the Contractor's obligation under this Contract, whether such obligations are the Trane's or subcontractor or person or entity directly or indirectly employed by said



Trane or subcontractor, or by any person or entity for whose acts said Trane or subcontractor may be liable.

**11.3.** Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless. If any insurance required herein is to be issued or renewed on a claims made form as opposed to an occurrence form, the retroactive date for coverage shall be no later than the commencement date of this Contract and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims ("Tail Coverage") shall be available for at least 60 months.

**11.4.** The following policies with stated limits shall be maintained, in full force and effect, at all times during which the services are to be performed by the Contractor:

**11.4.1 General Liability Insurance: \$1,000,000.00** per occurrence, **\$2,000,000.00** aggregate and **\$2,000,000.00** Products and completed operations aggregate

Providing coverage to protect the City for all damages arising out of bodily injuries, sickness to or death of all persons in any one accident or occurrence and for all damages arising out of destruction of property in any one accident or occurrence.

**11.4.2 Automobile Liability Insurance: \$1,000,000.00** combined single limit (CSL)

Providing coverage to protect the City with respect to claims for damage for bodily injury and or property damage arising out of ownership, maintenance, operation, use or loading and unloading of any auto including owned, and hired autos.

**11.4.3 Workers' Compensation:** Statutory Limits within the State of Connecticut: Employers' Liability:

EL Each Accident **\$500,000.00**

EL Disease Each Employee **\$500,000.00**

EL Disease Policy Limit **\$500,000.00**

shall comply with all State of Connecticut statutes as it relates to workers' compensation.

**11.4.4 Excess/Umbrella Liability Insurance:**

Excess or Umbrella insurance coverage that follows form or sits over General Liability, Automobile Liability and Workers Compensation insurances. **\$5,000,000.00** each Occurrence and **\$5,000,000.00** each Aggregate

**11.5. Failure to Maintain Insurance:** In the event Trane fails to maintain the minimum required coverage as set forth herein, the City may at its option purchase same, and offset the Contractor's invoices for the cost of said insurance.

**11.6. Cancellation:** The City of Waterbury shall receive written notice of cancellation from Trane at least thirty (30) calendar days prior to the date of actual cancellation, regardless of the reason for such cancellation.

**11.7. Certificates of Insurance:** The Contractor's General, Automobile and Excess Liability Insurance policies shall be endorsed to add the City and its Board of Education as an additional insured on all lines of coverage except Workers Compensation and also provide a Waiver of Subrogation to all lines including Workers Compensation. The insurance afforded the additional insured shall be primary and non-contributory insurance and the coverage and limits provided under the Contractor's policies shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Prior to the execution of this Contract by the City, Trane shall furnish to the City, subject to City approval, certificate(s) of insurance and Additional Insured Endorsement and Waiver of Subrogation Endorsement verifying the above coverages, including the naming of the City of Waterbury, as follows: **"The City of Waterbury and its Board of Education are listed as additional insured on all lines of coverage except Workers Compensation including waiver of subrogation to all lines of coverage as their interest may appear"**. The City's Invitation to Bid Number must be shown on the certificate of insurance to assure correct filing. Trane must supply replacement/renewal certificates at least 30 days prior to the expiration of the policy(ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of than thirty (30) calendar days has been mailed to the City's Using Agency and a copy to the City's Office of Corporation Counsel, 235 Grand Street, Waterbury, CT 06702.

**11.8.** No later than thirty (30) calendar days after Trane receipt, Trane shall deliver to the City a copy of the Contractor's insurance policies and endorsements and riders.

**12. Conformance with Federal, State and Other Jurisdictional Requirements.** By executing this Contract, Trane represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by Trane of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: EQUAL EMPLOYMENT OPPORTUNITY; COPELAND ANTI-KICKBACK ACT, as supplemented in the Department of Labor Regulations (29 CFR, Part 3); DAVIS BACON ACT as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); the HOUSING and COMMUNITY DEVELOPMENT ACT of 1974, as amended, TITLE 31 and

Section 12-430(7) of the State of Connecticut General Statutes. All applicable sections of the City Charter and Code of Ordinances are incorporated by reference made a part hereof.

**12.1. Taxes-Federal, State and Local.** The City is exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation, taxes that would otherwise be imposed upon Trane for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc. Trane remains liable, however, for any applicable tax obligations it incurs. Moreover, Trane represents that the bid and pricing contained in this Contract do not include the amount payable for said taxes.

**12.2. Labor and Wages-Federal and State.** Trane and its subcontractors shall conform to Federal and State of Connecticut labor laws, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

**12.2.1** Trane is aware of, and shall comply with, the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages for work on public facilities. The provisions of the Act are hereby incorporated by reference and made a part of this Contract. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in Conn.Gen.Statute 31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

**12.2.2** Trane is aware of, and shall comply with, the provisions of both the Federal Davis-Bacon Act and the Federal American Recovery and Reinvestment Act of 2009, the provisions of both acts hereby incorporated by reference and made a part of this Contract. The Federal Davis-Bacon Act provides that Federal wage rate laws apply to certain federally funded contracts. The American Recovery and Reinvestment Act ("ARRA") provides that Federal wage rate laws apply to all ARRA funded contracts regardless of the contract's dollar value.

**12.3. Compliance with Chapters 34, 38, and 39 of the Code of Ordinances of the City.** By executing this Contract, Trane represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with the provisions of Chapters 34, 38, and 39 of the Code of Ordinances of the City and well as any other relevant provisions of the Charter and the Code of Ordinances.

**12.4. Compliance with CONN. GEN. STAT. § 4a-60g, as amended by June 2015 Special Session Public Act 15-5.**

**12.4.1 Definitions – For purposes of this paragraph:**

**i.** "Small contractor" means any contractor, subcontractor, manufacturer, service company or nonprofit corporation (A) that maintains its principal place of business in the state, (B) that had gross revenues not exceeding fifteen million dollars in the most recently completed fiscal year prior to such application, and (C) that is independent. "Small contractor" does not include any person who is affiliated with another person if both persons considered together have a gross revenue exceeding fifteen million dollars.

**ii.** "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons who (i) exercise operational authority over the daily affairs of the enterprise, (ii) have the power to direct the management and policies and receive the beneficial interest of the enterprise, (iii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, and (iv) are members of a minority, as such term is defined in subsection (a) of section 32-9n, or are individuals with a disability, or (B) which is a nonprofit corporation in which fifty-one per cent or more of the persons who (i) exercise operational authority over the enterprise, (ii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, (iii) have the power to direct the management and policies of the enterprise, and (iv) are members of a minority, as defined in this subsection, or are individuals with a disability.

**iii.** "Municipal public works contract" means that portion of an agreement entered into on or after October 1, 2015, between any individual, firm or corporation and a municipality for the construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees but excluding any project of an alliance district, as defined in section 10-262u, as amended by this act, financed by state funding in an amount equal to fifty thousand dollars or less.

**12.4.2** Trane and subcontractor shall comply with the specific requirements of the State of Connecticut Set Aside Program, CONN. GEN. STAT. § 4a-60g, as amended by June 2015 Special Session Public Act 15-5, if the municipal public works contract awarded to the Contactor is funded in whole or in part by state funds.

**12.4.3** The Contactor shall be subject to the following set-aside requirements if the municipal public works contract, is funded in whole or in part by the State of

Connecticut, and is in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), for the construction, rehabilitation, conversion, extension, demolition, or repairing of a public building or highway, or other changes or improvements in real property.

**12.4.4 Set-Aside requirements** – Any contractor awarded a municipal public works contract, on the basis of competitive bidding procedures, shall comply with the following Set –Aside requirements:

- i. set aside at least twenty-five per cent (25%) of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and
- ii. of that portion to be set aside in accordance with Subparagraph i. of this subdivision, reserve a portion equivalent to twenty-five per cent (25%) of the total value of the contract or portion thereof to be set aside for awards to subcontractors who are minority business enterprises.

**12.4.5 Failure of Trane or subcontractor to comply with the State of Connecticut Set-Aside requirements** shall be a material breach of this Contract.

**13. Discriminatory Practices.** In performing this Contract, Trane shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring non-discrimination in employment as herein specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this Contract. Said provisions with subcontractors shall require conformity and compliance with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

**13.1. Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because such person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

**13.2. Equal Opportunity.** In its execution of the performance of this Contract, Trane shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship status, age or handicap. Trane agrees to comply with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors

**14. This Section Left Intentionally Blank.**

**15. This Section Left Intentionally Blank.**

**16. Termination.**

**16.1. Termination of Contract for Cause.** If, through any cause, Trane shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if Trane shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by either **(i)** giving written notice to Trane of a date certain by which Contractor shall, to the written satisfaction of the City, cure after which and without further action by any party, such termination shall automatically become effective and binding, or **(ii)** giving written notice to Trane specifying the effective date of such termination at least five (5) business days before the effective date of such termination.

**16.1.1** In the event of a termination, all finished or unfinished documents, data, studies, reports, plans, specifications, drawings, supplies, services, etc. prepared by Trane under this Contract shall, at the option of the City, become the City's property, and Trane shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

**16.1.2** Notwithstanding the above, Trane shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by the Contractor, and the City may withhold any payments to Trane for the purpose of setoff until such time as the exact amount of damages due the City from Trane is determined.

**16.2. Termination for Convenience of the City.** The City may terminate this Contract at any time for the convenience of the City, by a notice in writing from the City to the Contractor. If this Contract is terminated by the City as provided herein, Trane will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Trane covered by this Contract, less payments of compensation previously made.

**16.3. Termination for Non-Appropriation or Lack of Funding.** Trane acknowledges that the City is a municipal corporation and that this Contract is subject to the appropriation and disbursement of funds by the City sufficient for this Contract for each budget year in which this Contract is in effect. Trane therefore agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City in the event that sufficient funds to provide for City payment(s) under this Contract is not appropriated, not authorized, or not made available, or such funding has been reduced. In the event this Contract is subject, in whole or in part, to the appropriation and

disbursement of Federal and/or State funds and those Federal and/or State funds are not appropriated or are not disbursed to the City, Trane hereby agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City.

**16.3.1 Effects of Non-Appropriation.** If funds to enable the City to effect continued payment under this Contract are not appropriated, authorized or otherwise made available by law, the City shall have the right to terminate this Contract without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to the Contractor.

**16.3.2 Effects of Reduced Levels of Funding.** If funding is reduced by law, or funds to pay Trane for the agreed to level of the products, services and functions to be provided by Trane under this Contract are not appropriated, authorized or otherwise made available by law, the City may, upon seven (7) business days written notice to the Contractor, reduce the level of the products, services or functions in such manner and for such periods of time as the City may elect. The charges payable under this Contract shall be equitably adjusted to reflect such reduced level of products, services or functions and the parties shall be afforded the rights set forth in this Contract.

**16.3.3 No Payment for Lost Profits.** In no event shall the City be obligated to pay or otherwise compensate Trane for any lost or expected future profits.

#### **16.4. Rights Upon Termination.**

**16.4.1 Termination for Cause.** In the event the City terminates this Contract for cause, Trane shall relinquish to the City any applicable interest, title and ownership including, but not limited to, perpetual use of any proprietary rights in and to the products and deliverables delivered to, in possession of and properly invoiced and paid for by (except to the extent such invoiced amount is disputed) the City. With regard to third party products, Trane shall transfer all licenses which it is permitted to transfer in accordance with the applicable third party license. The City shall have no financial obligation to compensate Trane for such terminated products unless payment is otherwise approved by the City prior to such termination. Trane shall be liable for costs incurred by the City, including but not limited to reasonable attorney fees and all court awarded fees and costs incurred in terminating this Contract in whole or in part.

**16.4.2 Termination for Lack of Funding or Convenience.** In the event of termination by the City for lack of funding or convenience, the City shall pay Trane for all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc.(including any holdbacks) installed and delivered to the City as of the Termination Date and Trane shall relinquish to the City any applicable interest, title and ownership including, but not limited to

perpetual use of any proprietary rights in and to said labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. delivered to, in possession of and paid for by the City (except to the extent any invoiced amount is disputed). Trane shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience the City and Trane may negotiate a mutually acceptable payment to Trane for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this Contract pertaining to changes in the Project.

**16.4.3 Assumption of Subcontracts.** In the event of termination, the City shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this Contract.

**16.4.4 Delivery of Documents.** In the event of termination, (i) Trane shall promptly deliver to the City, in a manner reasonably specified by the City, all documents and other tangible items furnished by, or owned, leased, or licensed by, the City, and (ii) the City shall pay Trane for all services performed and deliverables completed and accepted (pro-rated for deliverables partially completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

**16.5. Ownership of Instruments of Service.** The City acknowledges the Contractor's documents, reports, plans, specifications, drawings, deliverables, etc. created and to be created pursuant to this agreement, including electronic files, are Instruments of Service. Nevertheless, the final Instruments of Service, including, but not limited to architects, engineering, construction, and similar documents, reports, plans, specifications, drawings, deliverables, etc. prepared under this agreement shall become the property of the City upon City payment for that Instrument of Service and the City reserves the right to use the Instruments of Service.

**17. Force Majeure.** Trane shall not be held responsible for delays nor be subject to liquidated damages when such delays are caused by conditions beyond its control, including without limitation:

**17.1.** Acts of God, fire, explosion, epidemic, cyclone, flood, war, strikes, revolution, civil commotion, or acts of public enemies; and

**17.2.** Change of law and order, proclamation, regulation, ordinance, or governmental requirement.

Upon cessation of work for reason of force majeure delays, Trane shall use its best efforts to meet the schedule set forth in Section 5 of this Contract.



**18. Subcontracting.** Trane shall not, without the prior written approval of the City's Using Agency, subcontract, in whole or in part, any of the Contractor's services. Any subcontractor so approved shall be required to secure and maintain insurance coverage equal to or better than that required of Trane and shall name the City as an additional insured party and said subcontractors shall deliver to the City a certificate of insurance evidencing such coverages. All subcontractors shall comply with all federal, state and local, laws, regulations and ordinances but such requirement shall not relieve Trane from its requirement that all services provided hereunder shall comply with all Federal, State and local, laws, regulations and ordinances.

**18.1.** Trane shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

**18.2.** Trane is responsible for and shall control activities of its subcontractors, and the subcontractors shall consult and cooperate with one another and other contractors working on the Project site. Each subcontractor shall furnish all necessary information to other subcontractors and shall lay out and install its own work so as to avoid any delays or interferences with the work of another. Any cost for changes, cutting and/or repairing, made necessary by failure to observe the above requirements shall be borne by Trane or subcontractor responsible for such failure or neglect.

**18.3.** Trane shall not, without the prior written approval of the City's Using Agency, substitute, terminate, replace or otherwise remove a subcontractor.

**19. Assignability.** Trane shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City; provided, however, that claims for money due or to become due Trane from the City under this Contract may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

**20. Audit.** The City reserves the right to audit the Contractor's books of account in relation to this Contract any time during the period of this Contract or at any time during the twelve month period immediately following the closing or termination of this Contract. In the event the City elects to make such an audit, Trane shall immediately make available to the City all records pertaining to this Contract, including, but not limited to, payroll records, bank statements and canceled checks.

**21. Risk of Damage and Loss.** Trane shall be solely responsible for causing the timely repair to and/or replacement of, City property or item(s) intended to become City property hereunder, where the need for repair or replacement was caused by Trane, by someone under the care and/or control of Trane, by any subcontractor of Trane, or by any shipper or delivery service. Trane shall be solely responsible for all costs and expenses, including but not limited to shipping, delivery, insurance, etc., associated with the foregoing repair and replacement obligation. Further, Trane shall be solely responsible for securing the City's written acceptance of all

completed repairs and replacements required hereunder. The City hereby retains sole discretion to determine whether a repair or a replacement is the proper remedy.

**22. Interest of Contractor.** Trane covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the Project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Trane further covenants that in the performance of this Contract no person having any such interest shall be employed.

**23. Entire Contract.** This Contract shall constitute the complete and exclusive statement of the contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this Contract must be in writing and agreed to and executed by the City and the Contractor, and must comply with the City's Charter and Code of Ordinances.

**24. Independent Contractor Relationship.** The relationship between the City and Trane is that of client and independent contractor. No agent, employee, or servant of Trane shall be deemed to be an employee, agent or servant of the City. Trane shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this agreement. It is the express intention of the parties hereto, and Trane hereby agrees and covenants, that it and any and all third party(ies) and subcontractor(s) retained by Trane hereunder is/are not and shall not be deemed an employee of the City of Waterbury, but is/are and shall remain an independent contractor relative to the City and that nothing herein shall be interpreted or construed as creating or establishing the relationship of employer-employee between the City of Waterbury and Trane or between the City of Waterbury and any third party(ies) or subcontractor(s). Thus, Trane hereby covenants that it, its subcontractor(s) and third party(ies) shall not be entitled to the usual characteristics of employment, such as income tax withholding, F.I.C.A. deductions, pension or retirement privileges, Workers Compensation coverage, health benefits, etc. and that Trane shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, representatives, subcontractors and third party(ies).

**25. Severability.** Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Contract, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this Contract shall be enforced as if this Contract was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the provision(s) in question as originally set forth in this Contract shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

**26. Survival.** Any provisions of this Contract that impose continuing obligations on the parties shall survive the expiration or termination of this Contract for any reason.

**27. Changes in the Project: Change Orders.**

**27.1.** At the sole discretion of the City, a Change Order may be issued solely by the City to modify an existing party obligation set forth in this Contract where the scope of the Change Order is:

**27.1.1** within the scope of the original Contract OR is made pursuant to a provision in the original Contract, AND

**27.1.2** the Change Order monetary cost is charged solely against those funds encumbered for and at the time the Contract was originally executed by the City, that is those funds set forth in the original Contract as a not to exceed payment amount OR within the original Contract's contingency / allowance / reserve amount (if any is stated therein), AND

**27.1.3** The Final Completion Date has not been changed.

**27.2.** Notwithstanding the foregoing, a Change Order shall not include

**27.2.1** an upward adjustment to a Contractor's payment claim, or

**27.2.2** a payment increase under any escalation clause set forth in the original Contract, or any Change Order, or any amendment.

**27.3.** That the work and/or services contemplated are necessary does not, in itself, permit a Change Order. Should the need for a Change Order arise, the request shall be reviewed and approved by the City's Using Agency and any City designated representative(s). To be binding and enforceable, a Change Order shall thereafter be signed by both the Contractor, any City designated representative(s), and a duly authorized representative of the City's Using Agency prior to the Contractor's delivery of the services, etc. contemplated in said Change Order. All Change Orders are governed by the provisions of this Contract. Any contract change NOT fully complying with this Section 27 shall be effectuated solely by an amendment to this Contract complying with Section 38.073 of the City's "Centralized Procurement System" ordinance.

**28. Conflicts or Disputes.** This Contract represents the concurrence between the City and Trane and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the Contract, the following documents shall be used as historical documents, without regard to the order of precedence, to resolve such conflicts or disputes, the historical documents are **(i)** the City's aforementioned **RFP No. 6551**, and **(ii)** the Contractor's proposal responding to the aforementioned **RFP No.6551**.

**28.1. Procedure.** This procedure supersedes all statements to the contrary occurring either in proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

**28.2. Presumption.** This Contract or any section thereof shall not be construed against any party due to the fact that the Contract or any section thereof was drafted by such party.

**29. Disputes; Legal Proceedings; Waiver of Trial by Jury and Continued Performance.** Trane agrees that it waives a trial by jury as to any and all claims, causes of action or disputes arising out of this Contract or services to be provided pursuant to this Contract. Notwithstanding any such claim, dispute or legal action, Trane shall continue to perform services under this Contract in a timely manner, unless otherwise directed by the City.

**30. Binding Contract.** The City and Trane each bind themselves, and their successors, assigns and legal representatives to the other party to this Contract and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

**31. Waiver.** Any waiver of the terms and conditions of this Contract by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this Contract.

**32. Governing Laws.** This Contract, its terms and conditions and any claims arising therefrom shall be governed by the laws of the State of Connecticut.

**33. Notice.** Except as otherwise specifically prohibited in this Contract, whenever under this Contract approvals, authorizations, determinations, notices, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the City or the Contractor, and delivered in hand or sent by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

Contractor: Trane U.S., Inc.  
716 Brook Street, Suite 130,  
Rocky Hill, Connecticut 06067

City: City of Waterbury  
Chase Municipal Building  
235 Grand Street  
Waterbury, CT 06702

**34. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.**

The Person (the term "Person" shall herein be as defined in Section 38 of the City's Code of Ordinances) supplying the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. under this Contract shall comply with all applicable Federal, State and Municipal statutes, regulations, charters, ordinances, rules, etc., whether or not they are expressly stated in this Contract, including but not limited to the following:

**34.1.** It shall be a material breach of this Contract, and, except as may be permitted by regulations or rulings of the City of Waterbury Board of Ethics it shall be a violation of the City's Code of Ordinances, for any Public Official, City Employee or Member of a Board or Commission who is participating directly or indirectly in the procurement process as set forth in the City's Code of Ordinances, including those participating in exempt transactions, to become or be the employee of any person contracting with the governmental body by whom the Official, Employee, or Board or Commission member is employed or is a member.

**34.2.** It shall be a material breach of this Contract, and it shall be a violation of the City's Code of Ordinances for any Person to offer, give, or agree to give any current or former Public Official, Employee or Member of a Board or Commission, or for such current or former Public Official, Employee or Member of a Board or Commission to solicit, demand, accept or agree to accept from another Person, a gratuity or an offer of employment in connection with any: decision; approval; disapproval; recommendation; preparation of any part of a program requirement or a requisition; influencing the content of any specification or procurement standard; or rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or Purchase Order, or to any solicitation or proposal therefore.

**34.3.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for any payment, Gratuity, or offer of employment to be made as an inducement for the award of a subcontract or order, by or on behalf of a subcontractor, the prime Contractor or higher tier subcontractor or any Person associated therewith, under a Contract or Purchase Order to the City.

**34.4.** The value of anything transferred or received in violation of the City's Charter, Code of Ordinances, and/or regulations promulgated there under, by any Person subject to said Charter and/or Ordinances may be recovered by the City.

**34.5.** Upon a showing that a subcontractor made a kickback to the City, a prime Contractor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

**34.6.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City

Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained anyone in violation of this subsection 34.6, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection 34.6 shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

**34.7.** The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has **(i)** delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owed to the City; **(ii)** filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; **(iii)** delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and **(iv)** filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection 34.7 shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

**34.8.** The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections 34.1-34.7.

**34.9.** Trane is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, all relevant provisions of the City's Charter and all relevant provisions of the City's Code of Ordinances, including without limitation Chapters 93, titled "Discriminatory Practices", Chapter 38 titled "Centralized Procurement System", and Chapter 39 titled "Ethics and Conflict of Interest", of said Code as may be amended from time to time.

