

**BID PACKAGE & SPECIFICATIONS**

Main Street Streetscape

**Project # 2020-22**



**TOWN OF BERLIN**

240 Kensington Road • Berlin, CT 06037

Phone: (860) 828-7065

**June 19, 2020**

**Prepared By:  
Cardinal Engineering**

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**Project Description:** The project involves the construction of streetscape improvements on Main Street in the Kensington section of Berlin and nearby streets. Improvements include pedestrian signals, sidewalks, curbs, pavers, handicap ramps, removal and modification of crosswalks and islands, installation of crosswalk treatments and street lighting. The scope of the project will involve work in the right of way of a State road, Farmington Avenue including sidewalks, pavers and curbs.



**TOWN OF BERLIN, CONNECTICUT**

**INVITATION TO BID:  
Main Street Streetscape**

**BID NUMBER: 2020-22**

**RFP OPENING DATE:** July 9, 2020

**RFP OPENING TIME:** 2:00 P.M.

**RFP OPENING PLACE:** Berlin Town Hall, Town Manager's Office

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The Town of Berlin is seeking written BIDS for Main Street Streetscape

For a firm to be considered for this engagement, one (1) original and two (2) copies of sealed BIDS must be received in the Town Managers office of the Berlin Town Hall, 240 Kensington Rd, Room 101, Berlin, CT 06037 by 2 PM on July 9, 2020 at which date and time the bids will be publicly opened.

Plans and specifications for the above project are available from Advanced Reprographics, 50 Corporate Avenue, Plainville, CT 06062, (860) 410-1020. Plans and specifications may be viewed and/or obtained by going to the advanced reprographics website [www.advancedrepro.net](http://www.advancedrepro.net) . Prospective bidders should access the "Planroom" on the website and go to the "public jobs" area, no log in information is necessary. Bidders are responsible for printing and shipping costs or pick up at the advanced reprographics office. Plans and specifications may also be ordered by calling the advanced reprographics number listed above. Bidders are responsible for obtaining all and the latest addendums from the advanced reprographic website.

The Town reserves the right to amend or terminate this **INVITATION TO BID**, accept all or any part of a proposal, reject all proposals, waive any informalities or non-material deficiencies in a proposal, and award the proposal to the proposer that, in the Town's judgment, is the lowest responsible and qualified bid.

The Town of Berlin is an Affirmative Action/Equal Opportunity Employer. Minority/Women's Business Enterprises are encouraged to apply. This contract is subject to state set-aside and contract compliance requirements."

Maryssa Tsolis  
Purchasing Agent  
[mtsolis@town.berlin.ct.us](mailto:mtsolis@town.berlin.ct.us)

TOWN OF BERLIN

**GENERAL BID SPECIFICATIONS -- PART A**

Bids shall be made on the bid forms furnished by the Town, without alteration. Bids shall be submitted in a sealed envelope, stating on the outside of the envelope the words "BID DOCUMENTS", the Town's bid number, the title of the Project, the title of the bid package for which a bid is being submitted, and the time and date of the bid opening. All bidders shall provide two copies of their bid, unless otherwise stated. The bid will include references, a bid form, a non-collusive statement, a CHRO contract compliance regulations notification, a DAS prequalification, an OSHA form and a Surety Bid Bond. Bids received after the bid-opening deadline shall be rejected. All spaces on the bid form must be filled in with figures and words or the Town, in its sole discretion, may reject the bid as non-responsive. No faxed or emailed bids are allowed.

**BID SECURITY:** Each bid shall be accompanied by a certified check or bid bond issued by a surety for five percent (5%) of the total bid. The Bid Security will be returned by the Town upon signing of the contract with the successful bidder. Checks or bonds must be made to the order and for the benefit of the "Town of Berlin". Security may be held by the Town of Berlin for a period not to exceed 90 days from the date of the opening of the bids for the purpose of reviewing the bids. Bids shall not be combined, unless otherwise permitted in the Invitation to Bid or Instructions to Bidders. A separate bid surety shall be presented for each bid.

**LIQUIDATED DAMAGES:**

**It is understood by the parties that time is of the essence with regard to the timely completion of the Project.** Failure of the Contractor to achieve completion of the Project within the calendar days stated herein will result in the Owner and the public incurring damages, additional costs and inconveniences that would be impossible or extremely difficult to accurately quantify at the time. The Contractor shall commence work under this Contract within ten (10) days of the date of "Notice to Proceed" issued by the Town of Berlin and shall fully complete all work stipulated in these Contract Documents within 90 consecutive calendar days thereafter.

Therefore, the parties agree that, if the Contractor fails to satisfactorily complete the Project hereunder within the time specified or within any extension of time that may have been allowed, there shall be deducted from any monies due or that may become due the Bidder, the sum of One Thousand Dollars **(\$1,000.00)** for each and every calendar day, including Saturdays, Sundays and legal holidays, that the Project remains incomplete. This sum shall not be imposed as a penalty, but as liquidated damages due Owner from Contractor by reason of the damages incurred, inconvenience and additional costs and expenses to the public together with other problems suffered as a result of any such delay thereby occasioned. For additional details about liquidated damages refer to Article 32 of the General Conditions section.

The Contractor agrees that any liquidated damages assessed shall be deducted from monies due the Contractor under the Contract, or, if no money is due the Contractor, the Contractor

hereby agrees to pay to the Owner as liquidated damages, and not by way of penalty, such total sum as shall be due for such delay.

**SUBCONTRACTORS:** The bidder is specifically advised that any person, firm or other party to whom bidder intends to award a subcontract or purchase order must be acceptable to the Town and that approval of the proposed subcontract award cannot be sought from the Town unless and until the successful bidder submits all information and evidence to the Town regarding the qualifications, experience and responsibility of the proposed subcontractor. Although the bidder is not required to attach such information to its bid, the bidder is hereby advised of this requirement so that it may plan accordingly and prevent delays.

**MODIFICATION:** Any bidder may modify his/her/its bid prior to the scheduled deadline for receipt of bids. See paragraph one above. The bidder wishing to modify its bid shall submit such modified bid in accordance with paragraph one above, shall unequivocally indicate that its prior bid is superseded by the modified bid and shall submit its modified bid in an envelope clearly marked "**MODIFIED BID**".

**ERRORS:** The Town, in its sole discretion, reserves the right to waive typographical or technical defects in the bid, as well as its right to correct an award erroneously made as a result of a clerical error on the part of the Town of Berlin.

**PERMITS/LICENSES:** All applicable permits and licenses shall be obtained at the sole cost of bidders. No permits or permit fees shall be waived by the Town unless otherwise stated in the Town's Invitation to Bid or Instructions to Bidders.

**OBLIGATIONS OF BIDDER:** Each bidder shall, prior to submitting a bid, familiarize itself with the conditions under which the work will be performed and conduct its own due diligence. Bidders shall be presumed to have read and to be thoroughly familiar with the specifications and all bid documents. The failure of any bidder to request, receive or examine any information or the failure of the bidder to familiarize itself with the conditions relating to the performance and timing of the work shall in no way relieve any bidder from any obligation in respect to the bid and shall not subject the Town to any liability whatsoever.

Furthermore, the bidder is responsible for being aware of and conforming in all respects to all existing Federal, State of Connecticut, and Town of Berlin Statutes, Ordinances, Regulations, laws and other legal applicable legal requirements, regardless of whether any such applicable requirements are specifically identified in the bid documents.

**WITHDRAWAL OF BIDS:** Bids may be withdrawn prior to the time fixed for opening by submitting written notification of withdrawal to the Town prior to the bid opening deadline.

Negligence or mistake on the part of the bidder in preparing the bid confers no right of withdrawal or modification of the bid after such bid has been opened.

**"OR EQUAL" CLAUSE:** Whenever a material, article or piece of equipment is identified in the bid document by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended to establish a standard, unless otherwise stated; any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design may be considered equally acceptable if, in the opinion of the Town, the material, article, or equipment so proposed is of equal substance and function.

Any substitutions must be approved in writing by the Purchasing Agent or his designee, who shall have sole discretion to determine the acceptability of the proposed substitute.

**PATENTS:** The contractor shall indemnify, defend and hold harmless the Town and its officers, agents, and employees from and against liability and costs of any nature or kind, including cost and expenses 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 Town unless otherwise specifically stipulated in the contract or bid documents.

**NON-COLLUSIVE BID STATEMENT:** All bidders shall be required to sign the non-collusive statement attached.

**FUNDING:** The municipal non-appropriation clause may be applicable.

To be provided before execution of a contract.

