Charles Point Multi-Use Waterfront Trail

Bid No. 2019-001

City of Peekskill
Westchester County, New York

CONSTRUCTION DOCUMENTS

Bid Opening:
Friday, March 8, 2019
11:00 A.M.
City Clerk’s Office, City Hall
840 Main Street
Peekskill, NY 10566
NOTICE

The following pages of the Bid Proposal must be copied, filled out and submitted by the Contractor. The original USB flash drive purchased from the City for ten dollars ($10.00) must be included with the submittal. Failure to do so will result in an Irregular Bid.

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**CITY OF PEEKSKILL**  
**BID NO. 2019-001**

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SECTION A

NOTICE TO BID

Sealed bids for the following construction work:

CHARLES POINT MULTI-USE WATERFRONT TRAIL
CITY OF PEEKSKILL

Bid No. 2019-001

Sealed Bids will be received at the Office of the City Clerk of the City of Peekskill, New York, until 11:00 A.M. on Friday, March 8, 2019, at City Hall, 840 Main Street, Peekskill, New York 10566, and immediately thereafter the bids will be publicly opened and read aloud in said office. No bids will be accepted after said time and date.

The work for Bid No. 2019-001 consists of the construction of an asphalt trail (“Trail”) extending from Charles Point Park to the Village of Buchanan over permanent easements held by the City of Peekskill. The Project also includes but is not limited to the installation of site amenities, utilities, and lighting. This Project is funded by Department of State grant contract number C1000729, and the Contractor must comply with State provisions. Additionally, there are five (5) ‘Alternates’ as described in detail in Section K, the Technical Specifications, and on the Contract Plans.

A USB flash drive of Plans, Specifications and Contract Documents may be obtained as of Wed., Feb. 6, 2019 from 9 A.M. until 4 P.M. at the Department of City Services, Bureau of Public Works, City Hall, 840 Main Street, Peekskill, NY, upon payment of $10.00 for USB flash drive. This is a non-refundable fee. No paper copies will be distributed.

All Bidders must submit one (1) USB flash drive containing all Bid documents as part of the bid package.

Bid forms (Section C) must be copied from the USB flash drive, filled out, and submitted in paper form. Bid forms must also be scanned onto the provided USB flash drive and submitted as part of the bid. As bid security, each bid must be accompanied by a certified check or a bid bond acceptable to the City in the amount of not less than 5% of the total amount of the Bid. Certified Checks shall be made payable to the City of Peekskill, New York and are to be held by the City as a guarantee for the proper execution and delivery of the Contract and bonds to secure the faithful performance thereof. In default of such execution and delivery of Contract and Bonds, the amount of the deposit represented by the check shall be forfeited and retained by the City of Peekskill as liquidated damages.

The executed Bid forms, USB flash drive, and the certified check or bid bond must be enclosed in a sealed envelope bearing the name and address of the Bidder, addressed to the City Clerk, City of Peekskill, NY and endorsed “Charles Point Multi-Use Waterfront Trail Project, City of Peekskill, NY, Bid Number 2019-001”. All questions to be emailed to Jesica Youngblood, City Planner at jyoungblood@cityofpeekskill.com by 4PM on February 26, 2019. All questions, answers, and addendums, if any, will be posted on the City’s ‘Bid/RFP’ webpage with a link emailed to all who provided a legible email address when purchasing the USB flash drive of the Bid documents.

A Pre-Bid meeting will be held during mid-February in the first-floor conference room in City Hall. The meeting is not mandatory, but prospective bidders are strongly urged to attend. A site visit will follow the Pre-Bid meeting. The meeting specifics will be posted to the City’s ‘Bid/RFP’ webpage.

Minority and Women-owned Business Enterprise (M/WBE) goals for the Department of State (DOS) grant require that a total of 30% of the total bid award must be paid to MBEs and/or WBEs, split 15% each. The successful bidder will be required to document compliance as required by the DOS.
Current prevailing wage rates shall apply to all work, and the project will be subject to audit(s) by the agencies of the State of New York.

In the event the successful bidder enters into a contract with the City in the amount of $1,500,000 or greater, the successful bidder will be required to document compliance with Chapter 165 of the Peekskill City Code, which requires the contractor who enters into any construction contract in the amount of $1,500,000 or more with the City, or enters into a subcontract for $500,000 or more to have (and/or the subcontractor(s) to have) an apprenticeship agreement appropriate for the type and scope of work to be performed that has been registered with, and approved by, the Commissioner of Labor pursuant to the requirements of Article 23 of the Labor Law.

The City of Peekskill reserves the right to accept or reject any or all Bids, or portions of a Bid, in accordance with the General Municipal Law, and to waive any informality in any Bid if deemed in the best interest of the City of Peekskill to do so.

Jean Friedman, AICP
Director of Planning
SECTION B
INSTRUCTIONS TO BIDDERS
CHARLES POINT MULTI-USE WATERFRONT TRAIL
BID NO. 2019-001

1. LOCATION OF THE WORK

The work under Contract Number C1000729 with the New York State Department of State is located along the Hudson River within the City of Peekskill, Westchester County, NY from Charles Point Park southward and waterside to the Village of Buchanan, Westchester County, NY.

2. DESCRIPTION OF THE WORK

The work for Bid No. 2019-001 consists of the construction of a multi-use asphalt trailway with accompanying amenities such as railings, curbing, trashcans, kayak posts, bicycle racks, and benches as well as site utility work including lighting and electrical installation. Additionally, there are five (5) ‘Bid Alternates’ more fully described in the Technical Specifications and Contract Plans. All Bidders must provide a base bid plus a bid for each of the ‘Alternates’ listed below in Section C:

1. Alternate A, Charles Point Park Restroom
2. Alternate B, Main Trail Lighting Fixtures, Electrical Wiring, Electrical Services and Service Metering and Distribution Equipment
3. Alternate C, Peninsula Trail, No Lighting or Underground Work
4. Alternate D, Peninsula Trail, Only Underground Lighting Fixture Foundations and Conduit Work Included
5. Alternate E, Peninsula Trail, Full Electrical Fit-Out, Including Lighting Fixtures and Electrical Wiring

This is a DOS grant contract (#C1000729) with funding provided under Title 11 of the New York State Environmental Protection Fund.

The City reserves the right to accept only the base bid, or the base bid and one or more of the alternates. In any event, only one contractor will be selected for this project.

3. COMMENCEMENT AND COMPLETION OF THE WORK

Upon execution of the Contract including delivery of the Performance Bond, Labor and Materials Payment Bond, and insurance policies and certificates by the Contractor to the Owner and the approval therefor by the Owner’s attorney, the Contractor will be notified by letter from the Owner (City) to proceed with the work.

4. DOCUMENTS: A complete set of Bidding Documents will be issued on USB flash drive for bidding purposes as stated in the "Notice to Bidders." A complete set of Documents consists of the following:

a. Sections A – H, J – K and the Technical Specifications (Section L), as identified in the Table of Contents herein
b. Appendices A and B, as identified in the Table of Contents herein
c. Contract Drawings
d. Addenda (if any)

5. PROPOSALS: To be considered, Proposals must be in accordance with these Instructions to Bidders. All bids must be submitted on the prescribed forms which are included in Section C herein. All blank spaces for bid prices must be filled in, in both words and figures, either typed or in ink. All signatures must be in ink.
Proposals that contain any omissions, erasures, alterations, additions, or items not called for in the itemized Proposal, or that contain irregularities of any kind, may constitute sufficient cause for rejection of the bid. In case of any discrepancy between words and figures in the price bid in the Proposal, the price as expressed in words shall govern.

The Bidder must submit one (1) bound paper copy of the Bid forms in Section C of the Bid documents, one (1) new USB flash drive containing the signed forms from Section C, and a certified check made payable to the City of Peekskill or a bid bond not less than 5% of the total amount of the bid, attached to the outside of the sealed envelope.

All submissions must be in a sealed envelope and addressed to the City Clerk, City of Peekskill, 840 Main Street, Peekskill, NY 10566 and be clearly identified with: (1) Project Name [Charles Point Multi-use Waterfront Trail – City of Peekskill, Bid Number 2019-001] and (2) Name of Bidder and Bidder's address. Proposals shall be signed with name typed below signature. The Bidder's seal, if a corporation, shall be affixed under the Bidder's signature. Telephone, facsimile or electronic Bids will not be accepted.

If a separate set of proposal sheets or addenda are issued, they may be used with the understanding that all instructions and conditions of the contract documents are the same as if these pages were included with the bidding documents on the USB flash drive.

6. QUALIFICATIONS OF BIDDERS: The City may make such investigations as it deems necessary to determine the qualifications of the Bidder to perform the work, and the Bidder shall furnish information and data for this purpose as may be required. The City reserves the right to reject any bid if the evidence submitted by a Bidder, or the investigation of such Bidder, fails to satisfy the City, that such Bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein within the time designated. Fraudulent statements shall cause rejection of Proposal and forfeiture of the related bid security.

7. CONDITIONS OF WORK: Each Bidder must inform himself fully of all conditions under which the work will be performed. Failure to do so will not relieve a successful Bidder of his obligation to furnish all material and labor necessary to carry out the provisions of the Contract and to complete the work for the consideration set forth in his bid. Bid shall include the complete costs of furnishing all materials, labor and equipment necessary to complete the work in accordance with the Contract Plans and Specifications and all other expenses incidental thereto. Local and State sales taxes shall not be included in the bid. Insofar as possible, the Contractor, in the carrying out of his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor, or of the proper functioning of the existing facilities of adjacent or contingent properties, and shall be maintained insofar as possible.

8. ADDENDA AND INTERPRETATION: Every request for information or interpretation of Bidding Documents or Drawings must be addressed in writing to the City Planner, 840 Main Street, Peekskill, NY 10566, and to be given any consideration must be received at least ten (10) days prior to the date fixed for the opening of Bids. Any and all such interpretations, and any supplemental instructions, will be in the form of written Addenda and will be emailed to all prospective Bidders who provided a legible email address when purchasing the USB flash drive containing the Bid documents. The failure of any Bidder to receive any such Addenda will not relieve the Bidder of any obligation under his Bid as submitted. Any Addenda so issued shall be come part of the Bidding Documents.

**Receipt of Addenda shall be noted where indicated in “Section C”**.

9. BID SECURITY: Each Bidder is required to deposit at the time of submission of his bid, a Bid Bond or certified check in an amount representing five (5%) percent of his bid payable to City of Peekskill, NY, which amount the bidder agrees is to be forfeited as liquidated damages and not as a penalty if he is awarded the contract and he shall thereafter fail to execute a Contract with the City under the conditions of this Proposal or to furnish the bonds required for the faithful performance of this contract. Bidders who submit certified checks must accompany them with a Consent of Surety from a recognized Bonding Company agreeing to supply a Performance Bond and Labor and Materials Bond if the Contract is awarded to the Bidder. **All Bid Bonds must be securely attached to the outside of the Bid Package and be clearly visible.**

Such bid security will be returned to all except the three lowest formal Bidders within ten (10) days after the formal opening of bids, and the remaining bid security will be returned to the other bidders after the City and the accepted
Bidder have executed a Contract. In the event no Contract has been so executed within forty-five (45) calendar days after the date of the opening of bids, upon the demand of the Bidder, so long as he has not been notified of the acceptance of his bid, his bid security will be returned. The Bid Security of the successful Bidder will be retained until the signing of the Agreement and the filing and approval of the bonds and insurance certificates.

10. INSURANCE REQUIRED: The successful Bidder will be required to procure and pay for the following types of insurance, in accordance with the provisions listed in Section H.

   a. Workmen’s Compensation;
   b. Employer’s Liability Insurance;
   c. Commercial General Liability;
   d. Automotive Liability Insurance;
   e. Owners and Contractors Protective Liability Policy;
   f. Property Damage;
   g. Unemployment Insurance; and
   h. Errors and Omissions Liability Insurance Policy

11. SECURITY FOR FAITHFUL PERFORMANCE: The Contractor shall prior to execution of the Contract submit two separately executed bonds, (1) a Performance Bond in amount equal to one hundred percent (100%) of the accepted bid as security for the faithful performance of the terms, covenants and conditions of the Contract; and (2) a Labor and Material Payment Bond for the full amount of the Contract price guaranteeing the full payment of all persons performing labor or furnishing material or rentals, under the contract.

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

12. GUARANTEE: The Contractor shall guarantee all materials and workmanship for one (1) year in accordance with all conditions set forth in these Specifications. The guarantee shall be provided in the form of a Maintenance Bond in the amount equal to one hundred percent (100%) of the contract. The bond shall be prepared as specified in SECTION F and shall be posted at the time of final payment.

13. FORM OF AGREEMENT: The form of agreement is included in these documents in Section D.

14. AWARD: The Contract will be awarded to the lowest responsible bidder pursuant to the provisions of the General Municipal Law. The City of Peekskill reserves the right to determine responsibility based on an evaluation of the Contractor’s qualifications, experience, organization, finances, past performance, and other applicable factors. The City further reserves the right to reject any or all bids.

15. OWNER: The City of Peekskill, Westchester County, New York.

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

17. REQUIRED SUBMISSIONS: Prior to award, the successful bidder will be required to meet the following requirements:.

   a. The successful bidder, if his business is not registered in New York State, must provide the City with a certificate issued by the Secretary of State of New York stating that the Corporation is authorized to do business within the State and is presently in good standing. If the entity to whom the bid is awarded is not a corporation, it would be required that the entity’s certificate of doing business, which should be on file in the County Clerk’s Office, be provided. (This would also hold true in the case of joint ventures which would be
required to disclose the underlying entities which make up the joint venture and the supplying of the requisite certificate of doing business of each such entity.)

b. All bidders are required to submit a statement of non-investment in the Iranian energy sector in accordance with the provisions of Section 103-g of the NYS General Municipal Law.

c. A Statement by the successful bidder that no officer, director or stockholder (if less than 10 stockholders) of the successful bidder is an officer or employee of the City or is a relative of any such City officer or employee. If such officer, director or stockholder does exist, their names and relationship should be disclosed to the City.

18. SPECIAL CONDITIONS

Refer to Section K Appendices for further detail.
SECTION C
CHARLES POINT MULTI-USE WATERFRONT TRAIL
CITY OF PEEKSKILL
WESTCHESTER COUNTY, N.Y

BID NO. 2019-001
CHARLES POINT MULTI-USE WATERFRONT TRAIL

To: City Clerk
City of Peekskill
840 Main Street
Peekskill, NY
10566

Bid Submitted by:

(Name)
_____________________________________
_____________________________________

(Address)
_____________________________________
_____________________________________

(Telephone No.)
_____________________________________

(Email Address)
_____________________________________

(Federal I.D. Number)
_____________________________________

1. I/We do hereby declare that I/We have carefully examined the Notice to Bidders, the Plans, and the Specifications relating to the above entitled matter and the work, and have also examined the site.

2. I/We do hereby offer and agree to furnish all materials, to fully and faithfully construct, perform and execute all work in the above titled matter in accordance with the Plans, Drawings, and Specifications relating thereto, and to furnish all labor, tools, implements, models, forms, transportation and materials necessary and proper for the purpose for the price/prices as given on the bid forms.

3. I/We do hereby declare that the prices so stated cover all expenses of every kind incidental to the completion of said work, and the contract, therefore, including all claims that may arise through damages or any other cause whatsoever.

4. I/We do hereby agree that I/We will execute a contract therefore, containing all the terms, conditions, provisions and covenants necessary to complete the work according to the Drawings and Specifications, therefore, within 10 business days after the award of the contract and if I/We fail to execute said contract within said period of time, that the City Clerk shall have the power to rescind said award and also that the said City Clerk shall retain the proceeds of the certified check, or require the payment of the sum of the bid bond.
5. I/We do also declare and agree I/We will commence the work within thirty days after the Contract execution and will complete the work fully and in every respect on or before the time specified in said Contract and do authorize the said Board, in case of failure to complete the work within such specified time, to employ such men, equipment and materials as may be necessary for the proper completion of said work and to deduct the cost thereof from the amount due under the Contract.

6. I/We agree that the City of Peekskill reserves the right to select any one, combination of, or all the Bid items in this proposal for the Contractor to complete without affecting any of the Bid prices.

7. I/We hereby affirm that by submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under the penalty of perjury, that to the best of knowledge and belief:

   (a) the prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

   (b) unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

   (c) no attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not submit a Bid for the purpose of restricting competition.

   (d) no member of the City Clerk or any officer or employee of the City of Peekskill, New York, or person whose salary is payable in whole or in part from the said Treasury is, shall be or become interested, directly, as a contracting party, partner, stockholder, surety or otherwise, in this Bid, or in the performance of the Contract, or in the supplies, materials or equipment and work or labor to which it relates, or in any portion of the profits thereof.

8. I/We hereby further agree that this proposal is a firm Bid and shall remain in effect for a period of at least forty five (45) calendar days from the date of the opening of Bids, and that within said period of forty five (45) days, the City of Peekskill will accept or reject this proposal, or this period may be extended by mutual agreement.

9. I/We hereby declare that, if this is a Corporate Bid, I have been duly authorized to act at the Signator on this proposal in behalf of this Corporation.

10. I/We hereby affirm, under penalty of perjury, the truth of all statements in this proposal.

11. I/We hereby agree that I/We accept the unit prices on the following pages, for the various items of work.

12. I/We hereby agree that I/We shall make no claim on account of any variation of the approximate estimate in the quantities of work to be done, whether the actual quantities are greater, smaller or completely deleted. A change in the quantity of any item shall not be regarded as sufficient grounds for a change in the price of that item. All quantities must be verified by each bidder and revised as required for the bid proposal submittal.