**34.10.** Trane hereby acknowledges receipt of a copy of the Chapters 38 and 39 of City's Ordinance regarding Procurement, Ethics, and Conflicts of Interest and has familiarized itself with said Code and hereby agrees to adhere to said Code. The text of Chapters 38 and 39 of said Code may be obtained from the Office of the City Clerk of the City and on the internet at the City Clerk's web site: <http://www.waterburyct.org/content/458/539/default.aspx> [click link titled "The City of Waterbury Code of Ordinances Passed 8/24/2009". For Chapter 38, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 38: CENTRALIZED PROCUREMENT SYSTEM". For Chapter 39, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 39: ETHICS AND CONFLICTS OF INTEREST"]].

**34.11.** Trane is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled,

"Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects," and the State of Connecticut Legislature's Special Act No. 01-1.

**34.12.** Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto. In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

**34.13. INTEREST OF CITY OFFICIALS.** No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

**34.14. PROHIBITION AGAINST CONTINGENCY FEES.** Trane hereby represents that it has not retained anyone to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage or contingency fee.

**34.15. FREEDOM OF INFORMATION ACT NOTICE.** Pursuant to State statute, in the event the total compensation payable to Trane set forth in Section 6 herein is greater than \$2,500,000.00, the City is entitled to receive a copy of any and all Contractor records and files related to the performance of this Contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be disclosed by the City pursuant to the Act.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto execute this Contract on the dates signed below.

WITNESSES:

CITY OF WATERBURY

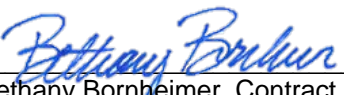
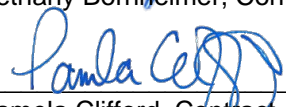
\_\_\_\_\_  
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By: \_\_\_\_\_  
Neil M. O'Leary, Mayor

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

WITNESSES:

Trane U.S., Inc.

  
\_\_\_\_\_  
Bethany Bornheimer, Contract Analyst  
  
\_\_\_\_\_  
Pamela Clifford, Contract Analyst

By:  \_\_\_\_\_  
Shana Schlifer  
Its Contract Manager \_\_\_\_\_

Date: 04/01/2020 \_\_\_\_\_



## **ATTACHMENT A**

1. City of Waterbury Request for Proposal (“RFP”) No. 6551,(excluding contractor compliance packet and sample City contract),consisting of 21 pages, attached hereto;
2. Addendum No. 1 to RFP No. 6551, dated January 6, 2020, consisting of 1 page, attached hereto;
3. Trane’s response to City of Waterbury RFP no. 6551, dated January 8, 2020, consisting of 17 pages, attached hereto;
4. Any and all amendment(s) and Change Orders, issued by the City after execution of Contract (incorporated by reference);\
5. Stockholder’s Affidavit; Non-Collusion Affidavit; Debarment Certificate (incorporated by reference);
6. Performance Bond and Payment Bond (incorporated by reference);
7. Certificates of Insurance (incorporated by reference);
8. Department of Environmental Protection Regulations (CWF-1 through CWF-32) (incorporated by reference);
9. All applicable Federal, State and local statutes, regulations charter and ordinances (incorporated by reference);
10. All permits and licenses (incorporated by reference).

# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON FINANCE**

Item #9.4

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends that the Waterbury Board of Education approve a Maintenance Services Agreement with SNE Building Systems, Inc. for maintenance services for building management systems, system support services and temperature control at various schools.

Approved:

---

Rocco F. Orso

## **Memorandum**

To: Board of Aldermen  
Board of Education

From: Chris Harmon, School Inspector

Date: April 6, 2020

Re: **Board of Education and Board of Aldermen Approval Request / Executive Summary - Contract for Maintenance Services Agreement for Building Management System, System Support Services and Temperature Control at Various Schools with SNE Building Systems, Inc.**

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The School Inspector respectfully requests your approval of the above-referenced contract in the amount of \$246,000.00 for Maintenance Service Agreement and Repairs for the Building Management System between the City of Waterbury and SNE Building Systems, Inc.

This contract was initiated under Maintenance Services Agreement Renewal with SNE Building Systems, Inc for proprietary Building Management System Maintenance and Repairs at seven school locations (Laurel Hill and Bergin Complexes, Kennedy High School, Rotella and Maloney Magnet Schools, Gilmartin, Duggan Elementary School, Enlightenment School (State Street School) and Jonathan Reed Elementary School.

The School Inspector has been using SNE since 2010 and has been very pleased with their service and performance during that time.

The contract will allow SNE Building System, Inc. to continue to perform on-site system inspections and scheduled preventive maintenance and repairs to ensure that the Building Management System (BMS) is operating at maximum performance.

Accordingly, attached for your review and consideration are 12 copies of the proposed contract, plus the Vendor Award letter as prepared by the Purchasing Department, the Successful Bidder's Bid Form and Disclosure and Certification of Obligations Affidavit Regarding Outstanding Obligations Form plus a copy of the Tax Clearance issued by the Office of Tax Collections.

Please note further that one complete set of Documents, including Contract, has been placed on file with the City Clerk's Office.

Thank you.

**MAINTENANCE SERVICES AGREEMENT**  
for  
Maintenance Services for Building Management System, System Support  
Services and Temperature Control at Various City Schools  
Between  
The City of Waterbury, Connecticut  
and  
SNE Building Systems, Inc.

**THIS AGREEMENT**, effective on the date signed by the Mayor, is by and between the City of Waterbury, City Hall, 235 Grand Street, Waterbury, Connecticut (the "City") and SNE Building Systems, Inc., located at 29H Kripes Road, P.O. Box 575, East Granby, Connecticut 06026, a State of Delaware duly registered foreign corporation (the "Contractor").

**WHEREAS**, the Purchasing Director of the City of Waterbury has determined that Contractor, SNE Building Systems, Inc., is a sole source to provide the services listed below; and

**WHEREAS**, the Contractor has agreed to provide the services as set forth herein for the identified schools; and

**WHEREAS**, the City desires to obtain the Contractor's services pursuant to the terms, conditions and provisions set forth in this agreement (the "Project").

**NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:**

**1. Scope of Services.** The Contractor shall furnish all of the labor, services, equipment, materials, reports, plans, specifications, drawings, supplies, deliverables, and incidentals necessary to complete the Project as specified in this agreement (also referred to herein as "Contract") and such shall be completed in a satisfactory manner, as reasonably determined by the City. All labor, services, reports, plans, specifications, drawings, supplies, deliverables, and incidentals shall comply with **(i)** any and all applicable local, state and federal laws, statutes, ordinances, rules and regulations, including without limitation all notice requirements thereunder, and **(ii)** generally accepted professional standards.

**1.1.** The Project consists of Maintenance of the Building Automation System (BAS), System Support Services and Temperature Control in the Laurel Hill Complex (Consisting Of Wilby High And North End Middle Schools), Rotella Magnet School, Bergin Complex (Consisting Of Crosby High And Wallace Middle Schools), Maloney Magnet School, Kennedy High School, Gilmartin Elementary School, Duggan Elementary School, Enlightenment School, And Jonathan E. Reed Elementary Schools. The Services shall include the following: on-site scheduled inspection and preventive maintenance to ensure that all direct digital controllers, VAV zone controllers, sensors and modules. that are connected to the heating and cooling equipment are operating

properly, as more particularly detailed and described in the documents Entitled Level of Coverage Building Automation System, and List of Covered Equipment, SNE shall also provide hours of services per school as set forth in the Waterbury Schools Maintenance Hourly Distribution (per year) schedule, all of which are attached hereto as part of Attachment A and are hereby made material provisions of this Contract. **Attachment A** shall having been received, or otherwise hereby incorporated by reference as noted below, and all are made a part hereof:

- 1.1.1 Level of Coverage Building Automation Services and, List of Covered Equipment, submitted by the Contractor, Dated, May 20, 2019, consisting of 4 pages attached hereto;
- 1.1.2 SNE Waterbury School Maintenance Hours Distribution, dated March 30, 2020, consisting of 1 page attached hereto;
- 1.1.3 Any and all amendment(s) and Change Orders, issued by the City after execution of Contract (incorporated by reference);
- 1.1.4 Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate (incorporated by reference);
- 1.1.5 Performance Bond and Payment Bond (incorporated by reference);
- 1.1.6 Certificates of Insurance (incorporated by reference);
- 1.1.7 Department of Environmental Protection Regulations (CWF-1 through CWF-32) (incorporated by reference);
- 1.1.8 All applicable Federal, State and local statutes, regulations charter and ordinances (incorporated by reference)
- 1.1.9 All permits and licenses, where applicable (incorporated by reference)..

1.2. The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). The City's record copy of the Contract Documents shall control and shall be effective and binding on the Contractor. In the event that any provision in the Contract Documents conflict with any other provision therein, the provision in the component part of the Contract Document first enumerated below shall govern over any other component part which follows it numerically.

- 1.2.1 This Agreement
- 1.2.2 Attachment A – Level of Coverage, and Covered Equipment
- 1.2.3 All applicable Federal, State and local statutes, regulations charter and ordinances

**2. Representations Regarding Qualification and Accreditation.** The Contractor represents that its employees are licensed to perform the scope of work set forth in this Contract. The Contractor further represents that its employees have the requisite skill, expertise and knowledge necessary to perform the scope of work required under the terms of this Contract, including any supplementary work and the City relies upon these.

**2.1. Representations regarding Personnel.** The Contractor represents that it has, or will secure at its own expense, all personnel required to perform the services under

this Contract. Such personnel shall not be employees of or have any contractual relationship with the City, unless use of City employees or of personnel having a contractual relationship with the City is approved in writing. As set forth above, all the services required hereunder shall be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

**2.2. Representations regarding Qualifications.** The Consultant hereby represents that, to the extent required by Federal, State and Local statutes, regulations, codes, ordinances, and policies, that the Consultant and/or its employees be licensed, certified, registered, or otherwise qualified, the Consultant and all employees providing services under this Contract, are in full compliance with those statutes, regulations and ordinances. Upon City request, the Consultant shall provide to the City a copy of the Consultant's licenses, certifications, registrations, etc.

**3. Responsibilities of the Contractor.** All data, information, etc. given by the City to the Contractor and/or created by the Contractor shall be treated by the Contractor as proprietary to the City and confidential unless the City agrees in writing to the contrary and shall be used solely for the purposes of providing services under this agreement. The Contractor agrees to forever hold in confidence all files, records, documents and other information which may come into the Contractor's possession during the term of this agreement, except where a disclosure is expressly stated as a requirement of this agreement. Notwithstanding the foregoing, where a Contractor disclosure is required to comply with statute, regulation, or court order, the Contractor shall provide prior advance written notice to the City of the need for such disclosure. The Contractor agrees to properly implement the services required in the manner herein provided.

**3.1. Use of City Property.** To the extent the Contractor is required to be on City property to render its services hereunder, the Contractor shall have access to such areas of City property as the City and the Contractor agree are necessary for the performance of the Contractor's services under this agreement (the "Site" or the "Premises") and at such times as the City and the Contractor may mutually agree. Contractor shall perform all work in full compliance with Local, State and Federal health and safety regulations. All work hereunder shall be performed in a safe manner. Contractor shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which City reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Contractor, City may, but shall not be required to, correct same at Contractor's expense. City shall confirm in writing any oral notice given within five (5) days thereafter.

**3.2. Working Hours.** To the extent the Contractor is required to be on City property to render its services hereunder, the Contractor shall coordinate its schedule so that work on the Premises is performed during those hours the City sets forth in a written notice to the Contractor, unless written permission is obtained from the City to work during other times. This condition shall not excuse Contractor from timely performance

under the Contract. The work schedule must be agreed upon by the City and the Contractor.

**3.3. Cleaning Up.** To the extent the Contractor is required to be on City property to render its services hereunder, the Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Contractor, its employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the project and all tools, scaffolding and surplus materials and shall leave the Premises "broom clean" or its equivalent, unless more exactly specified. In case of dispute, the City may remove the rubbish and charge the cost to the Contractor.

**3.4. Publicity.** Contractor agrees not to deliberately disclose the fact that the City has entered into or terminated this Contract or disclose any of the terms of the Contract or use the City's name in connection with any publicity, unless the City gives prior written consent to such use of the City's name in each instance.

**3.5. Standard of Performance.** All labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc., either at the Premises or intended for it, shall conform in all respects with the requirements of all this agreement, and shall be the best obtainable from the crafts and trades. In all cases, the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. shall be equal to or better than the grade specified, and the best of their kind that is obtainable for the purpose for which they are intended.

**3.5.1** The standard of care and skill for all services performed by the Contractor shall be that standard of care and skill ordinarily used by other members of the Contractor's profession practicing under the same or similar conditions at the same time and in the same locality. The Contractor's services rendered hereunder shall be rendered completely and by qualified personnel in accordance with standard industry practice.

**3.6. Contractor's Employees.** The Contractor shall at all times enforce strict discipline and good order among its employees, and shall not employ any unfit person or anyone not skilled in the work assigned.

**3.7. Due Diligence Obligation.** The Contractor acknowledges its responsibilities to examine and to be thoroughly familiar with the City's proposal document, including, but not limited to the specifications, and any addenda thereto. The Contractor hereby warrants and represents that prior to the submission of its proposal during the proposal process, it reviewed or was afforded opportunity, by the City, to review all physical items, facilities, services or functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services or functions are included in this agreement and thereby warrants that:

**3.7.1** it conducted or had opportunity to conduct all Due Diligence prior to the submission of its proposal and, accordingly, any additional costs, services or

products resulting from the failure of the Contractor to complete Due Diligence prior to submission of its proposal shall be borne by the Contractor. Furthermore the Contractor had the opportunity during the proposal process to ask questions it saw fit and to review the responses from the City;

**3.7.2** its failure or omission to make investigation and verification of data shall, in no way, be cause for future claim of ignorance of such data or conditions nor shall such failure to investigate and verify be the basis for any claim whatsoever, monetary or otherwise;

**3.7.3** it is solely responsible for resolving any issues resulting from the failure to conduct Due Diligence and shall assume any costs that may result during the implementation of the Project, including, but not limited to, adherence to specifications and pricing for the Project.

**3.7.4** it was responsible for specifying any changes and disclosing any new costs prior to the submittal of its proposal. Thus, in the event any changes or costs are disclosed by the Contractor, or otherwise required, during the performance of its services, the sole responsibility for any modification, delay and cost of such changes shall reside with the Contractor.

**3.7.5** has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State and Local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work;

**3.7.6** has given the City written notice of any conflict, error or discrepancy that the Contractor has discovered in the Proposal Documents; and

**3.7.7** agrees that the Proposal Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

**3.8. Reporting Requirement.** The Contractor shall deliver periodic, it's written reports to the City's Using Agency setting forth **(i)** the issue date of the report, **(ii)** the time period covered by the report, **(iii)** a brief description of the work and services completed by the Contractor and/or delivered by the Contractor during the time period covered by the report, **(iv)** expressed as a percentage of the total work and services required under this contract, the percentage of the total work represented by the work and services described in subsection iii above, **(v)** expressed as a percentage of this contract's Section 6 total compensation, the percentage of the total compensation represented by the work and services described in subsection iii above, **(vi)** the Contractor's declaration as to whether the entirety of the Contractor's work and services required in this Contract will be, or will not be, completed within the Contract's Section 6 total compensation amount, and **(vii)** any and all additional useful and/or relevant information. Each report shall be signed by its operations manager.



NOTE: the Contractor 's failure to deliver any report required herein shall be deemed a material breach of this Contract, the City hereby reserving the right to exercise all available legal remedy(ies) to address said breach.

**4. Responsibilities of the City.** Upon the City's receipt of the Contractor's written request, the City will provide the Contractor with documents, data and other materials the City agrees are necessary and appropriate to the services to be performed by the Contractor hereunder and the City will endeavor to secure, where feasible and where the City agrees it is necessary and appropriate, materials or information from other sources requested by the Contractor for the purpose of carrying out the services under this Contract.

**5. Contract Time.** The Contractor shall commence all work and Services required under this Contract on August 1, 2019 and shall complete all work and services required under this on July 31, 2022. Delete (" Contract Term").

**5.1** Time is and shall be of the essence for all Project milestones and services to be provided to the City under this Contract. The Contractor further agrees that the Project shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion of the services, milestones and Contract Time. It is expressly understood and agreed, by and between the Contractor and City, that the Contract Time is reasonable for the completion of the Project.

**6. Compensation.** The City shall compensate the Contractor for satisfactory provision of all of the goods and services set forth in this Contract as follows in this Section 6. No claims for additional compensation will be considered for conditions made known to the Contractor prior to bidding. No claims for additional compensation will be considered on account of failure of the Contractor to completely inform itself as required herein above.

**6.1. Fee Schedule.** The fee payable to the Contractor shall not exceed TWO HUNDRED FORTY-SIX THOUSAND DOLLARS (\$246, 000 .00) and shall be in accordance with the Contractor's Building Automation System attached hereto as part of **Attachment A**, and shall also include a City controlled Contingency of THIRTY THOUSAND DOLLARS (\$30,000.00), All fees and hourly rates shall be as set forth in Attachment A and shall be payable to the Contractor semi- annually. With the basis of payment being as follows:

**6.1.1** Fee for Year 1 –August 1, 2019- July 31, 2020  
In an amount not to exceed  
Seventy-Two Thousand Dollar.....\$72,000.00

**6.1.2** Fee for Year 2- August 1, 2020- July 31, 2021  
In an amount not to exceed  
Seventy-Two Thousand Dollar.....\$72,000.00

**6.1.3** Fee for Year 3- August 1, 2021- July 31, 2022

In an amount not to exceed  
Seventy-Two Thousand Dollar.....\$72,000.00

**6.1.4 City Controlled Contingency for Years 1-3**

August 1, 2020- July 31, 2022

In an amount not to exceed  
Thirty Thousand Dollars.....\$30,000.00

**6.1.5 Total Compensation**

An amount not to exceed

Two Hundred Forty-Six Thousand Dollars.....\$246, 000.00

**6.2. Contingency.** The Contingency in the amount of Thirty Dollars (\$30,000.00) shall be utilized at the sole discretion of the City for additional work and services not set forth in this contract, such as emergency calls.

**6.3. Limitation of Payment.** Compensation to the Contractor is limited to those fees set forth in Section 6.1. above and is further limited to work **(i)** performed in fact, **(ii)** conforming with this Contract, and **(iii)** accepted in writing by a duly authorized City employee. Such compensation shall be paid by the City upon its review and approval of the Contractor's invoices for payment and review of the Contractor's work.

**6.3.1 Funding.** In the event this Contract is funded, in whole or in part, by Federal and/or State monies, grants, loans, etc, all City payment(s) shall fully comply with all relevant Federal and State statutes and regulations. In the event this Contract is 100% funded by Federal and/or State monies, grants, loans, etc., the aggregate sum of all City payments shall not exceed the aggregate sum of such funding.

**6.3.2** The Contractor and its affiliates are hereby provided with notice that the City reserves the right, in the City's sole discretion, to offset, withhold, or otherwise reduce City payment(s) to the Contractor, in an amount equaling the sum or sums of money the Contractor and/or its affiliates is/are, or become delinquent or in arrears on, regarding the Vendor's and/or its affiliates real and personal property taxes and other payment obligations to the City.

**6.4. Review of Work.** The Contractor shall permit the City to review, at any time, all work performed under the terms of this Contract at any stage of the work. The Contractor shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the agreement, settlement of claims or any other matter pertaining to the Contractor's demand for payment. The City shall not certify fees for payment to the Contractor until the City has determined that the Contractor has completed the work in accordance with the requirements of this Contract.

**6.5. Proposal Costs.** All costs of the Contractor in preparing its proposal for this Contract shall be solely borne by the Contractor and are not included in the compensation to be paid by the City to the Contractor under this Contract or any other agreement.

**6.6. Payment for Services, Materials, Appliances, Employees.** The Contractor shall be responsible to the City for the suitability of services, materials and equipment furnished to comply fully with the requirements set forth in this Contract. The Contractor shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for subcontractors, materials, supplies and services going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this Project. Before final City payment is made, the Contractor shall furnish to the City a sworn, notarized, affidavit stating that all of the foregoing payment obligations have been fully completed.

**6.7. Liens.** Neither the City's final payment nor any part of the retained percentage, if any, shall become due until the Contractor, if required by the City, shall deliver to the City a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and, if required, in either case, an affidavit that so far as the Contractor has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the City all moneys that the City may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**7. Warranty of the Contractor.** Contractor warrants to the City that all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. furnished under this Contract shall be new, and that all work under this Contract shall be of good quality, free from faults and defects and in conformance with this Contract for a period of no less than three hundred sixty-five (365) days after the date of the City's written acceptance of such work.

**8. Passing of Title and Risk of Loss.**

**8.1.** City beneficial use of Project equipment, materials, site-work, etc. prior to the Contractor's final completion of the Project or prior to the City's final payment for the Project shall neither act to vest title in the City nor act to transfer risk of loss from the Contractor to the City. Said title and risk shall pass to the City upon the City's final payment for the Project.

**8.2.** Contractor and its insurer shall assume the risks of loss or damage to the equipment up to and including the date title passes, except that City shall be responsible for loss or damage caused by City's gross negligence.

**8.3.** After Project equipment, materials, etc. are delivered to the Project work-site and become operable or functional, the Contractor shall not thereafter remove any such equipment, materials, etc. from the Project work-site without securing the prior written consent of an authorized City Using Agency employee.

## **9. Indemnification.**

**9.1.** The Contractor shall indemnify, defend, and hold harmless the City, City's Boards, and Board of Education, commissions, agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the delivery of the labor, services, equipment, materials, reports, plans, specifications, design, drawings, deliverables, incidentals, etc. provided that any such claims, suits, damages, losses, judgments, costs or expenses **(i)** are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, **(ii)** are alleged to be caused in whole or in part by any willful, intentional, negligent, or reckless act or omission of the Contractor, its employees, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder; **(iii)** enforcement action or any claim for breach of the Contractor's duties hereunder or **(iv)** claim for intangible loss(es) including but not limited to business losses, lost profits or revenue, regardless of whether or not it is caused in part by a party indemnified hereunder.

**9.2.** In any and all claims against the City, Board of Education or any of City's boards, agents, employees or officers by the Contractor or any employee of the Contractor, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 9 above, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

**9.3.** The Contractor understands and agrees that any insurance required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, defend, keep and hold harmless the City, the Board of Education, any of City's boards, agents, employees as provided in this Contract.

**9.4.** The Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City and the City's boards, agents, employees or officers as provided herein.

**9.5. Royalties and Patents.** The Contractor shall, for all time, secure to the City the free and undisputed right to the use of any and all patented articles and methods used in

the work and shall defend at Contractor's own expense any and all suits for infringement or alleged infringement of such patents, and in the event of adverse award under patent suits, the Contractor shall pay such awards and hold the City harmless in connection with any patent suits that may arise as a result of installations made by the Contractor and as to any award made thereunder.

**9.6.** In the event this Contract and/or the Contractor's, or its subcontractor, work and services provisioned hereunder is/are subject to the provisions of any Federal or State statute or regulations, or the City Charter or City Ordinance, the Contractor shall indemnify, defend and hold harmless the City from any fine, penalty or other amounts imposed on the City under said statutes, regulations, Charter or Ordinances, if caused by Contractor, or its subcontractor, omission or commission..