X **PERFORMANCE AND X PAYMENT BONDS:** To ensure the delivery of goods and services in conformity with the specifications provided and payment of all subcontractors and suppliers, bidders shall provide payment and performance bonds for any project (1) which is governed by Connecticut's Little Miller Act, C.G.S. §49-41 or (2) for which the Town requires the provision of payment and performance bonds. Successful bidders shall provide the Town with payment and performance bonds, at the bidder's expense, each for the full amount of the contract awarded. The Town shall be the Obligee under each bond and the bonds shall be issued by a company authorized to conduct surety business in the State, listed on the U.S. Department of the Treasury's List of Approved Sureties and subject to approval by the Town.

X **INSURANCE:** The contractor will provide adequate proof of insurance to the Town for the types of insurance and limits indicated below, providing for all of its operations performed in compliance with this contract.

The successful bidder shall obtain and pay for the insurance coverage described herein with the indicated minimum limits. Bidders agree to furnish Certificates of Insurance to the Town and/or its Board of Education, certifying coverage to be in effect for the term of this contract and that the Town and/or Board of Education will be given sixty (60) days prior written notice of cancellation or non-renewal.

**Occupational Safety and Health Administration Requirements; Safety Compliance.**

According to Connecticut General Statutes, Section 31-53b (a) each contract entered into on or after July 1, 2007, for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public building project by the state or any of its agents, or by a political subdivision of the state or any of its agents, where the total cost of all work to be performed by all contractors and subcontractors in connection with the contract is at least one hundred thousand dollars (\$100,000.00) shall contain a provision requiring that, not later than thirty days after the date such contract is awarded, each contractor furnish proof to the Labor Commissioner that all employees performing manual labor on or in such public building, pursuant to such contract, have completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health

Administration or, in the case of telecommunications employees, have completed at least ten hours of training in accordance with 29 CFR 1910.268. The contractor shall familiarize itself with all aspects of state law and any applicable regulations pertaining to these requirements in order to ensure full compliance. Moreover, contractor shall be solely responsible for full and timely compliance with all federal, state and local safety standards, rules and regulations.

### **INDEMNIFICATION**

The Vendor at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses, including attorney fees, and otherwise hold harmless the Town of Berlin, its employees, and agents, from any liability of any nature or kind in regard to the delivery of these services. The Vendor shall secure and maintain General Liability Insurance as will protect him from claims under the Worker's Compensation Acts and from claims for bodily injury, death, or property damage which may arise from the performance of his services under this contract.

**CERTIFICATE OF INSURANCE:** The contractor, prior to the start of any work under this contract, shall provide the Town's Purchasing Office with a certificate of insurance to conform to the following:

- a. Form(s) acceptable to the Town of Berlin.
- b. Insurance provided by insurance companies authorized to write coverage in the State of Connecticut.
- c. Policy dates must cover the term of this contract.
- d. Certificate will provide for at least 30 days' notice to the Town of Berlin prior to cancellation.
- e. All additional insured certificates are to list the Town of Berlin, the State of Connecticut and Cardinal Engineering Associates, Inc. as described in the General Conditions section 34.

Under no circumstances shall the contractor begin work until (1) the contract for same shall have been signed by all parties, (2) the required bonds have been furnished by contractor and approved by the Town, (3) the required certificates of insurance have been filed with and approved by the Town's Purchasing Office and (4) the Contractor has been duly instructed in writing by the Town to proceed with the work. If the contractor commences the work before the provisions referred to in this paragraph are fulfilled, the Town, in its sole option, may cancel or terminate the contract without penalty or liability chargeable to the Town.

### **INSURANCE REQUIREMENTS**

See General Conditions Article 34.

**LICENSURE:** At the time of the bid submissions, bidders shall possess the necessary license(s) to perform the work that is the subject of this invitation to bid.

**NON-RESIDENT CONTRACTORS:** Out of state contractors must post a bond with the Connecticut Department of Revenue Services. The non-resident contractor must receive a Connecticut tax registration number by completing and submitting form REG-1. Non-resident contractors are directed to familiarize themselves and achieve full compliance with applicable requirements, including Form AU-766.

**Non-Discrimination and Affirmative Action.** The successful bidder, in performing under this contract, shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, creed, color, age, marital status, sexual orientation, national origin, ancestry, sex, mental retardation or physical disability, including but not limited to blindness, unless it is shown by the contractor that such disability prevents performance of the work involved in any manner prohibited by the laws of the United States or the State of Connecticut, nor otherwise commit an unfair employment practice. The successful bidder further agrees that this article, (and any additional provisions required by law), will be incorporated by such contractor in all contracts entered into in connection with this contract. The following principles and requirements of Equal Opportunity and Affirmative Action, as incorporated herein, will be incorporated into "Equal Opportunity - Non-Discrimination Clause" to be included in all bid documents, purchase orders, leases and contracts. The principles of Affirmative Action are addressed in the 13th, 14th and 15th Amendments of the United States Constitution, Civil Rights Act of 1964, Equal Pay Act of 1963, Title VI and VII of the 1964 United States Civil Rights Act, Presidential Executive Orders 11246, 11375, 11478 (nondiscrimination under federal contracts), Act 1, Section 1 and 20 of the Connecticut Constitution, Governor Grasso's Executive Order Number 11, Governor O'Neill's Executive Order Number 9, the Connecticut Fair Employment Practices Law (Sec. 46a-60-69) of the Connecticut General Statutes, Connecticut Code of Fair Practices (46a-70-81), Deprivation of Civil Rights (46a-58 (a)(d) ), Public Accommodations Law (46a-63-64), Discrimination against Criminal Offenders (46a-80), definition of blind (46a-51(1)), definition of Physically Disabled (46a-51 (15) ), definition of Mentally Retarded (46a-51-13 ), cooperation with the Commission on Human Rights and Opportunities (46a-77), Sexual Harassment (46a-60 (a)-8), Connecticut Credit Discrimination Law (360436 through 439), Title 1 of the State and the Local Fiscal Assistance Act 1 1972. Every contract to which the State is party must contain the nondiscrimination and affirmative action provisions provided in the Connecticut General Statutes Section 4a-60a.

**Set Asides:**

The contractor who is selected to perform this State project must comply with CONN. GEN. STAT. §§ 4a- 60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5.

State law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g. (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses.) The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

For municipal public works contracts and quasi-public agency projects, the contractor must file a written or electronic non-discrimination certification with the Commission on Human Rights and Opportunities. Forms can be found at:

[http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav\\_GID=1806](http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806)

If this Project is funded in whole or in part by State of Connecticut funds, Public Act 15-5 (§§58-71 and 88) requires that, effective with all contracts executed after October 1, 2015, all solicitations for municipal public works contracts funded in whole or in part with State funds state in the notice of solicitation that the contract must comply with the set asides mandated by



Public Act 15-5. The set aside requirements include a requirement that 25% of the total value of contracts in excess of \$50,000.00 be set aside for exclusive bidding for "small contractors," as defined by Section 58 (a) (1), and 25% of such amount (that is, 6.25% of the total value), be set aside for "minority business enterprises," as defined by Section 58(a)(4). For contracts in excess of \$50,000.00, bidders must have obtained Commission approval of their Affirmative Action Plan prior to contract execution. BIDDERS ARE EXPRESSLY DIRECTED TO REVIEW PUBLIC ACT 15-5, SECTIONS 58-71 AND 88, TO FAMILIARIZE THEMSELVES WITH THE REQUIREMENTS OF SUCH LAWS. BIDDERS SHALL BE DIRECTLY AND SOLELY RESPONSIBLE FOR COMPLIANCE WITH THE REQUIREMENTS OF P.A. 15-5, SECTIONS 58 THROUGH 71 AND 88. THE TOWN ALSO DIRECT BIDDERS' ATTENTION TO THE SECTIONS 63 AND 64 (NON-DISCRIMINATION REQUIREMENTS) AND 66-68 (AFFIRMATIVE ACTION REQUIREMENTS).

Regardless of whether P.A. 15-5 is applicable to this Project, the contractor shall provide reasonable technical assistance and training to minority business enterprises to whom work is subcontracted to promote the participation of such concerns, to make a good faith effort to award a reasonable proportion of all subcontractors to such enterprises, and undertake such other reasonable activities or efforts as the Commission may prescribe to ensure the participation of minority business enterprises as contractors and subcontractors. The contractor shall include a provision in all subcontracts with minority business enterprises requiring the minority business enterprise to provide the Commission with such information on its structure and operations as the Commission finds necessary to make an informed determination as to whether the minority business enterprise is owned and operated by members of a minority group.

The contractor shall maintain full and accurate data, such as contract monitoring reports, for a period of three (3) years from the date of substantial completion of the project or for such longer period as is required by the law then in effect with regard to records retention. The contractor shall not discharge, discipline, or otherwise discriminate against any person who has filed a complaint, testified, or assisted in any proceeding with the Commission.

The contractor shall make available for inspection and copying any supporting data requested by the Commission and make available for interview any agent, servant, or employee having knowledge of any matter concerning the investigation of a discriminatory practice complaint of any matter relating to a contract compliance review.