13. All work shall be completed within Three hundred and sixty (360) calendar days from the commencement of the work.

14. I/We hereby declare that I/we will perform at least 51% of the work.

15. I/We hereby agree that I/we will be required to meet the following requirements:

   a. Provide the City with a certification issued by the Secretary of State of New York stating that the Corporation is authorized to do business within New York State and is presently in good standing. If the entity for whom the bid is awarded is not a corporation, it would be required that the entity’s certificate
of doing business, which should be on file in the County Clerk’s Office, be provided. (This would also hold true in the case of joint ventures which would be required to disclose the underlying entities which make up the joint venture and the supplying of the requisite certificate of doing business of each such entity.)

b. Submit a statement of non-investment in the Iranian energy sector in accordance with the provisions of Section 103-g of the NYS General Municipal Law.

c. A Statement by the successful bidder that no officer, director or stockholder (if less than 10 stockholders) of the successful bidder is an officer or employee of the City of Peekskill or is a relative of any such City officer or employee. If such officer, director or stockholder does exist, their names and relationship should be disclosed to the City.

d. In the event the successful bidder enters into a contract with the City in the amount of $1,500,000 or greater, the successful bidder will be required to document compliance with Chapter 165 of the Peekskill City Code, which requires the contractor who enters into any construction contract in the amount of $1,500,000 or more with the City, or enters into a subcontract for $500,000 or more to have (and/or the subcontractor(s) to have) an apprenticeship agreement appropriate for the type and scope of work to be performed that has been registered with, and approved by, the Commissioner of Labor pursuant to the requirements of Article 23 of the Labor Law.

e. Provide the City with a breakdown showing that at least 30% of the project budget and labor costs will be performed by a New York State Certified Minority-Owned Business Enterprise(s) and/or Women-Owned Business Enterprise(s). The labor should be equally distributed at a minimum of 15% each. This is a New York State Department of State grant requirement.

f. Submit a statement of non-collusion in accordance with Section 103-d of the General Municipal Law.

____________________________________
(Legal Name of Bidder, Partner or Corporate Officer)

By: ________________________________

Date: ______________________________

______________________________
(Authorized Signature)            Corporate Seal (if incorporated)

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA
(If applicable)

Bidder Acknowledges receipt of Addenda as follows:

____________________________________

Signature

____________________________________

Signature

____________________________________

Signature
ITEMIZED PROPOSAL

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Gross Sum of Total Base Bid Written in Figures:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_$

Gross Sum of Total Base Bid Written in Words:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_$

Note: All bids are to be submitted in figures and words. In the event of a discrepancy, the bid in words shall govern. Mathematical errors will be resolved by multiplying the estimated quantity by the price.

CONTRACTOR: ________________________________
ADDRESS: __________________________________

BY: ________________________________________
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<td>DOLLARS</td>
<td>CTS.</td>
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<tr>
<th>ITEM NO.</th>
<th>APPROXIMATE QUANTITIES</th>
<th>PAY UNIT</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT BID PRICE</th>
<th>AMOUNT BID</th>
</tr>
</thead>
<tbody>
<tr>
<td>A16</td>
<td>17</td>
<td>C.Y.</td>
<td>ADD - TOPSOIL</td>
<td>$___</td>
<td>__________</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>A17</td>
<td>100</td>
<td>S.Y.</td>
<td>ADD - LAWN SEED MIXTURE</td>
<td>$___</td>
<td>__________</td>
</tr>
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<td></td>
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<td></td>
<td></td>
<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>A18</td>
<td>100</td>
<td>S.Y.</td>
<td>ADD - STRAW MULCH</td>
<td>$___</td>
<td>__________</td>
</tr>
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<td>__________</td>
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</tr>
</tbody>
</table>

Gross Sum of Total Alternate 'A' Written in Figures:

DOLLARS | CTS.  
$___     | _______

Gross Sum of Total Alternate 'A' Written in Words:

DOLLARS | CTS.  
$___     | _______

Note: All bids are to be submitted in figures and words. In the event of a discrepancy, the bid in words shall govern. Mathematical errors will be resolved by multiplying the estimated quantity by the price.

CONTRACTOR: ___________________________
ADDRESS: ___________________________
BY: ___________________________

COMPLETE THIS FORM USING BLACK INK ONLY
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>APPROXIMATE QUANTITIES</th>
<th>PAY UNIT</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT BID PRICE</th>
<th>AMOUNT BID</th>
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<tbody>
<tr>
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<td></td>
<td></td>
<td>DOLLARS</td>
<td>CTS.</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td>DOLLARS</td>
<td>CTS.</td>
</tr>
</tbody>
</table>

**ALTERNATE 'B' - MAIN TRAIL LIGHT FIXTURES, ELECTRICAL WIRING, ELECTRICAL SERVICES AND SERVICE METERING AND DISTRIBUTION EQUIPMENT**

<table>
<thead>
<tr>
<th>B1</th>
<th>1</th>
<th>L.S.</th>
<th>ADD - SITE LIGHTING (ALTERNATE 'B')</th>
<th>$_________</th>
<th>_______</th>
<th>$_________</th>
<th>_______</th>
</tr>
</thead>
</table>

Gross Sum of Total Alternate 'B' Written in Figures:

<table>
<thead>
<tr>
<th>DOLLARS</th>
<th>CTS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$_________</td>
<td>_______</td>
</tr>
</tbody>
</table>

Gross Sum of Total Alternate 'B' Written in Words:

<table>
<thead>
<tr>
<th>DOLLARS</th>
<th>CTS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$_________</td>
<td>_______</td>
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</tbody>
</table>

Note: All bids are to be submitted in figures and words. In the event of a discrepancy, the bid in words shall govern. Mathematical errors will be resolved by multiplying the estimated quantity by the price.
ITEMIZED PROPOSAL

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>APPROXIMATE QUANTITIES</th>
<th>PAY UNIT</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT BID PRICE</th>
<th>AMOUNT BID</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DOLLARS</td>
<td>CTS.</td>
</tr>
<tr>
<td>C1</td>
<td>1</td>
<td>L.S.</td>
<td>ADD - SITE CLEARING AND DEMOLITION</td>
<td>$_______</td>
<td>____</td>
</tr>
<tr>
<td>C2</td>
<td>1</td>
<td>L.S.</td>
<td>ADD - EARTHWORK</td>
<td>$_______</td>
<td>____</td>
</tr>
<tr>
<td>C3</td>
<td>1</td>
<td>L.S.</td>
<td>ADD - CONSTRUCTION LAYOUT</td>
<td>$_______</td>
<td>____</td>
</tr>
<tr>
<td>C4</td>
<td>1</td>
<td>L.S.</td>
<td>ADD - FINAL CLEANUP</td>
<td>$_______</td>
<td>____</td>
</tr>
<tr>
<td>C5</td>
<td>700</td>
<td>L.F.</td>
<td>ADD - SILT FENCING</td>
<td>$_______</td>
<td>____</td>
</tr>
<tr>
<td>C6</td>
<td>8</td>
<td>UN.</td>
<td>ADD - TREE PROTECTION</td>
<td>$_______</td>
<td>____</td>
</tr>
<tr>
<td>C7</td>
<td>240</td>
<td>S.Y.</td>
<td>ADD - STABILIZED STONE SCREENING PAVEMENT</td>
<td>$_______</td>
<td>____</td>
</tr>
</tbody>
</table>

ALTERNATE 'C' - PENINSULA TRAIL, NO LIGHTING OR UNDERGROUND WORK
Bid Sheet  
Charles Point Multi-Use Waterfront Trail  
City of Peekskill, NY

**ITEMIZED PROPOSAL**

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>APPROXIMATE QUANTITIES</th>
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<th>ITEM DESCRIPTION</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DOLLARS</td>
<td>CTS.</td>
</tr>
<tr>
<td>C8</td>
<td>70</td>
<td>C.Y.</td>
<td>ADD - RIP RAP</td>
<td>$_________</td>
<td>__________</td>
</tr>
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<td></td>
<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>C9</td>
<td>940</td>
<td>S.F.</td>
<td>ADD - REVETMENT RESTORATION</td>
<td>$_________</td>
<td>__________</td>
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<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>C10</td>
<td>25</td>
<td>L.F.</td>
<td>ADD - 6' HIGH CHAIN LINK FENCE</td>
<td>$_________</td>
<td>__________</td>
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<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>C11</td>
<td>1</td>
<td>UN.</td>
<td>ADD - 6' HIGH 10' WIDE CHAIN LINK DOUBLE GATE</td>
<td>$_________</td>
<td>__________</td>
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<tr>
<td></td>
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<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>C12</td>
<td>1</td>
<td>UN.</td>
<td>ADD - 6' LONG BENCH</td>
<td>$_________</td>
<td>__________</td>
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<td>__________</td>
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</tr>
<tr>
<td>C13</td>
<td>1</td>
<td>UN.</td>
<td>ADD - INTERPRETATIVE SIGN</td>
<td>$_________</td>
<td>__________</td>
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<table>
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<th>ITEM DESCRIPTION</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DOLLARS   CTS.</td>
<td>DOLLARS   CTS.</td>
</tr>
<tr>
<td>C14</td>
<td>5</td>
<td>UN.</td>
<td>ADD - KAYAK POST</td>
<td>$_________   _____</td>
<td>$_________   _____</td>
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<tr>
<td>C15</td>
<td>24</td>
<td>C.Y.</td>
<td>ADD - TOPSOIL</td>
<td>$_________   _____</td>
<td>$_________   _____</td>
</tr>
<tr>
<td>C16</td>
<td>145</td>
<td>S.Y.</td>
<td>ADD - LAWN SEED MIXTURE</td>
<td>$_________   _____</td>
<td>$_________   _____</td>
</tr>
<tr>
<td>C17</td>
<td>145</td>
<td>S.Y.</td>
<td>ADD - STRAW MULCH</td>
<td>$_________   _____</td>
<td>$_________   _____</td>
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Gross Sum of Total Alternate ‘C’ Written in Figures:

<table>
<thead>
<tr>
<th>DOLLARS</th>
<th>CTS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$_________</td>
<td>_____</td>
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</table>

Gross Sum of Total Alternate ‘C’ Written in Words:

<table>
<thead>
<tr>
<th>DOLLARS</th>
<th>CTS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$_________</td>
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</table>

Note: All bids are to be submitted in figures and words. In the event of a discrepancy, the bid in words shall govern. Mathematical errors will be resolved by multiplying the estimated quantity by the price.
## ITEMIZED PROPOSAL

<table>
<thead>
<tr>
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<th>ITEM DESCRIPTION</th>
<th>UNIT BID PRICE</th>
<th>AMOUNT BID</th>
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<tbody>
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<td></td>
<td>DOLLARS CTS.</td>
<td>DOLLARS CTS.</td>
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### ALTERNATE 'D' - PENINSULA TRAIL, ONLY UNDERGROUND LIGHTING FIXTURE FOUNDATIONS AND CONDUIT WORK

<table>
<thead>
<tr>
<th>D1</th>
<th>1</th>
<th>L.S.</th>
<th>ADD - SITE LIGHTING (ALTERNATE 'D')</th>
<th>$_______  ____</th>
<th>$_______  ____</th>
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</table>

Gross Sum of Total Alternate 'D' Written in Figures:

$_______  ____

Gross Sum of Total Alternate 'D' Written in Words:

$_______  ____

Note: All bids are to be submitted in figures and words. In the event of a discrepancy, the bid in words shall govern. Mathematical errors will be resolved by multiplying the estimated quantity by the price.

CONTRACTOR:

ADDRESS:

BY:
ITEMIZED PROPOSAL

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>APPROXIMATE QUANTITIES</th>
<th>PAY UNIT</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT BID PRICE</th>
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<td>DOLLARS</td>
<td>CTS.</td>
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<td>DOLLARS</td>
<td>CTS.</td>
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ALTERNATE 'E' - PENINSULA TRAIL, FULL ELECTRICAL FIT-OUT

<p>| | | | | | |</p>
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<tbody>
<tr>
<td>E1</td>
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<td>L.S.</td>
<td>ADD - SITE LIGHTING (ALTERNATE 'E')</td>
<td>$_________</td>
<td>$_________</td>
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Gross Sum of Total Alternate 'E' Written in Figures:

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Gross Sum of Total Alternate 'E' Written in Words:

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<td>$_________</td>
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</table>

Note: All bids are to be submitted in figures and words. In the event of a discrepancy, the bid in words shall govern.
Mathematical errors will be resolved by multiplying the estimated quantity by the price.

CONTRACTOR: __________________________

ADDRESS: ____________________________

BY: _________________________________
BID PROPOSAL FORM

TOTAL BASE BID

*Items 1 through 51*

Total Base Bid for all labor, equipment, materials and installation:

Total $____________________

Total (Price in words) ______________________________________________

ALTERNATE A: CHARLES POINT PARK RESTROOM

*Items A1-A18*

Total Bid for all labor, equipment, materials and installation:

Total $____________________

Total (Price in words) ______________________________________________

ALTERNATE B: MAIN TRAIL LIGHTING FIXTURES, ELECTRICAL WIRING, ELECTRICAL SERVICES AND SERVICE METERING AND DISTRIBUTION EQUIPMENT

*Item B1*

Total Bid for all labor, equipment, materials and installation:

Total $____________________

Total (Price in words) ______________________________________________

ALTERNATE C: PENINSULA TRAIL, NO LIGHTING OR UNDERGROUND WORK

*Items C1-C17*

Total Bid for all labor, equipment, materials and installation:

Total $____________________

Total (Price in words) ______________________________________________
ALTERNATE D: PENINSULA TRAIL, ONLY UNDERGROUND LIGHTING FIXTURE FOUNDATIONS AND CONDUIT WORK INCLUDED

*Item D1*
Total Bid for all labor, equipment, materials and installation:

Total $______________

Total (Price in words) ____________________________________________

ALTERNATE E: PENINSULA TRAIL, FULL ELECTRICAL FIT-OUT INCLUDING LIGHTING FIXTURES AND ELECTRICAL WIRING

*Item E1*
Total Bid for all labor, equipment, materials and installation:

Total $______________

Total (Price in words) ____________________________________________

(Signature of partner or corporate officer)

ATTEST:

(Corporate Seal)

____________________________________________________________________

__________________________________________

(Secretary of Corporate Bidder)

Note: In case of any discrepancy between the price in words and that in figures, the price in words will be considered the price bid.

*The TOTAL BID shall be the sum of the extensions (unit price multiplied by estimated quantity, for each item). It is stated here only as a convenience for comparison of Bids. If there are any errors in addition or multiplication, the unit prices for each item shall govern, and the Bid comparison will be made on the basis of correct arithmetic applied to these unit prices. In case of a discrepancy between the unit price in words and the unit price in numbers, the unit price in words shall govern.*

The estimated quantities are not guaranteed, and are only for Bid comparison purposes and final payment will be made for actual quantities regardless of the estimated quantities contained herein. All quantities must be verified by each bidder and revised as required for the bid proposal submittal.

The Contractor is further advised that the estimated quantities shown in the Bid Sheets may be reduced or deleted in order to insure that this Contract can be completed within the budget established for this work. In the event that certain work is deleted or reduced, the Unit Price shall remain in effect for this work. However, if the quantities are increased above 125% of the estimated, then the work performed shall be paid for as described in paragraph 109 of the General Conditions.
STATEMENT OF NON-COLLUSION

(To be Completed by Each Bidder)

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

a. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or any competitor.

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor.

(3) No attempt has been made or will be made by the Bidder to induce any other person, partnership, or corporation to submit or not to submit a bid for the purpose of restricting competition.

b. The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the statements contained in this certification, and under the penalties of perjury, affirms the truth thereof, such penalties being applicable to the Bidder, as well as the person signing in its behalf.

c. That attached hereto (if a corporate bidder) is a certified copy of resolution authorizing the execution of this certificate by the signator of this bid or proposal in behalf of the corporate bidder.

_________________________ ____________________________
Date Signature of Bidder

_________________________
Name and Title of Person Signing

Sworn to before me this
_____ day of ____________, 20____
RESOLUTION

Resolved that__________________________________________ be
(Name of Corporation)

authorized to sign and submit the bid or proposal of this corporation for the following project

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
(Describe Project)

and to include in such bid or proposal the certificate as to non-collusion required by section one-hundred-three d (103-d) of the General Municipal Law as the act and deed of such corporation, and for any inaccuracies or mis-statements in such certificate this corporate bidder shall be liable under the penalties of perjury.

____________________________

The foregoing is a true and correct copy of the resolution adopted by
______________________________________________________ corporation at a
meeting of the Board of Directors held on the ________day of _________________20__.

(SEAL OF THE CORPORATION)

(Secretary)

Laws of New York, 1965
Ch. 751, Sec. 103-d, as amended
effective September 1, 1965.

C-8
CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instruction, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

BIDDER NAME: _______________________________________________________________

ADDRESS AND ZIP CODE: _______________________________________________________

1. Bidder has participated in a previous contract or subcontract to the Equal Opportunity Clause. YES _____ NO _____ (if answer is yes, identify the most recent contract).

2. Compliance reports were required to be filed in connection with such contract or subcontract. YES _____ NO _____ (if answer is yes, identify the most recent contract).

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100. YES _____ NO _____

4. If answer to item 3 is "NO", please explain in detail on reverse side of this certification.

CERTIFICATION - THE INFORMATION ABOVE IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

____________________________________
(Name and Title of Signer)

____________________________________
Signature                                    Date
CERTIFICATION OF PROPOSED SUBCONTRACTOR REGARDING
EQUAL EMPLOYMENT OPPORTUNITY

NAME OF PRIME CONTRACTOR

PROJECT NO.

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instruction, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

_______________________________________________________
SUBCONTRACTORS CERTIFICATION

BIDDER NAME: _______________________________________________________________

ADDRESS AND ZIP CODE: ______________________________________________________

______________________________________________________

1. Bidder has participated in a previous contract or subcontract to the Equal Opportunity Clause.
   YES _____ NO _____ (if answer is yes, identify the most recent contract).

2. Compliance reports were required to be filed in connection with such contract or subcontract.
   YES _____ NO _____ (if answer is yes, identify the most recent contract).