**10. Contract Bonds.** The Contractor shall furnish to the City, prior to the execution of this Contract by the City, a performance bond and a payment bond each for the penal sum of Two Hundred Forty-Six Thousand Dollars (\$246,000.00) in a form and with a surety acceptable to the City. The bonds shall continue in effect for one year after Final Completion of the Project.

**11. Contractor's Insurance.**

**11.1.** The Contractor shall not commence work under this Contract until all insurance required under this Section 11 has been obtained by the Contractor and such insurance has been approved by the City. The Contractor shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been so obtained and approved by the City. Insurance shall be provided by insurers, satisfactory to the City and authorized to do business in the State of Connecticut, an "A-" Best's Rating and at least a Class V3 or better financial size category as shown in the most current A.M. Best Company ratings.

**11.2.** At no additional cost to the City, the Contractor shall purchase and maintain the insurance coverages set forth below which shall protect the City from claims which may arise out of or result from the Contractor's obligation under this Contract, whether such obligations are the Contractor's or subcontractor or person or entity directly or indirectly employed by said Contractor or subcontractor, or by any person or entity for whose acts said Contractor or subcontractor may be liable.

**11.3.** Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless. If any insurance required herein is to be issued or renewed on a claims made form as opposed to an occurrence form, the retroactive date for coverage shall be no later than the commencement date of this Contract and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims ("Tail Coverage") shall be available for at least 60 months.

**11.4.** The following policies with stated limits shall be maintained, in full force and effect, at all times during which the services are to be performed by the Contractor:

**11.4.1 General Liability Insurance:** \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate and \$2,000,000.00 Products and completed operations aggregate

Providing coverage to protect the City for all damages arising out of bodily injuries, sickness to or death of all persons in any one accident or occurrence and for all damages arising out of destruction of property in any one accident or occurrence.

**11.4.2 Automobile Liability Insurance:** \$1,000,000.00 combined single limit (CSL)

Providing coverage to protect the City with respect to claims for damage for bodily injury and or property damage arising out of ownership, maintenance, operation, use or loading and unloading of any auto including hired & non-owned autos.

**11.4.3 Workers' Compensation:** Statutory Limits within the State of Connecticut: Employers' Liability:

EL Each Accident **\$500,000.00**

EL Disease Each Employee **\$500,000.00**

EL Disease Policy Limit **\$500,000.00**

Contractor shall comply with all State of Connecticut statutes as it relates to workers' compensation.

**11.4.4 Excess/Umbrella Liability Insurance:**

Excess or Umbrella insurance coverage that follows form or sits over General Liability, Automobile Liability and Workers Compensation insurances. **\$3,000,000.00** each Occurrence and **\$3,000,000.00** each Aggregate

**11.4.5 Technology Errors and Omissions Liability Insurance:**

\$1,000,000.00 per claim (or per Occurrence, if an Occurrence based Policy), \$1,000,000.00 aggregate

**11.5. Failure to Maintain Insurance:** In the event the Contractor fails to maintain the minimum required coverage as set forth herein, the City may at its option purchase same, and offset the Contractor's invoices for the cost of said insurance.

**11.6. Cancellation:** The City of Waterbury shall receive written notice of cancellation from the Contractor at least thirty (30) calendar days prior to the date of actual cancellation, regardless of the reason for such cancellation.

**11.7. Certificates of Insurance:** The Contractor's General, Automobile and Excess Liability Insurance policies shall be endorsed to add the City and its Board of Education as additional insured and also provide a Waiver of Subrogation to all lines including Workers Compensation. The insurance afforded the additional insured shall

be primary and non-contributory insurance and the coverage and limits provided under the Contractor's policies shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Prior to the execution of this Contract by the City, the Contractor shall furnish to the City, subject to City approval, certificate(s) of insurance and Additional Insured Endorsement and Waiver of Subrogation Endorsement verifying the above coverages, including the naming of the City of Waterbury, as follows: **"The City of Waterbury and its Board of Education are listed as additional insured on all lines of coverage except Workers Compensation including waiver of subrogation to all lines of coverage as their interest may appear"**. The City's Invitation to Bid Number must be shown on the certificate of insurance to assure correct filing. The Contractor must supply replacement/renewal certificates at least 30 days prior to the expiration of the policy (ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of than thirty (30) calendar days has been mailed to the City's Using Agency and a copy to the City's Office of Corporation Counsel, 235 Grand Street, Waterbury, CT 06702.

**11.8.** No later than thirty (30) calendar days after Contractor receipt, the Contractor shall deliver to the City a copy of the Contractor's insurance policies and endorsements and riders.

**12. Conformance with Federal, State and Other Jurisdictional Requirements.** By executing this Contract, the Contractor represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by the Contractor of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: EQUAL EMPLOYMENT OPPORTUNITY; COPELAND ANTI-KICKBACK ACT, as supplemented in the Department of Labor Regulations (29 CFR, Part 3); DAVIS BACON ACT as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); the HOUSING and COMMUNITY DEVELOPMENT ACT of 1974, as amended, TITLE 31 and Section 12-430(7) of the State of Connecticut General Statutes. All applicable sections of the City Charter and Code of Ordinances are incorporated by reference made a part hereof.

**12.1. Taxes-Federal, State and Local.** The City is exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation, taxes that would otherwise be imposed upon the Contractor for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc. The Contractor remains liable, however, for any applicable tax obligations it incurs. Moreover, the Contractor represents that the bid and pricing contained in this Contract do not include the amount payable for said taxes.

**12.2. Labor and Wages-Federal and State.** The Contractor and its subcontractors shall conform to Federal and State of Connecticut labor laws, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

**12.2.1** The Contractor is aware of, and shall comply with, the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages for work on public facilities. The provisions of the Act are hereby incorporated by reference and made a part of this Contract. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in Conn.Gen.Statute 31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

**12.2.2** The Contractor is aware of, and shall comply with, the provisions of both the Federal Davis-Bacon Act and the Federal American Recovery and Reinvestment Act of 2009, the provisions of both acts hereby incorporated by reference and made a part of this Contract. The Federal Davis-Bacon Act provides that Federal wage rate laws apply to certain federally funded contracts. The American Recovery and Reinvestment Act ("ARRA") provides that Federal wage rate laws apply to all ARRA funded contracts regardless of the contract's dollar value.

**12.3. Compliance with Chapters 34, 38, and 39 of the Code of Ordinances of the City.** By executing this Contract, the Contractor represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with the provisions of Chapters 34, 38, and 39 of the Code of Ordinances of the City and well as any other relevant provisions of the Charter and the Code of Ordinances.

**13. Discriminatory Practices.** In performing this Contract, the Contractor shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring non-discrimination in employment as herein



specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this Contract. Said provisions with subcontractors shall require conformity and compliance with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

**13.1. Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because such person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

**13.2. Equal Opportunity.** In its execution of the performance of this Contract, the Contractor shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship status, age or handicap. The Contractor agrees to comply with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors

**13.3. Affirmative Action.**

**13.3.1. Pursuant to CONN. GEN. STAT. § 4a-60, as amended by June 2015 Special Session Public Act 15-5, the following are required for every Municipal Public Works Contract:**

(a) Every contract to which an awarding agency is a party, every quasi-public agency project contract and every municipal public works contract shall contain the following provisions:

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

(2) The contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an

"affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission on Human Rights and Opportunities;

(3) The contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(4) The contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, as amended by this act, 46a-68e, 46a-68f and 46a-86; and

(5) The contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56, as amended by this act.

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

**13.3.2. Pursuant to CONN. GEN. STAT. § 4a-60a, as amended by June 2015 Special Session Public Act 15-5, the following are required for every Municipal Public Works Contract:**

(a) Every contract to which an awarding agency is a party, every contract for a quasi-public agency project and every municipal public works contract shall contain the following provisions:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation;

(2) The contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers'

representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(3) The contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and

(4) The contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

**14. This section left intentionally blank.**

**15. This section left intentionally blank.**

**16. Termination.**

**16.1. Termination of Contract for Cause.** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by either (i) giving written notice to the Contractor of a date certain by which Contractor shall, to the written satisfaction of the City, cure after which and without further action by any party, such termination shall automatically become effective and binding, or (ii) giving written notice to the Contractor specifying the effective date of such termination at least five (5) business days before the effective date of such termination.

**16.1.1** In the event of a termination, all finished or unfinished documents, data, studies, reports, plans, specifications, drawings, supplies, services, etc. prepared by the Contractor under this Contract shall, at the option of the City, become the City's property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

**16.1.2** Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the City from the Contractor is determined.

**16.2. Termination for Convenience of the City.** The City may terminate this Contract at any time for the convenience of the City, by a notice in writing from the City to the Contractor. If this Contract is terminated by the City as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation

as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made.

**16.3. Termination for Non-Appropriation or Lack of Funding.** The Contractor acknowledges that the City is a municipal corporation and that this Contract is subject to the appropriation and disbursement of funds by the City sufficient for this Contract for each budget year in which this Contract is in effect. The Contractor therefore agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City in the event that sufficient funds to provide for City payment(s) under this Contract is not appropriated, not authorized, or not made available, or such funding has been reduced. In the event this Contract is subject, in whole or in part, to the appropriation and disbursement of Federal and/or State funds and those Federal and/or State funds are not appropriated or are not disbursed to the City, the Contractor hereby agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City.

**16.3.1 Effects of Non-Appropriation.** If funds to enable the City to effect continued payment under this Contract are not appropriated, authorized or otherwise made available by law, the City shall have the right to terminate this Contract without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to the Contractor.

**16.3.2 Effects of Reduced Levels of Funding.** If funding is reduced by law, or funds to pay the Contractor for the agreed to level of the products, services and functions to be provided by the Contractor under this Contract are not appropriated, authorized or otherwise made available by law, the City may, upon seven (7) business days written notice to the Contractor, reduce the level of the products, services or functions in such manner and for such periods of time as the City may elect. The charges payable under this Contract shall be equitably adjusted to reflect such reduced level of products, services or functions and the parties shall be afforded the rights set forth in this Contract.

**16.3.3 No Payment for Lost Profits.** In no event shall the City be obligated to pay or otherwise compensate the Contractor for any lost or expected future profits.

#### **16.4. Rights Upon Termination.**

**16.4.1 Termination for Cause.** In the event the City terminates this Contract for cause, the Contractor shall relinquish to the City any applicable interest, title and ownership including, but not limited to, perpetual use of any proprietary rights in and to the products and deliverables delivered to, in possession of and properly invoiced and paid for by (except to the extent such invoiced amount is disputed) the City. With regard to third party products, the Contractor shall transfer all licenses which it is permitted to transfer in accordance with the

applicable third party license. The City shall have no financial obligation to compensate the Contractor for such terminated products unless payment is otherwise approved by the City prior to such termination. The Contractor shall be liable for costs incurred by the City, including but not limited to reasonable attorney fees and all court awarded fees and costs incurred in terminating this Contract in whole or in part.

**16.4.2 Termination for Lack of Funding or Convenience.** In the event of termination by the City for lack of funding or convenience, the City shall pay the Contractor for all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc.(including any holdbacks) installed and delivered to the City as of the Termination Date and the Contractor shall relinquish to the City any applicable interest, title and ownership including, but not limited to perpetual use of any proprietary rights in and to said labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. delivered to, in possession of and paid for by the City (except to the extent any invoiced amount is disputed). The Contractor shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience the City and the Contractor may negotiate a mutually acceptable payment to the Contractor for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this Contract pertaining to changes in the Project.

**16.4.3 Assumption of Subcontracts.** In the event of termination, the City shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this Contract.

**16.4.4 Delivery of Documents.** In the event of termination, **(i)** the Contractor shall promptly deliver to the City, in a manner reasonably specified by the City, all documents and other tangible items furnished by, or owned, leased, or licensed by, the City, and **(ii)** the City shall pay the Contractor for all services performed and deliverables completed and accepted (pro-rated for deliverables partially completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

**16.5. Ownership of Instruments of Service.** The City acknowledges the Contractor's documents, reports, plans, specifications, drawings, deliverables, etc. created and to be created pursuant to this agreement, including electronic files, are Instruments of Service. Nevertheless, the final Instruments of Service, including, but not limited to architects, engineering, construction, and similar documents, reports, plans, specifications, drawings, deliverables, etc. prepared under this agreement shall become the property of the City upon City payment for that Instrument of Service and the City reserves the right to use the Instruments of Service.

**17. Force Majeure.** Contractor shall not be held responsible for delays nor be subject to liquidated damages when such delays are caused by conditions beyond its control, including without limitation:

**17.1.** Acts of God, fire, explosion, epidemic, cyclone, flood, war, strikes, revolution, civil commotion, or acts of public enemies; and

**17.2.** Change of law and order, proclamation, regulation, ordinance, or governmental requirement.

Upon cessation of work for reason of force majeure delays, Contractor shall use its best efforts to meet the schedule set forth in Section 5 of this Contract.

**18. Subcontracting.** The Contractor shall not, without the prior written approval of the City's Using Agency, subcontract, in whole or in part, any of the Contractor's services. Any subcontractor so approved shall be required to secure and maintain insurance coverage equal to or better than that required of the Contractor and shall name the City as an additional insured party and said subcontractors shall deliver to the City a certificate of insurance evidencing such coverages. All subcontractors shall comply with all federal, state and local, laws, regulations and ordinances but such requirement shall not relieve the Contractor from its requirement that all services provided hereunder shall comply with all Federal, State and local, laws, regulations and ordinances.

**18.1.** The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

**18.2.** The Contractor is responsible for and shall control activities of its subcontractors, and the subcontractors shall consult and cooperate with one another and other contractors working on the Project site. Each subcontractor shall furnish all necessary information to other subcontractors and shall lay out and install its own work so as to avoid any delays or interferences with the work of another. Any cost for changes, cutting and/or repairing, made necessary by failure to observe the above requirements shall be borne by the Contractor or subcontractor responsible for such failure or neglect.

**18.3.** The Contractor shall not, without the prior written approval of the City's Using Agency, substitute, terminate, replace or otherwise remove a subcontractor.

**19. Assignability.** The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City; provided, however, that claims for money due or to become due the Contractor from the City under this Contract may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

**20. Audit.** The City reserves the right to audit the Contractor's books of account in relation to this Contract any time during the period of this Contract or at any time during the twelve month period immediately following the closing or termination of this Contract. In the event the City elects to make such an audit, the Contractor shall immediately make available to the City all records pertaining to this Contract, including, but not limited to, payroll records, bank statements and canceled checks.

**21. Risk of Damage and Loss.** The Contractor shall be solely responsible for causing the timely repair to and/or replacement of, City property or item(s) intended to become City property hereunder, where the need for repair or replacement was caused by the Contractor, by someone under the care and/or control of the Contractor, by any subcontractor of the Contractor, or by any shipper or delivery service. The Contractor shall be solely responsible for all costs and expenses, including but not limited to shipping, delivery, insurance, etc, associated with the foregoing repair and replacement obligation. Further, the Contractor shall be solely responsible for securing the City's written acceptance of all completed repairs and replacements required hereunder. The City hereby retains sole discretion to determine whether a repair or a replacement is the proper remedy.

**22. Interest of Contractor.** The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the Project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

**23. Entire Contract.** This Contract shall constitute the complete and exclusive statement of the contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this Contract must be in writing and agreed to and executed by the City and the Contractor, and must comply with the City's Charter and Code of Ordinances.

**24. Independent Contractor Relationship.** The relationship between the City and the Contractor is that of client and independent contractor. No agent, employee, or servant of the Contractor shall be deemed to be an employee, agent or servant of the City. The Contractor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this agreement. It is the express intention of the parties hereto, and the Contractor hereby agrees and covenants, that it and any and all third party(ies) and subcontractor(s) retained by the Contractor hereunder is/are not and shall not be deemed an employee of the City of Waterbury, but is/are and shall remain an independent contractor relative to the City and that nothing herein shall be interpreted or construed as creating or establishing the relationship of employer-employee between the City of Waterbury and the Contractor or between the City of Waterbury and any third party(ies) or subcontractor(s). Thus, the Contractor hereby covenants that it, its subcontractor(s) and third party(ies) shall not be entitled to the usual characteristics of employment, such as income tax withholding, F.I.C.A. deductions, pension or retirement privileges, Workers Compensation coverage, health benefits, etc. and that the Contractor shall be solely and entirely responsible

for its acts and the acts of its agents, employees, servants, representatives, subcontractors and third party(ies).

**25. Severability.** Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Contract, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this Contract shall be enforced as if this Contract was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the provision(s) in question as originally set forth in this Contract shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

**26. Survival.** Any provisions of this Contract that impose continuing obligations on the parties shall survive the expiration or termination of this Contract for any reason.

**27. Changes in the Project: Change Orders.**

**27.1.** At the sole discretion of the City, a Change Order may be issued solely by the City to modify an existing party obligation set forth in this Contract where the scope of the Change Order is:

**27.1.1** within the scope of the original Contract OR is made pursuant to a provision in the original Contract, AND

**27.1.2** the Change Order monetary cost is charged solely against those funds encumbered for and at the time the Contract was originally executed by the City, that is those funds set forth in the original Contract as a not to exceed payment amount OR within the original Contract's contingency / allowance / reserve amount (if any is stated therein), AND

**27.1.3** The Final Completion Date has not been changed.

**27.2.** Notwithstanding the foregoing, a Change Order shall not include

**27.2.1** an upward adjustment to a Contractor's payment claim, or

**27.2.2** a payment increase under any escalation clause set forth in the original Contract, or any Change Order, or any amendment.

**27.3.** That the work and/or services contemplated are necessary does not, in itself, permit a Change Order. Should the need for a Change Order arise, the request shall be reviewed and approved by the City's Using Agency and any City designated representative(s). To be binding and enforceable, a Change Order shall thereafter be



signed by both the Contractor, any City designated representative(s), and a duly authorized representative of the City's Using Agency prior to the Contractor's delivery of the services, etc. contemplated in said Change Order. All Change Orders are governed by the provisions of this Contract. Any contract change NOT fully complying with this Section 27 shall be effectuated solely by an amendment to this Contract complying with Section 38.073 of the City's "Centralized Procurement System" ordinance.

**28. Conflicts or Disputes.** This Contract represents the concurrence between the City and the Contractor and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the Contract, the following documents shall be used as historical documents, without regard to the order of precedence, to resolve such conflicts or disputes, the historical documents are **(i)** the City's aforementioned Contract; and **(ii)** the Contractor's Maintenance Services Agreement for the Contract.

**28.1. Procedure.** This procedure supersedes all statements to the contrary occurring either in proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

**28.2. Presumption.** This Contract or any section thereof shall not be construed against any party due to the fact that the Contract or any section thereof was drafted by such party.

**29. Disputes; Legal Proceedings; Waiver of Trial by Jury and Continued Performance.** The Contractor agrees that it waives a trial by jury as to any and all claims, causes of action or disputes arising out of this Contract or services to be provided pursuant to this Contract. Notwithstanding any such claim, dispute or legal action, the Contractor shall continue to perform services under this Contract in a timely manner, unless otherwise directed by the City.

**30. Binding Contract.** The City and the Contractor each bind themselves, and their successors, assigns and legal representatives to the other party to this Contract and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

**31. Waiver.** Any waiver of the terms and conditions of this Contract by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this Contract.

**32. Governing Laws.** This Contract, its terms and conditions and any claims arising therefrom shall be governed by the laws of the State of Connecticut.

**33. Notice.** Except as otherwise specifically prohibited in this Contract, whenever under this Contract approvals, authorizations, determinations, notices, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the City or the Contractor, and delivered in hand or sent

by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

Contractor: SNE Building Systems, Inc.  
29H Kripes Road, P.O. Box 575  
East Granby, Connecticut 06026

City: City of Waterbury  
City Hall Building  
235 Grand Street  
Waterbury, CT 06702

**34. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.**

The Person (the term "Person" shall herein be as defined in Section 38 of the City's Code of Ordinances) supplying the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. under this Contract shall comply with all applicable Federal, State and Municipal statutes, regulations, charters, ordinances, rules, etc, whether or not they are expressly stated in this Contract, including but not limited to the following:

**34.1.** It shall be a material breach of this Contract, and, except as may be permitted by regulations or rulings of the City of Waterbury Board of Ethics it shall be a violation of the City's Code of Ordinances, for any Public Official, City Employee or Member of a Board or Commission who is participating directly or indirectly in the procurement process as set forth in the City's Code of Ordinances, including those participating in exempt transactions, to become or be the employee of any person contracting with the governmental body by whom the Official, Employee, or Board or Commission member is employed or is a member.

**34.2.** It shall be a material breach of this Contract, and it shall be a violation of the City's Code of Ordinances for any Person to offer, give, or agree to give any current or former Public Official, Employee or Member of a Board or Commission, or for such current or former Public Official, Employee or Member of a Board or Commission to solicit, demand, accept or agree to accept from another Person, a gratuity or an offer of employment in connection with any: decision; approval; disapproval; recommendation; preparation of any part of a program requirement or a requisition; influencing the content of any specification or procurement standard; or rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or Purchase Order, or to any solicitation or proposal therefore.

**34.3.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for any payment, Gratuity, or offer of employment to be made as an inducement for the award of a subcontract or order, by or on behalf of a subcontractor, the prime Contractor or higher tier subcontractor or any Person associated therewith, under a Contract or Purchase Order to the City.

**34.4.** The value of anything transferred or received in violation of the City's Charter, Code of Ordinances, and/or regulations promulgated there under, by any Person subject to said Charter and/or Ordinances may be recovered by the City.

**34.5.** Upon a showing that a subcontractor made a kickback to the City, a prime Contractor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

**34.6.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained anyone in violation of this subsection 34.6, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection 34.6 shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

**34.7.** The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has **(i)** delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owed to the City; **(ii)** filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; **(iii)** delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and **(iv)** filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection 34.7 shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

**34.8.** The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections 34.1-34.7.

**34.9.** The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, all relevant provisions of the City's Charter and all relevant provisions of the City's Code of Ordinances, including without limitation Chapters 93, titled "Discriminatory Practices", Chapter 38 titled "Centralized

Procurement System", and Chapter 39 titled "Ethics and Conflict of Interest", of said Code as may be amended from time to time.

**34.10.** The Contractor hereby acknowledges receipt of a copy of the Chapters 38 and 39 of City's Ordinance regarding Procurement, Ethics, and Conflicts of Interest and has familiarized itself with said Code and hereby agrees to adhere to said Code. The text of Chapters 38 and 39 of said Code may be obtained from the Office of the City Clerk of the City and on the internet at the City Clerk's web site: <http://www.waterburyct.org/content/458/539/default.aspx> [click link titled "The City of Waterbury Code of Ordinances Passed 8/24/2009". For Chapter 38, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 38: CENTRALIZED PROCUREMENT SYSTEM". For Chapter 39, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 39: ETHICS AND CONFLICTS OF INTEREST"]].