**CLAYTON ACT:** The contractor or subcontractor offers and agrees to assign to the public purchasing body all right, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act, 15 U.S.C. 15 or under Chapter 624 of the General Statutes of Connecticut arising out of the purchase of services, property or intangibles of any kind pursuant to a public purchase contract or subcontract. This assignment shall be made and become effective at the time the public purchasing body awards or accepts such contract, without further acknowledgment by the parties.

**WAGE RATES:** The project is subject to prevailing wage. Workers employed in the various occupations on this named project shall be required to receive the minimum rates established by the State of Connecticut Labor Department Division of Regulations of Wages as set forth in Attachment I. See General Conditions Article 8 for additional details.

**PRICES:** Prices quoted for merchandise, supplies, or equipment shall be the net prices delivered into the Town of Berlin.

Town of Berlin reserves the right to award separate items to separate bidders. Bidders may indicate exceptions to this.

Bidders must include Federal ID number or Social Security number to be considered for bid approval.

**RESERVED RIGHTS OF TOWN:**

The Town of Berlin reserves the right to accept or reject any or all bids or proposals; to waive any technicality in a bid or proposal or part thereof submitted, and to accept the bid in the Town's judgment, is lowest responsible and qualified bid.

The Town reserves the right to reject any bid submitted by a joint venture if the Town determines that any entity to the joint venture fails to satisfy the Town's requirements (i.e., bonding, insurance, qualifications, responsibility).

**PREQUALIFICATION REQUIREMENT:** The Connecticut Department of Administrative Services'

Municipal contracts for the construction or renovation of a public works project, where the estimated value is \$500,000 or greater, need to comply with C.G.S. Sec. 4b-91. The contractors must be pre-qualified by the State of Connecticut Department of Administrative Services (DAS). When applicable, this requirement will need to be included in the Invitation to Bid as a prerequisite for selecting the Lowest Responsible and Qualified Bidder.

"Prequalification" means prequalification issued by DAS to bid on a contract or perform work pursuant to a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any other public work by the state or a municipality.

**DISCREPANCY IN BID FORM:**

In the event of any discrepancy between the amount written in numerical figures and the amount stated in written words, the amount written in words will be controlling.

**The Town of Berlin hereby notifies all bidders that the Town's contract with the successful bidder shall contain the following provision:**

Payment to Vendor shall be withheld by the Town when any real or personal property taxes, sewer assessment fees, sewer use charges, fines, interest, penalties, police or fire extra duty, police vehicle use fees, or lien fees imposed, assessed or otherwise levied by the Town of Berlin and due from/payable by Vendor are delinquent.

For purposes of this Contract, a tax, fee, charge, or fine shall be deemed delinquent if it remains unpaid, in whole or in part, for a period of thirty (30) days following the date upon which payment of such tax, fee, charge, or fine was due, together with any accrued interest and penalties.

The Town expressly reserves the right, in its sole discretion, to set off against its account payable to Vendor and apply any sums due to Vendor by Town pursuant to this Contract to any delinquent real or personal property taxes, sewer assessment fees, sewer use charges, fines, interest, penalties, or lien fees imposed by the Town of Berlin and due from/payable by Vendor.

FORM OF CONTRACT – The selected contractor will be required to enter into a contract with the Town of Berlin in the form as per Attachment L.

#### **MISCELLANEOUS REQUIREMENTS:**

**Questions/Requests for Information:** All Questions shall be submitted in writing only and e-mailed to [mtsolis@town.berlin.ct.us](mailto:mtsolis@town.berlin.ct.us) at least five (5) business days prior to the bid opening date. Bidders shall not attempt or engage in any verbal communications with Town personnel prior to the bid-opening deadline.

**All Applicable Codes to Be Met:** All construction shall meet all applicable Building and Fire Codes, as well as ADA requirements.

**Pre-Bid Meeting(s):** An optional Pre-Bid Meeting will be held via ZOOM at 10:00 AM on Tuesday June 30, details on how to access the meeting will be posted on the Town of Berlin website.

**Deliveries:** All deliveries are inside deliveries.

**Provision of Bid Packets, Submission of Bids:** Plans and specifications are available from Advanced Reprographics, 50 Corporate Avenue, Plainville, CT 06062, (860) 410-1020. Plans and specifications may be viewed and/or obtained by going to the advanced reprographics website [www.advancedrepro.net](http://www.advancedrepro.net) . Prospective bidders should access the “planroom” on the website and go to the “public jobs” area, no log in information is necessary. Bidders are responsible for printing and shipping costs, or pick up at the advanced reprographics office. Plans and specifications may also be ordered by calling the advanced reprographics number listed above. Bidders are responsible for obtaining all and the latest addendums from the advanced reprographic website.

Bid proposals must be mailed back or delivered\* to:

Maryssa Tsois  
Town Managers Office  
240 Kensington Road  
Room 101  
Berlin, CT 06037  
860-828-7048  
[mtsolis@town.berlin.ct.us](mailto:mtsolis@town.berlin.ct.us)

**Please include one original and two copies of your bid unless otherwise specified.**

- **If the bid is to be delivered contact Maryssa Tsois to make arrangement for delivery because Berlin Town Hall is closed to the public at this time.**

- **An on line public bid opening is planned and instructions for participation will be posted on the Town's web site or included in an addendum to this bid.**

**Ownership of Documents** – All qualification statements, proposals and bids submitted by bidders are to be the sole property of the Town and subject to the provisions of the Connecticut General Statutes (re: Freedom of Information).

**Ownership of Subsequent Products** – Any work product, whether acceptable or unacceptable, developed under a contract awarded as a result of this invitation to bid is to be the sole property of the Town unless stated otherwise in the invitation to bid or contract.

**Timing and Sequence** – Timing and sequence of events resulting from this invitation to bid will ultimately be determined by the Town.

**No Oral Agreements** – The Town, its agencies and employees, shall not be responsible for any alleged oral agreement or arrangement made by a bidder with any agency or employee of the Town or District.

**Rejection for Default or Misrepresentation** – The Town reserves the right to reject the bid of any bidder that is in default of any prior contract or for misrepresentation.

**Assigning, Transferring of Agreement** – Bidders are prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement, their rights, title or interest therein or their power to execute such agreement by any other person, company, or corporation without the prior consent and approval in writing by the Town.

**Cost of Preparing Qualification/Proposal Statements** – The Town shall not be responsible for any expenses incurred by any bidder in preparing and submitting a bid.

Thank you.

Maryssa Tsolis  
Purchasing Agent

## GENERAL BID SPECIFICATIONS - PART B

1. **Nondiscrimination Under Title VI of the Civil Rights Act of 1964.** Contractor shall comply with the requirements of Title VI of the Civil Rights Acts of 1964 (PL 88-352), 42 U.S.C. Sec. 2000d et. Seq. and the Fair Housing Act (42 U.S.C. 3601-20) and Executive Order 11063 and the HUD regulations with respect thereto including the regulations under 24 CFR Part I. In the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under the Agreement, the CONTRACTOR shall cause or require a covenant running with the land to be inserted in the deed or lease or other instrument a restriction prohibiting discrimination with respect to race, color, creed, sex, or national origin, in the sale, lease or rental, or in the use or occupancy of such land or any improvements erected or to be erected thereon and providing that the CONTRACTOR and the United States are beneficiaries of and entitled to enforce such covenant. The CONTRACTOR in undertaking its obligation in carrying out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.
  
2. **Fair Housing Opportunities Under Title VIII of the Civil Rights Act of 1968 and Fair Housing Act (42 U.S.C. 3601-20).** Contractor shall comply with the requirements of Title VIII of the Fair Housing Act as amended (PL 90-284). The CONTRACTOR shall provide for fair housing opportunities where possible. The CONTRACTOR is prohibited from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex or national origin. Title VIII further requires programs and activities relating to housing and community development to be administered to affirmatively further fair housing.
  
3. **Prohibition Against Payments of Bonus or Commission.** The funds paid to Contractor shall not be used in the payment of any bonus or commission for the purpose of obtaining HUD approval of the application for such assistance, or HUD approval of applications for additional assistance, or any other approval or concurrence of HUD required under this AGREEMENT, Title I of the Housing and Community Development Act of 1974, as amended, or HUD regulations with respect thereto; it being understood, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, are not hereby prohibited if otherwise eligible as program costs.
  