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.
   YES _____ NO _____

4. If answer to item 3 is "NO", please explain in detail on reverse side of this certification.

CERTIFICATION - THE INFORMATION ABOVE IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

___________________________________
(Name and Title of Signer)

________________________________
Signature                                      Date

C-10
OFFER OF SURETY
(To be Completed by Each Bidder)

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

__________________________________________________________________

SURETY COMPANY

Signed ________________________________
(Bidder)

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

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

______________________________ the __________________
(Bidder's Name) (Surety Company)

will execute the Surety Bonds as herein-before provided.

Signed: ________________________________
Authorized Official, Agent, or Attorney

Date: ________________________________

IMPORTANT: THIS PAGE MUST BE FILLED OUT WHEN CERTIFIED CHECK IS SUBMITTED
IN LIEU OF BID BOND, OR BID MAY BE REJECTED.
STATEMENT OF BIDDER’S QUALIFICATIONS
(To be submitted by the Bidder with this bid)

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. Questions may be answered on separate sheets, attached to this bid.

1. Name of Bidder.
2. Permanent main office address.
3. When organized.
4. If a corporation, where incorporated.
5. How many years have you been engaged in the contracting business under your present firm or trade name?
6. Current contracts on hand: Name and location of each project, dollar amount awarded for each, start date, and anticipated date of completion.
7. General character of work performed by your company.
8. Have you ever failed to complete any work awarded to you?
9. Have you ever defaulted or been defaulted on a contract? If yes, provide details such as, but not limited to, a description of the project, entity contracting for work, and reasons for default.
10. A list of all federal, state and local violations or enforcement actions related to all commercial activity, the name of the project, total project cost, and contact person. The City reserves the right to ask for additional information based upon this response.
11. List the names and locations of all projects (with aggregate costs at or exceeding $1.0 million) that were completed by your company within five years prior to the date of this submission, a brief description, your fee, the month and year completed, and a client contact name and telephone number.
12. List your major equipment available for this Contract.
13. List your experience in work similar to this project.
14. Do you have an OSHA Awareness certification?
15. Provide a major milestones schedule.
16. List the background and experience of the principal members of your organization, including officers.
17. List the work to be performed by Subcontractors and summarize the dollar value of each Subcontract.
18. List the subcontractors, if applicable, who will be used as a qualified M/WBE firm using the table below.

If additional space is needed, append a separate sheet with the information requested as shown below.

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</table>
19. Credit available: $______________________________

20. Give Bank Reference: ________________________________

21. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner?

22. The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Bidder’s Qualifications.

Dated: This ___________ day of ______________ , 20____.

__________________________________________
(Name of Bidder)

By ______________________________________

Title ___________________________

State of __________________________)

City of __________________________

________________________________________________________ being duly sworn deposes and says that he is ________________________________________ of ________________________________

________________________________________________________
(Name of Organization)

and that the answers to the foregoing questions and all statement therein contained are true and correct.

Subscribed and sworn to before me
this __________ day of ______________ , 20____.

__________________________________________
(Notary Public)

My commission expires _____________________, 20____
BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned
________________________________________________________
as Principal, and __________________________________________
as Surety are held and firmly bound unto The City of Peekskill, NY
hereinafter called the "OWNER", in the penal sum of
___________________________ Dollars, ($                              ) lawful
money of the United States, for payment of which sum well
and truly to be made, we bind ourselves, our heirs,
executors, administrators, successors, and assigns,
jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has
submitted the Accompanying Bid, dated:
_______________________________, 20___, for THE CITY OF Peekskill, NEW YORK
CHARLES POINT MULTI-USE WATERFRONT TRAIL

NOW THEREFORE, if the Principal shall not withdraw said Bid within the period specified therein after the opening
of the same, or within any extended time period agreed to by the Principal, Surety and Owner, or, if no period is
specified, within forty-five (45) days after the said opening, and shall within the period specified therefor, or if no
period is specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a
written Contract with the Owner in accordance with the Bid as accepted, and give a bond with good and sufficient
surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract; then the
above obligation shall be null and void and of not effect, otherwise to remain in full force or virtue.

Failure to comply with the aforementioned condition shall result in the forfeiture of this Bid Bond as liquidated
damages.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this
______ day of ________________ of, 20__, the name and corporate seal of each corporate party being hereto affixed
and these presents signed by its undersigned representative, pursuant to authority of its governing body.
No extension of time or other modification of this Bid Bond shall be valid unless agreed to on writing by the parties to this Bond.

In presence of:

_______________________________________________________________________(SEAL)
(Individual Principal)

________________________________________________
(Business Address)

_______________________________________________________________________(SEAL)
(Business Address)

Attest:

By: ______________________________

________________________________________________
(Corporate Principal)

________________________________________________
(Business Address)

By: ______________________________ Affix Corporate Seal

Attest:

________________________________________________
(Corporate Surety)

________________________________________________
(Business Address)

By: ______________________________ Affix Corporate Seal

Countersigned

By: ______________________________

*Attorney-in-Fact, State of ____________________________

*Power-of-Attorney for person signing for Surety Company must be attached to Bond.
CERTIFICATE AS TO CORPORATE PRINCIPAL

I, ______________________________________, certify that I am the Secretary of the Corporation named as Principal in the within bond; that __________________________________________, who signed the said bond on behalf of the Principal was then ___________________________________________ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing body.

________________________
(Corporate Seal)

Title ____________________________________________
SECTION D
AGREEMENT
CHARLES POINT MULTI-USE WATERFRONT TRAIL
BID NO. 2019-001

D. Form of Contract

This agreement, made this __________ day of __________, 20__ by and between the City of Peekskill, Westchester County, New York, acting by and through the Common Council of the City of Peekskill under the laws of the State of New York, (hereinafter called the “Owner”, “City” or “City of Peekskill”) and __________________________ hereinafter called the “Contractor”.

WITNESSETH:

WHEREAS, the City desires to engage the Contractor to render its services for Charles Point Multi-Use Waterfront Trail, Bid No. 2019-001.

1. **Scope of Work** - The Contractor shall furnish all materials, equipment and labor necessary for the Charles Point Multi-Use Waterfront Trail Project as shown on the Bid Drawings and/or described in the specifications entitled “Bid No. 2019-001, Charles Point Multi-Use Waterfront Trail,” prepared by PSG Engineering, DPC.

2. **Time of Completion and Liquidated Damages** - The time of completion of the Bid will be 360 calendar days from the time of notice to proceed to substantial completion. All work shall be completed within 360 calendar days from the time of Notice to proceed. The contractor agrees to pay as liquidated damages the sum of five-hundred dollars ($500.00), for each consecutive calendar day thereafter. General Conditions of the Contract, See Section 112.

3. **Contract Sum** - The Owner shall pay the Contractor for work done and labor, materials and equipment furnished, the prices set forth in the Proposal attached herewith. Extra work shall be paid for in accordance with and as stipulated in Bid No. 2019-001.

4. **Payments** – As work under the contract is performed, the Contractor may submit a partial payment request to the City of Peekskill Department of Planning and Development for review. After approved by the City and the Project Engineer, a partial payment shall be made to the Contactor in an amount representing the work completed under the contract less retainage.

5. **Contract Documents** - The Advertisement and Notice To Bid (Section A), Instructions to Bidders (Section B), Bid Proposal Forms (Section C), Agreement (Section D), Labor and Material Payment Bond (Section E), Form of Maintenance Bond (Section F), General Release (Section G), Insurance (Section H), General Conditions (Section J), and Special Conditions (Section K) also including the Technical Specifications, Contract Drawings, Addenda, Appendices, Change Orders, and all Forms, Agreements and Documents included on the USB flash drive used by the Bidder for the Bid or Proposal, except as therein expressly excluded, from the Bid Documents, are deemed to be part of this Contract and binding upon the Contractor in all particulars.

6. **Employment Practices**; The City is an equal opportunity employer. The Contractor shall comply with all State, Local and Federal hiring practices with respects to the percent of minority engaged at the work site. The Contractor is urged to hire local residents.
IN WITNESS WHEREOF the respective parties hereto have hereunto set their hands and seal the day and year first written above.

CITY OF PEEKSKILL

By ____________________________
    City Manager

[SEAL]

Signed, Sealed and Delivered in the presence of:

______________________________________________
______________________________________________
______________________________________________

(Address)

CONTRACTOR

By ____________________________

[SEAL]

Signed, Sealed and Delivered in the presence of:

By ____________________________

Approved by the Attorney for the City of Peekskill

By ____________________________
On the ___________________ day of ___________________________, 20__, before me personally came ________________________________ to me known, who, being by me duly sworn, did depose and say that he resides at______________________________ of the City of PEEKSKILL, New York the corporation described in, and which executed the foregoing instrument: that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by order of the Board of Directors of the said corporation; and that he signed his name thereto by like order.

________________________________
NOTARY PUBLIC

On the ___________________ day of ___________________________, 20__, before me personally came ________________________________ to me known, who, being by me duly sworn, did depose and say that he resides at______________________________ of the corporation described in and which executed the foregoing instrument that he knows the seal of said corporation; that the seal affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

________________________________
NOTARY PUBLIC
SECTION E
LABOR AND MATERIAL PAYMENT BOND

CHARLES POINT MULTI-USE WATERFRONT TRAIL
BID NO. 2019-001

BOND NO. __________

NOTE: This Bond is issued simultaneously with another Bond in favor of the Owner conditioned for the full and faithful performance of the Contract.

KNOW ALL MEN BY THESE PRESENTS:

That _________________________________________________________________________,
as Principal (hereinafter called Principal) and __________________________________________ as Surety (hereinafter called Surety) are held and firmly bound unto the City of Peekskill, NY as Obligee (hereinafter called Owner) for the use and benefit of claimants as hereinbelow defined; in the amount of ___________________________________________________________________________ Dollars ($ ________________), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated ________________________________ ____________________________, entered into a Contract with Owner for ________________________________ ____________________________________________________________________________ ____________________________________________________________________________ 

which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if the said Principal shall promptly pay for all materials furnished and labor supplied or performed in the prosecution of the work included in and under the aforesaid Contract, whether or not the material or labor enters into and becomes a component part of the real asset, then this obligation shall be null and void; otherwise it shall remain and be in full force and effect.

PROVIDED, that any alterations which may be made in the terms of the Contract or in the work to be done under it, or the giving by the Obligee of any extension of time for the performance of the Contract, or any other forbearance on the part of either the Obligee or the principal to the other shall not in any way release the Principal and the Surety of either or any of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the Surety of any such alterations, extension or forbearance being hereby waived.
Any party, whether a subcontractor or otherwise, who furnished materials or supplies or performs labor or services in the prosecution of the work under said Contract, and who is not paid therefor, may bring a suit on this bond in the name of the person suing, prosecute the same to a final judgment, and have execution thereon for such sum as may be justly due.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _________________________day of ________________________, 20___, the name and corporate seal of each corporate party being hereto affixed and these presents signed by its undersigned representative, pursuant to authority of its governing body.

In presence of:

___________________________________________(SEAL)
(Individual Principal)

____________________________________________(Business Address)

___________________________________________(SEAL)
(Business Address)

Attest: By:____________________________________

____________________________________________(Corporate Principal)

____________________________________________(Business Address)

By:__________________________________________Affix

___________________________________________Corporate Seal

Attest:

____________________________________________(Corporate Surety)

____________________________________________(Business Address)

Affix

By: ________________________________________Corporate Seal

Countersigned

By:__________________________________________

*Attorney-in-Fact, State of ________________________________________

*Power-of-Attorney for person signing for Surety Company must be attached to Bond.
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That __________________________________________________________________________

As Principal, hereinafter called Contractor, and ________________

__________________________________________________________________________________________

as Surety, hereinafter called

Surety, are held and firmly bound unto ______________________________________________

_______________________________________________________

as Obligee hereinafter called Owner,

in the amount of ________________________________________________________________

Dollars(______________________________________________), for payment whereof Principal

and Surety bind

themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these

presents.

WHEREAS, Contractor has by written agreement dated ______________________________

______________________________________________, entered into a Contract with

_______________________________________________________

Owner for

______________________________________________________________________________

______________________________________________________________________________

which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if Contractor shall promptly and faithfully

perform said Contract, including such remedial work as may be required under the guaranty during the period of

guaranty and shall certify in writing that all wages paid under said Contract to any mechanic, laborer or workman

were equal to the rates or wages customary or then prevailing for the same trade or occupation in the Project area,

then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under

the Contract, the Owner having

performed Owner's obligations thereunder, the Surety may promptly remedy the default or shall promptly:

1)        Complete the Contract in accordance with its terms and conditions, by another

Contractor acceptable to the Owner, said other Contractor to act as an agent for the

Surety, or

2)        Obtain a Bid or Bids for submission to the Owner for completing the Contract in accordance with its terms

and conditions, and upon determination by the Owner and Surety of the lowest responsible Bidder, arrange for a

Contract between such Bidder and Owner, and make available as work progresses (even though there should be a

default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph)
sufficient funds to pay the cost of completion less the balance of the contract price, but not exceeding, including,

other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph

hereof. The terms "balance of the contract price," as used in this paragraph, shall mean the total amount payable by

the Owner to the Contractor under the Contract and any amendments thereto, less the amount properly paid by the

Owner to the Contractor.
Unless otherwise required by law, any suit under this Bond must be instituted before the expiration of one (1) year from the date on which the guaranty period under the Contract expires.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators and successors of Owner.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____________ day of,________________________ 20___, the name and corporate seal of each corporate party being hereto affixed and these presents signed by its undersigned representative, pursuant to authority of its governing body.

In presence of:

_______________________________________________________________ (SEAL)
(Individual Principal)

_______________________________________
(Business Address)

___________________________________________(SEAL)
(Business Address)

Attest:
By:_____________________________

_______________________________________
(Corporate Principal)

_______________________________________
(Business Address) Affix
By:_____________________________ Corporate Seal

Attest:

_______________________________________
(Corporate Surety)

_______________________________________
(Business Address) Affix
By:_____________________________ Corporate Seal

Countersigned by_____________________________

*Attorney-in-Fact, State of ________________________________

*Power-of-Attorney for person signing for Surety Company must be attached to Bond.
SECTION F
FORM OF MAINTENANCE BOND
CHARLES POINT MULTI-USE WATERFRONT TRAIL
BID NO. 2019-001

KNOW ALL MEN BY THESE PRESENTS:

That We, ________________________________________________ (hereinafter called the Principal)

as Principal and the ________________________________________, a _____________ Corporation with an office

and place of business for the State of New York at ___________________________, New York,

(hereinafter called the Surety) as Surety, are held and firmly bound unto the ___________________________

(hereinafter called the Obligee) as Obligee in the sum of ________________________________

__________________________________________($________________________)DOLLARS,

lawful money of the United States of America, for the payment whereof the Principal and Surety

bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated this _________________day of__________________,20____.

WHEREAS, the Principal heretofore entered into a written contract with the Obligee for the

construction of the Charles Point Multi-Use Waterfront Trail.

WHEREAS, said Contract provides that the Principal shall guarantee all materials and

workmanship for one (1) year in accordance with all conditions set forth in the Bid Documents.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall indemnify the

Obligee against loss by reason of his failure to make good at his own expense any defects or deficiencies in materials

or workmanship which may appear in the work under said contract with the period of one (1) year(s) from the date of

acceptance of the work, then this obligation shall be void; otherwise to remain in full force and effect.

______________________________
Principal

BY: ______________________________

BY: ______________________________
STATE OF _______________  
COUNTY OF _______________  

On this _______________________ day of ________________________ 20____ before me personally appeared the within named _______________________________________________ to me know, and know to me to be __________________________________________________ the individual described in and who executed the within bond, and ______________________ acknowledged to me that he _______________________________________________ executed the same.

___________________________________  
NOTARY PUBLIC
SECTION G
GENERAL RELEASE

CHARLES POINT MULTI-USE WATERFRONT TRAIL
BID NO. 2019-001

(TO BE SUBMITTED WITH REQUISITION FOR FINAL PAYMENT)

KNOW ALL MEN BY THESE PRESENTS, that _______________________________________

(Contractor)

for and in consideration of the sum of ______________________________________________________

lawful money of the United States of America, to it in hand paid by

______________________________________________________________

(Owner/Contracting Agency)

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

______________________________________________________________

(Owner/Contracting Agency)

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

______________________________________________________________

(Owner/Contracting Agency)

now have or which heirs, executors, or administrator hereafter can, shall, or may have, for upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of the date of these presents rising out of the construction, in accordance with contract entered into between parties hereto, dated ________________________________________, 20__, any admittance or supplements thereto.

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

and its corporate seal to be hereto affixed and duly attested by its ____________________________________________

this ____________________________________________ day of 20__.

ATTEST: PRINCIPAL:

______________________________________________________________

______________________________________________________________

G-1
1. Insurance required to be provided by contractor and subcontractor shall comply with Section H naming the City of Peekskill (“City” or “Owner”) as well as the New York State Department of State, the Peekskill Industrial Development Agency, and DDJT Bertoline Associates, LLC as additional insured (“Others”).

2. The Contractor, prior to signing of the contract, shall provide to the City and Others, identified in Section H, and maintain throughout the life of the contract, at his own cost and expense, proof of the following insurance by insurance companies licensed in the State of New York carrying a Best's financial rating of A or better. The Contractor shall also require all sub-contractors, agents and vendors to provide and maintain the insurance set forth within Section H.

(a.) Workmen's Compensation. The Contractor shall take out and maintain during the life of this contract the statutory Workmen's Compensation, Disability, and Employer's Liability insurance for all of his employees to be engaged in work on the project under this Contract, and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Workmen's Compensation, Disability, and Employer's Liability Insurance for all of the latter's employees to be engaged in such work. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

NOTE: Other generally recognized forms/certificates may be substituted for the above at the sole discretion of the City and others.

(Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits' Policy, or both, a temporary permit may be issued if the employer completes form WC/DB-100 or, if applicable, form WC/DB-101. PLEASE NOTE THESE FORMS REPLACE FORM C-105.21. THE APPROPRIATE REPLACEMENT FORM MUST BE NOTARIZED PRIOR TO BEING SUBMITTED TO THE WORKERS' COMPENSATION BOARD, INFORMATION UNIT FOR INVESTIGATION AND REPORT).

If the employer is self-insured for Worker's Compensation, he should present a certificate from the New York State Worker's Compensation Board evidencing that fact.

(b) Employer's Liability with minimum limit of $500,000.
(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of $1,000,000 per occurrence and $2,000,000 in the aggregate for bodily injury and for property damage naming the City and others as additional insured. In addition, this insurance shall include the following coverages:

(i) Premises - Operations.
(ii) Broad Form Contractual.
(iii) Independent Contractor and Sub-Contractor.
(iv) Products and Completed Operations.

There shall also be excess/umbrella coverage in the amount of $3,000,000 which shall name the City and others, its elected officials, boards, commissions, engineers and employees as unrestricted additional insureds on the excess/umbrella policy. The General Liability and Excess/umbrella policy shall be the primary coverage over any coverage the City and others obtain for themselves. All Contracts involving the use of explosives and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered.

(d) Automobile Liability Insurance with a minimum combined single limit of liability of $1,000,000 for bodily injury and property damage unless otherwise indicated in the contract specifications. The City and others shall be named as unrestricted additional insured on all auto policies. This insurance shall be the primary coverage and non-contributory. This insurance shall include for bodily injury and property damage the following coverages:

(i) Owned automobiles.
(ii) Hired automobiles.
(iii) Non-owned automobiles.

There shall also be excess/umbrella coverage in the amount of $3,000,000 which shall name the City and others, its elected officials, boards, commissions, engineers and employees as unrestricted additional insureds on the excess/umbrella policy. The Excess/umbrella policy shall be the primary coverage over any coverage the City and others obtain for themselves.

(e) Owners and Contractors Protective Liability Policy - $1,000,000 single limit endorsed that City of Peekskill and others are not responsible for premium (if applicable).

(f) Property Damage Insurance, subject to the limits set forth above, shall include the legal liability of its Contractor and Subcontractors for loss or damage to property of the City of Peekskill and others.

(g) Unemployment Insurance - The Contractor for the agreed consideration, promises and agrees to pay the contributions measured by the wages of his employees required by State Unemployment Insurance Laws and all amendments thereto, and to accept the account of any contribution measured by the wages as aforesaid of employees of the
Contractors and his subcontractors assessed against the Owner under the authority of said law.

(h) Errors and Omissions Liability Insurance Policy - $2,000,000 per each claim and in policy aggregate limit of liability providing coverages for liabilities arising out of acts and/or errors and omissions of the Contractor and all Subcontractors (if applicable).

In case of cancellation or material change in any and all of the policies, thirty (30) days notice shall be given to City Clerk, 840 Main Street, Peekskill, NY 10566 by registered mail, return receipt requested. All notices shall name the Contractor and/or Subcontractor and identify the Agreement.

3. All policies of the Contractor and subcontractor(s) shall be endorsed to contain the following clauses:

   (a) Insurers shall have no right to recovery or subrogation against the City and others (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so affected shall protect all parties and be primary coverage for any and all losses covered by the above-described insurance.

   (b) The clause "other insurance provisions" in a policy in which the City or others are named as insured, shall not apply to the City or others.

   (c) The insurance companies issuing the policy or policies shall have no recourse against the City or others (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

   (d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Contractor.

4. All property losses shall be made payable to and adjusted with the City of Peekskill or others.

5. All policies of insurance shall be acceptable to and approved by the City’s Corporation Counsel prior to the inception of any work.

6. Other coverages may be required by the City of Peekskill or others based on specific needs.

7. If, at any time, any of the said policies shall be or become unsatisfactory to the City of Peekskill or others, as to form or substance, or if a company issuing such a policy shall be or become unsatisfactory to the City or others, the Contractor shall promptly obtain a new policy, submit the same to the City for approval and submit a certificate thereof as hereinafter provided. Upon failure of the Contractor to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the City of Peekskill or others, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor to take out and/or to maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Contractor concerning indemnification. All property losses shall be made payable to and adjusted with the City or others.
8. In the event that claims, for which the City and others may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the Contractor shall furnish such additional security covering such claims in form satisfactory to the City or others.

9. The Contractor shall notify in writing the commercial general liability insurance carrier, and, where applicable, the worker’s compensation and/or other insurance carrier, of any such loss, damage, injury, or accident, and any claim or suit arising therefrom, immediately, but not later than 20 days after such event. The Contractor’s notice to the commercial general liability insurance carrier must expressly specify that “this notice is being given on behalf of the City of Peekskill and others as Additional Insured as well as [the Contractor] as Named Insured.” The Contractor’s notice to the insurance carrier shall contain the following information: the name of the Contractor, the number of the Contract, the date of the occurrence, the location (including street address) of the occurrence, and the identity of the persons or things injured, damaged or lost.

10. At the time notice is provided to the insurance carrier(s), the Contractor shall provide copies of such notice to the City Engineer and the Corporation Counsel of the City of Peekskill at 840 Main Street, Peekskill, NY 10566.

11. If the Contractor fails to provide any of the foregoing notices to any appropriate insurance carrier(s) in a timely and complete manner, the Contractor shall indemnify the City and others for all losses, judgments, settlements and expenses, including reasonable attorneys’ fees, arising from an insurer’s disclaimer of coverage citing late notice by or on behalf of the City and others.

12. To the fullest extent permitted by law, the Contractor agrees to protect, defend, indemnify and hold the City of Peekskill and others, and their elected officials, officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance by the Contractor and any and all Subcontractors hereof. Without limiting the generality of the foregoing, any and all claims, etc., relating to personal injury, death, damage to property, defects in materials and workmanship, actual or alleged infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false, or fraudulent. In any case in which such indemnification would violate Section 5-322.1 of the New York General Obligations Law, or any other applicable legal prohibition, the foregoing provisions concerning indemnification shall not be construed to indemnify the City of Peekskill and others for damage arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the City or others and their employees.
SECTION J
GENERAL CONDITIONS

CHARLES POINT MULTI-USE WATERFRONT TRAIL
BID NO. 2019-001

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GENERAL CONDITIONS

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

GENERAL CONDITIONS

PART I

101. DEFINITIONS

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

a. The term "Contract" means the Contract executed by the Client and the Contractor.

b. The term "Local Public Agency" or "Agency" or "Client" or "Owner" means City of Peekskill, New York which, is authorized to undertake this Contract.

c. The term "Contractor" means the person, firm or corporation entering into the Contract with the Client to perform and complete the work involved in this Contract.

d. The term "Subcontractor" means a person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the Contractor.

e. The term "Project Area" means the site of the City of Peekskill, "Charles Point Multi-Use Waterfront Trail," within which are the specified contract limits of the work to be performed in whole or in part under this Contract.

f. The term "Engineer" or "Landscape Architect" means Design Staff and Engineer in charge, serving the Client with engineering services, his successor, or any other person or persons, employed by said Client for the purpose of administrating the work embraced in this Contract, the said Engineer acting directly or indirectly through any Assistant.

g. The term "Local Government" or "Municipality" or "City" means the City of Peekskill within which the Project Area is situated.

h. The term "Contract Documents" means and shall include the Documents listed in Article 3 of the Agreement.

i. The term "Drawings" or "Contract Drawings" means the drawings listed in the Schedule of Drawings.

j. The term "Technical Specifications" or "Supplemental Technical Specifications" means that part of the Contract Documents which describes, outlines and stipulates, the quality of materials to be furnished, the quality of workmanship required, measurement and payment.

k. The term "Addendum" or "Addenda" means any changes, revisions or clarifications of the Contract Documents which have been duly issued by the Client to prospective Bidders prior to the time of receiving Bids.
102. SUPERINTENDENCE BY CONTRACTOR

a. Except where the Contractor is an individual and gives his personal superintendence to the work, the Contractor shall provide a competent superintendent, satisfactory to the Client and the Client's Engineer, for the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work. Should, in the opinion of the Engineer, any language barrier exist between the superintendent and the Engineer, the Contractor will employ a qualified interpreter.

b. Unless otherwise specified in ‘Section K Special Conditions,’ the Contractor shall lay out his own work including all surveys required and he shall be responsible for all work executed by him under the Contract. He shall verify all figures, elevations, etc. before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

103. SUBCONTRACTS

a. The Contractor shall not execute an agreement with any Subcontractor or permit any Subcontractor to perform any work included in this Contract until he has submitted a Non-Collusive Affidavit from the Subcontractor on the form shown in the "Invitation for Bids, Instructions and Forms" and has received written approval of such Subcontractor from the Owner. Unless specifically permitted otherwise, the Contractor shall perform with his own organization and with the assistance of workmen under his immediate superintendence work amounting to not less than 50 percent of the original total Contract value for the project, exclusive of specialty items not commonly found in contracts for similar work or which require highly specialized knowledge, craftsmanship or equipment, not ordinarily available in the organization of contractors performing work of the character embraced in this Contract. Specialty items, if any, shall be specified elsewhere.

b. The Contractor shall not execute an agreement with any Subcontractor or permit any Subcontractor to perform any work included in this Contract until he has submitted a "Certification of Proposed Subcontractor Regarding Equal Employment Opportunity" in the form shown in the "Invitation for Bids, Instructions and Forms" [Section C-9-10].

c. No proposed Subcontractor shall be disapproved by the Client except for cause.

d. The Contractor shall be as fully responsible to the Client for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

e. The Contractor shall cause appropriate provision to be inserted in all Subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions of the Contract for the work embraced in this Contract.

f. Nothing contained in the Contract shall create any contractual relation between any Subcontractor and the Client.

104. OTHER CONTRACTS

The Client reserves the right to let other Contracts in connection with this work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and/or coordinate his work with theirs.

The Client may award, or may have awarded Contracts for additional work, and the Contractor shall cooperate fully with such other Contractors, by scheduling his own work with that to be performed under other Contracts as may be directed by the Client. The Contractor shall not permit or commit any act which will interfere with the performance of work by another Contractor as scheduled.
Wherever work being done by other Contractors is contiguous to work covered by this Contract, the respective rights of the various interests involved shall be established by the Client, to secure the completion of the various portions of the work in general harmony.

**105. FITTING AND COORDINATION OF THE WORK**

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

**106. MUTUAL RESPONSIBILITY OF CONTRACTOR**

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

**107. PROGRESS SCHEDULE**

The Contractor shall submit within five (5) calendar days after execution of the Agreement, a carefully prepared realistic Progress Schedule showing the proposed dates of starting and completing each and every item of work on each and every section of work in accordance with these Specifications and the SPECIAL CONDITIONS as noted in ‘Section K.’ The Progress Schedule shall be shown in calendar days (30 days, 60 days, 90 days, etc.) as a timetable for each item of work, including but not limited to paving, lighting and utilities, grading, trail amenities, signage installed, landscaping and stabilization, completion of mobilization (bonded, insurance, etc.). Other requirements include:

1) The project name, number, (if any) and geographic location.

2) The contract time, contract beginning date, ending date and periods of shutdown, if any.

3) A listing of all items of work with the estimated contract cost, percentage of the total contract and periods of activity noted for each segment of the project.

4) The total estimated contract cost for each segment of the work and its percentage of the total contract.

5) The schedule will generally be set up along the following guidelines unless otherwise stated in the SPECIAL CONDITIONS under "PROGRESS SCHEDULE":

a. From intersection to intersection along a street or from station to station along the project. (This will apply in street construction, utility construction or other LINEAR projects.)

b. By floor and/or room and trade. (This will generally apply in structures.)

c. For large area projects such as site work by SUB-AREA.

The initial requisition will not be approved for payment until said schedule is submitted. Said schedule will be revised or updated monthly unless otherwise permitted by the Engineer. No monthly payments will be approved without a revised/updated monthly Progress Schedule approved by the Engineer.
The Progress Schedule shall show the plan of construction and the proposed method of carrying out this work including a full statement of the equipment to be used. If the SPECIAL CONDITIONS include a "SEQUENCE OF OPERATIONS" and/or "WORK BY OTHERS", all operations referred to therein, together with any and all other operations critical to the timing of this project, shall be included in, proper sequence in the Progress Schedule.

108. PAYMENTS TO CONTRACTOR

1. Partial Payments

a. The Contractor shall prepare a pencil copy of the requisition and allow 10 days for review by the Engineer and City. The final requisition for partial payment shall be submitted, with the required number of copies, to the City and Engineer for review and final approval. The amount of the payment due to the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting five percent (5%) of the total amount, to be retained until final payment. The total value of work completed to date shall be based on the in-field measurements & estimated quantities of work completed and on the unit prices contained in the Agreement. The value of materials properly stored on the site shall be based on the estimated quantities of such materials and the invoice prices as evidenced by a supplier's receipted invoice. Copies of all invoices shall be available for inspection by the City or Engineer. All payment requests shall be in AIA format Documents G-702 and G-703 including certified payrolls.

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

2. Final Payment

a. After final inspection and acceptance by the City and approval of Engineer of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices stipulated in the Agreement. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments. Final payment to the Contractor shall be made subject to his furnishing the Client with a release in satisfactory form of all claims against the Client arising under and by virtue of his Contract, other than such claims, if any, as may be specifically accepted by the Contractor from the operation of the release as provided elsewhere herein.

b. The City, before paying the final estimate, may require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor, if the Client deems the same necessary in order to protect its interest. The Client, however, may if it deems such action advisable, make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

c. Withholding of any amount due the Client under the section entitled "LIQUIDATED DAMAGES" under SPECIAL CONDITIONS, shall be deducted from the final payment due the Contractor.

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

4. Payments Subject to Submission of Certificates

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

109. CHANGES IN THE WORK

a. The Client may make changes in the work required to be performed by the Contractor under the Contract by making additions thereto, or by omitting work therefrom, without invalidating the Contract.

b. Except for the purpose of affording protection against any emergency endangering life or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor; services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Client authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract price will be valid unless so ordered.

c. The Contractor agrees to perform any of the aforementioned changed work, along with all other required work found under the Contract, without delay and in accordance with good construction practices.

d. These changes outlined above may be made without relieving or releasing the Contractor from any of his obligations under the Contract provisions, and without affecting the validity of the guarantee bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is provided otherwise.

e. All adjustments to the Contract payment provisions will be made in accordance with the following paragraphs.

f. If applicable unit prices are contained in the Agreement (established as a result of either a Unit Price Bid or a Supplemental Schedule of Unit Prices), the Owner may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract. However, if the quantities are more than 125% of the estimated, then the following paragraph shall apply.

g. If applicable unit prices are not contained in the Agreement or the actual quantities exceed 125% of the estimated, the Client shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:

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

   a.) If the proposal is acceptable, the Client will prepare the Change Order in accordance therewith for acceptance by the Contractor; or
b.) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Client may order the Contractor to proceed with the work on a Cost-Plus-Limited Basis. A Cost-Plus-Limited Basis is defined as the net cost of the work to the Contractor plus an allowance to cover overhead and profit, as stipulated below, the total cost not to exceed a specified amount. The following allowances for overhead and profit are hereby established as reasonable and shall apply:

c.) Fifteen percent (15%) of the net cost of all labor furnished by the Contractor.

For all labor the Contractor shall receive the rate of wage actually paid as shown by his certified payroll, which shall be at least the minimum rate established by the Contract Documents. For all foremen in direct charge of the work, the Contractor shall receive the actual wage paid the foremen, as shown on his certified payroll. No part of the salary or expense of anyone above the grade of foreman and having general supervision of the work will be included in the labor item.

d.) For the cost of all insurance and taxes imposed by law on labor employed on the work, the Contractor shall receive the actual amount paid.

e.) Fifteen percent (15%) of the net cost of all materials used by the Contractor, less any allowable cash discounts, delivered on the work, including delivery charges as shown by original receipted bills.

f.) Rental rates for any power operated machinery, trucks or equipment, which may be found necessary to use on Cost-Plus-Limited work shall be negotiated between the Engineer and the Contractor. These rates shall be reasonable and shall be based on those rental rates prevailing in the area where such work is to be done, and they shall be agreed upon in writing before the work is begun. In no case shall the rental rates exceed the rates set up in the current edition of the "Associated Equipment Distributors Compilation of Rental Rates for Construction Equipment." Those rates shall include all repairs, fuel, lubricants, taxes, insurance, depreciation, storage and all attachments complete, ready to operate, but excluding operators. Operators and oilers (tenders) shall be paid as stated herein above for labor.

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

2. If the change in the work requires a reduction in the work involved, the procedure shall be as follows:

a.) If the proposal is acceptable, the Client will prepare the Change Order in accordance therewith for acceptance by the Contractor; or

b.) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Engineer shall fix the cost value of the credit.

The Client may then order the Contractor to proceed with the work. Should the Contractor disagree with the cost value of the credit as fixed by the Engineer, he may appeal the same in accordance with the procedures outlined in the GENERAL CONDITIONS, ARBITRATION AND LITIGATION.

c.) Each Change Order shall include in its final form:

1. A detailed description of the change in the work.
2. The Contractor's proposal (if any) or a confirmed copy thereof.

3. A definite statement as to the resulting change in the Contract price and/or time.

4. The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the Change Order.

d.) Contractor shall not take advantage of any obvious error in the specifications or any such error in the drawings or other Contract Documents. Any obvious error or discrepancy in or between any of the Contract Documents will be immediately reported to the Engineer who shall make such corrections and interpretations as may be deemed necessary for the completion of the work in a satisfactory and acceptable manner.