**34.11.** The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled, "Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects," and the State of Connecticut Legislature's Special Act No. 01-1.

**34.12.** Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto. In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

**34.13. INTEREST OF CITY OFFICIALS.** No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

**34.14. PROHIBITION AGAINST CONTINGENCY FEES.** The Contractor hereby represents that it has not retained anyone to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage or contingency fee.

**34.15. FREEDOM OF INFORMATION ACT NOTICE.** Pursuant to State statute, in the event the total compensation payable to the Contractor set forth in Section 6 herein is greater than \$2,500,000.00, the City is entitled to receive a copy of any and all Contractor records and files related to the performance of this Contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be

disclosed by the City pursuant to the Act.

**IN WITNESS WHEREOF**, the parties hereto execute this Contract on the dates signed below.

**WITNESSES:**

**CITY OF WATERBURY**

\_\_\_\_\_

By: \_\_\_\_\_  
Neil M. O’Leary, Mayor

\_\_\_\_\_

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

**WITNESSES:**

**SNE BUILDING SYSTEMS INC.**

\_\_\_\_\_

By: \_\_\_\_\_  
Byron Bailey, President  
Duly Authorized

\_\_\_\_\_

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

## **ATTACHMENT A**

1. Level of Coverage, and List of Covered Equipment submitted by the Contractor, Dated, May 20, 2019, consisting of 4 pages attached hereto;
2. SNE Waterbury School Maintenance Hours Distribution, dated March 30, 2020, consisting of 1 page attached hereto
3. Any and all amendment(s) and Change Orders, issued by the City after execution of Contract (incorporated by reference);
4. Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate (incorporated by reference);
5. Performance Bond and Payment Bond (incorporated by reference);
6. Certificates of Insurance (incorporated by reference);
7. Department of Environmental Protection Regulations (CWF-1 through CWF-32) (incorporated by reference);
8. All applicable Federal, State and local statutes, regulations charter and ordinances (incorporated by reference)
9. All permits and licenses, where applicable (incorporated by reference).



**SNE**  
Building Systems

**InsiderQ**

May 20, 2019

## Attachment "A" --Level of Coverage BUILDING AUTOMATION SYSTEMS

### ■ STANDARD OFFERING

#### Scheduled Preventive Maintenance

SNE Building Systems, Inc. will perform all scheduled on-site system inspection and preventive maintenance tasks to ensure that the Building Automation System (BAS) is operating at maximum performance and reliability levels. On-site technicians will analyze, adjust, calibrate all applicable temperature sensors, humidity sensors, diagnostic LED's, work stations, controllers, modems, input/output points, communications, transmitters, transducers and UPS. This work will be performed during normal working hours unless agreed otherwise.

- Provide system support and system diagnosis via Internet.
- Seasonal Heating/Cooling Inspections: check/test/calibrate electronic controls for heating/cooling applications. Verify valve and damper operation. Advise of needed repairs (i.e. valve packing, sensors, actuators, etc.).
- Upon inspection, parts found to be non-functional will be listed on a report. A cost to repair and for Replacement will be provided for owner authorization. Invensys (TAC) parts will be invoiced at List less 50%. Outside purchases will be invoiced at 15% OH and 10% profit. Labor for repairs will be Invoiced at \$115.00 per hour.

#### Help Line

SNE Building Systems, Inc. will assist Customer's Building Automation System Operators with questions that may arise on the daily operation, troubleshooting or ideas to improve upon the system operation. Control Specialists will help Customer's building operators maximize the use of the Building Automation System to improve comfort and reduce operating costs.

#### System Utilization Review

Through analysis of the system software, SNE Building Systems, Inc. will ensure that the operating logic is performing optimally. Technicians will look for inaccurate sensors, outstanding system alarms, operator commands that have been entered overriding normal operation and/or deactivation of energy related control strategies. If SNE Building Systems, Inc. uncovers abnormal conditions, we will initiate the corrective action in accordance with the Customer's approval.

#### Database Backups

SNE Building Systems, Inc. will back-up the system database during the scheduled preventative maintenance visit and store them in a safe place for retrieval in the event of a component or system failure. This will ensure that all changes of the software will be safe and protected.



**SNE**  
Building Systems

**Inside**

ATTENDING YOUR BUSINESS

## Attachment "A" –Level of Coverage BUILDING AUTOMATION SYSTEMS (continued)

### Preferred Labor, Materials Rates, Repair Services

If during performing on-going scheduled preventive maintenance, it is determined that a repair to covered equipment or systems is necessary, the Customer will be advised of the needed repair. Subject to approval by an authorized agent of the Customer, the work will be performed at the following preferred time and materials rates discounted from our standard (non-contract Customer) rates.

#### **Non-Contract Customer Rates as of July 1, 2018:**

- Straight Time - \$160.00
- Overtime - \$180.00

#### **Contract Discounted Rate as of June 1, 2019:**

- Straight Time - \$115.00
- Overtime - \$145.00

*Schneider Electric (IA Series) Materials Invoiced at 50% Discount. Outside Material Purchases Invoiced at cost plus 15% overhead and 10% profit. SNE Building Systems, Inc. reserves the right to change the standard service rates at any time and without notice.*

### Repair Authorization:

The customer can also select to authorize repair services to replace defective parts upon an accepted dollar amount, stated below:

- ☐ I authorize SNE Building Systems to replace defective parts up to \_\_\_\_\_ dollars per part.  
Accepted by: \_\_\_\_\_
- ☐ Please advise me of the cost for the part. Verbal and/or written approval is required.  
Accepted by: \_\_\_\_\_



# ATTACHMENT A



## LIST OF COVERED EQUIPMENT

INSIDE IQ

(1) Enterprise Server Software (Web based graphics)

### LAUREL HILLS COMPLEX – (Wilby H.S./North End M.S.)

SNE JOB #'s 97528, 00095, 08549 and 08550

Quantity	Equipment	Manufacturer	Designation
1	UNC-520-2	TAC/IA Systems	Universal Network Controller
7	MNL-800	TAC/IA Systems	LON DDC Controllers
16	VAV Boxes	TAC/IA Systems	LON DDC Controllers
31	MZII	Invensys	Microzone II DDC Controllers
1	PEM-1	Invensys	Packaged Equipment Module

### BERGIN COMPLEX – (CROSBY H.S./WALLACE M.S.)

SNE JOB #'s 97529, 99746 and 08549

Quantity	Equipment	Manufacturer	Designation
1	UNC 520-2	TAC/IA Systems	Universal Network Controller
41	MZII	Invensys	Microzone II DDC Controllers
1	PEM-1	Invensys	Packaged Equipment Module
7	MNL-800	TAC/IA Systems	LON DDC Controllers
17	VAV Boxes	TAC/IA Systems	LON DDC Controllers

### JFK HIGH SCHOOL

SNE JOB #'s 08591 and 11028

Quantity	Equipment	Manufacturer	Designation
1	UNC-410-1	TAC/IA Systems	Universal Network Controller
1	UNC-520-2	TAC/IA Systems	Universal Network Controller
7	MNL-800	TAC/IA Systems	LON DDC Controller
7	VAV Boxes	TAC/IA Systems	LON DDC Controllers

### ROTELLA ELEMENTARY SCHOOL

SNE JOB #99748

Quantity	Equipment	Manufacturer	Designation
1	UNC-520-2	TAC/IA Systems	Universal Network Controller
23	MZII	Invensys	Microzone II Controllers
87	Microflo II	Invensys	VAV Controller

SNE BUILDING SYSTEMS, INC.

Federal Tax ID #06-116-3000

29H Kripes Road • PO Box 575 • East Granby, CT 06026 • Phone (860)653-5095 • Fax (860)653-5328

CT# S-1: 005076

www.SNEBuildingSystems.com

CT# E-1: 186115



ATTACHMENT A

InsideIQ

" List of Covered Equipment (continued)

MALONEY MAGNET SCHOOL (J/G Project)

<u>Quantity</u>	<u>Equipment</u>	<u>Manufacturer</u>	<u>Designation</u>
1	UNC-520-2	TAC I/A Systems	Universal Network Controller
15	MZII	Invensys	Microzone II Controllers
61	Microflo II	Invensys	VAV Controller

GILMARTIN ELEMENTARY SCHOOL

SNE JOB# 09618

<u>Quantity</u>	<u>Equipment</u>	<u>Manufacturer</u>	<u>Designation</u>
1	UNC-520-2	TAC I/A Systems	Universal Network Controller
11	MNL-800	TAC I/A Systems	LON DDC Controllers
39	VAV Boxes	TAC I/A Systems	LON DDC Controllers

DUGGAN ELEMENTARY SCHOOL

SNE JOB# 10636

<u>Quantity</u>	<u>Equipment</u>	<u>Manufacturer</u>	<u>Designation</u>
1	UNC-520-2	TAC I/A Systems	Universal Network Controller
13	MNL-800	TAC I/A Systems	LON DDC Controllers
21	VAV Boxes	TAC I/A Systems	LON DDC Controllers

ENLIGHTENMENT SCHOOLS

SNE JOB# 10658

<u>Quantity</u>	<u>Equipment</u>	<u>Manufacturer</u>	<u>Designation</u>
1	UNC-520-2	TAC I/A Systems	Universal Network Controller
16	MNL-800	TAC I/A Systems	LON DDC Controllers
58	HP LON	Daikin	

JONATHAN REED ELEMENTARY SCHOOL

SNE JOB# 11032

<u>Quantity</u>	<u>Equipment</u>	<u>Manufacturer</u>	<u>Designation</u>
1	UNC-520-2	TAC I/A Systems	Universal Network Controller
20	MNL-800	TAC I/A Systems	LON DDC Controllers
23	VAV Box	TAC I/A Systems	LON DDC Controllers

All DDC sensors and devices furnished and installed by SNE Building Systems, Inc. to control:

Boiler	Unit Ventilators	Reheat Coils
Pumps	Radiation	Make-Up Air Units
Air Handling Units	Roof Top Units	
Fan Coil Units	Chillers	
Exhaust Fans	VAV Boxes	

SNE BUILDING SYSTEMS, INC.

Federal Tax ID #06-116-3000

29H Kripes Road • PO Box 575 • East Granby, CT 06026 • Phone (860)653-5095 • Fax (860)653-5328

CT# S-11005006

www.SNEBuildingSystems.com

CT# R-1: 186115

ATTACHMENT A  
Hourly Distribution (Per Year)



Inside

Waterbury Schools Maintenance Hour Distribution (per year)

March 30, 2020

<u>FACILITY</u>	<u>HOURS</u>
Bergin Complex	104
Duggan	56
Enlightenment	56
Gilmartin	56
JFK	56
Reed	56
Laurel Hill Complex	104
Maloney	56
Rotella	56

# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON FINANCE**

Item #9.5

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends that the Waterbury Board of Education approve a Construction Contract with Bay State Elevator Company for hydraulic elevator in-ground cylinder replacement at Regan School.

Approved:

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Rocco F. Orso

## **Memorandum**

To: Board of Aldermen  
Board of Education

From: Chris Harmon, School Inspector

Date: April 6, 2020

Re: **Board of Education and Board of Aldermen Approval Request / Executive Summary -**  
Contract for Hydraulic Elevator In-Ground Cylinder Replacement at Regan Elementary School.

The School Inspector respectfully requests your approval of the above-referenced contract in the amount of \$93,850.00 for Hydraulic Elevator In-Ground Cylinder Replacement at Regan Elementary School between the City of Waterbury and Bay State Elevator Company.

This contract was initiated under the Request for Proposal (RFP #6567). Bay State Elevator Company was deemed the most qualified lowest responsible bidder for this project after careful evaluation of their bid response by the RFP committee.

The contract will allow Bay State Elevator Company to remove the existing below ground single flat bottom cylinder, which is susceptible to causing safety hazards, and replace it with a new code compliant double bottom hydraulic assembly.

Accordingly, attached for your review and consideration are 12 copies of the proposed contract, plus the Vendor Award letter as prepared by the Purchasing Department, the Successful Bidder's Bid Form and Disclosure and Certification of Obligations Affidavit Regarding Outstanding Obligations Form plus a copy of the Tax Clearance issued by the Office of Tax Collections.

Please note further that one complete set of Documents, including Contract, has been placed on file with the City Clerk's Office.

Thank you.

**CONSTRUCTION CONTRACT**  
**for**  
**Hydraulic Elevator In-Ground Cylinder Replacement**  
**between**  
**City of Waterbury**  
**and**  
**Bay State Elevator Company**

**THIS CONTRACT**, effective on the date signed by the Mayor, is by and between the City of Waterbury, City Hall, 235 Grand Street, Waterbury, Connecticut (the "City") and Bay State Elevator Company, having a mailing address of 275 Silver Street, P.O. Box 910, Agawam, Massachusetts 01001-0910, and a business location at 1275 Cromwell Avenue, Rocky Hill, Connecticut 06067 a State of Massachusetts duly registered foreign corporation ("Bay State" or "Contractor").

**WHEREAS**, Bay State submitted a proposal to the City in response to **Request for Proposal ("RFP") # 6567** for Hydraulic Elevator In-Ground Cylinder Replacement; and,

**WHEREAS**, the City accepted Bay State's proposal in response to **RFP # 6567**; and

**WHEREAS**, the City desires to obtain Bay State's services for Hydraulic Elevator In-Ground Cylinder Replacement pursuant to the terms set forth in this Contract (the "Project").

**NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:**

**1. Scope of Services.** Bay State shall furnish all of the labor, services, equipment, materials, supplies, transportation, and incidentals necessary to complete the Project as specified in this agreement (also referred to herein as "Contract") and such shall be completed in a satisfactory manner, as reasonably determined by the City. All labor, services, equipment, materials, supplies, transportation, and incidentals shall comply with **(i)** any and all applicable local, state and federal laws, statutes, ordinances, rules and regulations, including without limitation all notice requirements thereunder, and **(ii)** generally accepted professional standards.

**1.1.** The Project consists of and Bay State shall provide a replacement of the traditional in-ground hydraulic cylinder, including, but not limited to, removal of the existing in-ground cylinder, oil and other related components, re-drilling if necessary, maintaining the rated lift capacity on the elevator at the current configuration, and all other services as more particularly detailed and described in the Bid Documents in **Attachment A** , which are hereby made material provisions of this Contract. **Attachment A** shall consist of the following, which are attached hereto, are acknowledged by Bay State as having been received, or otherwise hereby incorporated by reference as noted below, and all are made a part hereof:

- 1.1.1. City of Waterbury RFP # 6567, consisting of 25 pages (excluding Contract Compliance documents, and sample City Contract), attached hereto.
- 1.1.2. Bay State's Response to RFP #6567 dated February 4, 2020, consisting of 11 pages, attached hereto.
- 1.1.3. Bay State's Revised Price Proposal in response to RFP #6567, dated 3.31.20, consisting of 2 pages, attached hereto.
- 1.1.4. any and all amendment(s) and Change Orders, issued by the City after execution of Contract, incorporated by reference.
- 1.1.5. Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate, incorporated by reference.
- 1.1.6. Performance Bond and Payment Bond, incorporated by reference.
- 1.1.7. Certificates of Insurance, incorporated by reference.
- 1.1.8. Department of Environmental Protection Regulations (CWF-1 through CWF-32), incorporated by reference.
- 1.1.9. All applicable Federal, State and local statutes, regulations charter and ordinances, incorporated by reference.
- 1.1.10. All permits and licenses, incorporated by reference.

1.2. The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). The City's record copy of the Contract Documents shall control and shall be effective and binding on Bay State. In the event that any provision in the Contract Documents conflict with any other provision therein, the provision in the component part of the Contract Document first enumerated below shall govern over any other component part which follows it numerically.

- 1.2.1. Contract Amendment(s) and Change Orders
- 1.2.2. Contract
- 1.2.3. Bay State's response to RFP #6567
- 1.2.4. Federal, State, and local laws, regulations, charter and ordinances
- 1.2.5. Scope of Services
- 1.2.6. Pictures

**2. Representations Regarding Qualification and Accreditation.** Bay State represents that its employees are licensed to perform the scope of work set forth in this Contract. Bay State further represents that its employees have the requisite skill, expertise and knowledge necessary to perform the scope of work required under the terms of this Contract, including any supplementary work and the City relies upon Contractor's representations.

**2.1. Representations regarding Personnel.** Bay State represents that it has, or will secure at its own expense, all personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City, unless use of City employees or of personnel having a contractual relationship with the City is approved in writing. As set forth above, all the services required hereunder shall be performed by Bay State or under its supervision and all

personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

**2.2. Representations regarding Qualifications.** The Consultant hereby represents that, to the extent required by Federal, State and Local statutes, regulations, codes, ordinances, and policies, that the Consultant and/or its employees be licensed, certified, registered, or otherwise qualified, the Consultant and all employees providing services under this Contract, are in full compliance with those statutes, regulations and ordinances. Upon City request, the Consultant shall provide to the City a copy of the Consultant's licenses, certifications, registrations, etc.

**3. Responsibilities of Bay State.** Bay State agrees to properly implement the services required in the manner herein provided. Bay State shall, in addition to any other responsibilities set forth in this Contract and the Schedules and Attachments hereto, perform the following coincident with the performance of this Contract:

**3.1. Due Diligence Obligation.** Bay State acknowledges its responsibilities to examine and to be thoroughly familiar with the City's bid document, including, but not limited to the plans, specifications, drawings and any addenda thereto. Bay State hereby warrants and represents that prior to the submission of its proposal during the bid process it reviewed or was afforded opportunity, by the City, to review all physical items, facilities, services and functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services and functions are included in this Contract and thereby warrants that:

**3.1.1.** it conducted or had opportunity to conduct all due diligence prior to the submission of its bid and, accordingly, any additional costs, services or products resulting from the failure of Bay State to complete Due Diligence prior to submission of its bid proposal shall be borne by Bay State. Furthermore, Bay State had the opportunity during the bid process to ask questions it saw fit and to review the responses from the City;

**3.1.2.** its failure or omission to make investigation and verification of data shall, in no way, be cause for future claim of ignorance of such data or conditions nor shall such failure to investigate and verify be the basis for any claim whatsoever, monetary or otherwise;

**3.1.3.** it is solely responsible for resolving any issues resulting from its failure to conduct due diligence and it shall assume any and all resulting costs it incurs during the Project;

**3.1.4.** it was responsible for specifying any changes and disclosing any associated new costs prior to submittal of its bid. In the event Bay State failed to disclose any such new cost prior to the submittal of its bid, Bay State hereby covenants that it shall remain solely responsible for, and shall absorb, those non-disclosed costs;



**3.1.5.** it has familiarized itself with the nature and extent of the Contract Documents, Project, locality, and with all local conditions and Federal, State and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Project;

**3.1.6.** it has given the City written notice of any conflict, error or discrepancy that Bay State discovered in the City's bid documents and other documents for **RFP # 6567** (collectively "Bid Documents");

**3.1.7.** it agrees that the Bid Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Project;

**3.1.8.** it has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Scope of Services which were utilized in the preparation of the plans and specifications;

**3.1.9.** it has made or caused to be made examinations, investigations, measurements and tests and studies of any applicable reports and related data as it deems necessary for ensuring performance of the Scope of Services at the Contract Price within the Contract Time and in accordance with the other terms and conditions of the Contracts; and certifies no additional examinations, investigations, tests, reports or similar data are or will be required by Contractor for such purposes; and

**3.1.10.** Bay State shall not take advantage of any obvious error or apparent discrepancy in the Contract. Notice of any error or discrepancy discovered shall be given immediately in writing to the City, who shall make such corrections and interpretations as it may deem necessary for the completion of the Project in a satisfactory and acceptable manner.

**3.2. Safety.** Contractor shall perform all work in a safe manner in full compliance with local, state and federal health and safety regulations. Contractor shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which the City reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Contractor, City may, but shall not be required to, correct same at Contractor's expense. City shall confirm in writing any oral notice given within five (5) business days thereafter.

**3.3. Storage.** In the event the Project site has insufficient, inadequate, and/or improper storage space, it shall be the responsibility of Bay State to secure, provide and maintain at Bay State's sole cost and expense **(i)** adequate off-site storage space for equipment, materials, incidentals, etc., and **(ii)** all associated delivery and

transportation services. In either event, Bay State shall assume full responsibility for equipment, materials, incidentals, etc. until both title and risk of loss pass to the City pursuant to Section 8 of this Contract.

**3.4. Working Hours.** To the extent Bay State is required to be on City property to render Bay State's services hereunder, Bay State shall coordinate its schedule so that work on and at the Project site is performed during the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday unless more exactly specified elsewhere in this Contract or **Attachment A** or unless prior written permission is obtained from the City to work during other times. This provision shall not excuse Bay State from timely performance under the Contract.

**3.5. Cleaning Up.** Bay State shall at all times keep the Project site free from accumulation of waste materials or rubbish caused by Contractor's employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the Project and all tools, scaffolding and surplus materials and shall leave the Project site "broom clean" or its equivalent, unless more exactly specified. In case of dispute, the City may remove the rubbish and charge the cost to Bay State.

**3.6. Publicity.** Contractor agrees not to deliberately disclose the fact that the City has entered into or terminated this Contract or disclose any of the terms of the Contract or use the City's name in connection with any publicity, unless the City gives prior written consent to such use of the City's name in each instance.

**3.7. Standard of Performance.** All Contractor labor, materials, supplies, components, equipment, reports, plans, specifications, drawings, deliverables, incidentals, etc., required to be furnished or delivered under this Contract shall conform in all respects with the requirements set forth in this Contract and shall meet or exceed those standards generally recognized in Bay State's craft and trade in the State of Connecticut. City specified manufacturer and/or brand name substitution desired by Bay State shall be made only with the prior written consent of an authorized representative of the City's Using Agency.

**3.7.1** In carrying out the Project, Bay State must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor, nor with the normal routine of the institution or agency operating at the Project site.

**3.8. Contractor's Employees.** Bay State shall at all times enforce strict discipline and good order among its employees, and shall not employ on the work any unfit person or anyone not skilled in the work assigned. Bay State shall not, without the prior written approval of the City's Using Agency, substitute, terminate, replace or otherwise remove any Contractor employee expressly named, identified or required in this Contract.

**3.9. Subsurface/Unknown Site Conditions.** If Project site conditions are encountered which are (i) subsurface or otherwise concealed physical conditions or other conditions which differ materially from those indicated in the Contract Documents, or (ii) unknown conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent or common in construction activities of the character provided for in this Contract, then prompt notice by the observing party shall be given to the other party to this Contract before Project site conditions may be disturbed. Bay State shall thereafter wait for written instructions from the City before proceeding with regard to such conditions.

**3.10. Surveys.** All surveys required under this Contract shall be performed by a State of Connecticut duly licensed land surveyor. Unless expressly stated to the contrary in Section 1 of this Contract and **Attachment A**, Bay State shall perform all layout work, all field measurements and all construction staking required, necessary or prudent for the satisfactory prosecution of Bay State's obligations under this Contract.