4. **"Section 3" Compliance in the Provision of Training Employment and Business Opportunities.** Every application, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts, the following clause (referred to as a Section 3 clause):
  - a) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

b) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

c) The CONTRACTOR will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d) The CONTRACTOR will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The CONTRACTOR will not subcontract with any subcontractor unless the subcontractor has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

5. **Prevailing Salaries.** The CONTRACTOR shall be solely responsible for the determination of staff classifications and employ staff in relation to its personnel practices and salary ranges, including fringe benefits, in accordance with the Agreement.
6. **Anti-Kickback Rules.** Salaries of architects, draftsmen, technical engineers, technicians, laborers and mechanics performing work under this Agreement shall be paid unconditionally, and not less often than once a week, without deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The CONTRACTOR shall comply with all applicable regulations of said "Anti-Kickback Act" and shall insert appropriate provisions in all subcontracts relative to the work under this Agreement; and CONTRACTOR shall take steps to ensure compliance by subcontractors with such regulations at all times. CONTRACTOR shall be responsible for the obtaining and submission of the affidavits of subcontractors required thereunder, except that the Secretary of Labor may specifically provide for variations of, or exemptions from, the requirements thereof.

7. **Non-Discrimination in Employment.** During the performance of this Contract, the CONTRACTOR agrees as follows:

a) The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruiting or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment notices to be provided, setting forth the provisions of this Non-Discrimination in Employment Clause.

b) The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or in behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

c) The CONTRACTOR shall comply with all provisions of Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and Executive Order 12086, as supplemented in Department of Labor Regulations (41 (CFR, Part 60), and all of the rules, regulations and relevant orders of the President's Committee of Equal Employment Opportunity in effect as of the date of this Agreement; and the CONTRACTOR shall furnish all information and reports required herein, and shall on demand permit access to its books, records, and accounts, in its possession or control, by TOWN and the said Committee for purposes of investigation to ascertain compliance with such rules, regulations and orders.

d) The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representative of the CONTRACTOR'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

e) In the event the CONTRACTOR'S noncompliance with the non-discrimination sections of the contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contract procedures authorized in Executive Order 11246 of September 4, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

f) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraph (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 25, 1965, as amended by Executive Order 11375 and 12086, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontractor or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided,

however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

g) The CONTRACTOR further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 or September 24, 1965, as amended by Executive Orders 11375 and 12086, with a subcontractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon CONTRACTOR and subcontractors by the Department of the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

h) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to the discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, shall also apply to any such program or activity. Remedies described in Section 109 of the Housing and Community Development Act of 1974, as amended, as the regulations issued pursuant thereto, (24 CFR Section 570.601) shall apply, if failure to comply with this paragraph has been determined.

8. **Employment of Certain Persons Prohibited.** No person under the age of sixteen years and no person who at the time is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.
9. **Political Activity Hatch Act and Section 109 of HCD Act.** CONTRACTOR shall comply with the provisions of the Hatch Act and Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations pursuant thereto (24 CFR 570.601). Under no circumstances shall the CONTRACTOR and/or other recipients, subcontractors, and sub recipients use TOWN funds or persons employed in administering TOWN programs for the purposes of conducting any political activity.
10. **Executive Orders 11063, 12259, and Title VIII.** CONTRACTOR will comply with Executive Order 11063 as amended by Executive Order 12259 and the implementing regulations in 24 CFR Part 107 and Title VIII of the Civil Rights Act of 1968 (Pub. L.90-284) as amended.
11. **No Conflict of Interest:** Bidder certifies, by submitting a bid, that no owner, employee or family member (defined for purposes of this invitation to bid as a spouse, parent, sibling or child) of an owner or employee of bidder is a current or former employee of the Town or its Board of Education.

Bidder further certifies that no owner or employee of bidder has any interest, direct or indirect, which is incompatible with the proper discharge of the proposed duties in the public interest or that would tend to impair Bidder's independent judgment or action in the performance of the proposed duties.



Bidder certifies that it does not have any past, present or currently planned interests which are an actual or potential organizational conflict of interest with respect to performing the work for Town under this invitation to bid.

Bidder hereby covenants and agrees that no employee, elected official or appointed official of the Town or its Board of Education has any interest in this Agreement or will directly or indirectly benefit therefrom.

**12. Compliance with Town Regulations**

Bidder shall cause all persons performing work pursuant to the contract between bidder and the Town to comply with all Town and Board of Education requirements, including instructions pertaining to conduct and to building access and related requirements issued by the Town and District, respectively. All personnel shall wear readily visible identification in a form that is satisfactory to the Town. The Town may promulgate and modify from time to time rules and regulations relating to conduct as the Town, in its sole discretion, may determine, and the contractor shall cause all persons performing work to comply with any such requirements.

**Confidential Information**

Bidder shall cause all persons under bidder's control who are providing services or materials under or through bidder's contract with the Town to preserve and protect all information of the Town and Berlin School District to which they may have access during the performance of work as confidential. Bidder expressly acknowledges that if the facilities that are the subject of the Project are school facilities or public buildings, the security and safety of the occupants, users and general public are of paramount importance and bidder shall observe and enforce appropriate security protocol to ensure the safety of users and occupants.

## **SUPPLEMENTARY INSTRUCTION TO BIDDERS**

1. The project site is identified in the Contract Documents and is available for viewing at all times.
2. Bidders shall thoroughly examine and be familiar with the drawings and the specifications. The failure or omission of any Bidder to receive or examine any form, instrument, Addendum or other documents or to visit the sites and acquaint themselves with conditions there existing, shall in no way relieve any Bidder from any obligation with respect to their Bid or the Contract.
3. Any conflict existing between or within the Drawings and the Specifications and not brought to the attention of the Owner and clarified before bids are submitted shall be resolved on the basis of furnishing the greatest quantity and/or highest quality indicated, without cost to the Contract.
4. After the award of the Contract, no substitutions will be considered for the brands specified except upon written request of the Contractor and written approval by the Owner's concurrence. Substitutions shall be submitted including the entire system and/or assembly attached thereto.
5. Each Bid shall be accompanied by a Bid Security. Bid Security shall be in the form of a Surety Bid Bond as stated herein or a certified or cashiers check made payable to "Town of Berlin" in the amount of five percent (5%) of the Base Bid. All sureties must also be listed on the most recent IRS Circular 570.
6. Surety Bid Bonds shall be written on forms similar in content to AIA Document A310 and executed by a company authorized to transact business within the State of Connecticut, and the attorney-in-fact who executes the Bond on behalf of the Surety shall affix to the Bond a certified and current copy of his power of attorney.
7. Negligence on the part of the Bidder in preparing the Proposal shall not justify the withdrawal of such Proposal after all bids have been opened.
8. Amendments to or withdrawals of Bid received later than the time and date set for Bid Opening will not be considered.
9. It is the intent of the Owner to award a Contract to the lowest responsible and qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. With regard to price, the apparent low bidder shall be identified on the basis of the lowest Total Price for the Base Bid Price plus the selected Additive Alternate Bid Item Prices. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the owner's own best interests.
10. Prior to the award of a Contract, if so requested, Bidders must present satisfactory evidence that they have been regularly engaged in the business of doing such work as they propose to execute and that they are prepared with the necessary supervisory staff, capital, materials and machinery to conduct and complete the work to be contracted for in accordance with the Drawings and Specifications and to begin it

promptly when ordered.

11. A Bid may be rejected if the Bidder cannot show that he has the necessary capital and experience and owns, controls or can produce the necessary plant to commence the work at the time prescribed and thereafter to prosecute and complete the work at the rate or time specified; and that he is not already obligated for other work which would delay the commencement, prosecution, or completion of this work. A Bid may also be rejected if the Bidder has previously failed to complete a Contract within the time required or had previously performed a similar work in an unsatisfactory manner.
12. The successful Bidder shall furnish at his expense at the time of executing the Contract, Performance and Labor & Material Payment Bonds in the penal amounts of 100% of the amount of the Contract. These bonds shall be executed by the bidder and a surety company duly authorized to conduct such business in the State of Connecticut and acceptable to the Awarding Authority. The terms of all applicable statutes shall be read into, govern, and be made a part of such bonds as if they were specifically included therein. All sureties must also be listed on the most recent IRS Circular 570.
13. When notification of award of Contract is made to the successful Bidder and he does not, within two weeks thereafter, execute a Contract in the form herein before mentioned and furnish Satisfactory Bond, his Bid Security shall be paid over to and retained by the Awarding Authority as liquidated damages.
14. The Bidder agrees and warrants that in the submission of his sealed Bid he will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religion, age, national origin, sex, or physical disability including, but not limited to blindness, unless it is shown by such Bidder that disability prevents performance of that which must be done to successfully fulfill the terms of his sealed Bid or in any manner which is prohibited by the laws of the United States, State of Connecticut, or the Town of Berlin.
15. MINORITY OWNED BUSINESS ENTERPRISE GOAL - A small business enterprise/minority business enterprise participation rate of 25% has been established for this project. If the contractor does not meet the 25% small business, minority subcontractor or supplier goals then it must provide adequate information as part of its bid to show the good faith efforts that it made to attempt to meet the 25% goals, subject to State statutory requirements and approval by CHRO, as described below.
  - a. For municipal public works contracts valued at over \$50,000, state law requires the contractor, general contractor, or construction manager at risk to set a goal of twenty-five per cent (25%) of the state-funded portion of the contract for award to eligible subcontractors holding current small business enterprise (SBE) certification from the DAS under the provisions of C.G.S. 4a-60g. Of the portion of contracts set aside for SBE's, a goal of twenty-five percent (25%) (or 6.25% of the value of the entire contract funded by the state) must be set aside for awards to eligible contractors holding current minority business enterprise certification (i.e.: DAS certified Minority ("MBE"), Women ("WBE") and/or Disabled ("DisBE") owned businesses). The contractor, general contractor, construction manager at risk must make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such projects.