110. CHANGES IN SUBSURFACE CONDITIONS

Prior to submission of its bid, the Contractor shall investigate for the presence of any subsurface structures or conditions and make inquiries of all potential owners of subsurface structures or conditions. In the event the Contractor shall, during the process of the work, encounter subsurface conditions (other than seasonal variations) which materially differ from those shown on or implied by the Contract Drawings or Specifications, and if said conditions could not reasonably have been foreseen and identified by inquiry and/or inspection of the site prior to the Bid, and, further, if these changed subsurface conditions cause the Contractor to perform extra work, the Contractor shall be entitled to submit a request for additional compensation in accordance with "Claims for Extra Cost" of the General Conditions. The Contractor shall not be entitled to submit a request for additional compensation for changed subsurface conditions which vary seasonally, including but not limited to groundwater rise and fall, freezing/frost, etc. or which could have been foreseen and/or identified by inquiry and inspection of the site prior to the Bid.

Notice of the changed condition must be given to the Client and it's Engineer in accordance with Section 111 Claims for Extra Cost, so that the Client will have an opportunity to investigate the same and make any alteration which, in the sole discretion of the Client may be necessary. Such notice is a material condition which must be adhered to by the Contractor.

The Engineer shall investigate the facts and shall notify the Client whether the conditions are or are not materially different from those shown or implied by the Contract Drawings or Specifications. The Client shall then notify the Contractor of its decision.

In the event of a favorable decision by the Client the Contractor shall be entitled to additional compensation and the amount of the additional compensation shall be determined in accordance with the provisions of the GENERAL CONDITIONS, CHANGES IN THE WORK.

In the event of an unfavorable decision by the Client, the Contractor shall have the right to contest said decision as provided for under the provisions of this Contract.

111. CLAIMS FOR EXTRA COST

a. All claims between the parties, including all claims for additional compensation and/or additional time, arising out of, or in any way related to this Contract and/or the performance of the same, or its interpretation, except those disputes covered by Federal Labor Standards Provisions under GENERAL CONDITIONS, PART II, shall within ten (10) days of the event or action giving rise to the claim be presented to the Engineer. All papers pertaining to claims shall be filed in quadruplicate. Such notice need not detail the amount of the claim but shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. In the meantime, the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of its commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt
by the Engineer of notice thereof. The Contractor shall in no case allow any claim or dispute to delay the work.

b. As soon as practicable after the final submission of all information the Client shall make a determination of any claim. Said decision of the Client shall be a condition precedent to any further action on the claim. However, upon certification in writing by the claimant that the claim has been submitted in its final form, the Client shall be obliged to render a decision on said claim within sixty (60) days of the date of said certification. Should the Client fail to render its decision within the aforementioned sixty (60) day period, its decision will not be a condition precedent to any further action on the part of the claimant.

c. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be considered unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonable estimated from the Drawings and maps issued.

d. If, on the basis of the available evidence, the Client determines that an adjustment of the Contract Price and/or Time is justifiable, the procedure shall be as provided in Sections: “CHANGES IN THE WORK” or “TERMINATIONS; DELAYS AND EXTENSIONS; LIQUIDATED DAMAGES” of the GENERAL CONDITIONS, PART I.

e. In the event of an unfavorable decision by the Client, the Contractor shall have the right to contest said decision as provided for under the provisions of this Contract.

111-A  EXTENSION OF TIME FOR PERFORMANCE

a. If performance by the Contractor is delayed for a reason set forth in Section C, the Contractor may be allowed a reasonable extension of time in conformance with this section.

b. Any extension of time may be granted only by the City upon written application by the Contractor.

c. Grounds for Extension: If such application is made, the Contractor shall be entitled to an extension of time for delay in completion of the Work caused solely:

   1. By the acts or omissions of the City, its officers, agents or employees; or

   2. By the act or omissions of Other Contractors on this Project; or

   3. By supervening conditions entirely beyond the control of either party hereto (such as, but not limited to, acts of God or the public enemy, excessive inclement weather, war or other national emergency making performance temporarily impossible or illegal, or strikes or labor disputes not brought about by any act or omission of the Contractor).

   4. The Contractor shall, however, be entitled to an extension of time for such causes only for the number of Days of delay which the Engineer may determine to be due solely to such causes, and then only if the Contractor shall have strictly complied with all of the requirements of Articles 9 and 10.

d. The Contractor shall not be entitled to receive a separate extension of time for each of several causes of delay operating concurrently, but, if at all, only for the actual period of delay in completion of the Work as determined by the Engineer, irrespective of the number of causes contributing to produce such delay. If one of several causes of delay operating concurrently results from any act, fault or omission of the Contractor or of its Subcontractors or Materialmen, and would of itself (irrespective of the concurrent causes) have delayed the Work, no extension of time will be allowed for the period of delay resulting from such act, fault or omission.
e. The determination made by the Client on an application for an extension of time shall be binding and conclusive on the Contractor.

f. The granting of an application for an extension of time for causes of delay other than those herein referred to shall be entirely within the discretion of the Client.

g. Permitting the Contractor to continue with the Work after the time fixed for its completion has expired, or after the time to which such completion may have been extended has expired, or the making of any payment to the Contractor after such time, shall in no way operate as a waiver on the part of the City of any of its rights under this Contract.

h. Application for Extension of Time:

1. Before the Contractor's time extension request will be considered, the Contractor shall notify the City of the condition which allegedly has caused or is causing the delay, and shall submit a written application to the Engineer identifying:

   a. The Contractor; and Project description;

   b. Liquidated damage assessment rate, as specified in the Contract;

   c. Original bid amount;

   d. The original Contract start date and completion date;

   e. Any previous time extensions granted (number and duration); and

   f. The extension of time requested.

i. In addition, the application for extension of time shall set forth in detail:

   1. The nature of each alleged cause of delay in completing the Work;

   2. The date upon which each such cause of delay began and ended and the number of Days attributable to each such cause;

   3. A statement that the Contractor waives all claims except for those delineated in the application, and the particulars of any claims which the Contractor does not agree to waive. For time extensions for Substantial Completion and final completion payments, the application shall include a detailed statement of the dollar amounts of each element of claim item reserved; and

   4. A statement indicating the Contractor's understanding that the time extension is granted only for purposes of permitting continuation of Contract performance and payment for Work performed and that the City retains its right to conduct an investigation and assess liquidated damages as appropriate in the future.

j. Analysis and Approval of Time Extensions:

1. For time extensions for partial payments, a written determination shall be made by the City who may, for good and sufficient cause, extend the time for the performance of the Contract as follows:

   2. If the Work is to be completed within six (6) months, the time for performance may be extended for sixty (60) Days;

   3. If the Work is to be completed within less than one (1) year but more than six (6) months, an extension of ninety (90) Days may be granted;
4. If the Contract period exceeds one (1) year, besides the extension granted in Article 13.9.1(b), an additional thirty (30) Days may be granted for each multiple of six (6) months involved beyond the one (1) year period; or

5. If exceptional circumstances exist, the City may extend the time for performance beyond the extensions in Articles 13.9.1(a), 13.9.1(b), and 13.9.1(c).

6. For extensions of time for Substantial Completion and final completion payments, the Engineer, in consultation with the City, shall prepare a written analysis of the delay (including a preliminary determination of the causes of delay, the beginning and end dates for each such cause of delay, and whether the delays are excusable under the terms of this Contract). Neither the report itself nor anything contained therein shall operate as a waiver or release of any claim the City may have against the Contractor for either actual or liquidated damages.

7. Approval Mechanism for Time Extensions for Substantial Completion or Final Completion Payments: An extension shall be granted only with the approval of the Engineer, or his/her authorized representative.

8. Neither the granting of any application for an extension of time to the Contractor or any other Contractor on this Project nor the papers, records or reports related to any application for or grant of an extension of time or determination related thereto shall be referred to or offered in evidence by the Contractor or its attorneys in any action or proceeding.

k. No Damage for Delay: The Contractor agrees to make no claim for damages for delay in the performance of this Contract occasioned by any act or omission to act of the City or any of its officer, employees, agents or representatives, or any other contractor or subcontractor, and agrees that all it may be entitled to on account of any such delay is an extension of time to complete performance of the Work as provided herein.

112. TERMINATION; DELAYS AND EXTENSIONS: LIQUIDATED DAMAGES

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

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

a. All reasonable costs incurred by the Contractor in performance of or in anticipation of performance of the Contract provided the Contractor shall take all reasonable steps to mitigate such damages including the return and/or resale of materials ordered; and

b. A mark-up of 10% for profit and 10% for overhead on the reasonable cost of the work completed and in place, in accordance with the Contract Drawings and Specifications, to the date of termination. The Contractor shall remain responsible for the work completed, in accordance with the Contract provisions.

Should any work under this contract be subject to, or terminated by the action of any third party, governmental unit or court due to any ecological or other reason the rights of the Contractor to recover from the Owner shall be determined as set forth above.
The Client may give notice in writing to the Contractor and his Surety of any material breach of the Contract by the Contractor to include but not be limited to any of the following:

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

b. Failure to perform the work with sufficient workmen, equipment or materials to insure the prompt completion of said work.

c. Unsuitable performance of the work or failure to perform new such work as shall be rejected as defective and unsuitable.

d. Neglecting or refusing to remove material rejected as defective and unsuitable.

e. Discontinuing the suitable prosecution of the work for a period of 72 hours, excluding Sundays and holidays without written authorization of the Engineer.

f. Failure to commence discontinued work within 48 hours after notice to resume (excluding Sundays and holidays).

g. Becoming insolvent or declared bankrupt, or commits any act of bankruptcy or insolvency.

h. Allowing any final judgment to stand against him unsatisfied for a period of ten (10) calendar days.

i. Making any assignment for the benefit of creditors.

j. Violating any covenants contained in the Contract Documents.

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

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

2. **Excusable Delays and Extensions of Time.** The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due:

a. To any acts of the Government, including equipment, tools, or by labor by reason of war, National Defense or any other national emergency.

b. To any acts of the Client, its Engineer or Agents; or injunction or litigation against said Client.

c. To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other Contract with the Client, fires, floods,
epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and

Provided, however, that the Contractor shall comply with the provisions **111-A  EXTENSION OF TIME FOR PERFORMANCE** and promptly notify the Client within ten (10) days in writing of the cause of the delay. Upon receipt of such notification, the Client shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this Contract, the delay is properly excusable, the Client shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

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

3. **Liquidated Damage for Delay** If the work is not completed within the time stipulated in Section - **TIME FOR COMPLETION/NOTICE TO PROCEED** under SPECIAL CONDITIONS, including any extensions of time for excusable delays as herein provided, the Contractor shall pay to the Client as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) for each calendar day of delay, until the work is completed, the amount as set forth in Section - **LIQUIDATED DAMAGES** under SPECIAL CONDITIONS and the Contractor and his sureties shall be liable to the Client for the amount thereof.

**113. ASSIGNMENT OR NOVATION**

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities or responsibilities under this Contract without the written consent of the client provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the Client.

No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered and materials, tools and equipment supplied for the performance of the work under this Contract in favor of all persons, firms or corporations rendering such labor or services or supplying such materials, tools or equipment.

**114. ENGINEER'S AUTHORITY**

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

**115. TECHNICAL SPECIFICATIONS AND CONTRACT DRAWINGS**

Anything mentioned in the Technical Specifications and not shown on the Contract Drawings or shown on the Contract Drawings and not mentioned in the Technical Specifications shall be of like effect as if shown on or mentioned in both. In case of difference between the Contract Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in the Contract Drawings or Technical Specifications, the matter shall be immediately submitted to the Client without whose decision, said discrepancy, shall not be adjusted by the Contractor. If said discrepancy is adjusted by Contractor without Client consent, it shall be at Contractor's own risk and expense.
116. SHOP DRAWINGS

a. All required shop drawings, machinery details, layout drawings, working drawings, material and equipment descriptions, etc., shall be submitted to the Engineer in six (6) copies for review sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking if necessary. Four (4) weeks should be allowed for checking from the date of receipt by the Engineer. The Contractor, with the approval of the Engineer, may submit manufacturer's literature as a substitute for, or supplement to, the shop drawings, etc. The minimum size for any submission shall be 8-1/2" x 11" and the maximum size shall be the size of the Contract Drawings. All shop drawings, etc. and/or printed matter submitted shall be properly identified by project and specific application with reference to Contract Drawing number and specification items.

b. No construction, purchase, delivery, installation or work shall be done or made on any part or feature of this Contract which is dependent upon shop drawing review, until such review has been received from the Engineer. If the Contractor proceeds without reviewed shop drawings, it shall be at his own risk. No claim by the Contractor, for extension of the Contract time will be granted by reason of his failure in this respect.

c. Shop drawings, etc., or printed matter shall give all dimensions, sizes, etc. to enable the Engineer to determine suitability of the construction, installation, material or layout for the purposes intended. Where needed for clarity, the drawings shall include outline, sectional views and detailed working dimensions and designations of the kind of material, machine work, finish, etc., required. The drawings to be submitted shall be coordinated by the Contractor with any other drawings previously reviewed, with the design and function of any equipment or structure and the Contract Drawings.

d. Any shop drawings, etc., submitted without the Contractor's stamp of approval will not be considered and will be returned to the Contractor for proper resubmission. By approving and submitting shop drawings, etc., the Contractor thereby represents that he has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so and that he has checked and coordinated each shop drawing, etc. with the requirements of the work and of the Contract Documents.

e. If any drawings show variations from the requirements of the Contract because of standard shop practice and/or other reasons, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of the contract price and/or time; otherwise, the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been reviewed.

f. After review, the submittals will be stamped "No Exceptions Taken," "Exceptions As Noted," "Revise and Resubmit" or "Rejected - See Remarks." Three (3) prints of "No Exceptions Taken" or "Exceptions As Noted" drawings will be returned to the Contractor for his use and distribution to his suppliers and/or Subcontractors. In the case of those stamped "Revise and Resubmit" or "Rejected - See Remarks," two (2) prints will be returned to the Contractor who shall make all indicated corrections and resubmit six (6) prints.

g. In any submission which is noted as "No Exceptions Taken" or " Exceptions As Noted ", the review shall not extend to details or dimensions and shall not relieve the Contractor from his responsibility for compliance with the Contract Drawings and Specifications.

h. When the Contractor proposes a revision to a previously submitted shop drawing, etc., six (6) copies shall be resubmitted for review. This resubmittal shall clearly indicate, in a revision block, the date, description and location of the revision. The letter of transmittal shall state the reasons for the revision.

i. The Contractor shall furnish as many copies of the submittals as is necessary for the proper coordination of the work, and shall maintain a complete set of the reviewed submissions at the site of the work at all times.

j. Upon the final acceptance of the project, the Contractor shall, on request, furnish the Client with a complete set of shop drawing tracings or reproducible cloth reproductions of the shop drawing tracings.
There will be no direct payment made for any of the above submittals, or reproducible drawings if required, but the cost thereof shall be considered as included in the general cost of the work.

117. REQUESTS FOR SUPPLEMENTARY INFORMATION

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

118. MATERIALS AND WORKMANSHIP

a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Technical Specifications as "equal to" any particular standard, the Engineer shall decide the question of equality.

b. All work performed and all materials furnished shall be, in conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances shown on the Contract Drawings or indicated in the Specifications.

c. The Contractor shall furnish to the Client for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics and all other pertinent information as required, and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work. (See Section - SAMPLES, CERTIFICATES AND TESTS under GENERAL CONDITIONS, PART I.)

d. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.

e. Materials specified by reference to the number or symbol of a specific standard, such as an American Society for Testing Materials Standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Technical Specifications, shall have full force and effect as though printed therein.

f. The Contractor shall employ only competent and skillful men to do the work and whenever the Engineer shall notify the Contractor, in writing, that any man on the work is, in his opinion, incompetent or disorderly, the Contractor shall forthwith remove such person and shall not again employ him on any part of the work without the written consent of the Engineer.

g. The Client may stop any work or any part of the work under the Contract if the methods or conditions are such that unsatisfactory work might result, if improper materials or workmanship is being used, or unsafe conditions exist.

h. In the event the materials furnished or the work deviates from the requirements of the Contract Drawings and Specifications, but, in the opinion of the Client constitutes substantial performance, the Client may accept the same. Should the deviation in question result in a savings to the Contractor, the Client will
be entitled to a credit in the full amount of said savings. Should the deviation in question result in an additional cost to the Contractor the Client will not be liable to the Contractor for such additional cost.

If the materials or the finished product in which the materials are used or the work performed are not in conformity with the Contract Drawings and Specifications and have resulted in an inferior or unsatisfactory product, the work and materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

119. SAMPLES, CERTIFICATES AND TESTS

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

b. Samples: Unless otherwise specified, the Contractor shall furnish the required samples without charge, and shall provide every facility for the securing of material samples. He shall provide means and assist in the verification of all scales, measures and other devices which he operates. Samples to be submitted shall be taken by the Engineer or a laboratory approved by the Client, unless otherwise specified. All materials being used shall be subject to resampling and testing at any time during their preparation and/or use.

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

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

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

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

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

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

The materials certificate shall be signed by an authorized and responsible agent for the organization supplying the material, and it shall be notarized.

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

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

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

f. Tests. Tests as required by the Specifications will be made in accordance with the latest revision to the Standard Method of American Association of State Highway Officials or the American Society for Testing and Materials in effect at the time of bidding, unless otherwise specified on the Contract Drawings or Special Conditions. Representative preliminary samples of the material proposed for use shall be submitted, without charge, by the Contractor or producer for examination and tested in accordance with specified methods. All materials being used are subject to test or rejection at any time during their preparation and use.

Materials will be rejected by the Engineer whenever, in his judgment, they fail to meet the requirements of the specifications.

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

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

The Engineer may accept a material or combination of materials and therefore waive noncomplying test results provided that all of the following conditions are met:

1. Results of prior and subsequent series of tests of the material or materials from the same source or sources are found satisfactory.
2. The incidence and degree of nonconformance with the specification requirements are, in the Engineer's judgment within reasonable and particle limits.
3. The Contractor has diligently exercised material controls consistent with good practices in the Engineer's judgment.
4. No adverse effect on the value or serviceability of the completed work could result.
h. Costs. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follow:

(1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the Engineer and the Client shall pay all other testing costs of said samples.