**3.11. Permits and Licenses.** Unless expressly stated to the contrary in Section 1 of this Contract and **Attachment A**, Bay State shall secure and obtain all permits and all licenses required, or necessary, or prudent for the performance of Bay State's obligations under this Contract, and for the City's occupancy, use, and operation of the Project.

**3.12. Manufacturer's Directions.** Where it is required in this Contract that materials, products, processes, equipment or the like be installed or applied in accord with manufacturer's directions, specifications or instructions, it shall be construed to mean that the said application or installation by Bay State shall be in strict accord with printed instructions furnished by the manufacturer of the material concerned for use under conditions similar to those at the Project site. One (1) copy of such instructions shall be furnished to the City.

**3.13. Review by the City.** Bay State shall permit the City and the City's duly authorized representatives and agents to review, at any time, all work performed under the terms of this Contract at any stage of the Project.

**3.14. Records Maintenance.** Bay State shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the Contract, settlement of claims or any other matter pertaining to Bay State's demand for payment.

**4. Responsibilities of the City and City Reservation of Rights.** Upon the City's receipt of Contractor's written request for specific information, the City will provide Bay State with existing documents, data and other materials the City agrees are necessary and appropriate to the services to be performed by Bay State hereunder and the City will endeavor to secure, where feasible and where the City agrees it is necessary and appropriate, materials or information from other sources requested by Bay State for the purpose of carrying out the services under this Contract.

4.1. The City may, in its sole discretion, designate person(s) to act as the City's Project Engineer(s) and/or Manager(s) and the City may, in its sole discretion, define such person(s) authority and responsibilities.

4.2. The City reserves the right to (i) perform work related or unrelated to the Project with the City's own forces adjoining, adjacent to, or in the vicinity of, the Project site and/or (ii) let separate contracts related or unrelated to the Project for work and services adjoining, adjacent to, or in the vicinity of, the Project site. In such event, Bay State shall afford all such parties reasonable opportunity for storage of materials and equipment and for the uninterrupted provision and delivery of such parties' work and/or services. Bay State shall cooperate with such parties and in the case of a dispute, the decision of the City shall be complied with by all.

5. **Contract Time. Contract Time.** Bay State shall Substantially Complete all work and services required under this Contract within **SIXTY (60) consecutive calendar days** of the City's written Notice to Proceed and shall reach Final Completion within **NINETY (90) consecutive calendar days** of the City's written Notice to Proceed ("Contract Time").

5.1. Within one (1) week of the City's issuance of its written notice to proceed, and prior to the commencement of any work on the Project site, Bay State shall submit for the City's written approval a construction progress schedule. On a monthly basis, Bay State shall deliver to the City a written status report setting forth an analysis and critique of Bay State's compliance with said schedule.

5.2. **Delay Damages**

5.2.1 Time is and shall be of the essence for all Project Phase Completion Dates, Milestones, Substantial and Final Completion Date. Bay State further agrees that the Project shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion thereof within the Contract time stated above. It is expressly understood and agreed, by and between Bay State and City, that the Phase Completion Dates, Milestones, Substantial and Final Completion Date are reasonable for the completion of the Project.

5.2.1.1 Bay State shall pay to the City the sum of the greater of **FIVE HUNDRED DOLLARS (\$500.00)** per calendar day for each and every calendar day for which Bay State is in default in completing the work beyond the Final Completion Date, Substantial Completion Date, Milestones and Phase Completion Dates, as set forth in Section 5, or the actual damages incurred by the City caused by the delay. The preceding sum is hereby agreed upon not as a penalty, but as delay damages for the delay that the City shall suffer due to such default.

5.2.1.2 The City shall have the right to recover all damages pursuant to any remedy at law or equity including but not limited to deducting the amount of any such damages from any monies due Bay State under this

Contract. Bay State understands that if the entire Work or of any portion of the Work that the City has agreed to accept separately, if any, is not attained by the applicable completion dates as set forth in the entire Section 5, the City will suffer damages, which are difficult to specify accurately and ascertain. Delay damages based upon delay shall be assessed to compensate the City for all actual loss sustained by the delay, including, but not limited to, loss of use, increased cost of material or services to complete the project, loss of State funding, all other another actual expense, and all other damages allowed by law, including attorney's fees.

**5.3 No Damage for Delay**

In no event shall Bay State be entitled to any compensation or recovery of any damages in connection with any Delay, including, without limitation, consequential damages, lost opportunity damages, attorney's fees or other, similar remuneration. The City's exercise of any of its rights or remedies under the Contract Documents, including without limitation, ordering changes in the Work, or directing suspension, rescheduling or correction of the Work, regardless of the extent or frequency of the City's exercise of these rights has been contemplated by the parties and shall not be construed as an exception.

**6. Compensation.** The City shall compensate Bay State for satisfactory provision of all of the goods and services set forth in this Contract as follows in this Section 6. No claims for additional compensation will be considered for conditions made known to Bay State prior to bidding. No claims for additional compensation will be considered on account of failure of Bay State to completely inform itself as required herein above.

**6.1. Fee Schedule.** Subject to retainage, limitations, etc. set forth below in this Section 6, the fee payable to Bay State shall not exceed **NINETY-THREE THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$93,850.00)** (hereafter referred to as "Total Compensation") with the basis for payment being Contractor's Revised Price Proposal set forth in **Attachment A** and which is summarized below:

<b>6.1.1.</b>	Replacement of traditional in ground hydraulic cylinder in an amount not to exceed Thirty-Eight Thousand Dollars.....	\$38,000.00
<b>6.1.2.</b>	City-Controlled Contingency in an amount not to exceed Fifty-Five Thousand Eight Hundred Fifty Dollars.....	\$55,850.00
<b>6.1.3.</b>	Total Compensation In an amount not to exceed Ninety-Three Thousand Eight Hundred Fifty Dollars.....	\$93,850.00

**6.2. Contingency.** At the sole discretion and control of the City, the Contingency amount as set forth in Section 6.1.2 of this Contract shall be utilized for payment to

Bay State for drilling work, if necessary, for the installation of an above-ground oil line, if required by the State, and/or for additional labor for removal of existing cylinder and cleanout of the hole, as may be necessary. The aforementioned contingency items are all as outlined in Bay State's Revised Price Proposal and shall only be performed at the written request of the City.

**6.3. Retainage.** The City, at its sole discretion, hereby reserves the right to withhold as retainage, five percent (5%) of any payment (or monetary sum otherwise required by law) owed to Bay State from payments otherwise payable to Bay State until such time as Bay State's work and services to be provided under this Contract are fully completed and accepted in writing by the City. The retainage does not include additional sums that the City may withhold due to Bay State's failure to comply with provisions of this Contract.

**6.4. Limitation of Payment.** Compensation to Bay State is limited to those fees set forth in Section 6.1. of this Contract and is further limited to work **(i)** performed in fact, **(ii)** conforming with this Contract, and **(iii)** accepted in writing by a duly authorized City employee. Such compensation shall be paid by the City upon its review and approval of Bay State's invoices for payment and review of Bay State's work.

**6.4.1 Funding.** In the event this Contract is funded, in whole or in part, by Federal and/or State monies, grants, loans, etc, all City payment(s) shall fully comply with all relevant Federal and State statutes and regulations. In the event this Contract is 100% funded by Federal and/or State monies, grants, loans, etc., the aggregate sum of all City payments shall not exceed the aggregate sum of such funding.

**6.4.2** Bay State and its affiliates are hereby provided with notice that the City reserves the right, in the City's sole discretion, to offset, withhold, or otherwise reduce City payment(s) to Bay State, in an amount equaling the sum or sums of money Bay State and/or its affiliates is/are, or become delinquent or in arrears on, regarding the Vendor's and/or its affiliates real and personal property taxes and other payment obligations to the City.

**6.5. Bid Costs.** All costs of Bay State in preparing its bid for **RFP # 6567** shall be solely borne by Bay State and are not included in the compensation to be paid by the City to Bay State under this Contract or any other agreement.

**6.6. Payment for Services, Materials, Appliances, Employees.** Bay State shall be responsible to the City for the suitability of services, materials and equipment furnished to comply fully with the requirements set forth in this Contract. Bay State shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for subcontractors, materials, supplies and services going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this Project. Before final City payment is made, Bay State shall furnish to the City a sworn,

notarized, affidavit stating that all of the foregoing payment obligations have been fully completed.

**6.7. Liens.** Neither the City's final payment nor any part of the retained percentage, if any, shall become due until Bay State, if required by the City, shall deliver to the City a complete release of all liens arising out of this Contract, or receipts in full in lieu thereof, and, if required, in either case, an affidavit that so far as Bay State has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed; but Bay State may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, Bay State shall refund to the City all moneys that the City may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

**6.8. Contractor's Certificate of Completion.** Upon Bay State's (i) completion of all Project milestones, and (ii) Substantial Completion of the Project, and (iii) Final Completion of the Project, Bay State shall, in each instance, file with the City a written, notarized affidavit setting forth the amount of Project work performed. The City reserves the right to verify or challenge by any reasonable means the accuracy of said affidavit.

**6.9. Final Payment.** All prior estimates and City payments, including those relating to extra or additional work, retainage(s), and holdback(s), shall be subject to correction by this final payment which is throughout this Contract called "Final Payment". No payment, final or partial, shall act as a release to Bay State or its surety from any Contractor obligation(s) under this Contract.

**6.10. Clean Water Fund Project Requirements.** In the event this Contract is funded in whole or in part, is reliant upon, or falls within the jurisdiction of the Clean Water Fund and its statutes, regulations and rules, Bay State shall:

**6.101** submit Applications for Payment in accordance with the following:

The City must receive Bay State's Application for Payment by the City's or its designee's, review and recommendation for payment, by the fifteenth calendar day of the month to receive payment within the next 50 days. If not received by the fifteenth calendar day of the month, payment cannot be made until 50 days after the fifteenth calendar day of the subsequent month. Bay State shall provide at the City's request, reasonable documentation to substantiate Contractor's Application for Payment.

**6.102** Progress and Final Payments

The City will make progress payments on account of the Contract Price on the basis of Bay State's Applications for Payment, monthly during construction as provided below. All progress payments will be on the basis of the progress of

the Scope of Services as determined by the City, according to the schedule of values provided for in the Contract Documents, and approved by the City. Prior to Substantial Completion, progress payments will be limited to an amount equal to 95 percent of the value of the Scope of Services completed. Upon Substantial Completion, the City will pay the amount as specified in the Contract Documents.

**7. Warranty of Bay State.** Bay State warrants to the City that all materials, supplies, components, equipment, etc. furnished under this Contract shall be new and of good quality, except as otherwise expressly stated and permitted by the City elsewhere in this Contract. Bay State warrants that none of its work shall be defective. Bay State shall be liable to repair and install and/or replace without charge any service, component, equipment or part thereof which is defective or does not conform with this Contract within the greater of **(i)** one (1) year after the City delivers its written notice of its acceptance of the Project and statement therein establishing the final completion date, or **(ii)** that time period or date expressly stated elsewhere in this Contract or **Attachment A**.

**7.1.** Bay State further warrants that all materials, supplies, services, components, equipment, reports, plans, drawings, deliverables, incidentals, etc., shall be free from any and all defects caused by faulty design, faulty material or poor workmanship. Bay State shall supply to the City copies of any written manufacturer's warranties and guarantees. Bay State's foregoing warranty obligations are in addition to, and not a limitation of, all manufacturer's warranties and guarantees, and any other remedy stated in this contract or otherwise available to the City under applicable law.

**7.2 Guarantee.** The Contractor shall guarantee that the materials and workmanship installed, refurbished, and repaired under this contract shall be free of all faults, imperfections, flaws, and damage in every respect. The Contractor also assures and warrants that they will make good any Defect, which may develop within one (1) year from the date of final acceptance of the completed installation. Such guarantee shall be delivered in writing, to Waterbury Public Schools, before final payment will be made. Neither final payment nor any provision of the contract documents shall relieve the Contractor of their responsibility to remedy faulty materials or workmanship and to pay all expenses for damages to other work resulting therefrom.

**7.2.1** "Defect" is hereby defined to include, but not by way of limitation, operation or control system failures, performances below required minimums, excessive wear, unusual deterioration or aging of materials or finishes, unsafe conditions, the need for excessive maintenance, abnormal noise or vibration, and similar unusual, unexpected and unsatisfactory conditions.

## **8. Passing of Title and Risk of Loss.**

**8.1.** City beneficial use of Project equipment, materials, site-work, etc. prior to Bay State's final completion of the Project or prior to the City's final payment for the Project shall neither act to vest title in the City nor act to transfer risk of loss from Bay State to



the City. Said title and risk shall pass to the City upon the City's final payment for the Project.

**8.2.** Contractor and its insurer shall assume the risks of loss or damage to the equipment up to and including the date title passes, except that City shall be responsible for loss or damage caused by City's gross negligence.

**8.3.** After Project equipment, materials, etc. are delivered to the Project work-site and become operable or functional, Bay State shall not thereafter remove any such equipment, materials, etc. from the Project work-site without securing the prior written consent of an authorized City Using Agency employee.

## **9. Indemnification.**

**9.1.** Bay State shall indemnify, defend, and hold harmless the City, City's Boards, and Board of Education, commissions, agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the delivery of the labor, services, equipment, materials, reports, plans, specifications, design, drawings, deliverables, incidentals, etc. provided that any such claims, suits, damages, losses, judgments, costs or expenses **(i)** are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, **(ii)** are alleged to be caused in whole or in part by any willful, intentional, negligent, or reckless act or omission of Bay State, its employees, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder; **(iii)** enforcement action or any claim for breach of Bay State's duties hereunder or **(iv)** claim for intangible loss(es) including but not limited to business losses, lost profits or revenue, regardless of whether or not it is caused in part by a party indemnified hereunder.

**9.2.** In any and all claims against the City, Board of Education or any of City's boards, agents, employees or officers by Bay State or any employee of Bay State, any subcontractor or consultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 9 above, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Bay State or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

**9.3.** Bay State understands and agrees that any insurance required by this Contract, or otherwise provided by Bay State, shall in no way limit the responsibility to indemnify, defend, keep and hold harmless the City, the Board of Education, any of City's boards, agents, employees as provided in this Contract.

**9.4.** Bay State expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by Bay State, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City and the City's boards, agents, employees or officers as provided herein.

**9.5.** Royalties and Patents. Bay State shall, for all time, secure to the City the free and undisputed right to the use of any and all patented articles and methods used in the work and shall defend at Contractor's own expense any and all suits for infringement or alleged infringement of such patents, and in the event of adverse award under patent suits, Bay State shall pay such awards and hold the City harmless in connection with any patent suits that may arise as a result of installations made by Bay State and as to any award made thereunder.

**9.6.** In the event this Contract and/or Bay State's, or its subcontractor, work and services provisioned hereunder is/are subject to the provisions of any Federal or State statute or regulations, or the City Charter or City Ordinance, Bay State shall indemnify, defend and hold harmless the City from any fine, penalty or other amounts imposed on the City under said statutes, regulations, Charter or Ordinances, if caused by Contractor, or its subcontractor, omission or commission.

**10. Contract Bonds.** Bay State shall furnish to the City, prior to the execution of this Contract by the City, both a performance bond and a payment bond, each bond written for a penal sum equaling the Section 6 "Total Compensation" amount in a form and with a surety acceptable to the City. The bonds shall continue in effect for the greater of **(i)** the warranty period set forth in Section 7 of this Contract, or **(ii)** 365 calendar days after the Final Completion Date referenced elsewhere in this Contract.

**11. Contractor's Insurance.**

**11.1.** Bay State shall not commence work under this Contract until all insurance required under this Section 11 has been obtained by Bay State and such insurance has been approved by the City. Bay State shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been so obtained and approved by the City. Insurance shall be provided by insurers, satisfactory to the City and authorized to do business in the State of Connecticut, an "A-" Best's Rating and at least a Class V3 or better financial size category as shown in the most current A.M. Best Company ratings.

**11.2.** At no additional cost to the City, Bay State shall purchase and maintain the insurance coverages set forth below which shall protect the City from claims which may arise out of or result from Bay State's obligation under this Contract, whether such obligations are Bay State's or subcontractor or person or entity directly or indirectly employed by said Contractor or subcontractor, or by any person or entity for whose acts said Contractor or subcontractor may be liable.

**11.3.** Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless. If any insurance required herein is to be issued or renewed on a claims made form as opposed to an occurrence form, the retroactive date for coverage shall be no later than the commencement date of this Contract and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims (“Tail Coverage”) shall be available for at least 60 months.

**11.4.** The following policies with stated limits shall be maintained, in full force and effect, at all times during which the services are to be performed by Bay State:

**11.4.1 General Liability Insurance: \$1,000,000.00** per occurrence, **\$2,000,000.00** aggregate and **\$2,000,000.00** Products and completed operations aggregate

Providing coverage to protect the City for all damages arising out of bodily injuries, sickness to or death of all persons in any one accident or occurrence and for all damages arising out of destruction of property in any one accident or occurrence.

**11.4.2 Automobile Liability Insurance: \$1,000,000.00** combined single limit (CSL)

Providing coverage to protect the City with respect to claims for damage for bodily injury and or property damage arising out of ownership, maintenance, operation, use or loading and unloading of any auto including hired & non-owned autos.

**11.4.3 Workers’ Compensation:** Statutory Limits within the State of Connecticut: Employers’ Liability:

EL Each Accident **\$500,000.00**

EL Disease Each Employee **\$500,000.00**

EL Disease Policy Limit **\$500,000.00**

Contractor shall comply with all State of Connecticut statutes as it relates to workers’ compensation.

**11.4.4 Excess/Umbrella Liability Insurance:** Excess or Umbrella insurance coverage that follows form or sits over General Liability, Automobile Liability and Workers Compensation insurances. **\$1,000,000.00** each occurrence and **\$1,000,000.00** Aggregate.

**11.5.** Failure to Maintain Insurance: In the event Bay State fails to maintain the minimum required coverage as set forth herein, the City may at its option purchase same, and offset Bay State’s invoices for the cost of said insurance.

**11.6. Cancellation:** The City of Waterbury shall receive written notice of cancellation from Bay State at least thirty (30) calendar days prior to the date of actual cancellation, regardless of the reason for such cancellation.

**11.7. Certificates of Insurance:** Bay State's General, Automobile, and Excess/Umbrella Liability Insurance policies shall be endorsed to add the City and the Board Of Education as additional insured and provide waiver of subrogation on all policies. The insurance afforded the additional insured shall be primary and non-contributory insurance and the coverage and limits provided under Bay State's policies shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Prior to the execution of this Contract by the City, Bay State shall furnish to the City, subject to City approval, certificate(s) of insurance and Additional Insured Endorsement and Waiver of Subrogation Endorsement verifying the above coverages, including the naming of the City of Waterbury, as follows: **"The City of Waterbury and its Board of Education are listed as additional insured on all lines of coverage except Workers' Compensation and waiver of subrogation applies to all lines of coverage."** The City's **RFP #6567** must be shown on the certificate of insurance to assure correct filing. Bay State must supply replacement/renewal certificates at least 30 days prior to the expiration of the policy(ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of than thirty (30) calendar days has been mailed to the City's Using Agency and a copy to the City's Office of Corporation Counsel, 235 Grand Street, Waterbury, CT 06702.

**11.8.** No later than thirty (30) calendar days after Contractor receipt, Bay State shall deliver to the City a copy of Bay State's insurance policies and endorsements and riders.

**12. Conformance with Federal, State and Other Jurisdictional Requirements.** By executing this Contract, Bay State represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by Bay State of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: EQUAL EMPLOYMENT OPPORTUNITY; COPELAND ANTI-KICKBACK ACT, as supplemented in the Department of Labor Regulations (29 CFR, Part 3); DAVIS BACON ACT as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); the HOUSING and COMMUNITY DEVELOPMENT ACT of 1974, as amended; TITLE 31 and Section 12-430(7) of the State of Connecticut General Statutes. All applicable sections of the City Charter and Code of Ordinances are incorporated by reference made a part hereof.

**12.1. Taxes-Federal, State and Local.** The City is exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation,

taxes that would otherwise be imposed upon Bay State for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc. Bay State remains liable, however, for any applicable tax obligations it incurs. Moreover, Bay State represents that the bid and pricing contained in this Contract do not include the amount payable for said taxes.

**12.2. Labor and Wages-Federal and State.** Bay State and its subcontractors shall conform to Federal and State of Connecticut labor laws, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

**12.2.1** Bay State is aware of, and shall comply with, the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages for work on public facilities. The provisions of the Act are hereby incorporated by reference and made a part of this Contract. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in Conn.Gen.Statutes §31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

**12.2.2** Bay State is aware of, and shall comply with, the provisions of both the Federal Davis-Bacon Act and the Federal American Recovery and Reinvestment Act of 2009, the provisions of both acts hereby incorporated by reference and made a part of this Contract. The Federal Davis-Bacon Act provides that Federal wage rate laws apply to certain federally funded contracts. The American Recovery and Reinvestment Act ("ARRA") provides that Federal wage rate laws apply to all ARRA funded contracts regardless of the contract's dollar value.

**12.3. Compliance with Chapters 34, 38, and 39 of the Code of Ordinances of the City.** By executing this Contract, Bay State represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with the provisions of Chapters 34, 38, and 39 of the Code of Ordinances of the City and well as any other relevant provisions of the Charter and the Code of Ordinances.

**13. Discriminatory Practices.** In performing this Contract, Bay State shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring non-discrimination in employment as herein specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this Contract. Said provisions with subcontractors shall require conformity and compliance with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

**13.1. Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because such person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

**13.2. Equal Opportunity.** In its execution of the performance of this Contract, Bay State shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship status, age or handicap. Bay State agrees to comply with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors

**14. This section intentionally left blank**

**15. This section intentionally left blank**

**16. Termination.**

**16.1. Termination of Contract for Cause.** If, through any cause, Bay State shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if Bay State shall violate any of the covenants, agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by either **(i)** giving written notice to Bay State of a date certain by which Contractor shall, to the written satisfaction of the City, cure after which and without further action by any party, such termination shall automatically become effective and binding, or **(ii)** giving written notice to Bay State specifying the effective date of such termination at least five (5) business days before the effective date of such termination.

**16.1.1** In the event of a termination, all finished or unfinished documents, data, studies, reports, plans, specifications, drawings, supplies, services, etc. prepared by Bay State under this Contract shall, at the option of the City, become the

City's property, and Bay State shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

**16.1.2** Notwithstanding the above, Bay State shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Bay State, and the City may withhold any payments to Bay State for the purpose of setoff until such time as the exact amount of damages due the City from Bay State is determined.

**16.2. Termination for Convenience of the City.** The City may terminate this Contract at any time for the convenience of the City, by a notice in writing from the City to Bay State. If this Contract is terminated by the City as provided herein, Bay State will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Bay State covered by this Contract, less payments of compensation previously made.