- b. For any municipal public works projects receiving over \$500,000.00 in state funding, regardless of the size of the contractor's workforce, an Affirmative Action Plan or Set Aside plan must be filed *within 30 days following the intent to award notice and must be approved by the CHRO prior to the award of the construction contract*. The municipality will need to contact CHRO if they choose to award the construction contract without an approved plan in place. The grantee will then need to retain 2% per month of the total contract value until the contractor has submitted an approved affirmative action plan to CHRO and CHRO has granted approval. (Note: Please contact the Contract Compliance Unit at 860 541-4709 to determine which plan is required).
16. The Owner is exempt from the payment of taxes imposed by the Federal Government and/or the State of Connecticut. Such taxes should not be included in the Bid Price. The Owner is also exempt from payment of the Federal transportation tax where applicable and such tax must not be included in Bid Price. No exemption certificate is required for this tax.
17. All Bidders shall furnish the following documents with the sealed bid to avoid having his bid rejected for non-compliance. Other documents or certifications may be required to fulfill particular circumstances noted in the project manual and shall be included if required.
18. All Bidders shall furnish:
  1. **One (1) original** of fully executed Bid Form (format as provided).
  2. Form of Bid Security (in an amount equal to 5% of the bid amount)
  3. The CHRO Notification to Bidders Equal Employment Opportunity Form
  4. Statement of Bidder Qualifications
  5. Non-Collusion Affidavit of Prime Bidder
  6. DAS prequalification
  7. OSHA compliance form
19. Each bid shall be sealed in an opaque envelope with the following legibly marked on one side of the envelope:
  1. Bid Form and required Bidding Documents Enclosed
  2. Name of Bidder
- 20. If the bid is to be delivered, contact Maryssa Tsolis to make arrangement for delivery because Berlin Town Hall is closed to the public at this time due to COVID-19.**
21. If a bid is mailed, it shall be enclosed in an outer envelope with the Bidder's name and business address marked legibly thereon, addressed as follows:

Berlin Town Hall  
Town Managers Office  
Room 101

240 Kensington Road  
Berlin, CT 06037

Attn: Maryssa Tsois  
Main Street Streetscape Project, Berlin, CT  
Bid No. 2020-22

The Town of Berlin must receive bid by date and time indicated in the Invitation to Bid, or amended through Addendum.

22. Each Trade Contractor shall take this bid submittal as one complete unit as further described by the contract documents and all bids shall be for the entire scope of work as advertised.
23. Partial bids will not be accepted and will be rejected by the Owner.

END OF SECTION

## GENERAL CONDITIONS

### ARTICLE 1. Definitions

Wherever used in these General Conditions or in the other Contract Documents, the following terms shall have the meanings which shall be applicable to both the singular and plural thereof:

#### Agreement

The written agreement ("Agreement") between the Town of Berlin and the Contractor covering the work to be performed, including the Contractor's bid and the bonds. The written Agreement is intended to be the complete and exclusive agreement between the above parties covering the work to be performed, including the Contractor's bid and the bonds.

#### A.A.S.H.T.O.

American Association of State Highway and Transportation Officials

#### A.C.I.

American Concrete Institute

#### A.S.T.M.

American Society for Testing and Materials

#### A.W.W.A.

American Water Works Association

#### Bid

The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

#### Bidder

Any person, firm or corporation submitting a Bid for the Work.

#### Bonds

Bid, performance and payment bonds and other instruments of security, furnished by the Contractor and his surety in accordance with the Contract Documents.

#### Change Order

A written order to the Contractor signed by the Director of Public Works authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

### Contract Documents

The Agreement, Invitation to Bid, Bid Proposal, Specifications, Drawings, Maps, Technical Specifications, Special Conditions, General Conditions, Addenda (whether issued prior to opening of Bids or execution of the Agreement) and Modifications.

### Contract Law

The Agreement shall be construed according to Laws of the State of Connecticut and applicable ordinances and regulations of the Town of Berlin.

### Contract Price

The total monies payable to the Contractor under the Contract Documents.

### Contract Time

The numbers of days or the dates stated in the Agreement to complete the Work so that it is ready for its intended use and eligible for final payment as evidenced by ENGINEER'S written recommendation of final payment.

### CONTRACTOR

The person, firm or corporation with whom the Town of Berlin has executed the Agreement.

### DIRECTOR OF PUBLIC WORKS

Wherever in the Contract Documents the words "Director of Public Works" are used it shall be understood as referring to the Director of Public Works of the Town of Berlin active personally or through any assistants authorized in writing for such acts by the Director of Public Works.

### Drawings

The drawings and plans which show the character and scope of the work to be performed and which have been prepared or approved by the Engineer and are referred to in the Contract Documents.

### ENGINEER

Whenever in the Contract Documents the word "Engineer" is used it shall be understood as referring to the Engineer or the Director of Public Works of the Town of Berlin acting personally or through any assistants authorized in writing for such acts by the Engineer.

The terms "as permitted," "as required," "as directed," or words of like effect shall mean that the permissions, requirements, or direction of the Engineer is intended. The words "approved", "acceptable," "satisfactory," or words of like import shall mean approved by, or acceptable to, or satisfactory to the Engineer; and the words "necessary," "suitable," "equal," or words of like import shall mean necessary, suitable, or equal in the opinion of the Engineer.

### Form 818

Shall refer to the State of Connecticut Department of Transportation Standard Specifications for Roads, Bridges, and Incidental Construction Form 818, dated 2020, and any and all approved

changes to the form in effect at the time the Agreement is executed by the Contractor and the Town of Berlin.

Inspector

The authorized representative of the Town of Berlin who is assigned to the Project or any parts thereof.

Liens

Liens, charges, security interests or encumbrances upon real property or personal property

Modification

(a) A written amendment of the Contract Document signed by both parties; (b) a Change Order; (c) a written clarification of interpretation issued by the Engineer; or (d) a written order for a minor change or alteration in the work issued by the Engineer. A modification may only be issued after execution of the Agreement.

Project

The entire construction to be performed as provided in the Contract Documents.

Shop Drawings

All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor and which illustrate the equipment, material or some portion of the Work.

Specifications

The technical provisions for the Work.

Subcontractor

An individual, firm or corporation having a direct contract with the Contractor or any other Subcontractor for the performance of a part of the Work for the Project.

Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the Contractor under the Contract Documents, including the furnishing of all labor, materials, equipment, services and other incidentals.

ARTICLE 2. Progress and Submission Schedules; Preconstruction Conference; Time Of Starting The Work

- (a) Within ten days after execution of the Agreement, the Contractor will submit to the Town Engineer for approval, a critical path method schedule indicating the starting and completion dates of the various portions of the Work. Such schedule shall be updated monthly and is a condition to the Town's obligation to pay the Contractor. The schedule shall identify and indicate the submission of all required shop drawings and product data required by the contract documents and indicate the time allowed by the Contract Documents for approval or disapproval of same by the



Town or Engineer. The Contractor acknowledges that the Town owns any float indicated in the Contractor's schedule.

- (b) Before starting the Work, a conference will be held to review the above schedules, to establish procedures for handling Shop Drawings and other submissions and for processing Applications for Payment, and to establish a working understanding between the parties as to the Project.
- (c) The Contractor will start the Work on the date on which the Agreement is executed and delivered, or on such other date, if any, as may be specified in the Agreement. However, at the time of the execution and delivery of the Agreement the Owner may give the Contractor a written notice to proceed, stating a different date on which it is expected that the Contractor will start the Work, but such date shall not be more than thirty days after the date of execution and delivery of the Agreement.
- (d) The Contract Time shall commence to run on the date when the Work is to start as provided in the above paragraph.

ARTICLE 3. Correlation. Interpretation and Intent of Contract Documents

- (a) It is the intent of the Specifications and the Drawings and other documents to describe a complete Project to be constructed in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between the Town and the Contractor. They may be altered only by a Modification.
- (b) The Contract Documents are complimentary; what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, he will call it to the Engineer's attention in writing before proceeding with the Work affected thereby. In resolving such conflicts, errors and discrepancies, the documents shall be given precedence in the following order: Agreement, Specifications, Drawings. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings. Any work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. The Contractor assumes full responsibility for having familiarized himself with the nature and extent of the Contract Documents, the locality, and local conditions that may in any manner affect the Work to be done.