(2) The Contractor shall assume all costs of retesting materials which fail to meet Contract requirements.

(3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient or for those specified.

120. PERMITS AND CODES

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

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

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

b. Unless otherwise specified, the Contractor shall at his own expense, secure and pay to the appropriate department of the Local/State/Federal Government the fees or charges for all permits including but not limited to those required for street pavements, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavement cuts, buildings, electrical, plumbing, water, gas, and sewer permits, etc., required by the regulatory body or any of its agencies.

c. The Contractor shall comply with applicable Local/State/ Federal laws, ordinances, codes, etc., governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the work under this Contract.

121. CARE OF WORK

a. The Contractor shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Client.
Materials shall be stored so as to insure the preservation of their quality and fitness for the work and shall be located so as to facilitate prompt inspection. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces and not on the ground, and when directed, shall be placed in weatherproof buildings.

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

b. The Contractor shall at his sole expense and without any additional cost to the Client provide watchmen and/or other security measures as may be reasonably required to properly protect and care for materials and work completed, and to otherwise prevent property damage and/or personal injury.

c. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorization from the Client, is authorized to act at his discretion to prevent such threaten loss or injury, and he shall so act. He shall likewise act if instructed to do so by the Client. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Client as provided in the Section - CHANGES IN THE WORK under GENERAL CONDITIONS.

d. The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operations.

e. The Contractor shall shore up, brace, underpin, secure, and protect as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Client, the Local Government, and the Engineer from any damages on account of settlements or the loss of lateral support of adjoining property and front all loss or expense and all damages for which the Client, the local Government and the Engineer may become liable in consequence of such injury or damage to the work or adjoining and adjacent structures and/or their premises.

122. ACCIDENT PREVENTION

a. The Contractor is solely responsible for and shall exercise proper precautions and safety measures at all times for the protection of persons and/or property and shall be responsible for all injuries and/or damages to all persons and/or property, either on or off the site, which arise from the Contractor’s work or the work of any of Contractor’s agents, subcontractors or vendor under this Contract. The Contractor is solely responsible for compliance with the safety provisions of all applicable Local/State/Federal laws and building and construction codes and the Contractor shall take or cause to be taken such additional safety and health measures as are reasonably necessary for the protection of persons and property, as the then existing circumstances and conditions require.

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

b. The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on the work under this Contract in accordance with the requirements of the applicable State/Local/ Federal regulations. The Contractor shall promptly furnish the Client with reports concerning these matters.
c. The Contractor shall indemnify and save harmless the Client, Local Government and the Engineer from any and all claims for damages resulting from personal injury, death and/or property damage, suffered or alleged to have been suffered, by any person as a result of any work conducted under this Contract. See also the Section INDEMNITY CLAUSE of the GENERAL CONDITIONS.

123. SANITARY FACILITIES

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the Health/Sanitary Codes of the Local/State/Federal Government. Drinking water shall also be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health/sanitary regulations.

124. USE OF PREMISES

a. The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract Limits, Storage Area, Staging Area, Work Area, or Temporary Construction Area as shown on the Drawings and as prescribed by ordinances or permits, or as may be desired by the Client, and shall not unreasonably encumber the site or public rights of way with his materials and construction equipment.

b. The Contractor shall comply with all instructions of the Client, Engineer and the ordinances, codes, etc., of the Local/State/Federal Government, regarding signs, advertising, traffic, fires, explosives, danger signals, barricades, etc.

c. See also PARTIAL USE OF IMPROVEMENTS of the SPECIAL CONDITIONS.

125. REMOVAL OF DEBRIS, CLEANING, ETC.

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, prior to final inspection, he shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will be subject to prior approval of the Client and existing Local/State/Federal regulations.

The cost of all required clean-up shall be included in the various prices bid under this Contract.

126. INSPECTION/ACCEPTANCE OF THE WORK

a. All materials and workmanship shall be subject to inspection, examination or test by the Client and the Engineer to determine the acceptability of the work at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on and the Contractor shall provide proper facilities for such access and inspection. The Client or Engineer shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge therefor. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the Client may by contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any monies which are due or may become due the Contractor, without prejudice to any rights or remedies of the Client.

b. The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. (See Section - SAMPLES, CERTIFICATES AND TESTS, under the GENERAL CONDITIONS, PART I.) All tests by the Client or Engineer will be performed in such manner as not to delay the work unnecessarily and shall be made as required by the Technical Specifications.
c. If the specifications, the Engineer's instructions, laws, ordinances, or any public authority require any work to be specifically tested or approved, the Contractor shall give the Engineer timely notice of its readiness for inspection, and if the inspection is by an authority other than the Engineer (such as a testing organization designated by the Client), of the date fixed for such inspection. If any work, should be covered up without approval or consent of the Engineer, it must, if required by the Engineer, be uncovered for examination and properly restored at the Contractor's expense.

The Contractor shall notify the Engineer sufficiently in advance of backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Engineer or Client, the Contractor shall uncover for inspection and recover such facilities all at his own expense, when so requested by the Client or Engineer.

Should it be considered necessary or advisable by the Engineer or Client at any time before final acceptance of the entire work to make an examination of work already completed, by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor and material. If such work is found to be defective due to the fault of the Contractor or his Subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, payment under the provisions of the GENERAL SPECIFICATIONS, CHANGES IN THE WORK, shall be allowed the Contractor and he shall, in addition, if completion of the work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

d. Inspection of materials and appurtenances to be incorporated in the improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

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

127. REVIEW BY CLIENT

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

128. FINAL INSPECTION

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

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

130. INSURANCE

A. Workmen's Compensation.

The Contractor shall carry or require that there be carried Workmen's Compensation Insurance and Employer's Liability Insurance for all his employees and those of his Subcontractors engaged in work on the site, in accordance with State or Territorial Workmen's Compensation Laws. See Section H for further detail.

B. Manufacturers' and Contractors' Liability.

The Contractor shall carry or require that there be carried Manufacturers' and Contractors' Liability Insurance with limits as specified in the "SCHEDULE OF INSURANCE" under "INSURANCE" of Section H and the Special Conditions for:

1. Personal Injury: This shall protect the Contractor and his Subcontractors and their heirs and assigns against all claims for injury to or death of one, or more than one person, because of accidents which may occur as a result from operations under this Contract; such insurance shall cover the use of all equipment, including, but not limited to, excavation machinery, trenching machines, cranes, hoists, rollers, concrete mixers, motor vehicles, and other equipment as may be specified elsewhere which may be used in the construction of the improvements embraced in this Contract. This Personal Injury Liability Insurance will be carried from commencement of work to final acceptance of the work under this Contract and will be extended to include insurance for completed operations. The completed operations portion of the Personal Injury Liability Insurance shall be extended for the entire period of the guarantee unless otherwise specified. This insurance shall cover owned, hired, and non-owned equipment.

2. Property Damage: This shall protect the Contractor and his Subcontractors and their heirs and assigns from all claims for property damage which might arise from operations under this Contract. Property Damage Liability shall be extended to include insurance for completed operations. The completed operations portion of the Property Damage Liability Insurance shall be extended for the entire period of the guaranty unless otherwise specified.

3. Manufacturers' and Contractors' Liability shall not exclude ability for personal injury or damages to property as a result of blasting, explosion, collapse of buildings or structures, and damage to underground installations.

C. Automotive Liability

The Contractor shall carry or require that there be carried Automotive Liability Insurance for personal injury and property damage with the limits as specified in the "SCHEDULE OF INSURANCE" under "INSURANCE" of the Special Conditions and Section H to protect the Contractor and his Subcontractors and their heirs and assigns from all claims for any personal injury or property damage caused by an occurrence and arising out of the ownership, maintenance or use, including loading and unloading, of any vehicles during the operations under this Contract. This coverage shall include coverage for owned, hired and non-owned vehicles.

D. Owners' Protective Liability

The Contractor shall carry or require that there be carried Client's Protective Liability Insurance for and in the name of the Client and any others as may be specified in the Special Conditions under "INSURANCE"
to protect them and their heirs and assigns from all claims for personal injury and property damage arising from the Contractor's or his Subcontractor's operations under this Contract with like coverage and requirements for the Contractor's "Manufacturers' and Contractor's Liability" Insurance as specified herein and with the limits as specified in the "SCHEDULE OF INSURANCE" under "INSURANCE" of the Special Conditions and Section H.

The Contractor and his Insurer shall waive governmental immunity as a defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit, action or claim brought against the Client or City of Peekskill.

E. Builder's Risk Insurance

If required by "INSURANCE" of the Special Conditions, the Contractor shall carry Builder's Risk Insurance (Fire and Extended Coverage, including "Special Extended Coverage" - also known as All-Risk Builder's Risk Coverage) on a 100% completed value basis of the insurable portions of the project for and in the name of the Client, the City of Peekskill, and the Engineer unless otherwise specified. The Contractor and Subcontractors and other interests shall be named only under the Loss Payable Clause as their interests may appear. The Reporting Form type of Builder's Risk Insurance will NOT be acceptable. The maximum acceptable deductible shall be $1,000. See Section H for further detail.

F. Job Office Insurance

The Contractor, when required by the Special Conditions to provide job offices for the use of the Client and Engineer shall carry insurance for and in the name of the Client and the Engineer or accept full responsibility (in writing; for loss or damage to the contents to cover office records, supplies, instruments, equipment and personal property of the Client and Engineer using the field office. If insured, the limit shall be as specified in the "SCHEDULE OF INSURANCE" under "INSURANCE" of the Special Conditions and Section H.

G. Other Insurance

The Contractor shall carry or require that there be carried any other insurance as required in the Special Conditions under "INSURANCE" or Section H.

H. Endorsements

1. Each Contractor's policy shall include a Contractual "HOLD HARMLESS" endorsement and coverage as follows: "The Contractor (and his Subcontractors) shall, during the performance of this work, take necessary precautions and place proper guards for the prevention of accidents; shall keep up all night suitable and sufficient lights and barricades; shall fully comply with the Occupational Safety and Health Act of 1970 and all other Federal, State and Local Regulations including any and all amendments, revisions and additions thereto; shall relieve the Client, the City of Peekskill, the Project Engineer and Municipal Engineers, officers and agents from liability for consequent damages arising out of work performed under this Contract including delay, loss of business, damages to life or property caused as a result of damage, injury or other action by the Contractor (or his Subcontractors), direct or indirect; and shall indemnify and save harmless the Client, the City of Peekskill, the Engineers, and their employees, officers and agents from any and all claims, suits, actions, fines, fees, damages and costs to which they may be put by reason of death or injury to all persons and/or for all property damage of another resulting from non-compliance unskillfulness, willfulness, negligence or carelessness in the performance of the work, or in guarding or protecting the same, or from any improper methods, materials, implements or appliances used in performance of the work, or by or on account of any direct or indirect act or omission of the Contractor (or his Subcontractors) or his employees or agents, and whether or not active or concurrent negligent act or omission by the employees, officers, or agents of the City of Peekskill, Client or Engineer may have directly or indirectly caused or contributed thereto:

2. Manufacturers' and Contractors' Liability shall further include an endorsement stating: "This policy shall cover owned, hired and non-owned equipment". "Coverage for completed operations for both personal
injury and property damage extended for the period of guaranty shall be covered under this policy. Manufacturers' and Contractors' Liability coverage includes liability for personal injury or damages as a result of blasting, explosion, collapse of buildings or structures, and damage to underground installations.

3. Automotive Liability Insurance shall include an endorsement as follows: “This policy shall cover owned, hired and non-owned vehicles.”

4. Owner's Protective Liability shall include an endorsement as follows: "The Contractor and the Insurance Company waive governmental immunity as a defense and will not use the defense of governmental immunity in the adjustment of claim or the defense of any suit, action or claim brought against the Client or the City of Peekskill.

5. **ALL POLICIES** shall include: (a) endorsement of the work description, contract name, number and location, (b) an endorsement that the Insurance Company will give at least thirty (30) days written notice to the Client and Engineer prior to any modification or cancellation of any such policy, (c) an endorsement that the Contractor will be responsible for the payment of all premiums and/or charges, and (d) an endorsement as follows: "This policy is issued in compliance with the requirements of the Contract, Documents for the project and issuing Company/Agent is fully cognizant of the requirements as stated therein."

I. Proof of Insurance

Before commencing any work under this Contract, the Contractor shall submit copies of the Endorsements to Insurance Policies, to the Client, Engineer and any others as may be specified in the Special Conditions under "INSURANCE" and Section H, evidencing that all insurance as required herein is in force. The policies shall be identified by title, policy number, effective date, expiration date, coverages and limits of liability. Required or verbatim quotes of endorsements as required above or by the Special Conditions and any non-standard exclusion endorsements for any required policies shall be attached to or be a part of the Certificate/Certificates of Insurance.

The Contractor must either include coverage for his Subcontractors in his policy or submit similar Certificates of Insurance from each of his Subcontractors before their work commences. Each Subcontractor must be covered by insurance of the same character and in the same amounts as the Contractor unless the Contractor and the Engineer agree that a reduced coverage is adequate because of the nature of the particular Subcontract work.

During the course of construction under this Contract, whenever there is a lapse in the insurance requirements as stated herein, through cancellation, expiration, failure to renew, or any other cause, the Client shall order the cessation of all construction activities until such time as the insurance requirements are complied with. The Contractor shall have no claim or claims whatever against the Client, the Engineer or other parties due to any delays caused thereby, nor shall it extend the completion time of the Contract.

J. Approval/Disapproval of Insurance

Upon receipt of the Certificate(s) of Insurance or binders, the Client will, in writing, identify the policies and indicate its approval or disapproval. New policies from other companies shall be provided in place of those disapproved. Such insurance shall only be carried with financially responsible insurance companies, licensed in the State and approved by the Client and HUD office. All policies shall be kept in force until the Contractor's work is accepted by the Client (unless otherwise specified). Insurance policies (covering all operations under this Contract or, if so noted for extended operations) which expire before the Contractor's work is accepted by the Client (or where noted for extended operations, through the period of guaranty) shall be renewed and evidence of same submitted to the Client for its approval.

131. PATENTS

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

132. **WARRANTY OF TITLE**

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

133. **GENERAL GUARANTEE**

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the Client or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The Client will give notice of defective materials and work with reasonable promptness.

134. **ARBITRATION AND LITIGATION**

Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall at the option of the Client be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. The Client shall exercise its option to arbitrate concurrent with the rendering of its final decision on the claim. Should it fail to render a final decision within the prescribed time or fail to exercise its option, the claim will be determined in accordance with the Rules of the American Arbitration Association as herein, before stated.

135. **RISK OF LOSS**

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

136. **REQUIRED PROVISIONS DEEMED INSERTED**

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

The Engineer shall have the right to correct any errors or omissions in the Contract, specifications or Contract Drawings when such corrections are necessary for the proper expression of their intent.

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

138. SAFETY PROVISIONS

The safety provisions of applicable laws, building and construction codes and the safety codes approved by the State Labor Commissioner shall be observed.

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

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

The Contractor shall employ watchmen on the work as necessary and shall erect and maintain such strong and suitable barriers and such lights as will effectually prevent the happening of any accident to health, limb or property. Lights shall be maintained between the hours of sunset and sunrise, and during periods of low visibility.

If at any time in the opinion of the Engineer, the work is not properly lighted, barricaded and in all respects safe, both in respect to public travel or adjacent property, public or private, and if under such circumstances the Contractor does not or cannot immediately put the same into proper and approved condition, or if the Contractor or his representative is not upon the ground so that he can be immediately notified of the insufficiency of safety precautions, then the Engineer may put the work into such a condition that it shall be, in his opinion, in all respects safe and the Contractor shall pay all expenses of such labor and materials as may have been used for this purpose by him or by the Engineer. Such action of the Engineer, or his failure to take such action shall in no way relieve the Contractor of the entire responsibility for any cost, loss or damage by any party sustained on account of the insufficiency of the safety precautions taken by him or by the Engineer acting under authority of this section.

139. TIME OF WORK

Unless otherwise especially permitted, work shall be done only during the hours of 8:00 am and 4:00 pm daily, Monday through Friday. No work shall be done during nights, except as necessary for the protection of the public and the proper care of work already performed. If it shall become imperative to perform new work beyond the time limits stipulated above, the Owner shall be informed a reasonable time in advance of the beginning of such work. The Engineer must be present and the Contractor shall bear the costs for their inspection. The Contractor shall obey all local ordinances and shall obtain any waiver necessary for working beyond the limits specified and shall perform required neighborhood notifications. Should the contractor elect to work Saturdays, he shall bear the costs for inspection and Municipal employee’s time at the site if necessary.

Only with the prior approval of the Engineer shall night work or work on Sundays or legal holidays requiring the presence of the Engineer be permitted except for emergencies or as specified elsewhere. Should night work be permitted or required, the lighting and other facilities which are necessary for performing such work must be provided by the Contractor and comply with the applicable safety codes.
140. OBSTRUCTIONS ENCOUNTERED

In addition to showing the construction under this Contract, the drawings show certain information obtained by the Client regarding conditions and features which exist at the site of the work, both at and below the surface of the ground. The Client and the Engineer expressly disclaim any responsibility for the accuracy or completeness of the information given on the drawings with regard to the existing conditions and features and the Contractor will not be entitled to any extra compensation on account of inaccuracy or incompleteness of such information except as provided under the Sections CHANGES IN SUBSURFACE CONDITIONS and EXISTING UTILITIES, STRUCTURES AND FIXTURES of the GENERAL CONDITIONS. It is specifically called to the Contractor's attention that all services, laterals, etc., are not shown on the Contract drawings and it shall be his responsibility to locate and protect the same; see paragraph 26 of the Special Conditions Section. The information which is shown is only for the convenience of the Contractor, who must verify this information to his own satisfaction. The giving of this information upon the Contract Drawings will not relieve the Contractor of his obligations to support and protect all existing utilities, structures and fixtures which may be encountered during the construction of the work, except as provided in the Section EXISTING UTILITIES, STRUCTURES AND FIXTURES of the GENERAL CONDITIONS.