**16.3. Termination for Non-Appropriation or Lack of Funding.** Bay State acknowledges that the City is a municipal corporation and that this Contract is subject to the appropriation and disbursement of funds by the City sufficient for this Contract for each budget year in which this Contract is in effect. Bay State therefore agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City in the event that sufficient funds to provide for City payment(s) under this Contract is not appropriated, not authorized, or not made available, or such funding has been reduced. In the event this Contract is subject, in whole or in part, to the appropriation and disbursement of Federal and/or State funds and those Federal and/or State funds are not appropriated or are not disbursed to the City, Bay State hereby agrees that the City shall have the right to terminate this Contract in whole or in part without penalty to the City.

**16.3.1 Effects of Non-Appropriation.** If funds to enable the City to effect continued payment under this Contract are not appropriated, authorized or otherwise made available by law, the City shall have the right to terminate this Contract without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to Bay State.

**16.3.2 Effects of Reduced Levels of Funding.** If funding is reduced by law, or funds to pay Bay State for the agreed to level of the products, services and functions to be provided by Bay State under this Contract are not appropriated, authorized or otherwise made available by law, the City may, upon seven (7) business days written notice to Bay State, reduce the level of the products, services or functions in such manner and for such periods of time as the City may elect. The charges payable under this Contract shall be equitably adjusted to reflect such reduced level of products, services or functions and the parties shall be afforded the rights set forth in this Contract.

**16.3.3 No Payment for Lost Profits.** In no event shall the City be obligated to pay or otherwise compensate Bay State for any lost or expected future profits.

**16.4. Rights Upon Termination.**

**16.4.1 Termination for Cause.** In the event the City terminates this Contract for cause, Bay State shall relinquish to the City any applicable interest, title and ownership including, but not limited to, perpetual use of any proprietary rights in and to the products and deliverables delivered to, in possession of and properly invoiced and paid for by (except to the extent such invoiced amount is disputed) the City. With regard to third party products, Bay State shall transfer all licenses which it is permitted to transfer in accordance with the applicable third party license. The City shall have no financial obligation to compensate Bay State for such terminated products unless payment is otherwise approved by the City prior to such termination. Bay State shall be liable for costs incurred by the City, including but not limited to reasonable attorney fees and all court awarded fees and costs incurred in terminating this Contract in whole or in part.

**16.4.2 Termination for Lack of Funding or Convenience.** In the event of termination by the City for lack of funding or convenience, the City shall pay Bay State for all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc.(including any holdbacks) installed and delivered to the City as of the Termination Date and Bay State shall relinquish to the City any applicable interest, title and ownership including, but not limited to perpetual use of any proprietary rights in and to said labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. delivered to, in possession of and paid for by the City (except to the extent any invoiced amount is disputed). Bay State shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience the City and Bay State may negotiate a mutually acceptable payment to Bay State for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this Contract pertaining to changes in the Project.

**16.4.3 Assumption of Subcontracts.** In the event of termination, the City shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this Contract.

**16.4.4 Delivery of Documents.** In the event of termination, **(i)** Bay State shall promptly deliver to the City, in a manner reasonably specified by the City, all documents and other tangible items furnished by, or owned, leased, or licensed by, the City, and **(ii)** the City shall pay Bay State for all services performed and deliverables completed and accepted (pro-rated for deliverables partially



completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

**17. Force Majeure.** Contractor shall not be held responsible for delays nor be subject to liquidated damages when such delays are caused by conditions beyond its control, including without limitation:

**17.1.** Acts of God, fire, explosion, epidemic, cyclone, flood, war, strikes, revolution, civil commotion, or acts of public enemies; and

**17.2.** Change of law and order, proclamation, regulation, ordinance, or governmental requirement.

Upon cessation of work for reason of force majeure delays, Contractor shall use its best efforts to meet the schedule set forth in Section 5 of this Contract.

**18. Subcontracting.** Bay State shall not, without the prior written approval of the City's Using Agency, subcontract, in whole or in part, any of Bay State's services. Any subcontractor so approved shall be required to secure and maintain insurance coverage equal to or better than that required of Bay State and shall name the City as an additional insured party and said subcontractors shall deliver to the City a certificate of insurance evidencing such coverages. All subcontractors shall comply with all federal, state and local, laws, regulations and ordinances but such requirement shall not relieve Bay State from its requirement that all services provided hereunder shall comply with all Federal, State and local, laws, regulations and ordinances.

**18.1.** Bay State shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by Bay State.

**18.2.** Bay State is responsible for and shall control activities of its subcontractors, and the subcontractors shall consult and cooperate with one another and other contractors working on the Project site. Each subcontractor shall furnish all necessary information to other subcontractors and shall lay out and install its own work so as to avoid any delays or interferences with the work of another. Any cost for changes, cutting and/or repairing, made necessary by failure to observe the above requirements shall be borne by Bay State or subcontractor responsible for such failure or neglect.

**18.3.** Bay State shall not, without the prior written approval of the City's Using Agency, substitute, terminate, replace or otherwise remove a subcontractor.

**19. Assignability.** Bay State shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City; provided, however, that claims for money due or to become due Bay State from the City under this Contract may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such

assignment or transfer shall be furnished promptly to the City.

**20. Audit.** The City reserves the right to audit Bay State's books of account in relation to this Contract any time during the period of this Contract or at any time during the twelve month period immediately following the closing or termination of this Contract. In the event the City elects to make such an audit, Bay State shall immediately make available to the City all records pertaining to this Contract, including, but not limited to, payroll records, bank statements and canceled checks.

**21. Interest of City Officials.** No member of the governing bodies of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the Project to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

**22. Interest of Contractor.** Bay State covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the Project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Bay State further covenants that in the performance of this Contract no person having any such interest shall be employed.

**23. Entire Contract.** This Contract shall constitute the complete and exclusive statement of the contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this Contract must be in writing and agreed to and executed by the City and Bay State, and must comply with the City's Charter and Code of Ordinances.

**24. Independent Contractor Relationship.** The relationship between the City and Bay State is that of client and independent contractor. No agent, employee, or servant of Bay State shall be deemed to be an employee, agent or servant of the City. Bay State shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

**25. Severability.** Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Contract, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this Contract shall be enforced as if this Contract was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the provision(s) in question as originally set forth in this Contract shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

**26. Survival.** Any provisions of this Contract that impose continuing obligations on the parties shall survive the expiration or termination of this Contract for any reason.

## **27. Changes in the Project: Change Orders.**

**27.1. Requests for Change Orders.** The City reserves the right on its own volition, or based upon a proposal for a Change Order submitted in written form with a thorough explanation by Bay State, to request from time to time any changes to the requirements and specifications of this Contract and the products to be provided and the functions and services to be performed by Bay State under this Contract. Such changes must be authorized by the City. The City will not approve of any change orders, deletions, additions, or additional work items to the Scope of Services or any change in the terms and conditions of this Contract except by means of a City authorized amended Scope of Services, applicable and restricted to those items set forth in §1, above, or Change Order issued as set forth in this section, except in the event of an emergency endangering life or property.

### **27.2. Procedures.**

#### **27.2.1 Bay State's Response to a Change Request.**

**i.** Within thirty (30) calendar days after receipt of a request by the City for any such change or such other period of time as the Parties may mutually agree to in writing, Bay State shall submit to the City a proposal describing any changes in Contract Milestones or Contract completion dates, products, functions, timing of delivery, assignment of personnel, and the like, and any associated price adjustment. Bay State's proposal shall describe, in detail, the basis for the proposed price adjustment, including the charges for any products required to implement the change request.

**ii.** To the extent that additional cost or cost savings result from a change in required products, Bay State shall obtain any additional products and provide them to the City at a negotiated price acceptable to the City and Bay State. Similarly, if the change request is expected to result in a reduction in products required to perform the services, Bay State's charges shall be reduced by the cost savings resulting from the products eliminated by the change request.

**27.2.2 City's Acceptance of Change Request.** If the City accepts Bay State's proposal, the City shall issue a change order referencing Bay State's proposal and both parties shall sign the change order. Bay State shall not implement any change request until the City has issued a valid, properly executed, change order.

**27.2.3 City's Rejection of Change Request.** If the City does not accept Bay State's proposal, the City may within two weeks of such non-acceptance: **(i)** withdraw its change request; or, **(ii)** modify its change request, in which case the procedures set forth above shall apply to Bay State's response to the modified change request.

**27.3. City Discretion.** The City may, in its sole discretion, approve the proposed Change Order and shall forward same for additional signatures under the following conditions: **(i)** If it conforms to provisions of applicable laws, and **(ii)** if it is consistent with this Contract, and **(iii)** if the time of performance of this Contract will not be unreasonably delayed, **(iv)** the Final Completion date is not changed, **(v)** if the Change Order requires a change to the Final Completion date, such change has been authorized by an approved, executed, written Amendment to this Contract, and **(vii)** if the Change Order requires an increase in the price of the Contract, the City **(1)** has sufficient funds, and **(2)** if a budget transfer is required to cover the cost of the proposed Change Order, such transfer has secured the written approval of the Board of Aldermen and other required regulatory agencies.

**27.4. Change Orders Governed by the Provisions of this Contract.** All work performed under a Change Order is governed by the provisions of this Contract.

**28. Conflicts or Disputes.** This Contract represents the concurrence between the City and Bay State and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the Contract, the following documents shall be used as historical documents, without regard to the order of precedence, to resolve such conflicts or disputes, as follows: **(i)** the City's **RFP # 6567** and **(ii)** Bay State's Bid response to **RFP # 6567**, dated February 4, 2020. Said historical documents are attached hereto as part of **Attachment A**.

**28.1. Procedure.** This procedure supersedes all statements to the contrary occurring either in proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

**28.2. Presumption.** This Contract or any section thereof shall not be construed against any party due to the fact that the Contract or any section thereof was drafted by such party.

**29. Disputes; Legal Proceedings; Waiver of Trial by Jury and Continued Performance.** Bay State agrees that it waives a trial by jury as to any and all claims, causes of action or disputes arising out of this Contract or services to be provided pursuant to this Contract. Notwithstanding any such claim, dispute or legal action, Bay State shall continue to perform services under this Contract in a timely manner, unless otherwise directed by the City.

**30. Binding Contract.** The City and Bay State each bind themselves, and their successors, assigns and legal representatives to the other party to this Contract and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

**31. Waiver.** Any waiver of the terms and conditions of this Contract by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this Contract.

**32. Governing Laws.** This Contract, its terms and conditions and any claims arising there from shall be governed by the laws of the State of Connecticut.

**33. Notice.** Except as otherwise specifically prohibited in this Contract, whenever under this Contract approvals, authorizations, determinations, notices, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the City or Bay State, and delivered in hand or sent by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

Contractor: Bay State Elevator  
c/o Harold F. Potts, Jr., President  
P.O. Box 910  
Agawam, MA 01001

City: City of Waterbury  
School Inspector's Office  
Chase Municipal Building  
235 Grand Street  
Waterbury, CT 06702

**34. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.**

The Person (the term "Person" shall herein be as defined in Section 38 of the City's Code of Ordinances) supplying the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. under this Contract shall comply with all applicable Federal, State and Municipal statutes, regulations, charters, ordinances, rules, etc, whether or not they are expressly stated in this Contract, including but not limited to the following:

**34.1.** It shall be a material breach of this Contract, and, except as may be permitted by regulations or rulings of the City of Waterbury Board of Ethics it shall be a violation of the City's Code of Ordinances, for any Public Official, City Employee or Member of a Board or Commission who is participating directly or indirectly in the procurement process as set forth in the City's Code of Ordinances, including those participating in exempt transactions, to become or be the employee of any person contracting with the governmental body by whom the Official, Employee, or Board or Commission member is employed or is a member.

**34.2.** It shall be a material breach of this Contract, and it shall be a violation of the City's Code of Ordinances for any Person to offer, give, or agree to give any current or former Public Official, Employee or Member of a Board or Commission, or for such current or former Public Official, Employee or Member of a Board or Commission to solicit, demand, accept or agree to accept from another Person, a gratuity or an offer of employment in connection with any: decision; approval; disapproval; recommendation; preparation of any part of a program requirement or a requisition; influencing the content of any specification or procurement standard; or rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or

application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or Purchase Order, or to any solicitation or proposal therefore.

**34.3.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for any payment, Gratuity, or offer of employment to be made as an inducement for the award of a subcontract or order, by or on behalf of a subcontractor, the prime Contractor or higher tier subcontractor or any Person associated therewith, under a Contract or Purchase Order to the City.

**34.4.** The value of anything transferred or received in violation of the City's Charter, Code of Ordinances, and/or regulations promulgated there under, by any Person subject to said Charter and/or Ordinances may be recovered by the City.

**34.5.** Upon a showing that a subcontractor made a kickback to the City, a prime Contractor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

**34.6.** It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained anyone in violation of this subsection 34.6, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection 34.6 shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

**34.7.** The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has **(i)** delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owed to the City; **(ii)** filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; **(iii)** delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and **(iv)** filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection 34.7 shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

**34.8.** The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections 34.1-34.7.

**34.9.** Bay State is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, all relevant provisions of the City's Charter and all relevant provisions of the City's Code of Ordinances, including without limitation Chapters 93, titled "Discriminatory Practices", Chapter 38 titled "Centralized Procurement System", and Chapter 39 titled "Ethics and Conflict of Interest", of said Code as may be amended from time to time.

**34.10** Bay State hereby acknowledges receipt of a copy of the Chapters 38 and 39 of City's Ordinance regarding Procurement, Ethics, and Conflicts of Interest and has familiarized itself with said Code and hereby agrees to adhere to said Code. The text of Chapters 38 and 39 of said Code may be obtained from the Office of the City Clerk of the City and on the internet at the City Clerk's web site: <http://www.waterburyct.org/content/458/539/default.aspx> [click link titled "The City of Waterbury Code of Ordinances Passed 8/24/2009". For Chapter 38, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 38: CENTRALIZED PROCUREMENT SYSTEM". For Chapter 39, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 39: ETHICS AND CONFLICTS OF INTEREST"]].

**34.11.** Bay State is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled, "Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects," and the State of Connecticut Legislature's Special Act No. 01-1.

**34.12.** Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto. In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

**34.13. INTEREST OF CITY OFFICIALS.** No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

**34.14. PROHIBITION AGAINST CONTINGENCY FEES.** Bay State hereby represents that it has not retained anyone to solicit or secure a contract with the City

upon an agreement or understanding for a commission, percentage, brokerage or contingency fee.

**34.15. FREEDOM OF INFORMATION ACT NOTICE.** Pursuant to State statute, in the event the total compensation payable to Bay State set forth in Section 6 of this Contract is greater than \$2,500,000.00, the City is entitled to receive a copy of any and all Contractor records and files related to the performance of this Contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be disclosed by the City pursuant to the Act.

**35. Definitions.** Whenever the following, words, terms, etc. appear in this Contract, the intent and meaning shall be as follows:

**35.1** Additional Work: Work required by the City that involves a substantial addition to, deduction from or modification of the Contract Documents.

**35.2** Bid or Proposal: The form on which the bidder is to submit a bid for the Work contemplated.

**35.3** Bidder: A person, partnership, corporation or other business organization submitting a bid on the form for the Work contemplated.

**35.4** City: The City of Waterbury, acting directly or through specifically authorized personnel.

**35.5** Construction Supervisor: An employee of the City of Waterbury, or other City duly authorized person.

**35.6** Contract Time: The # of days as stated in the Contract to: (i) achieve Substantial Completion, (ii) Final Completion.

**35.7** Equal: The recognized equivalent in substance and function; considering quality, workmanship, economy of operation, durability and suitability for purposes intended, and not constituting a change in the Work specified. Whenever the words "equal" or "equals" or words of like import are used, it shall be understood they mean "equal" in the opinion of the City.

**35.8** Final Completion: The time at which the Project has progressed to the point where, in the opinion of the City, the Project is complete such that it is ready for final payment as evidenced by the City's, or its duly authorized City representative's, written recommendation of final payment. The terms "finally complete" and "finally completed" as applied to the Project refer to Final Completion.

**35.9** Notice to Proceed: A letter from the City which shall state the date of execution of the Contract and specifically advise Bay State to begin work on the Contract.



- 35.10** Plans: All drawings or reproductions of drawings pertaining to the construction of the work contemplated and its appurtenances.
- 35.11** Project Engineer or Manager: An employee of the City or a person, partnership, corporation or other business organization under contract with the City, commissioned to perform construction administration and inspection duties during construction.
- 35.12** Shop Drawings: Drawings, diagrams, schedules, performance charts, brochures and other materials prepared by Bay State or subcontractors, manufacturers or distributors which illustrate some portion of the work.
- 35.13** Specifications or Technical Specifications: The description, provisions and other requirements pertaining to the materials, methods and manner of performing the Project.
- 35.14** Subcontractor: A person, partnership, corporation or other business organization supplying labor and/or materials for work at the site of the Project to and under agreement with Bay State.
- 35.15** Substantial Completion: The time at which, in the opinion of the Engineer, the Project (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Project (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Project mean Substantial Completion thereof.
- 35.16** Substitution: A replacement of specified material, device or equipment which is sufficiently different in substance, function, quality or workmanship to become the subject of a Change Order.
- 35.17** Supplementary General Conditions: An extension to the terms, conditions, and provisions set forth in this document as additional, material, provisions of this Contract.
- 35.18** Work: All plant, labor, materials, services, supplies, equipment and other facilities and items necessary for, or incidental to, the completion of the terms of the Contract.
- 35.19** Using Agency: Waterbury Public Schools, School Inspector's Office

**[Signature page follows]**

IN WITNESS WHEREOF, the parties hereto execute this Contract on the dates signed below.

WITNESSES:

CITY OF WATERBURY

\_\_\_\_\_

By: \_\_\_\_\_  
Neil M. O'Leary, Mayor


\_\_\_\_\_

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

WITNESSES:

BAY STATE ELEVATOR COMPANY

Wicki Kowalski

By:   
Harold F. Potts, Jr.  
Its President



Date: 04/06/2020

## **ATTACHMENT A**

- 1..** City of Waterbury RFP # 6567, consisting of 25 pages (excluding Contract Compliance documents, and sample City Contract), attached hereto.
- 2.** Bay State's Response to RFP #6567 dated February 4, 2020, consisting of 11 pages, attached hereto.
- 3.** Bay State's Revised Price Proposal in response to RFP #6567, dated 3.31.20 consisting of 2 pages, attached hereto.
- 4.** any and all amendment(s) and Change Orders, issued by the City after execution of Contract, incorporated by reference.
- 5.** Stockholder's Affidavit; Non-Collusion Affidavit; Debarment Certificate, incorporated by reference.
- 6.** Performance Bond and Payment Bond, incorporated by reference.
- 7.** Certificates of Insurance, incorporated by reference.
- 8.** Department of Environmental Protection Regulations (CWF-1 through CWF-32), incorporated by reference.
- 9.** All applicable Federal, State and local statutes, regulations charter and ordinances, incorporated by reference.
- 10.** All permits and licenses, incorporated by reference.

## INDEX TO THE SUPPLEMENTARY CONDITIONS OF THE CONTRACT

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### 1. PLANS AND SPECIFICATIONS AT THE SITE

Bay State shall maintain at the Project site two (2) copies of all Plans, Specifications, Addenda, approved Shop Drawings, Change Orders and other Modifications, Schedules and Instructions, in good order. One copy is to be marked to record all changes made during construction. These shall be available at all times to the Project Engineer and the City or their authorized representatives. At the conclusion of construction, Bay State is to turn one (1) corrected set over to the Project Engineer.

### 2. SHOP DRAWINGS, CATALOG CUTS AND SAMPLES

- A. Shop Drawings, catalog cuts and samples shall be submitted in the # of copies and manner as directed by the Supplemental General Conditions, Article 11, and shall show all work and materials in detail. Details on the Shop Drawings shall be large scale and/or full size.
- B. Bay State shall review the Shop Drawings, catalog cuts and samples, stamp with its approval and submit them with reasonable promptness and in orderly sequence to the Project Engineer, so as to cause no delay in Bay State's work or in the work

of any subcontractor. Shop Drawings, catalog cuts and samples shall be properly identified as specified for item, material, workmanship (when required), and the Project. At submission, Bay State shall inform the Project Engineer, in writing, of any deviation in the Shop Drawings, catalog cuts and samples from the requirements of the Contract Documents.

- C. The Project Engineer will review Shop Drawings, catalog cuts and samples within seven (7) working days but only for conformance with the design concept of the Project and with the information given in the Contract Documents.
- D. Bay State shall make any corrections required by the Project Engineer and shall resubmit the required # of corrected copies of Shop Drawings, catalog cuts and samples.
- E. The Project Engineer's review and approval of Shop Drawings, catalog cuts and samples will be general only and shall not relieve Bay State of responsibility for errors in dimensions, for construction and fit, or for any departure from the contract requirements unless such departure has received the City's written approval.
- F. No work governed by Shop Drawings, catalog cuts or samples shall be fabricated, delivered or installed until final approval is obtained.

### 3. CONSTRUCTION PROGRESS SCHEDULE

- A. Within one (1) week after the Notice to Proceed, and prior to commencement of any work on site, Bay State shall submit for the approval of the City three (3) copies of a Construction Progress Schedule which shall be developed by Bay State through cooperation of the Project Engineer or authorized personnel. Control measures, Water Control Plan and Environmental Protection Plan.
- B. The Progress Schedule shall indicate the proposed scheduling of the items of work listed in the various divisions of the work in the specifications. The schedule shall also indicate all subcontractors to be utilized on the Contract and the portions of the Contract that they will be performing. Bay State shall evaluate the status of the Project at least monthly, comparing it to the original schedule which shall be revised as required.

### 4. ESTIMATED QUANTITIES

The Estimated Quantities for the Project have been furnished on the Bid Form. Within the limits of available funds, Bay State will be required to complete the work specified herein at the unit prices provided in the Bid Form whether it involves quantities greater or lesser than the estimate. Bay State will be compensated only for work actually performed.

5. SCHEDULE OF VALUES; APPLICATION FOR PAYMENT

- A. Within one (1) week after the Notice to Proceed, as a basis for estimating partial payments, Bay State shall submit for the approval of the City a certified Schedule of Values, broken down into quantities and unit costs for the various parts of the work, divided as may be directed and aggregating the total sum of the Contract; and if required, he shall submit evidence supporting this schedule.
- B. Bay State's requisition for payment shall be subdivided into items to correspond with the approved schedule and shall be in such #s of copies as may be designated by the City.

6. PARTIAL PAYMENTS

- A. The City will review Bay State's monthly requisitions for Partial Payments to arrive at what is, in its opinion, a fair and just estimate of the materials suitably stored on the site and the amount of work performed on the Contract. At its discretion, the City may allow to be included in the monthly requisitions materials stored off the site. In the event the City allows Bay State to include in its requisitions payments for materials stored off the site, Bay State shall also submit any additional bonds and/or insurance certificates relating to off-site stored material, and follow such other procedures as may be required by the City.
- B. In making such Partial Payments for the Project, retainage shall be held in accordance with Clean Water Funding Regulations (if applicable).