ARTICLE 4. Copies of Documents and Record Documents

- (a) The Town will furnish the Contractor up to ten copies of the Specifications and Drawings. Additional copies will be furnished, upon request, at the cost of reproduction.
- (b) The Contractor will keep one record copy of all Specifications, Drawings, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to the Engineer and shall be delivered to the Town of Berlin upon completion of the Project.

ARTICLE 5. Separate Contracts

The Town may award other contracts in the vicinity of the Work which may proceed simultaneously with the execution of this Agreement. The Contractor shall perform his Work, so as not to cause interference with the work of other contractors. The Contractor shall cooperate with the Town's separate contractors.

ARTICLE 6. Subcontracts

- (a) Prior to the execution and delivery of the Agreement, the successful Bidder will submit to the Engineer for acceptance a list of the names of Subcontractors and such other persons and organizations (including those who are to furnish materials or equipment fabricated to a special design) proposed for those portions of the Work as to which the identity of the Subcontractors and other persons and organizations must be submitted as specified in the Contract Documents. Prior to the execution and delivery of the Agreement, the Engineer will notify the successful Bidder in writing if the Engineer after due investigation has reasonable objection to any Subcontractor, person or organization on such list. The failure of the Engineer to make objection to any Subcontractor, person or organization on the list prior to the execution and delivery of the Agreement shall constitute an acceptance of such Subcontractor, person or organization. Acceptance of any such Subcontractor person or organization shall not constitute a waiver of any right of the Engineer to reject defective work, material or equipment not in conformance with the requirements of the Contract Documents.
- (b) The Contractor will be fully responsible for all acts and omissions of his Subcontractors and of persons directly or indirectly employed by them and persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor and the Town or any obligation on the part of the Town to pay or to see to the payment of any monies due any Subcontractor except as may otherwise be required by law.
- (c) The Contractor agrees to specifically bind every Subcontractor to all of the applicable terms and conditions of the Contract Documents. Every Subcontractor, by undertaking to perform any of the Work, will thereby automatically be deemed to be bound by such terms and conditions.
- (d) All subcontractors shall name the Town as an additional insured under the same terms as set forth in Article 35.

ARTICLE 7. Materials, Equipment and Labor; Or Equal Clause

- (a) The Contractor will provide and pay for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.
- (b) All materials and equipment shall be in a new and unused condition.
- (c) Wherever in these Contract Documents a particular brand, make of material, device or equipment is shown or specified, such brand, make of materials, device or

equipment shall be regarded as the standard of quality and performance, unless specified to be a sole source. Where such items are specified this shall not be interpreted to preclude the furnishing of items other than those specified where the quality, use and serviceability of the substitute is adjudged by the Engineer to be the same as or exceed that of the standard.

- (d) The terms “or approval equal,” “equal to,” “similar and equal to” and the like are equivalent in each case to the same words accompanied by the phrase “in the opinion of the Engineer.”
- (e) All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise specifically provided in the Contract Documents.

#### ARTICLE 8. Wage Rates

The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of section 31-53, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair project is being undertaken. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day. Wage rates are set forth in Attachment I.

#### ARTICLE 9. Patent Fees and Royalties

The Contractor will pay all license fees and royalties and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others. The Contractor shall defend, indemnify and hold harmless the Town and anyone directly or indirectly employed by the Town from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of such rights during or after completion of the Work, and shall defend all such claims in connection with any alleged infringement of such rights.

#### ARTICLE 10. Permits, Laws and Regulations

- (a) The Contractor will secure and pay for all construction permits and licenses.
- (b) The Contractor will give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the Specifications or Drawings are at variance therewith, the Contractor will give the Engineer prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and

without such notice to the Engineer, The Contractor shall bear all costs arising therefrom.

ARTICLE 11. Availability of Lands; Physical And Subsurface Conditions

The Town will provide, as indicated in the Contract Documents and not later than the date when needed by the Contractor, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designated for the use of the Contractor. Easements for permanent structures of permanent changes in existing facilities will be secured and paid for by the Town, unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the Town's furnishing these lands or providing such easements entitles him to an extension of the Contract Time, he may make a claim therefor as provided hereafter. The Contractor will provide all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment at the Contractor's sole cost and expense.

Subsurface information which may be contained in these Contract Documents has been developed from the best available records, the accuracy of which cannot be guaranteed and is expressly disclaimed. If, in the course of construction, conditions are found which result in changes or alignment and/or delays necessitating the rescheduling of the Contractor's operation, such changes in alignment or rescheduling of operations shall not constitute the basis of a claim for extra payment and the Contractor expressly waives any claim for damages of any kind. The Contractor shall provide for contingencies which may confront the Contractor throughout the execution of the Work.

ARTICLE 12. Engineer's Control

- (a) In the performance of the Work, the Contractor shall perform all Work to the satisfaction of the Engineer, consistent with the requirement of the Contract Documents. The Engineer shall determine the amount, quality, acceptability and fitness of all parts of the Work, shall interpret the Contract Documents and Change Orders and shall decide all other questions in connection with the Work.
- (b) The enumeration herein or elsewhere in the Contract Documents of particular instances in which the opinion, judgment, discretion or determination of the Engineer shall control or in which Work shall be performed to the Engineer's satisfaction or subject to his approval or inspection, shall not imply that only matters similar to those enumerated shall be so governed and performed, but without exception all the Work shall be governed and so performed.

ARTICLE 13. Authority and Duties Of Inspectors

Inspectors employed by the Town shall be authorized to inspect all Work done and material furnished. Such inspection may extend to all or any part of the Work, and to the preparation or manufacture of the materials to be used. In case of any dispute arising between the Contractor and the Inspector as to materials furnished or the manner of performing the Work, the Inspector shall have authority to reject materials or suspend the Work until the question at issue can be referred to and decided by the Engineer. The Inspector shall not be authorized to revoke, alter,

enlarge, relax or release any requirements of the Contract Documents, nor to approve or to accept any portion of the Work, nor issue instructions contrary to the Contract Documents. The Inspector shall in no case act as foreman or perform other duties for the Contractor, or interfere with the management of the Work by the Contractor. Any advice which the Inspector may give the Contractor shall in no circumstance be construed as binding the Town in any way nor releasing the Contractor from fulfillment of the terms of the Agreement.

#### ARTICLE 14. Tests and Inspections

- (a) If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor will give the Engineer timely notice of readiness therefor. The Contractor will furnish the Engineer the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organization as may be required by law or the Contract Documents. If any such Work required so to be inspected, tested or approved is covered up without written approval or consent of the Engineer, it must, if directed by the Engineer, be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approval shall be borne by the Contractor unless otherwise provided.
- (b) Any Work, which fails to meet the requirements of any such test, inspection or approval and any Work which meets the requirements of any such test or approval but does not meet the requirements of the Contract Documents shall be considered defective. Such defective Work may be rejected, corrected or accepted as provided.
- (c) Neither observations by the Engineer nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

#### ARTICLE 15. Shop Drawings and Samples

- (a) After checking and verifying all field measurements, the Contractor will submit to the Engineer for approval, in accordance with the accepted schedule of Shop Drawing submissions, five copies (or at the Engineer's option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of the Contractor and identified as the Engineer may require. The data shown on the Shop Drawings will be complete with respect to dimensions, design criteria, materials of construction and the like to enable the Engineer to review the information as required.
- (b) The Contractor will also submit to the Engineer for approval, with such promptness as to cause no delay in Work, all samples and product data required by the Contract Documents. All samples and product data will have been checked by and stamped with the approval of the Contractor, identified clearly as to material, manufacturer, any pertinent catalog numbers and the use for which intended.
- (c) At the time of each submission, the Contractor will, in writing, call the Engineer's attention to any deviations that the Shop Drawing or sample may have from the requirements of the Contract Documents.

- (d) The Engineer will review with reasonable promptness Shop Drawings and samples, but his review shall be only for conformance with the design concept of the Project and for general compliance with the information given in the Contract Documents. The review of a separate item as such will not indicate review of the assembly in which the item functions. The Contractor will make any corrections required by the Engineer and will return the required number of corrected copies of Shop Drawings and resubmit new samples until approved by the Engineer. The Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections called for by the Engineer on previous submissions.
- (e) No Work requiring a Shop Drawing or sample submission shall be commenced until the submission has been reviewed and approved by the Engineer.
- (f) The Engineer's approval of Shop Drawings or sample shall not relieve the Contractor from his responsibility for any deviations from the requirements of the Contract Documents unless the Contractor has in writing called the Engineer's attention to such deviations at the time of submission and the Engineer has given written approval to the specific deviation, nor shall any approval by the Engineer relieve the Contractor from responsibility for errors or omissions in the Shop Drawings.