141. EXISTING UTILITIES, STRUCTURES AND FIXTURES

The Contractor shall be responsible for the preservation of all public and private underground and surface utilities/structures at or adjacent to the construction work; insofar as they may be endangered by the work. This shall hold true whether or not they are shown on the contract drawings. If they are shown on the drawings, the Municipality does not guarantee their locations even though the information will be from the best available sources.

The Contractor shall give ample and reasonable notice to all private, corporate or municipal owners before work is done near their utility or structure; shall properly protect all utilities/structures encountered; shall at their expense repair/replace any items that are damaged; and shall proceed with caution to prevent undue interruptions to utility services.

Should it become necessary for the Contractor to remove or relocate any utilities, structures or other fixtures, due to a grade and alignment conflict which would require the proposed utility, structure or fixture (Not trench excavation, sheeting or other construction features) to occupy the same space as the existing pipe, pole, conduit and/or other fixture, such removal or relocation will be paid for in accordance with the provisions for CHANGES IN THE WORK of the GENERAL CONDITIONS. Should said utilities, structures or other fixtures be removed or relocated by the Owner or the respective utility companies at no cost to the Contractor, no payment will be made therefore.

Prior to any removal or relocation of existing facilities, structures or fixtures, the Contractor shall notify the Engineer of the location and the circumstances and shall cease work (which might prove detrimental to the utility, structure or fixture encountered) if necessary until satisfactory arrangements have been made with the owners of the same to properly care for them.

Should it be necessary to cease work and a delay is caused thereby, the Contractor shall have no claim for damages or any claim other than for an extension of time. See GENERAL CONDITIONS, CLAIMS FOR EXTRA COST.

If the Contractor desires temporary changes of location for his convenience for any reason whatsoever, of water lines, gas lines, sewer lines, wire lines, service connections, water and gas meter boxes, valve boxes, light standards, cableways, signals and any other utilities, structures or fixtures, he shall satisfy the Engineer and Client that the proposed relocation does not interfere with his or other Contractor's operations, or the requirements of the Contract Drawings and does not cause an obstruction or a hazard to traffic. The Contractor shall make his own request to the utility companies, pipe owners or other parties affected for such relocation work. Such relocation work for the convenience of the Contractor shall be made solely at the Contractor's expense.
The Contractor shall not remove or relocate any utility, structure or fixture without the written approval of the owner of that utility, structure or fixture unless otherwise shown on the Contract Drawings, specifications or ordered by the Engineer.

142. CONTROL OF EXISTING FLOWS

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

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

143. SEWAGE, SURFACE, GROUNDWATER AND FLOOD FLOWS

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

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

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

Any water used for any purpose by the Contractor shall not be discharged in such a way as to create pollution, sedimentation or other adverse effects upon the aforementioned streams or waters.

144. CONNECTING TO EXISTING WORK

The Contractor shall remove such existing masonry, concrete, equipment and piping as is necessary, in order to make the proper connections to the existing work at the locations shown. Also, he shall make the necessary pipe line, roadway and other connections at the several points in order that on completion of this Contract, water, sewage, or storm water, as the case may be, will flow through the several pipe lines and structures. Unless otherwise specified herein, no extra payment will be made for this work, but the entire cost of the same shall be included in the unit or lump sum prices bid for the various items of the work to be done under this Contract.

145. EXISTING IMPROVEMENTS

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

The utility mains, ducts, poles and services in the construction area, where shown on the Contract Drawings are at the approximate locations furnished by various utilities concerned. These locations are subject to possible errors in the source of the information; also, errors in transcription. The Contractor shall make certain of the exact location of mains, ducts, poles and services prior to excavation or construction near the same.

It is the responsibility of the Contractor to contact the various utility companies and make each aware of the pending construction and generally familiarize said utilities with the locations of conflicts in the case of the proposed construction. The Client shall be part of all conversations relating to utilities. The various utility companies will make all adjustments to their own lines except where otherwise shown on the Contract Drawings or specified. The Contractor shall give ample notice to the various utilities so that existing lines can be marked in the field and adjustments made. The Contractor shall cooperate fully with the various utilities and shall plan his work so that least interference is caused for all parties concerned. No additional payments shall be made to the Contractor for delays caused by utility interference due to negligence on the part of the Contractor. The Contractor shall support all utility lines uncovered during excavation.

146. ACCESS TO SITE

The Contractor shall make every effort to minimize damage to all access routes, and he shall be required to restore them to their original condition. The Contractor shall acquire all necessary permits for working in, on or from public streets or rights-of-way and for securing additional access rights thereto.

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

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

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

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

147. ACCESS TO ADJACENT PROPERTIES

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

148. USE OF ROADWAYS

During the progress of the work, the Contractor shall make ample provision for both vehicular and foot traffic on any public road, and shall indemnify and save harmless the Client from any expense whatsoever due to his operations on/over said roadways. The Contractor shall also provide free access to all fire hydrants, water and gas valves located along the line or in the vicinity of his work. Gutters and waterways must be kept open or other provisions made for the removal of storm water. Roadway intersections may be blocked but one-half at a time and the Contractor shall lay and maintain temporary driveways, bridges and crossings, such as in the opinion of the Engineer are necessary to reasonably accommodate the public and to provide access to private driveways. In the event of the Contractor's failure to comply with these provisions, the Client may cause the same to be done, and will deduct the cost of such work from any monies due or to become due the Contractor under this Contract, but the performance of such work by the Client or at its insistence shall serve in no way to release the Contractor from his general or particular liability for the safety of the public or the work.

149. SNOW REMOVAL

If the Contractor's operations or occupancy of any public street or highway, or the rough surfaces over any trench or area being maintained by the Contractor, shall interfere with the removal or plowing of snow or ice by the public authorities or land owners, or sanding of icy surfaces, in the ordinary manner with regular highway equipment, then the Contractor shall perform such services for the said public authorities or owners without charge; or failing to do so, shall reimburse the said authorities, Client for any additional cost to them for doing such work occasioned by the conditions arising from the Contractor's operations, occupancy or trench surfaces, together with any damage to the equipment of said parties by those conditions, or claims of any party for damage or injury or loss by reason of failure to remove snow or ice or to sand the icy spots under those conditions.

150. WEATHER CONDITIONS/WORK IN FREEZING WEATHER

In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to protect his and their work, such materials shall be removed and replaced at the expense of the Contractor.

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

151. INTOXICATING LIQUORS

The Contractor shall neither permit nor suffer the introduction or use of intoxicating liquors upon or about the work specified in this Contract or upon any of the grounds occupied by him or by his employees.

152. BLASTING

If explosives are used, all requirements for transportation, use and storage of Local, State and Federal laws and regulations must be complied with and all necessary permits and licenses obtained by the Contractor at his expense. Permits and licenses must be shown to the Engineer on request.

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

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

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

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

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

When blasting for trench excavation, each shot sequence shall begin sufficiently ahead of completed work to prevent damage to the completed work which must be properly protected prior to each shot.

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

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

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

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

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

The Contractor (and his Subcontractors) shall, during the performance of this work, take necessary precautions and place proper guards for the prevention of accidents; shall keep up all night suitable and sufficient lights and barricades; shall fully comply with the Occupational Safety and Health Act of 1970 and all other Federal, State and Local Regulations including any and all amendments, revisions and additions thereto; shall relieve the Owner, the City of Peekskill, the Engineers and their employees, officers and agents from liability for consequent damages arising out of work performed under this Contract including delay, loss of business, damages to life or property caused as a result of damage, injury or other action by the Contractor (or his Subcontractors), direct or indirect; and shall indemnify and save harmless the Owner, the City of Peekskill, the Engineers, and their employees, officers and agents from any and all claims, suits, actions, fines, fees, damages and costs to which they may be put by reason of death or injury to all persons and/or for all property damage of another resulting from noncompliance, unskillfulness, willfulness, negligence or carelessness in the performance of the work, or in guarding or protecting the same, or from any improper methods, materials, implements or appliances used in performance of the work, or by on account of any direct or indirect act or omission of the Contractor (or his Subcontractors) or his employees or agents, and whether or not active or concurrent negligent act or omission by the employees, officers, or agents of the Client, City of Peekskill or Engineer may have directly or indirectly caused or contributed thereto.

154. DISPUTES

a. All disputes between the parties arising out of, or in any way related to this Contract and/or the performance of the same, or its interpretation, except those disputes covered by Federal Labor Standards Provisions under GENERAL CONDITIONS, PART II, shall within ten (10) days of the event or action giving rise to the dispute be presented to the Engineer. All papers pertaining to the dispute shall be filed in quadruplicate. Such notice shall state the facts surrounding the dispute in sufficient detail to identify the dispute, together with its character and scope. In the meantime, the Contractor shall proceed with the work under this Contract as directed. Any dispute not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the dispute is of a continuing character and notice of the dispute is not given within ten (10) days of its commencement, the dispute will be considered only for a period commencing ten (10) days prior to the receipt by the Engineer of notice thereof. The Contractor shall in no case allow any dispute delay the work under this Contract.

b. As soon as practicable after the final submission of all information the Owner shall make a determination of the dispute. Said decision of the Owner shall be a condition precedent to any further action on the dispute. However, upon certification in writing by the claimant that the dispute has been submitted in its final form, the Owner shall be obliged to render a decision on said dispute within sixty (60) days of the date of said certification. Should the Owner fail to render its decision within the aforementioned sixty (60) day period, its decision will not be a condition precedent to any further action on the part of the claimant.

c. Each decision by the Client will be in writing and will be mailed to the contractor by registered or certified mail, return receipt requested, directed to his last known address.

d. In the event of an unfavorable decision by the Client, the Contractor shall have the right to contest said decision as provided for under the provision of this Contract. The Contractor shall in no case allow the dispute or decision to delay any work but shall notify the Owner promptly that he is proceeding with the work under protest and he may then accept the matter in question from the final release.
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SPECIAL CONDITIONS

1. PROJECT SITE

The location of the project extends along the Hudson River from the existing Charles Point Park in the City of Peekskill to the Village of Buchanan over permanent easements held by the City of Peekskill as depicted in the Construction Drawings.

2. TIME FOR COMPLETION/NOTICE TO PROCEED

The work which the Contractor is required to perform under this Contract shall be commenced at the time stipulated by the Owner (City of Peekskill) in the Notice to Proceed to the Contractor and shall be fully completed within 360 consecutive calendar days thereafter or as modified in accordance with the GENERAL CONDITIONS.

The Contractor will be bound to the performance of the Contract when given a Notice to Proceed with the work no later than 30 calendar days after the date of the execution of the Contract by the Contractor.

When the Contractor is not given a Notice to Proceed with the work within the aforementioned 30 DAY PERIOD, the Contractor may elect to void the Contract by giving unequivocal and unconditional written notice of such avoidance to the Owner. Such avoidance shall be effective upon actual receipt by the Owner, prior to the mailing or actual delivery of any Notice to Proceed. In the event of the Owner's failure to issue a Notice to Proceed, the Contractor's sole remedy shall be the avoidance of the Contract as set forth and the Owner will not be liable to the Contractor for any claims or losses including anticipated loss of profit and monies expended in anticipation of performance under the Contract.

3. LIQUIDATED DAMAGES

As actual damages for any delay in completion of the work which the Contractor is required to perform under this Contract are impossible to determine, the Contractor and his Sureties shall be liable for and shall pay to the Client the sum of FIVE HUNDRED DOLLARS ($500.00) as fixed, agreed and liquidated damages for each calendar day of delay from the above stipulated completion, or as modified in accordance with the GENERAL CONDITIONS, PART I, until such work is satisfactorily completed and accepted.

4. RESPONSIBILITIES OF CONTRACTOR

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

5. COMMUNICATIONS

a. All notices, demands, requests, instructions, approvals, proposals and claims must be in writing.

b. Any notice to or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Agreement (or at such other office as the Contractor may from time to time designate) in a sealed, postage-prepaid envelope or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.

c. All papers required to be delivered to the Client shall, unless otherwise specified in writing to the Contractor, shall be delivered to the City Planner – Planning Department, 840 Main Street, Peekskill, NY 10566, and any notice to or demand upon the Client shall be sufficiently given if so delivered, or if deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said Client at such address, or to such other representatives of the Client or to such other address as the Client may subsequently specify in writing to the Contractor for such
purpose.

d. Any such notice shall be deemed to have been given as of the time of actual delivery or (in case of 
mailing) when the same should have been received in due course of post, or in the case of telegrams, at the 
time of actual receipt, as the case may be.

6. SIGNS

a. Project signs will be required as indicated in Section ‘L’ of the Technical Specifications and on the 
Contract Plans.

b. Subject to prior approval of the City as to size, design, type and location and to local regulations, the 
Contractor and/or the Subcontractors may erect temporary signs for purpose of identification and controlling 
traffic. The Contractor shall furnish, erect and maintain such other signs as may be required by Safety 
Regulations or as necessary to safeguard life and property.

7. CONTRACT DOCUMENTS AND DRAWINGS

The City will furnish the Contractor without charge one (1) full sized paper copy of the Contract 
Documents, including Technical Specifications and Drawings.

8. JOB OFFICES

None Required

9. PARTIAL USE OF IMPROVEMENTS

The City at its election, may give notice to the Contractor and place in use those sections of the work which 
have been completed, inspected and can be accepted as complying with the Contract Documents and if in its 
opinion each such section is reasonably safe, fit and convenient for the use and accommodation for which it 
was intended, provided:

a. The use of such sections of the work shall not materially impede the completion of the remainder of the 
work by the Contractor.

b. The Contractor shall not be responsible for any damage or maintenance costs due directly to the use of 
such sections.

c. The use of such sections shall in no way relieve the Contractor of his liability due to having used 
defective materials or to poor workmanship.

d. The period of guarantee stipulated in the Section J - GENERAL GUARANTEE under GENERAL 
CONDITIONS, PART I, shall not begin to run until the date of the final acceptance of all work, which the 
Contractor is required to construct under this Contract.

10. RAILROAD CROSSINGS

a. Where railroad crossings occur, the Contractor shall provide the railroad with all data on how he 
intends to perform the Work and shall complete such Work in strict compliance with railroad requirements.

11. MAINTENANCE OF ACCESS PROTECTION OF PUBLIC AND UTILITIES

a. Interference with Utilities: The Contractor shall not make connections to existing water mains, 
operate valves, or otherwise interfere with the operation of existing water distribution system until he has 
given a seventy-two (72) hour notice to the affected owner and secured his approval of the proposed action. 
The Contractor shall notify gas, electric, and telephone companies, and all other utility companies having 
facilities which are subject to interference, at least 72 hours in advance of the time he proposes to perform 
Work in the area so that they may take such precautions as they deem necessary to protect their properties. 
Contractor shall be responsible for calling a code 53 prior to commencement of work.
b. Protection of the Public: When necessary to close a street temporarily, detours shall be provided, and these shall be plainly and adequately marked. Adequate barricades, lights and other warnings shall be provided and erected to protect the public from the Work. No additional compensation will be allowed for traffic control; all costs thereof shall be included in the lump sum and unit prices bid for the Work.

c. Maintenance of Access: The Contractor at all times shall maintain streets and thoroughfares in such condition as to provide ready access to business establishments and private dwellings.

Where necessary, suitable bridges shall be constructed over trenches for pedestrians and vehicular traffic. All such temporary structures shall be safe in all respects, and shall comply with OSHA regulations. The Contractor shall be liable for any damages or injuries resulting from his Work. The Contractor shall ascertain the evenings on which business establishments are open in the section where Work under this Contract is being performed, and he shall clean up and prepare the business section for the usual activities on those evenings.

12. TEMPORARY LIGHT, POWER, HEAT, WATER, AND SANITATION FACILITY

a. The Contractor shall provide all wiring, piping, metering equipment, fixtures, current, fuel, etc., for temporary light, power, heat and water required for the construction Work, and shall operate and maintain same at his own expense.

b. All wiring for electrical light and power shall be installed and maintained in a first-class manner, as ordered or approved, and securely fastened in place at all points. Unless otherwise authorized, circuits separate from lighting circuits shall be used for all power purposes. Electric light and power lines shall be kept as far as is practicable from telephone or signal wires and from wires for firing blasts. Special precautions shall be taken to avoid short circuits in any part of the wiring system. All wiring and conduits shall be removed when directed, on or before the completion of the Work of this Contract.

c. If, in the opinion of the Engineer or City, the temporary facilities provided by the Contractor are inadequate, the Contractor will not be permitted to proceed with any portion of the Work thereby affected.

d. The Contractor shall provide, at his own expense, the water supply necessary for drinking purposes, and all water required for the performance of the Work.

e. The Contractor will provide his own sanitary stations for usage by all approved affiliated crews.

13. UNFORESEEN DIFFICULTIES

a. The Contractor shall bear all losses arising out of the nature of the Work to be performed under this Contract, or resulting from any unforeseen obstructions or difficulties which may be encountered in the prosecution of the Work, or from the action of the elements, or from encumbrances on the site of the Work.

14. PHOTOGRAPHS OF PROJECT

a. The Contractor shall furnish photographs, both digital and hard copy sized 3”X5”, if required by the Owner, in the number, type and stage as enumerated below:

(1). All facades and site features located within the contract limit line prior to commencement of construction.

(2). All facades and site features located within the contract limit line, at project completion.

(3). One (1) photograph of each easement and generally at special construction, sidewalk, sewer construction or as directed by the Engineer or City taken prior to and upon completion of construction.

(4). In addition, the Contractor shall furnish photographs taken prior to commencement and upon
completion of construction along all State, County and Local roads, and at such other points as may be designated by the Engineer or the City.