7. CONSTRUCTION EQUIPMENT

- A. Bay State shall furnish and maintain, at its own cost and risk, all tools, apparatus and appliances, hoists and/or cranes and power for same, scaffolding, runways, ladders, temporary supports and bracing and all other similar work or material necessary to insure speed, convenience and safety in the execution of its Contract. All such items shall be subject to approval of the City, upon Engineer's recommendation, as to general stability, type and location, but the responsibility for proper design, strength and safety shall remain with Bay State. All such items shall comply with OSHA regulations and all other applicable codes, statutes, rules and regulations.
- B. Bay State shall provide all drains, drainage, ditches and pumping apparatus (including power and attendance for same) that may be necessary to keep all excavations and subgrade work free from water.

8. INSPECTION AND TESTS

- A. All material and workmanship (if not otherwise designated by the Specifications) shall be subject to inspection, examination and testing by the City and/or Project

Engineer at any and all times during manufacture and/or construction and at any and all places where such manufacture and/or construction is carried on. All tests shall be made at Bay State's expense. Notice of the time of all tests to be made at the site shall be given to all interested parties.

- B. Without additional charge, Bay State shall promptly furnish all reasonable facilities, labor and materials necessary to make tests safe and convenient. Special, full size and performance tests shall be as described in the Specifications.
- C. If, at any time before final acceptance of the entire Project, the City and/or Project Engineer considers it necessary or advisable to examine any portion of the Project already completed by removing or testing out the same, Bay State shall upon request furnish promptly all necessary facilities, labor and materials. If such work is found to be defective in any material respect because of a fault of Bay State or any of its subcontractors, or if any work shall have been covered over without the approval or consent of the City (whether or not it is found to be defective), Bay State shall be liable for testing costs and all costs of correction, including labor, material, services of required consultants, additional supervision and administrative costs.

#### 9. UTILITIES

- A. Bay State shall notify the utility owners well in advance of the time Bay State proposes to perform any work which would endanger utility installations, and Bay State shall cooperate with the utility owners in relocating and/or protecting such installations during construction operations.
- B. Bay State shall contact "Call Before You Dig" at least two days prior to commencing any excavation on the site (toll free in Connecticut at 1-800-922-4455).

#### 10. DUST AND SPILLAGE CONTROL

- A. All vehicles utilized by Bay State for delivery or removal of materials shall have appropriate covers to prevent spillage of material during transit.

#### 11. PROTECTION OF ENVIRONMENTAL RESOURCES

Bay State shall confine its activities to areas defined by the Plans and Specifications. Environmental protection shall be as stated in the following subparagraph:

- A. Spoil areas shall be managed and controlled to limit spoil areas and to prevent erosion of soil or sediment from entering nearby watercourses. Spoil areas shall be developed in accordance with the grading plan indicated on the Plans.

## 12. ENVIRONMENTAL PROTECTION PLAN

Within one (1) week after the Notice to Proceed, and prior to commencement of any work on site, Bay State shall submit an Environmental Protection Plan for the approval of the City in accordance with the provisions herein specified. The plan shall include but not be limited to the following:

- A. Procedures to be implemented by Bay State to provide the required environmental protection and to comply with applicable laws and regulations. Bay State shall set out the procedures to be followed to correct pollution of the environment due to accident, natural causes or failure to follow the procedures set out in accordance with the Environmental Protection Plan.
- B. The location of the nearest suitable solid waste disposal area and a permit allowing Bay State to use those facilities.
- C. Methods of protecting surface and ground water during construction activities.
- D. Work area plan showing the proposed activity in each portion of the area and identifying the areas of limited use or nonuse. The plan should include measures for making the limits of use areas.

## 13. CONSTRUCTION PICTURES

Bay State shall provide a series of digital color construction photographs, dated on the front, showing different views of the progress of the Project. Twenty pictures shall be taken during construction.

## 14. PROGRESS MEETINGS

Progress meetings will be held weekly at locations, dates and times selected by the OWNER for the purpose of reviewing, scheduling and coordinating the Project's progress as well as other matters.



# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON FINANCE**

Item #9.6

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends the Waterbury Board of Education approve the Healthy Food Option, pursuant to C.G.S. Section 10-215f, and certifies that all food items offered for sale to students in the schools under its jurisdiction, and not exempted from the Connecticut Nutrition Standards published by the Connecticut State Department of Education, will comply with the Connecticut Nutrition Standards during the period of July 1, 2020, through June 30, 2021. This certification shall include all food offered for sale to students separately from reimbursable meals at all times and from all sources, including but not limited to, school stores, vending machines, school cafeterias, culinary programs and any fundraising activities on school premises sponsored by the school or by non-school organizations and groups.

Approved:

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Rocco F. Orso

# BOARD OF EDUCATION

*Waterbury, Connecticut*

## COMMITTEE ON FINANCE

Item #9.7

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends the Waterbury Board of Education approve to participate in the Connecticut State Department of Education's Healthy Food Certification Program pursuant to Section 10-215f of the Connecticut General Statutes and *will allow* the sale to students of food items that do not meet the Connecticut Nutrition Standards and beverages not listed in Section 10-221q of the Connecticut General Statutes provided that the following conditions are met: 1) the sale is in connection with an event occurring after the end of the regular school day or on the weekend; 2) the sale is at the location of the event; and 3) the food and beverage items are not sold from a vending machine or school store. An "event" is an occurrence that involves more than just a regularly scheduled practice, meeting or extracurricular activity. For example, soccer games, school plays, and interscholastic debates are events but soccer practices, play rehearsals, and debate team meetings are not. The "regular school day" is the period from midnight before the 30 minutes after the end of the official school day. "Location" means where the event is being held.

Approved:

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Rocco F. Orso

# **BOARD OF EDUCATION**

*Waterbury, Connecticut*

## **COMMITTEE ON FINANCE**

Item #9.8

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Committee on Finance recommends the Waterbury Board of Education approve to apply for the Connecticut State Department of Education Individuals with Disabilities Act (IDEA) Grant 2021.

Approved:

---

Rocco F. Orso



# Waterbury Public Schools

236 Grand Street ♦ Waterbury, Connecticut 06702 ♦ (203) 574-8017 ♦ Fax (203) 346-3509

Katharine Gabrielson  
Director of Pupil Services

March 31, 2020

Honorable Commissioners  
Waterbury Board of Education  
236 Grand St.  
Waterbury, CT 06702

Re: Request for Permission to apply for the Individual with Disabilities Education Act (IDEA) 2021 Grant for the 2019-2021 grant period.

To the Honorable Commissioners  
of the Waterbury Board of Education:

The Connecticut State Department of Education is accepting applications for the Individuals with Disabilities Education Act (IDEA) Grant. The grant deadline is May 11, 2020. The grant period covers 2020-2022 and is broken down into two sections, one for all students (Section 611) and one for preschool students (Section 619), all with disabilities. The IDEA grant is a federal grant which is awarded and administered by the State Board of Education. Each district is entitled to a share of IDEA funds as determined by the State Board of Education but an annual application is required to be filed. The application is filed electronically.

The amount requested is determined by the State Board of Education and is the same amount that we received for last year's grant: \$5,294,071 for Section 611 and \$ 140,617 for Section 619 for a total amount requested of \$5,434,691. The focus of the grant is to provide funds to local educational agencies (LEAs) to supplement the costs of providing educational services and materials to students with disabilities. A description of how the grant is used by the District is attached for your review. I respectfully request your permission to apply for this grant.

Sincerely,

Katharine Gabrielson

Enc. IDEA Grant Summary

C: Dr. Gregory Rodriguez, Deputy Superintendent of Schools

**Individuals with Disabilities Education Act (IDEA) Grant Program**  
**Connecticut State Department of Education**

**March 31, 2020**

**WATERBURY IDEA GRANT PROGRAM HIGHLIGHTS**

**Name of Grant:** Individuals with Disabilities Education Act (IDEA)  
Entitlement Grant Program

**Grant Deadline:** To be filed electronically by May 11, 2020

**Grant Period:** 2020-2022 (referred to as IDEA grant 2021)

**Total Funding Available:** Waterbury Public Schools was awarded a total amount of \$5,434,691 for the last grant period: \$5,294,074 for the main 611 grant and \$140,617 for the preschool 619 grant. The State Department of Education directs the District to request the same funding of \$5,434,691 for the 2021 grant application.

**Cost Sharing or Matching:** No local fund match is required to receive the grant funds. However, under the IDEA funding rules, the Local Educational Agency (LEA) must meet the Maintenance of Effort and Excess Cost requirements of the grant funding under federal law. The funds are meant to supplement, not supplant, local funding for special education. In addition to providing special education services to public school students, Waterbury is responsible to provide special education services to Brass City Charter School.

In addition, the LEA must service students with disabilities in non-public schools and is required to spend a proportional share of the grant funds on those students. At the request of the non-public school administrators, Waterbury provides special education services to students in Waterbury non-public schools to meet the non-public school students' proportional share requirement. Non-public students represent approximately 3% of the total population of students with disabilities in Waterbury. Waterbury needs to allocate 3%, the non-public proportional share, of each grant amount, to non-public school students for the special education equitable services.

**Purpose of the Grant:** The purpose of the IDEA Grant is to assist the Local Education Agency (LEA), the Waterbury Board of Education, with funding needed to educate students with disabilities in the Waterbury Public Schools.

**Mandatory Activities:** No specific mandatory activities are required but the federal government through the State Board of Education monitors the District's special education program for compliance with the Special Education Indicators set forth by the federal and state education agencies.

**Planned Activities:** The grant funds are primarily used for paying for staff and vendors to provide instruction or related services to students with disabilities. The grant also covers some related special education costs including software programs, supplemental services, academic materials, testing materials, assistive technology, equipment and professional development.

**Grant Employees:** The grant pays for two special education supervisors, the grant manager, one office manager, two supervisor's secretaries, one preschool secretary, one residential secretary, one data base manager and one accountant and an IT person. In addition, the grant pays for approximately 12 behavior therapists, sixteen special education teachers, one speech therapist, one assistant speech therapist, two paraprofessionals, one special education team leader, one preschool transition coordinator and one transition coordinator.

**Budget:** Of the total Grant budget request, over \$3,432,000 will be used to pay for employee salaries and benefits for the employees above and approximately \$1,540,000 for the registered behavior services for students of all grades as needed. The remaining funds of approximately \$462,691 will be used to purchase supplemental services, tuition for the NVCC transitional program, instructional and administrative supplies, evaluation and testing materials, assistive technology, equipment and repairs, the web-based IEP system, supplemental academic materials, staff professional development and parent and student activities.

# BOARD OF EDUCATION

*Waterbury, Connecticut*

## SUPERINTENDENT'S NOTIFICATION TO THE BOARD

Item #10.1

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Superintendent of Schools notifies the Board of Education of the following teacher new hires:

<u>Name</u>		<u>Assignment</u>		<u>Effective</u>
Bolduc	Kathryn	Reed	English/LA	02/24/2020
Carter	SaQueen	Crosby	Spec Ed	03/05/2020
Correa	Jennifer	Wilby	Biology	03/10/2020
Erdmann	Michael	Wilby	Special Ed	03/30/2020
Fortier	Joseph	Waterbury Arts	Guidance Counselor	03/30/2020
Hargrave	Philip	Bunker Hill	Art	03/12/2020
Iannicell	Carmela	Kennedy	Social Worker	03/30/2020
Lehane	Danielle	Gilmartin	Social Worker	03/30/2020
Moquete	Geraldine	Crosby	SLP	03/16/2020
Noss	Alysha	Sprague	Pre-k Reg Ed	02/03/2020
Rivera Gierbolini	Jose Miquel	Hopeville	Bil Gr 5	02/07/2020
Samuels	Julia	Carrington	Social Worker	03/26/2020
Selvarajan	Jayalalitha	Reed	Gr. 2	03/12/2020
Torres-Dozier	Bianca	Enlightenment	Social Worker	03/30/2020

Respectfully submitted,

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Dr. Verna D. Ruffin  
Superintendent of Schools

# BOARD OF EDUCATION

*Waterbury, Connecticut*

## SUPERINTENDENT'S NOTIFICATION TO THE BOARD

Item #10.2

April 9, 2020

To the Board of Education  
Waterbury, CT

Ladies and Gentlemen:

The Superintendent of Schools notifies the Board of Education of the following Academic Achievements effective March 1, 2020:

<u>Last Name</u>	<u>First Name</u>	<u>Degree From</u>	<u>Degree To</u>	<u>University</u>
April	Meghan	BA/3	MA/3	U of St. Joseph
Belancik	Benjamin	MA/6	MA+15/6	U of St. Joseph
Blaschke	Jennifer	BA+15/5	MA/5	Quinnipiac U
Boll	Deana	BA/2	MA/2	U of St. Joseph
Brittingham	Michele	6 YR/12	6 YR+15/12	Dominican U of CA
Burns	Richard	MA+15/7	6 YR/7	Augustana U/Colorado State U
Capaldo	Christine	MA+15/9	6 YR/9	Augustana U
Carroll	Amy	6 YR+15/6	PhD/6	WCSU
Cassone	Kelley	MA/5	6 YR/5	U of St. Joseph/ U of Bpt.
Cavallo	Angelica	MA/5	MA+15/5	U of Bpt./Dominican U of CA
Ciaramella	Nicole	BA+15/4	MA/4	U of St. Joseph
Connor	Heather	6 YR /7	6 YR+15/7	U of New Eng./Sac. Heart U
Croce	Kelly	MA/12	MA+15/12	Dominican U of CA
Durante	Janelle	BA+15/3	MA/3	Walden U
Evanoski	Jessica	BA+15/5	MA/5	U of St. Joseph
Freitas	Ashley	MA/5	MA+15/5	CCSU
Gibson	Jaclyn	6 YR /7	6 YR+15/7	U of Bpt.
Grant	Nataine	6 YR /7	6 YR+15/7	Walden U
Hanley	Jessica	BA+15/4	MA/4	U of Bpt.
Hanlon	Rebecca	BA/3	BA+15/3	SCSU
Haxhia	Robert	MA/5	MA+15/5	CCSU
Lanza	Jessica	MA+15/4	6 YR/4	Loyola Marymount U
Lokites	Alana	BA+15/3	MA/3	SCSU
Lombardo	Kiley	6 YR/3	6 YR+15/3	U of Bpt.
Mancuso	Abby	BA/2	BA+15/2	Western Governors U
Milkovic	Katherine	MA/8	MA+15/8	Augustana U
Pape	Anne	MA+15/7	6 YR/7	Quinnipiac U
PasnickA	Sarah	BA+15/3	MA/3	U of St. Joseph



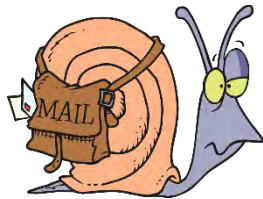
Pierz	Robin	MA+15/8	6 YR/8	Widener U
Provoost	Jacqueline	6 YR /7	6 YR+15/7	Andrews U
Radzimirski	Abigail	BA+15/3	MA/3	WCSU
Richardson	Melissa	MA/4	MA+15/4	U of New H./ Sac. Heart U
Samuels	Anita	6 YR+15/9	PhD/9	U of New Eng.
Stofi	Maribeth	6 YR/12	6 YR+15/12	U of St. Joseph
Tehan	Kyle	BA/3	BA+15/3	Adams State U
Torres	Jessica	BA+15/3	MA/3	CCSU
Yamashita-Iverson	Kazumi	MA+15/11	6 YR/11	U of Bpt.

Respectfully submitted,

---

Dr. Verna D. Ruffin  
Superintendent of Schools

# COMMUNICATIONS



**Packet week ending April 7, 2020**



236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
**Connecticut**  
*Department of Human Resources*  
Office of the Civil Service Commission

March 11, 2020

Jason Rosado  
223 North Ridge Court  
Southington, CT 06489

Dear Mr. Rosado:

Your name is being certified to the Department of Education for the position of HVAC Foreman (Req. #2020561) at \$27.43 per hour.

Your official start date was March 5, 2020. Please call Chris Harmon, School Inspector to discuss the details of the position. The telephone number is (203) 574-8013.

Failure to call the above named individual by March 18, 2020 will result in your name being removed from the eligibility list.

Under the Civil Service Rules, your name will be removed from the eligibility list if you refuse this offer of appointment unless, within seven days from today, you furnish satisfactory evidence acceptable to me justifying such refusal. Please call the Civil Service Office at (203) 574-6761 if you are not interested in the position so that another candidate can be certified. If you have any questions, please do not hesitate to contact us.

*Your new probationary period in accordance with your applicable contract will be 6 months in duration. The department head will be responsible for executing your probationary evaluation no later than 6 months from your first day in your new position.*

Sincerely,

Scott Morgan  
Director of Human Resources

SM/sd

cc: Board of Education  
Chris Harmon, Schl Insp  
Dr. Ruffin, Supt. of Schools  
file



236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
Connecticut  
*Department of Human Resources*  
Office of the Civil Service Commission

March 16, 2020

Tenzin Tsephel  
38 Pembroke Rd.  
Naugatuck, CT 06770

Dear Mr. Tsephel:

Welcome to employment with the City of Waterbury. Your name is being certified to the Department of Education for the position of Paraprofessional @ Wallace Middle School (Req. # 2020564) at \$16.68 per hour. Please contact Kathy Gabrielson, Director of Pupil Services at (203) 574-8017 with any questions you may have in regards to this position.

We have scheduled your orientation for Thursday, April 2, 2020 at 9:00 a.m. at the Department of Human Resources, 236 Grand Street, 2<sup>nd</sup> Floor, Room 202 in Waterbury. You must attend this orientation session in order to work for the City. Your first day reporting to your new department/supervisor will be March 19, 2020 at your regular scheduled time.

Park in the Buckingham parking garage and bring the ticket with you to orientation for validation. The parking garage can be accessed via Bank Street, Cottage Place or Field Street. We do not recommend that you park on the street as we will not be able to validate or allow departure from the orientation to feed the meter.

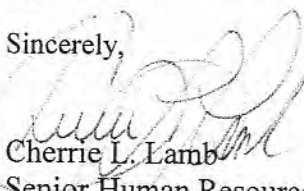
At the orientation, we will provide you with a brief overview of the City, review its employment practices and complete all required paperwork. In addition, if you are an employee eligible for benefits, it is useful to bring the social security numbers and birth dates of your spouse and children in order to complete the insurance enrollment forms.

Please call us prior to the orientation session if you should have any questions regarding the process.

*Your new probationary period in accordance with your applicable contract will be 6 months in duration. The department head will be responsible for executing your probationary evaluation no later than 6 months from your first day in your new position.*

Again, welcome to the City of Waterbury.

Sincerely,

  
Cherrie L. Lamb  
Senior Human Resources Generalist  
CLL/sd

cc Board of Education  
Dr. Ruffin, Supt. of Schools  
Kathy Gabrielson, Director of Pupil Services  
file



236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
**Connecticut**  
*Department of Human Resources*  
Office of the Civil Service Commission

March 16, 2020

Kelly Schipritt  
29 Franklin Ave.  
Oakville, CT 06779

Dear Ms. Schipritt:

We are pleased to receive your acceptance of our offer of employment for the position of Lunchroom Aide @ Wendell Cross Elementary School for the Department of Education – Food Service (Requisition #2020257) at \$11.00 per hour.

This is a part-time position working in the Waterbury School System 10 months a year during school hours up to 19 hours per week.

This position does not provide health insurance benefits. Please refer to the CSEA – LOCAL 2001 contract for other available fringe benefits by visiting our website at [www.waterburyct.org](http://www.waterburyct.org).

We have scheduled your orientation for Thursday, April 2, 2020 at 9:00 a.m. at the Department of Human Resources, 236 Grand Street, 2<sup>nd</sup> Floor, Room 202 in Waterbury. You must attend this orientation session in order to work for the City. Park in the Buckingham parking garage and bring the ticket with you to orientation for validation. The parking garage can be accessed via Bank Street, Cottage Place or Field Street. We do not recommend that you park on the street as we will not be able to validate or allow departure from the orientation to feed the meter.

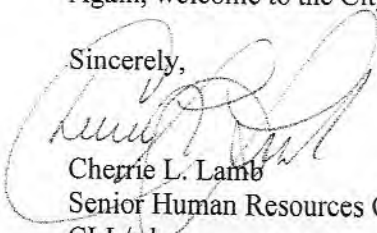
Your first day reporting to your new department/supervisor will be April 3, 2020 at your regular scheduled time

At the orientation, we will provide you with a brief overview of the City, review its employment practices and complete all required paperwork.

Please call us prior to the orientation session if you should have any questions regarding the process.

We look forward to working with you.  
Again, welcome to the City of Waterbury.

Sincerely,

  
Cherrie L. Lamb  
Senior Human Resources Generalist  
CLL/sd

cc: Board of Education  
Dr. Ruffin, Supt. of Schools  
Linda Franzese, Food Serv. Director  
File



236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
**Connecticut**  
*Department of Human Resources*  
Office of the Civil Service Commission

March 16, 2020

Terra Saunders  
36 Albert Place  
Waterbury, CT 06702

Dear Ms. Saunders:

We are pleased to receive your acceptance of our offer of employment for the position of Lunchroom Aide @ Bucks Hill Elementary School for the Department of Education – Food Service (Requisition #2020385) at \$11.00 per hour.

This is a part-time position working in the Waterbury School System 10 months a year during school hours up to 19 hours per week.

This position does not provide health insurance benefits. Please refer to the CSEA – LOCAL 2001 contract for other available fringe benefits by visiting our website at [www.waterburyct.org](http://www.waterburyct.org).

We have scheduled your orientation for Thursday, April 2, 2020 at 9:00 a.m. at the Department of Human Resources, 236 Grand Street, 2<sup>nd</sup> Floor, Room 202 in Waterbury. You must attend this orientation session in order to work for the City. Park in the Buckingham parking garage and bring the ticket with you to orientation for validation. The parking garage can be accessed via Bank Street, Cottage Place or Field Street. We do not recommend that you park on the street as we will not be able to validate or allow departure from the orientation to feed the meter.

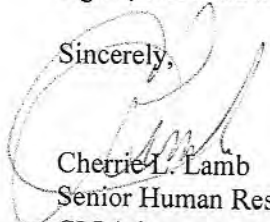
Your first day reporting to your new department/supervisor will be April 3, 2020 at your regular scheduled time

At the orientation, we will provide you with a brief overview of the City, review its employment practices and complete all required paperwork.

Please call us prior to the orientation session if you should have any questions regarding the process.

We look forward to working with you.  
Again, welcome to the City of Waterbury.

Sincerely,

  
Cherrie L. Lamb  
Senior Human Resources Generalist  
CLL/sd

cc: Board of Education  
Dr. Ruffin, Supt. of Schools  
Linda Franzese, Food Serv. Director  
File





236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
**Connecticut**  
*Department of Human Resources*  
Office of the Civil Service Commission

March 16, 2020

Howard Gordon  
12 Badger Rd.  
Wolcott, CT 06716

Dear Mr. Gordon:

Welcome to employment with the City of Waterbury. Your name is being certified to the Education Department for the position of Maintainer I @ Wallace Middle School (Req. #2020407) at \$15.21 per hour. Please contact Chris Harmon, School Inspector at (203) 574-8013 with any questions you may have in regards to this position.