ARTICLE 16. Contractor's Supervision and Superintendence

- (a) The Contractor will supervise and direct the Work efficiently and with its best skill and attention. The Contractor will be solely responsible for the means, methods, techniques, sequences and procedures of construction. Before undertaking the Work, the Contractor will carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. The Contractor will at once report in writing to the Engineer any conflict, error, or discrepancy which the Contractor may discover. The Contractor will be responsible to see that the finished Work complies accurately with the Contract Documents.
- (b) The Contractor will keep on the Work at all times during its progress a resident superintendent satisfactory to the Engineer and the Town. The superintendent shall not be replaced without the consent of the Engineer and the Town except under extraordinary circumstances or if the superintendent shall no longer be in the employ of the Contractor. In the event of replacement, such replacement shall be approved by the Engineer and the Town in their sole discretion, which approval shall not be unreasonably withheld. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.
- (c) The Town of Berlin will not be responsible for the acts or omissions of the Contractor, or any Subcontractor, or any of its or their agents or employees, or any other persons performing any of the Work.

ARTICLE 17. Safety and Protection; Including Emergencies

- (a) The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

1. All employees engaged in performing the Work and other persons who may be affected thereby;
  2. All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site; and
  3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal relocation or replacement in the course of construction.
- (b) No materials or other obstruction shall be placed within 15 feet of any fire hydrant, which at all times must be readily accessible to the Fire Department.
- (c) Unless otherwise specified, not more than one block at a time of the street shall be torn up, obstructed or closed without the permission of the Engineer and the Town. Prior to street closings, the Contractor shall obtain the permission of the Director of Public Safety who will, in turn, notify the Police Department and the Fire Department immediately of such closings and openings.
- (d) The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor will erect and maintain, as required by the conditions, and progress of the Work, all necessary safeguards for safety and protection, including posting danger signs and other warnings against hazards and promulgating safety regulations. The Contractor shall notify owners of adjacent utilities and properties when prosecution of the Work may affect them. When the use or storage of explosives or other hazardous materials is necessary for the prosecution of the Work, the Contractor will exercise the utmost care and will carry on such activities under the supervision of properly qualified personnel and applicable laws and regulations. All damage, bodily injury, injury or loss to any property referred to in the above paragraphs, caused directly, or indirectly, in whole or in part, by the Contractor, any Subcontractor of anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, will be remedied by the Contractor, except damage or loss adjudged to be the results of the acts or omissions of the Town or any of its employees or for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor.
- (e) In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Town is obligated to act, at its discretion, to prevent threatened damage, injury or loss. The Contractor will give the Engineer prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved, provided such emergency is not caused, in whole or in part, by the negligent acts or fault of the Contractor.
- (f) Off-site traffic and exit ways shall not be blocked by construction vehicles, parked cars, material storage and other construction operations.

Prior to any blasting within the Town of Berlin, a blasting meeting will be held at which the Engineer, the Berlin Fire Marshal, and the Contractor shall be represented to determine whether blasting may be permitted and if so, the methods to be used and the protective measures necessary to insure the utmost safety during blasting operations. A blasting permit to be issued by the Berlin Fire Marshal must be obtained prior to any blasting. Overnight storage of explosives is not permitted within the Town of Berlin.

ARTICLE 19. Access to The Work; Uncovering Finished Work

- (a) The Engineer and his representatives will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection, or testing thereof by others.
- (b) If any Work is covered contrary to the request or instruction of the Engineer, it must, if requested by the Engineer, be uncovered for his observation and replaced at the Contractor's expense.
- (c) If any Work has been covered which the Engineer has not specifically requested to observe prior to its being covered, or if the Engineer considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the Engineer's request, will uncover, expose or otherwise make available for observation, inspection, or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective or does not meet the requirements of the Contract Documents, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate Change Order shall be issued deducting all such costs from the Contract price. If, however, such work is found to be non-defective and meets the requirements of the Contract Documents, the Contractor will be allowed an increase in the Contract Price or extension of the Contract Time directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if he makes a claim therefor as provided hereafter.

ARTICLE 20. Change In The Work

- (a) Without invalidating the Agreement, The Town may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided hereinafter.
- (b) The Engineer may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any minor change or alteration authorized by the Engineer entitled him to an increase in the Contract Price, he may make a claim therefor as provided hereafter.
- (c) Additional Work Performed by the Contractor without authorization of a Change Order shall be deemed a waiver by the Contractor for any increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as



provided in these General Conditions. The Contractor expressly waives any and all claims or damages of any kind.

- (d) It is the Contractor's responsibility to notify its Surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. The Contractor will furnish proof of such adjustment to the Town.

#### ARTICLE 21. Change Orders

- (a) The value of any work covered by a Change Order shall be determined in one of the following ways:
  1. Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
  2. By mutual acceptance of a lump sum.
  3. By cost and a mutually acceptable fixed amount for overhead and profit, which amount shall not exceed 10%.
  4. If none of the above methods is agreed upon, the value shall be determined by the Engineer on the basis of documented costs and a percentage for overhead and profit, which amount shall not exceed 10%. Costs shall only include labor (payroll, payroll taxes, fringe benefits, workmen's compensation, etc.), materials, equipment and other incidentals directly related to the Work involved. The maximum percentage which shall be allowed for Contractor's combined overhead and profit, shall be ten (10%) percent of his actual net increase in costs for all such work done by his own organization.
  5. For all such Work done by Subcontractors, each Subcontractor may add up to ten percent of his actual net increase in costs for combined overhead and profit and the Contractor may add up to five percent of the Subcontractor's total for his combined overhead and profit; provided that no overhead or profit shall be allowed on costs incurred in connection with premiums for public liability insurance or otherwise special insurance directly related to such Work.
  6. Under no circumstances will the Contractor be entitled to any additional compensation due to delay, loss of productivity or other like claims because of Change Orders.

In all events, the Contractor will submit all data and documentation supporting the cost of any Change Order in form prescribed by the Engineer.

- (b) The amount of credit to be allowed by the Contractor to the Town for any such change which results in a net decrease in cost, will be the amount of the actual net decrease as determined by the Engineer. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any.

- (c) In the event the Town and/or Engineer do not agree that the Contractor is entitled to a Change Order, then the Contractor upon receipt of written directive from the Town or Engineer shall diligently proceed with the disputed work and track all costs on a daily basis. Such disputed work shall be subject to the dispute resolution procedures set forth herein.
- (d) In no event shall any dispute impede or hinder the progress and diligent execution of the entirety of the Work by the Contractor. The Contractor expressly agrees to diligently prosecute the Work during the pendency of any dispute and the Town agrees to make payments as required by the Agreement that are not subject to a good faith dispute.

ARTICLE 22. Change Of The Contract Time

- (a) The Contract Time may only be changed by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an extension in the Contract Time, such claim shall be in writing delivered to the Engineer within 10 days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- (b) Provided such delay is not caused in whole or in part by the fault, negligence or neglect of the Contractor, the Contract Time may be extended in an amount equal to time lost due to delays beyond the control of the Contractor as demonstrated by the CPM schedule if the Contractor makes a claim therefor as provided in paragraph above. Claims not timely made, as set forth herein shall be deemed waived by the Contractor.
- (c) All time limits stated in the Contract Documents are of the essence of the Agreement.
- (d) Notwithstanding anything to the contrary in the Contract Documents, an extension in the Contract Time, to the extent permitted under this Article shall be the sole remedy of the Contractor for any: (1) delay in the commencement, prosecution or completion of the Work; (2) hindrance or obstruction in the performance of the Work; (3) loss of productivity; or (4) other similar claims to (collectively referred to in this Paragraph as Delays) whether or not such Delays are foreseeable, contemplated, or unanticipated unless a Delay is caused by acts of the Owner constituting affirmative and active interference with the Contractor's performance of the Work, and only to the extent of such acts continue after the Contractor furnishes the Owner with notice of such interference. In no event shall the Contractor be entitled to any compensation or recovery of any damages in connection with any Delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration. The Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in the Work, or directing suspension, rescheduling or correction of the Work), regardless of the extent or frequency of the Owner's exercise of such rights or remedies, shall not be construed as active interference with the Contractor's performance of the Work.

ARTICLE 23. Warranty And Guarantee: Correction, Removal or Acceptance of Defective Work

- (a) The Contractor warrants and guarantees to the Town that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality and free from faults or defects and in accordance with the requirements of

the Contract Documents and of any inspections, tests or approvals referred to in Article 14. All unsatisfactory Work, all faulty or defective Work and all Work not conforming to the requirements of the Contract Documents or of such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected by the Engineer.