15. MAINTENANCE OF TRAFFIC

   a. The Contractor shall cause as little inconvenience to traffic as is possible, and effort shall be made to preserve at least one-way traffic on all streets at all times.

   b. The handling of traffic on State and County Highways shall be with the approval of and in accordance with the requirements of the New York State Department of Transportation in the case of State Highways, and Westchester County Highway Department in the case of County highways. The Contractor shall consult with the Chief of Police, with the Chief of the Fire Department, and with the DPW Supervisor to ascertain requirements with respect to City and City Roads and the directions of these officials are to be fully complied with in all details. All necessary permits for the Work shall be obtained and paid for by the Contractor. No additional payments will be made for maintenance and control of traffic.

16. WORK IN STATE OR COUNTY ROADS

   a. Where sewer lines traverse or cross roads which are under the jurisdiction of the State or County, the Contractor shall post bonds and shall obtain all necessary permits and assume the costs in connection with the bonds and departmental supervision.

17. INSURANCE

   The limits of coverage required for this Contract are described in this document under Section H "Insurance."

18. LAYOUT OF WORK

   The Contractor shall perform all layout work necessary for the satisfactory execution of the construction as shown on the Contract Drawings and all costs in connection therewith shall be included in the contract price(s).

   The Contractor shall employ competent personnel and all work shall be subject to the approval of the Engineer and City.

   The Contractor shall be held responsible for the protecting and safe guarding of all control points and bench marks set by the Engineer or City and his own forces. Any replacement or re-establishment of control points or bench marks by the Engineer or City, shall be at the expense of the Contractor.

   The required horizontal and vertical control necessary to perform this work will be supplied by the Engineer or City at a later date.

19. WORK BY OTHERS

   Private utilities, Contractors, Developers or other parties may be expected to be working within the Contract Area during this Contract. When two or more contractors are working in the vicinity simultaneously the Contractor shall conduct his work harmoniously with the requirements of the other contractors and shall not interfere with or delay their work.

   It shall be the responsibility of the Contractor to coordinate his work under this Contract with the work being done by others in order that the construction may proceed in an efficient and logical manner. The Contractor shall have no claim or claims whatever against the Owner, Engineer, or other parties due to delays or other reasons caused by the work by others or his failure to coordinate such work.

   The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate his work with theirs.
If any part of the Contractor’s work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the Engineer or City any apparent discrepancies or defects in such work that render it unsuitable for such proper execution and shall constitute and acceptance of the other contractors works as fit and proper to receive his work, except as to defects which may develop in the other separate contractors work after the execution of the Contractor’s work.

Should the Contractor cause damage to the work or property of any separate contractor, the Contractor shall, upon due notice, settle with such other contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the Municipality or initiates an arbitration proceeding on account of any damage alleged to have been so sustained, see General Condition hereof, Section 134, Arbitration and Litigation.

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<td>Electrical Marina Existing Conditions/Demolition Plan</td>
<td>1/14/2019</td>
</tr>
<tr>
<td>E3</td>
<td>Electrical Marina Relocation/New Work Plan</td>
<td>1/14/2019</td>
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<tr>
<td>E4 - E9</td>
<td>Electrical Site Part Plan</td>
<td>1/14/2019</td>
</tr>
<tr>
<td>E10.01 - E10.02</td>
<td>Electrical Details</td>
<td>1/14/2019</td>
</tr>
</tbody>
</table>

21. CONTRACTOR’S WORK AND STORAGE AREA

Approved areas within the Project Boundary are available for use by the Contractor, for work, storage of equipment, materials and trailers during the period of this Contract. The Contractor shall contact the Owner to determine if any specific locations will be designated or gain their approval prior to using any other areas. The Contractor shall confine his work/storage area to the limits as designated or approved and shall be responsible for the security of the work/storage area. Upon completion of the Contract, the Contractor shall remove all equipment and materials except as otherwise specified and restore the site to its original condition as approved by the Engineer or Owner and at no cost to the Owner.
22. "OR EQUAL" CLAUSE

UNLESS OTHERWISE SPECIFIED:

Whenever a material, article or piece of equipment is identified on the Contract Drawings or in the specifications by reference to manufacturers’ or vendors’ names, trade names, catalogue numbers, etc., the intent is to establish a standard. Any material, article, or equipment of other manufacturers and vendors of equally high quality (particularly with regard to points specified in the specifications) which will perform equivalently within the design ranges specified will be equally acceptable provided that the material, article or equipment so proposed is, in the opinion of the engineer, of equal substance and function. Furthermore; the manufacturer must agree to comply fully with the warranty requirements of the specifications. The Contractor may not assume that substitute equipment will be approved by the Engineer and non-approval of said equipment will form no basis for a claim for additional compensation by the Contractor. No substitute equipment will be purchased or installed by the Contractor without the Engineer’s written approval. If the Engineer’s approval is obtained for alternate equipment, the Contractor shall, at his own expense, make any changes in the structures, building, piping or electrical necessary to accommodate the equipment and if engineering is required due to substitution of other material the Contractor shall reimburse the Owner for the engineering service.

23. TEMPORARY WATER MAIN SHUTDOWN

All work which requires an existing water main to be shut down temporarily shall be so scheduled and so executed to keep public inconvenience to an absolute minimum. The Contractor is hereby alerted to the fact that this shall require some work to be performed during unusual hours. Also, once an existing water main is shut down to allow reconnection to a new main, work shall continue diligently, without interruption, until the existing main can be returned to service. There shall be no separate payment for performing the above work but all cost incidental thereto are considered to be included in the various prices bid under this Contract.

24. RECORD DRAWINGS

Record Drawings will be made by the Contractor. The Contractor will be required to perform any necessary field measurements and provide reproducible Record Drawings. The Record Drawings must reflect changes made in the field contrary to the plan, diagrams, and/or notes specified in the Contract Plans, including exact dimensions, geometry, and location of all elements of the work completed under the Contract. All changes must be “red lined” to indicate the variation from the Contract Plans.

The Contractor will then superimpose these Record Drawings with the original Contract Plans and make available to the City and/or Project Engineer. The Contractor must provide Record Drawings for the boardwalk area (see Contract Drawings) and for the property n/f owned by DDJT Bertoline Associates, LLC.

The Contractor will submit to the City and/or Project Engineer both hard copies, three (3) sets printed full size [Arch D, 24”X36”] and a digital version on a USB Flash Drive of the ‘Record Drawings’ and ‘As Built Plans’ provided as a PDF (600 dpi or higher) or another format as mutually agreed upon between the City and the Contractor.

25. GROUNDWATER AND WATER

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

It is expressly understood that the Engineer or Owner is not responsible for any flooding, high-water tables, underground water or any other water problems which may be encountered on any portion of the work called for under this Contract and that the Contractor must include all anticipated costs for dewatering all
excavations in the price(s) bid under this Contract.

26. CONSTRUCTION, EXCAVATION AND DEMOLITION OPERATIONS AT OR NEAR UNDERGROUND FACILITIES.

The Contractor's attention is directed to the State of New York, Department of Public Service code 16 NYCRR Park 753—"Protection of Underground Facilities." Call 1-800-962-7962 before digging.

Information regarding this law can be found at www.digsafelynewyork.com

27. COMPLIANCE WITH AIR AND WATER ACTS

This contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

In compliance with said regulations, the following requirements shall be inserted in full in all contracts and subcontracts with respect to any non-exempt transaction thereunder funded with assistance provided under this Contract:

(1) A stipulation by the Contractor or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

(2) A stipulation that as a condition for the award of the Contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

(3) Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (3) of this Section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Contract be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

28. GENERAL MUNICIPAL LAWS OF NEW YORK STATE

The attention of the Contractor is directed to the fact that all pertinent General Municipal Laws of the State of New York shall be adhered to including but not limited to the following:

This Contract is made subject to the provisions of Section 103-a of the General Municipal Law of the State of New York, effective July 1, 1959, which section is as follows:

103-a. Grounds for cancellation of contract by municipal corporations and fire districts.

A clause shall be inserted in all specifications or contracts made or awarded by a municipal corporation or any public department, agency or official thereof on or after the first day of July, nineteen hundred fifty-nine or by a fire district or any agency or official thereof on or after the first day of September, nineteen hundred sixty, for work or services performed or to be performed, or goods sold or to be sold, to provide that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine this under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against
subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

(a) Such person, and any firm, partnership or corporation of which he is member, partner, director or officer shall be disqualified from after selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal corporation or fire district or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that.

(b) Any and all contracts made with any municipal corporation or any public department, agency or official thereof on or after the first day of July, nineteen hundred fifty-nine or with any fire district or any agency or official thereof on or after the first day of September, nineteen hundred sixty, by such person, and by any firm, partnership, or corporation of which he is a member, partner, director officer may be canceled or terminated by the municipal corporation or the district without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the municipal, corporation or fire district for goods delivered or work done prior to the cancellation or termination shall be paid.

The Contractor’s attention is also directed to the requirement of the General Business Law and amended NYS Industrial Code Rule #23 NYS Department of Labor, Board of Standards and Appeals. The General Business Law requires that a Contractor give the utility concerned 72 hours written notice in advance of any of his construction or blasting near gas facilities. Industrial Code Rule #23 requires that a Contractor give the utility concerned 24 hours’ notice before commencing any construction near an overhead or underground electric facility.

29. DAMAGES, VANDALISM AND GRAFFITI
The Contractor is hereby advised that until final inspection, approval and acceptance of all newly constructed work including but not limited to the construction of new sidewalk, driveway aprons, pedestrian ramps, catch basin lids, concrete and stone curbing, asphalt and/ or right-of-way restorations; he shall remain entirely responsible for maintaining and protecting such work from all forms of damages and vandalism and graffiti. Should any damage, vandalism or graffiti occur before final acceptance of the work by the City. The Contractor shall correct, repair or replace any defected work under the direction of the Superintendent of highways and / or the City Engineer at his own expense with no additional cost to the City. The City of Peekskill reserves the rights to withhold payment of contractual work for which damages, vandalism and or/ Graffiti has taken place until such a time whereas said defected work has been corrected by the Contractor to the City’s satisfaction.

30. EXISTING UTILITIES; UTILITIES SERVICE
Obstructions other than those as shown of the contract drawings may be encountered. The contractor shall understand that the Owner is not responsible for correctness or sufficiency of the information given and that he shall have no claim for relief from any obligation or responsibility under the contract because the extend, location, size, or character of any pipe, conduit, cable or other underground structure is incorrectly shown or has been omitted from the Contract Drawings. The Contractor shall notify all utility companies and authorities having buried utility service in the project area and file certificate of same with the Engineer prior to beginning work.

The Contractor shall maintain service in main lines and service connections for all utilities encountered, regardless of the type of utility or the arrangements necessary to maintain service. Water lines and service connections exposed during cold weather shall be protected against freezing. Service connections may be cut only be permission of the Owner of the utility, and a temporary connection shall be installed immediately. The Contractor shall notify all utility customers before interrupting their service. A permanent, first-class replacement of the cutout portion of the service connections shall be installed and inspected by the owner of the utility before backfilling.

The Contractor shall protect all utilities and subsurface structures encountered in the work. Because he may encounter some utilities and subsurface structures not shown on the Contract Drawings, the Contractor shall proceed with caution in executing his work. Insofar as is feasible, the contractor shall not disturb existing utilities but shall support and sustain them. The Contractor shall repair all damage to any utilities and pay all cost of protecting them and replacing them as necessary including service connections encountered in the
course of the work, regardless of character, function, conditions, size, location, material, construction, ownership, or interference with the alignment of pipeline to be built, whether such existing utilities, structures, or service connections are shown or not shown.

The Contractor is held responsible for all damage to all utility or other underground or surface structures, whether or not they are shown on the Contract Drawings, and he shall pay all costs for protecting them or for repairing and/or replacing them if they are damaged.

In addition to the general notification referred to above the Contractor shall advise such organizations at least 48 hours in advance of the time he proposes to start work in each street throughout the project, to allow representatives to locate their utility in the field.

The Contractor shall notify the Engineer and City of all exposed crossings where the utilities will have a clearance of 18” or less as measured between the outside walls of the pipe. The Contractor shall take all measurements he and/or the Engineer deem necessary to protect the existing and new pipes, sewers and utilities.

31. MANDATORY OSHA CONSTRUCTION SAFETY AND HEALTH TRAINING

Pursuant to NYS Labor Law 220-h – On all public work projects of as least $250,000 all laborers, workers and mechanics working on the site are required to be certified as having successfully completed an OSHA construction safety and health course of at least 10 hours prior to performing any work on the project.

All contractors and sub-contractors must attach a copy of proof of completion of the OSHA 10 course to the first certified payroll submitted to the contracting agency and on each succeeding payroll where any new or additional employee is first listed.

Proof of completion may include but is not limited to:

- copies of bona fide course completion card;
- Training roster, attendance record of other documentation from the certified trainer pending the issuance of the card.

A certification by the employer attesting that all employees have completed such course is not sufficient proof that the course has been completed. Any questions regarding this statute may be directed to the New York State Department of Labor, Bureau of Public Work at 518-485-5696.

The General Contractor will submit a copy of the certificate of each employee and subcontractor’s employee to the City or their authorized representative. These certificates will be randomly audited by the Municipality against contract employee payroll records submitted for payment.
Appendix K-1
‘Explanation of Project Alternatives’

This Project consists of five (5) ‘Alternates’ in addition to the base project (and therefore the base bid). The ‘Alternates’ include:

1. Alternate A, Charles Point Park Restroom
2. Alternate B, Main Trail Lighting Fixtures, Electrical Wiring, Electrical Services and Service Metering and Distribution Equipment
3. Alternate C, Peninsula Trail, No Lighting or Underground Work
4. Alternate D, Peninsula Trail, Only Underground Lighting Fixture Foundations and Conduit Work Included
5. Alternate E, Peninsula Trail, Full Electrical Fit-Out Including Lighting Fixtures and Electrical Wiring

Each Bidder must provide a base bid for the entire Project that excludes the ‘Alternates’ listed above as well as a bid for each individual ‘Alternate’ listed above. It is not acceptable to leave blanks on the bid sheets related to the Alternates.

The City reserves the right to reject a submitted Bid if any budget line items are left blank.

For more specific details for the ‘Alternates’ refer to the Technical Specifications and the Contract Plans.
Appendix K-2
Alternate ‘A’: Charles Point Park Restroom

Upon approval by the City, the selected Contractor must order the selected pre-fabricated restroom as described in the Technical Specifications and on the Contract Plans within 60 days of receiving the Notice to Proceed from the City as this is a long-lead time item, requiring sufficient time to coordinate the delivery schedule with the supplier.

Alternate A cannot proceed independent of Alternate B. See Contract Plans for further details.
Appendix K-3
Alternate ‘B’: Main Trail Lighting Fixtures, Electrical Wiring, Electrical Services and Service Metering and Distribution Equipment

Alternate B includes all lighting fixtures, below ground and above-ground electrical wiring, and all electrical connections for the lighting fixtures as shown on the Contract Plans. This project also includes the establishment of two (2) electrical service connections and associated electrical service metering and distribution equipment near both termini of the Project.
Alternate ‘C’: Peninsula Trail, No Lighting or Underground Work

Alternate C is to construct an 8’ wide stone screening trail along the peninsula in Lent’s Cove with trail amenities as shown on the Contract Plans. Alternate C also includes some clearing, minor grading, slope stabilization, and riprap. No lighting fixtures, wiring, electrical service, or lighting fixture foundations are included in this Alternate.
Appendix K-5
Alternate ‘D’: Peninsula Trail, Only Underground Lighting Fixture Foundations and Conduit Work Included

Alternate D provides the underground light fixture foundations and conduit work associated with the future electrical outfitting of the Peninsula Trail. The details for the work are shown on the Contract Plans.

Appendix K-6
Alternate ‘E’: Peninsula Trail, Full Electrical Fit-Out, Including Lighting Fixtures and Electrical Wiring

Alternate E provides aboveground and belowground wiring and conduit work, underground lighting fixture foundations and all electrical connections for the lighting fixtures associated with the electrical outfitting of the Peninsula Trail. The details for the work are shown on the Contract Plans.

Alternate E cannot proceed independent of Alternates 'B' and 'C'. See Contract Plans for further details.
Pursuant to Section 165-2 of the Peekskill City Code, when any contractor enters into any construction contract in the amount of $1,500,000 or more with the City of Peekskill, or enters into a subcontract for $500,000 or more, the contractor and/or his subcontractor(s) shall have an apprenticeship agreement appropriate for the type and scope of work to be performed that has been registered with, and approved by, the Commissioner of Labor pursuant to the requirements found in Article 23 of the Labor Law.
Appendix K-8  
‘DOS Reporting’

As part of the City’s contract with the Department of State (‘DOS’), the Project requires regular submission of reporting information demonstrating work completed by New York State certified Minority and Women-owned Business Enterprises (‘M/WBE’). As such, the City will request specific information from the Contractor regarding the project’s utilization and payment progress to M/WBE firms. The Contractor must provide to the City any additional information as necessary for the City to fulfill its contractual obligations with DOS.
Appendix K-9

‘Equipment’

The Contractor must provide a written narrative describing which pieces of equipment the Contractor owns to be used on the Project. If the Contractor does not own equipment, the Contractor must provide a written statement detailing how the Contractor intends to acquire all necessary equipment to complete the Project.
As shown on the Contract Plans and in the Technical Specifications, the Contractor must coordinate all activities related to the relocation and resetting of the guy-wire located on parcel 32.19-1-1 (n/f owned by DDJT Bertoline Associates, LLC) with the Consolidated Edison (ConEd) Company to ensure this task is delivered on-time with the project schedule.
Appendix K-11
‘Westchester County Right-of-Way’

The Contractor is responsible for completing all permit forms and documentation required to submit to Westchester County Department of Transportation for approval for all construction activities related to work along and/or within the County’s Right of Way along or near John Walsh Boulevard, and any other County or State rights-of-way.