We have scheduled your orientation for Thursday, April 2, 2020 at 9:00 a.m. at the Department of Human Resources, 236 Grand Street, 2<sup>nd</sup> Floor, Room 202 in Waterbury. You must attend this orientation session in order to work for the City. Your first day reporting to your new department/supervisor will be March 19, 2020 at your regular scheduled time.

At the orientation, we will provide you with a brief overview of the City, review its employment practices and complete all required paperwork. In addition, if you are an employee eligible for benefits, it is useful to bring the social security numbers and birth dates of your spouse and children in order to complete the insurance enrollment forms.

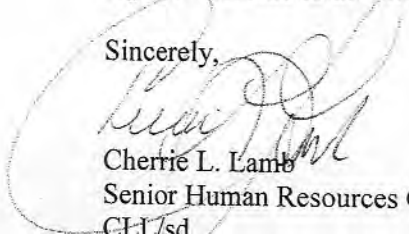
Park in the Buckingham parking garage and bring the ticket with you to orientation for validation. The parking garage can be accessed via Bank Street, Cottage Place or Field Street. We do not recommend that you park on the street as we will not be able to validate or allow departure from the orientation to feed the meter.

Please call us prior to the orientation session if you should have any questions regarding the process.

***Your new probationary period in accordance with your applicable contract will be 9 months in duration. The department head will be responsible for executing your probationary evaluation no later than 9 months from your first day in your new position.***

Again, welcome to the City of Waterbury.

Sincerely,

  
Cherrie L. Lamb  
Senior Human Resources Generalist  
CLL/sd

cc Board of Education  
Dr. Ruffin, Supt. of Schools  
Chris Harmon, School Inspector



236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
**Connecticut**  
*Department of Human Resources*  
Office of the Civil Service Commission

March 17, 2020

Krista DiFiore  
3030 North Main St.  
Waterbury, CT 06704

Dear Ms. DiFiore:

Welcome to employment with the City of Waterbury. Your name is being certified to the Department of Education – Food Service for the position of Provisional Cook (Req. #2020665) at \$17.37 per hour. Please contact Linda Franzese, Director of Food Service at (203) 574-8035 with any questions you may have in regards to this position.

We have scheduled your orientation for Thursday, April 2, 2020 at 9:00 a.m. at the Department of Human Resources, 236 Grand Street, 2<sup>nd</sup> Floor, Room 202 in Waterbury. You must attend this orientation session in order to work for the City. Your first day reporting to your new department/supervisor will be March 19, 2020 at your regular scheduled time.

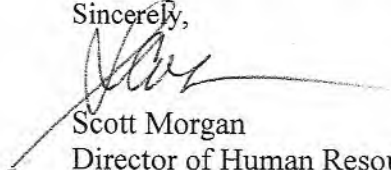
At the orientation, we will provide you with a brief overview of the City, review its employment practices and complete all required paperwork. In addition, if you are an employee eligible for benefits, it is useful to bring the social security numbers and birth dates of your spouse and children in order to complete the insurance enrollment forms.

Please call us prior to the orientation session if you should have any questions regarding the process.

*Your new probationary period in accordance with your applicable contract will be 9 months in duration. The department head will be responsible for executing your probationary evaluation no later than 9 months from your first day in your new position.*

Again, welcome to the City of Waterbury.

Sincerely,

  
Scott Morgan  
Director of Human Resources

SM/sd  
cc Board of Education  
Dr. Ruffin, Supt, of Schools  
Linda Franzese, Director of Food Service  
file





236 Grand Street  
Waterbury, CT 06702

(203) 574-6761

The City of Waterbury  
Connecticut  
Department of Human Resources  
Office of the Civil Service Commission

March 17, 2020

Reynaldo Melendez  
33 Natalie Terrace  
Waterbury, CT 06705

Dear Mr. Melendez:

Your name is being certified to the Department of Education for the position of Supervisor of Custodial Services (Req. #2019672) at \$26.87 per hour. Please call Chris Harmon, School Inspector, to discuss the details of the position. The telephone number is (203) 574-8013.


We have scheduled your orientation for Thursday, April 2, 2020 at 9:00 a.m. at the Department of Human Resources, 236 Grand Street, 2<sup>nd</sup> Floor, Room 202 in Waterbury. You must attend the orientation session in order to be certified to this position. Your first day reporting to your new department/supervisor was March 12, 2020 at your regular scheduled time.

At the orientation, we will provide you with a brief overview of the City, review its employment practices and complete all required paperwork. In addition, if you are an employee eligible for benefits, it is useful to bring the social security numbers and birth dates of your spouse and children in order to complete the insurance enrollment forms.

Please call us prior to the orientation session if you should have any questions regarding the process.

*Your new probationary period in accordance with your applicable contract will be 6 months in duration. The department head will be responsible for executing your probationary evaluation no later than 6 months from your first day in your new position.*

Sincerely,

  
Scott Morgan  
Director of Human Resources

SM/sd

cc: Board of Education  
Dr. Ruffin, Supt. of Schools  
Chris Harmon, School Inspector  
File



# Connecticut Association of Boards of Education

*Vincent A. Mustaro, Senior Staff Associate for Policy Services*

## PRESENTS POLICY HIGHLIGHTS

March 20, 2020

Volume 19 – Issue #20

**Policies Impacted by Governor's Executive Orders:** Governor Lamont recently signed Executive Orders No. 7B and No.7C impacting laws and policies based on those laws. Specifically impacted are those pertaining to the Freedom of Information Act and board of education meetings and laws, and laws, consequently policies, addressing graduation requirements, certification, teacher evaluation and support tenure, and in-service training.

Per Executive Order No. 7B, public agencies, including boards of education, may hold meetings “remotely, by conference call, videoconference or other technology” without the public physically present, provided they:

1. Make arrangements for the public to watch or listen in real time by telephone, video or other technology.
2. Record or transcribe the meeting and then make that record available on the board website within seven days of the event.
3. Post an agenda for the meeting on the district website and include information on how the meeting will be conducted and how it can be accessed remotely.
4. Post all supporting documents and materials relevant to the agenda to the district's website. They also must be filed with BoE holding the remote meeting at least 24 hours beforehand.
5. Require all officials and others taking part in the meeting to clearly state their name and title before each time that they speak.

The major difference is that the board packet/materials discussed/acted upon will now need to be “filed with the Board” and posted along with the agenda at least 24 hours in advance of the meeting.

Previously, meeting documents, as public records, did not need to be filed with the agenda but, unless covered by an exception or exemption in the FOIA, needed to be available to the public by request after the meeting.

The executive order specifically contemplates meetings via conference call, requiring boards to provide real time access for the public to “watch or listen.” There are some districts for which video conferencing is not a realistic option. There are a number of free and low-cost large capacity conference calling services.

Source: Rebecca Adams Rieder, Esq. CABE Senior Staff Attorney

Executive Order No. 7C, which cancelled all school classes until March 31, 2020, also authorized the Commissioner of Education to temporarily waive graduation and courses of study requirements; timelines for educator certification; timelines for teacher evaluation and support; timelines for the employment, tenure, and termination of teachers; and timelines for in-service trainings and professional development.

Specific guidance will be forthcoming from the State Department of Education pertaining to the implementation of these waivers.

**Policy Implication:** The policies and bylaws impacted by the changes permitted by the Executive Orders include, but are not limited to, the following:

- #1120 – Public Participation at Board Meetings
- #9321 – Time, Place, Notification of Meetings
- #9322 – Public and Executive Sessions
- #9325 – Meeting Conduct
- #9325.43 – Attendance at Meetings via electronic Communications
- #4112.2 – Certification
- #4115 – Evaluation
- #4116 – Probationary/Tenure Status
- #4131 – Staff Development
- #6146 – Graduation Requirements

**Use of Automatic Calling/Text-Messaging Services:** During this time of a national health emergency and its impact on schools, districts may be using automatic calling and text-messaging services, in addition to their websites, to provide needed information to parents/guardians. Therefore, it is appropriate to review the use of such digital communication channels to help parents/guardians stay connected to the changing school experience because of the current pandemic situation.

The Telecommunications Consumer Protection Act (TCPA) governs the transmission of certain automated calls and text messages to cell phones, including calls and texts from public schools to parents/guardians. The TCPA law and implementing rules from the Federal Communications Commission (“FCC”) and specifically the interpretation of limits regarding public schools, have been in effect for several years.

The TCPA and the FCC rules prohibit telemarketing calls using an artificial or prerecorded voice to residential telephones without prior express consent of the recipient (47 C.F.R. §64.1200). Also prohibited are any non-emergency calls using an automatic telephone dialing system (auto-dialer) or an artificial or prerecorded voice to a wireless number without the prior consent of the recipient. These are the calls commonly known as “robocalls.” There could be a violation of the TCPA when a district makes non-emergency robocalls to wireless phones without consent.

The FCC issued a Declaratory Ruling (CG Docket No. 02-278 Declaratory Ruling FCC 16-88) that clarified when schools may make certain robocalls to student family wireless phones without prior express consent. The FCC was asked whether all robocalls made by an educational organization qualified as calls made for an “emergency purpose,” which would eliminate the need to schools to get prior express consent before making robocalls.

The FCC ruling clarified what types of robocalls fit under the calls made for an emergency purpose. It held that robocalls involving matters “closely related to the school’s mission” do not violate the TCPA when the person being called had given the number to the school. The Commission’s position stated that “persons who knowingly release their telephone numbers have in effect given their invitation or permission to be called at the number which they have given, absent instruction to the contrary.”

The ruling stated, “We confirm that school callers may lawfully make robocalls and send automated texts to student family wireless phones pursuant to an ‘emergency purpose’ exception or with prior express consent without violating the Telephone Consumer Protection Act.”

The FCC acknowledged that a person merely giving out his/her telephone number could constitute consent, but only as long as the robocalls is closely related to the purpose for which the person gave out the number.

Therefore, in the school context, robocalls that relate to a situation affecting the health and safety of students and faculty fall under the emergency purpose exception and do not require prior consent. The FCC provided examples of situations that affect the health and safety of students and faculty or situations closely related to the school’s mission. These include messages or calls relating to closures and health risks.

In conclusion, robocalls are permitted without prior consent if the district limits such calls to notice of emergency items. If informational items will be sent, either work with legal counsel to limit the subjects to those closely related to school operations or obtain prior effective consent for the calls.

**Policy Implications:** Policy, #1110.4, “Automated Telephone Calls/Text Messages,” pertains to this issue. This is considered an optional policy for inclusion in the district’s manual. However, it is imperative, even if districts do not place such a policy in their manual, to be aware of the legal restrictions pertaining to the use of the available technology for automated communication.

At this time of emergency, the utilization of an automated notification system/service, commonly referred to as “robocalls,” facilitates the sending of important and informative information to families, staff and students through telephone calls and/or text messages in an extremely effective, efficient and timely manner.

**Efforts to Implement Online Learning Reveals Inequalities to Consider:** The decision to close schools and transition to online/distance learning amid the coronavirus outbreak is raising the issue of inequality in schools. Educators across the country are considering, facing the prospect of lengthy closings, the creation of online learning to minimize the disruption to student learning.

In some school districts, that can be easily done. In such situations the students have internet connections at home, laptops they can work from, teachers who know how to design online lessons and a strong foundation of in-school blended learning experiences. However, as recently reported in The Hechinger Report, “These types of schools are rare. Most schools are completely unprepared – or, at best, woefully underprepared – for coronavirus and virtual learning. Unequal internet access is just the tip of the iceberg of a massive equity crisis facing U.S. schools should coronavirus force education online.”



Beth Holland, digital equity and rural project director at the Consortium for School Networking (CoSN), an industry association for tech directors across the country, indicated that CoSN members have been turning to each other for advice and support about how to approach coronavirus and virtual learning. However, Holland is not optimistic because of the present data.

The latest survey data from the Pew Research Center indicates that 73 percent of adults have broadband internet at home. However, the differences based on income are striking. While 92 percent of adults from households earning \$75,000 or more per year say they have broadband internet at home, just 56 percent of adults from households earning below \$30,000 say the same. About 17 percent of adults access the internet from home through a smartphone only. For the children in their homes, that means trying to read assignments, write papers, do research and take quizzes with tiny screens and tinier keyboards.

In addition, Holland points out that successful remote learning experiences depend on teachers who know how to create and deliver engaging lessons online and students who have the digital literacy skills to access them. "If entire K-12 districts move online, what can schools expect of early elementary schoolers? Younger children don't have the independent learning skills, attention spans or social-emotional maturity to succeed in virtual learning environments for very long, let alone the troubleshooting skills they will inevitably need to manage whatever technology they're using."

Some organizations have offered training and advice for teachers contemplating online learning for the first time. Noah Dougherty, a senior design principal at an education consulting firm stated "the biggest shift virtual learning requires is flexibility and a recognition that the controlled structure of a school is not replicable online." Students cannot be expected to sit in front of their computers for seven hours per day.

Many teachers have been practicing blended and online learning for years. But they're not yet the norm in U.S. schools. And that's what has Holland most concerned about what mass school closures may mean for learning. "I have a huge concern for that massive number of districts that don't even know how to start having that conversation because the infrastructure doesn't exist in schools, the infrastructure isn't there outside of schools, the culture isn't there for online learning," she said. These schools remain the norm.

Source: "Coronavirus is poised to inflame inequality in schools," by Tara Garcia Mathewson, *The Hechinger Report*, March 11, 2020.

Adam Lustig, Director, Center for Safe Schools, NSBA, indicated in an email message on Monday, March 16 the following:

"As the new coronavirus, COVID-19, spreads throughout the country, more and more schools are canceling classes and shifting their in-person instructional time online. Many classroom teachers are now trying to understand the ins-and-outs of distance learning for the first time and looking for free online resources for schools. What does instruction look like? How do I ensure my students are still receiving high-quality education? Will I be able to track the learning that is taking place?

The good news is: help is available! Many companies are offering teachers and schools access to their online platforms for free for the duration of their closure. In the short term, a new education landscape is forming, and we have put together a list of free online resources for schools, educators, and administrators to help them navigate these unfamiliar waters. This list can be accessed here: [schoolchoiceweek.com/...](http://schoolchoiceweek.com/...)

**Food for Thought:**

“Not all readers are leaders, but all leaders are readers.”

Attributed to President Harry Truman

“Children have never been very good at listening to their elders, but they have never failed to imitate them.”

Source: James Baldwin, quoted in “*Errare Humanum Est: A Teaching Odyssey*” by Yekaterina McKenney in *English Journal*, January 2020.

**Sent:** Wednesday, March 25, 2020 3:33 PM

**To:** Carrie Swain

**Subject:** Naming of Crosby gym in honor of Nick Augelli

**EXTERNAL MAIL-** This email originated from outside the District. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

I am writing in support of naming the Crosby gym in honor of Nick Augelli.

I have known Nick Augelli for 23 years. I am the founder of the Crosby boys basketball booster club. I started this with the full support of Coach Augelli when my son James Vassar became a member of the Crosby boys basketball team. He graduated in 2002 from Crosby and went on to attend Elms college, as a student athlete. I continue to this day to volunteer with the booster club along with Irma Sackett so I know first hand what Coach Augelli does for his players on and off the court. He has been instrumental in countless boys furthering their education as well as their lives. This is one of the reasons I remain so involved with Crosby Boys Basketball.

Coach Augelli continues his support of his players long after they have graduated as a mentor and friend. He has been a father figure to many of these young men.

Nick certainly deserves this honor, his years of dedication to his players, Crosby High, NVL and the Waterbury community as not only a teacher but coach speaks volumes of his character. I highly respect him,

and can think of no one more deserving of this lasting honor.

---

Sincerely yours,

Deborah Vassar

72 Cianci Dr

Southington CT 06489

Sent from Yahoo Mail on Android



# Connecticut Association of Boards of Education

*Vincent A. Mustaro, Senior Staff Associate for Policy Services*

## PRESENTS POLICY HIGHLIGHTS

April 3, 2020

Volume 19 – Issue #21

**Policies Impacted by Coronavirus COVID 19 Situation:** During my professional career and experiences in education, spanning over six decades, I can truthfully say that what we in the educational community are currently experiencing is unprecedented. I am heartened and encouraged by the manner in which boards of education, superintendents, teachers and all levels of the educational community have risen to the many challenges this pandemic has presented on behalf of our children and the need to continue to provide a worthwhile educational experience for them under very difficult circumstances.

Concerning policy, I have always indicated that the board's policy manual must be viewed as a living document, and like curriculum, one that is never finished. This is especially true at this time of emergency. Listed below are some of the major policies that are impacted at this time of social distancing and cancellation of classes. In addition to policies, obviously attention must also be given to the bargaining unit agreements between the board and various employee groups and contracts with vendors, including but not limited to, food services, transportation and software vendors.

The intent of listing these policies is to provide an awareness of issues the board/superintendent leadership team must consider as this school year moves forward in these uncharted waters. This listing can serve as a checklist to some of the issues which must be confronted. A number of these policies have been impacted by executive orders of Governor Lamont, directives providing waivers of current responsibilities and tasks from Commissioner of Education Cardona and the Connecticut State Department of Education and from the Federal Department of Education.

1. #9314: Suspension of Policy, Bylaws, Regulations
2. #9321: Time, Place, Notification of Meeting (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
3. #9322: Public and Executive Sessions (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
4. #9325: Meeting Conduct (Public Participation) (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
5. #9325.43: Attendance at Meetings via Electronic Communications (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
6. #9325.5: Requests for Information by Board Members



7. #9327: Electronic Mail Communications
8. #9327.1: Board Member Use of Social Media
9. #1120: Public Participation at Board Meetings (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
10. #1110.4: Auto-Notification System (Automatic Calls)
11. #1112.1: School News Releases
12. #1330/3315: Use of School Facilities
13. #2000.1: Board/Superintendent Relationship
14. #2131.1: Appointment of Designee for Superintendent
15. #2210: Administrative Leeway in Absence of Board Policy
16. #3112: Budget Calendar (*Governor Lamont's executive order 7I extended budget adoption deadlines & provided other guidance regarding budget process*)
17. #3141: Public Review of Budget
18. #3150: Adoption of Budget
19. #3170: Budget Administration
20. #3432: Budget and Expense Reports
21. #3511: Compliance with Section 504 Regulations
22. #3520.13: Student Data Protection & Privacy/Cloud-Based Issues (*Commissioner Cardona has issued temporary flexibilities pertaining to the requirements of the Student Data Privacy Act*)
23. #3323: Bidding Requirements. (The board can delegate to the superintendent or designee the emergency contracting authority. Recommend that boards make the motion time specific, for example: until July 1, 2020.)
24. #3541.23: Bus Contractors
25. #3542/#3542.31: Food Service/ Free Meals (*SDE allowing applications from districts to serve meals in remote locations.*)
26. #4112.2: Certification (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
27. #4113.1: Load/Schedule/ Hours of Employment
28. #4113.3: Work Year
29. #4115/4215: Evaluation/Supervision (*All components of Educator Evaluation and Support Plan, EESP, waived*)
30. #4116: Probationary/Tenure Status (*Impacted by Governor Lamont's executive orders #7B, 7C.*)
31. #4118.5/4218.5: Acceptable Computer Use
32. #4131: Staff Development (*All components of Educator Evaluation and Support Plan, EESP, waived*)
33. 4152.6/4252.6: Family and Medical Leave (*U.S. DOL issued Guidance on COVID-19 Paid Leave Provisions. It is also important to note that the Families First Coronavirus Response Act contains provisions for emergency paid sick leave*)

34. #5110: Attendance
35. #5113: Attendance & Excuses
36. #5123: Promotion/Retention
37. #5124: Reporting to Parents
38. #5125: Student Records; Confidentiality (FERPA requirements)
39. #5141.6: Crisis Management
40. #6111: School Calendar
41. #6112: School Day
42. #6114.8: Pandemic/Epidemic Emergencies
43. #6114.81: Emergency Suspension of Policy During Pandemic
44. #6141.321: Acceptable Computer Use
45. #6141.327: Electronic Resources
46. #6146: Graduation Requirements (*Governor Lamont's executive order 7C grants Education Commissioner authorization to temporarily waive any requirements regarding prescribed courses of study and graduation as he deems necessary.*)
47. #6146.2: Statewide Proficiency/Mastery Examinations (*SDE waived program.*)
48. #6156.2: Off Site Computer Use
49. #6159 and/or #6171: Special Education (*Guidance provided by Connecticut Bureau of Special Education.*)

**Student Privacy Rights in Coronavirus Era:** Two organizations have collaborated to provide helpful information to school districts pertaining to the privacy rights of students during current school closures. The Future of Privacy Forum and AASA, the American Association of School Administrators have teamed up to help K-12 administrators protect student privacy during coronavirus school shutdowns. A [white paper](#) from the two organizations highlights the health or safety emergency exceptions under the Family Educational Rights and Privacy Act (FERPA) that allow schools to share students' personally identifiable information with relevant officials during the COVID-19 pandemic.

The white paper, link provided above, clearly reviews how FERPA and HIPAA govern the disclosure of students' health information held by schools. It provides answers to the following Frequently Asked Questions (FAQs) with examples illustrating how FERPA applies in the context of COVID-19:

1. [If a student has COVID-19, what information from education records can the school share with the community?](#)
2. [If the school suspects that a student has COVID-19, what information can the school share with its community?](#)
3. [If a school suspects that a student may have COVID-19, can school officials contact the student's primary care physician?](#)
4. [If a student has COVID-19 and the school's health records are covered by HIPAA rather than FERPA, what information may the school disclose to its community?](#)

5. What if the school receives a voluntary request from a local, state, or federal agency for student records to assist the agency in responding to the COVID-19 outbreak?
6. What should a school do if it receives a request under a mandatory reporting law to share student health records with a public health agency?
7. Do interagency agreements with other state or local agencies allow schools to disclose education records without obtaining consent?

For clarity, the paper uses the term “school” to refer to any education agency or institution.

The U.S. Department of Education has also issued guidance on student privacy regarding the requirements of FERPA as it pertains to COVID-19, advising administrators to work with public health officials to manage COVID-19 issues but protect students’ education records.

Students’ educational privacy remains protected during the coronavirus pandemic. As many districts scramble to put together online learning platforms for their now-remote students, FERPA and other privacy laws around student’s education information still apply. FERPA forbids “improper disclosure” of personally identifiable information from student records to third parties.

Source: “Student Privacy Rights in Coronavirus Era” by Shawna De La Rosa, *Education Dive*, March 24, 2020.

**Policy Implications:** Mandated policy #5125, “Student Records; Confidentiality,” pertains to this important topic.

### **Food for Thought:**

On some positions, cowardice asks the question, ‘Is it safe?’ Expediency asks the question, ‘Is it politic?’ Vanity asks the question, ‘Is it popular?’ But conscience asks the question, ‘Is it right?’

Source: Martin Luther King Jr., 1967