- (b) If required by the Engineer prior to the issuance of the certificate of completion, the Contractor will promptly, without cost to the Town and as required by the Engineer, either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the Engineer, remove it from the site and replace it with non-defective Work. If the Contractor does not correct such defective Work or remove and replace such rejected Work within a reasonable time, all as required by written notice from the Engineer, the Town may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect costs of such correction or removal and replacement, including compensation for additional professional services shall be paid by the Contractor, and an appropriate Change Order shall be issued deducting all such costs from the Contract Price. The Contractor will also bear the expenses of making good all Work of others destroyed or damaged by his correction, removal or replacement of his defective Work.
- (c) If, after the approval of final payment and prior to the expiration of one year after the date of completion, any Work is found to be defective, the Contractor will, promptly without cost to the Town and in accordance with the Town's written instructions, either correct such defective Work, or, if it has been rejected by the Town, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the Town may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services will be paid by the Contractor.
- (d) The amount paid the Contractor shall be the amount due less 5% retainage. The retainage shall be held for a period of one (1) year after the date of completion, which time shall be the warranty and guarantee period.

#### ARTICLE 24. Application for Progress Payments

- (a) At a frequency not to exceed once a month, the Contractor may submit to the Engineer for review the Application for Payment filled out and signed by the Contractor covering the Work completed as of the date of the Application and supported by such data as the Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing by the Engineer and the Town, the Town may, but is not obligated to, pay for such materials and equipment, provided however, that such materials and equipment must be properly insured against loss or destruction for the full replacement value of such materials including transportation costs and be accompanied by such supporting data, satisfactory to the Town, as will establish the title to the material and equipment. The Contractor shall provide a release from itself and its Subcontractors of all claims, except those claims which have been properly noticed and specially exempted, to the date of the Application for Payment.

- (b) The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will have passed to the Town prior to the making of the Application for Payment, free and clear of all liens, claims, security interests and encumbrances; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor or by any other person performing the Work at the site of furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.
- (c) The Engineer will, within fourteen days after receipt of each Application for Payment, either indicate in writing his approval of payment and present the Application to the Town or return the Application to the Contractor indicating, in writing, his reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the Application.
- (d) The amount paid the Contractor shall be the amount due less 5% retainage. The retainage shall be held by the Town until completion of the Work, and for a period of one (1) year thereafter.
- (e) The Town will, within thirty calendar days of presentation to him of the approved Application for Payment, pay the Contractor the amount approved by the Engineer. In the event the Contractor and Engineer cannot agree on the amount of payment, the Town shall only be obligated to pay the amount approved by the Engineer.

ARTICLE 25. Waiver of Claims and Continuing Obligations

- (a) The Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by the Engineer, nor any payment by the Town to the Contractor under the Contract Documents, nor any use or occupancy of the Project or any part thereof by the Town, nor any act of acceptance by the Town nor any failure to do so, nor any correction or faulty or defective Work by the Town shall constitute an acceptance of Work not in accordance with the Contract Documents.
- (b) The making and acceptance of final payment shall constitute a waiver of all claims by the Contractor against the Town other than those previously made in writing and still unsettled

ARTICLE 26. Indemnification

- (a) To the fullest extent allowed by law, the Contractor shall defend indemnify and hold harmless the Town, the State, the Engineer and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be

liable regardless of whether or not it is caused in part by a party indemnified hereunder.

- (b) In any and all claims against the Town or any of its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the defense and indemnification obligation under this article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workmen's Compensation Acts, Disability Benefit Acts or other employee benefit acts.

#### ARTICLE 27. Cleaning Up

The Contractor will keep the Project site and adjacent premises free from accumulation of waste materials, rubbish and other debris resulting from the Work, and at the completion of the Work the Contractor will remove all waste materials, rubbish and debris from and about the premise as well as all tools, construction equipment and machinery, and surplus materials, and will leave the Project clean and ready for use by the Town. The Contractor will restore to the original condition those portions of the site not designated for alteration by the Contract Documents. The Contractor shall control dust, run off and other nuisances, waste, rubbish, debris, etc. at all times and on a daily basis. Failure to do so on a daily basis shall immediately and without notice to the Contractor entitle the Town to abate and remedy the condition and deduct the cost of same from the Contractor.

All materials and equipment shall be placed and stored in locations that will not be hazardous or obstructive to the public. At the completion of each working day, the Contractor shall completely close all operations, backfill trenches to surrounding elevations, as directed by the Engineer, to enable both vehicular and pedestrian traffic flows, remove all equipment from the travel way and place barricades, warning lights, etc., to forewarn traffic of possible hazards existing at the Project site.

#### ARTICLE 28. Town's Right to Stop or Suspend Work

- (a) If the Work is defective, or the Contractor fails to supply sufficient skilled workmen or suitable materials, equipment, or if the Contractor fails to make prompt payments to Subcontractors for labor, materials or equipment, the Town may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
- (b) The Town may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor will resume the Work on the date so fixed. The Contractor will be allowed an increase in the Contract Price for all costs directly attributable to such suspension and an extension of the Contract Time directly attributable to any suspension, provided the Contractor makes a claim therefore as provided in the General Conditions. The Contractor expressly waives any and all claims or damages of any kind other than provided herein.

#### ARTICLE 29. Town's Right to Terminate

- (a) If the Contractor is adjudged bankrupt or insolvent or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if it files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, or if it fails to supply sufficient skilled workmen or suitable materials or equipment, or if it fails to make prompt payments to Subcontractors or for labor, materials or equipment, or if it disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if it disregards the authority of the Engineer, or if it otherwise violates any provision of the Contract Documents, the Town may, without prejudice to any other right or remedy and after giving the Contractor and his surety seven days written notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the Work by whatever method the Town may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services and legal fees and costs, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Town. Such costs incurred by the Town will be determined by the Engineer and incorporated in a Change Order.
- (b) Where the Contractor's services have been so terminated by the Town, said Termination shall not affect any rights of the Town against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Town due the Contractor will not release the Contractor from liability.
- (c) Upon seven days written notice to the Contractor, the Town may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Agreement. In such case, the Contractor shall be paid for all Work executed and any reasonable direct expense sustained as determined by the Engineer plus a reasonable overhead and profit, which amount shall not exceed 10%.
- (d) Anything to the contrary notwithstanding, the Town retains the right to terminate the Contract for its convenience upon written notice to the Contractor. In said event, the Contractor's remedy for termination for convenience shall be limited to the following:
1. The Contractor shall be entitled to be paid pursuant to the prices set forth in the Contract for all Work properly performed prior to termination and approved by the Engineer
  2. Partial payment shall be made for any lump sum items of work on the basis of the percentage complete of such items at the time of termination as determined by the Engineer.
  3. The Contractor shall not be entitled to any compensation for loss of anticipated profits or unallocated overhead or consequential damages of any kind which the Contractor hereby waives.

ARTICLE 30. Provisions Required By Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement 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 the Town or the Contractor the Agreement shall forthwith be physically amended to make such insertion.

ARTICLE 31. Contract Security

The Contractor shall furnish a surety bond acceptable to the Town in an amount at least equal to one hundred (100%) percent of the Contract Price as security for the faithful performance of this Agreement and for payment of all persons performing labor under this Agreement and furnishing materials in connection with this Agreement. The surety on such bond shall be a duly authorized surety company, satisfactory to the Town and authorized to do business in the State of Connecticut.

ARTICLE 32. Time For Completion And Liquidation Damages

It is hereby understood and mutually agreed, by and between the Contractor and the Town, that the date of beginning and the time for completion as specified in the Contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this Agreement; and it is further mutually understood and agreed that the work embraced in this Agreement shall be commenced on a date to be specified in the Notice to Proceed.

The Contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Town, that the time for the completion of the Work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by the Town, then the Contractor does hereby agree, as a part consideration for the awarding of this Agreement, to pay to the Town of the amount specified in the Agreement, not as a penalty but as liquidated damages for damages sustained by the Town as hereinafter set forth for each and every calendar day that the Contractor shall be in default after the time stipulated in the Agreement for completing the Work. The parties hereto expressly agree that the amount of damage the Town will sustain for late completion is difficult to calculate and the amount set forth as liquidated charges is deemed a reasonable measure of the Towns damages by the Contractor

It is further agreed that time is of the essence of each and every portion of this Agreement and of the Specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Agreement an additional time is allowed for the completion of any Work, the new time limit fixed by such extension shall be of the essence of this Agreement. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (a) To any preference, priority or allocation order duly issued by the Government;

- (b) To unforeseeable cause 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 the Town, acts of another Contractor in the performance of a Contract with the Town, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; and
- (c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this Article: Provided further that Article 22 of the General Conditions shall be complied with.

ARTICLE 33. No Damage for Delay

Notwithstanding anything to the contrary in the Contract Documents, an extension in the Contract Time shall be the sole remedy of the Contractor for any (1) delay in the commencement, prosecution or completion of the work, caused in whole or in part by any person or entity including but not limited to the Town, the Engineer and their respective agents, employees and independent Contractors. (2) hindrance or obstruction in the performance of the work, (3) loss of productivity, or (4) other similar claims whether or not such delays are foreseeable, contemplated, or unanticipated, unless a delay is caused by acts of the Town, constituting active interference with the Contractor's performance of the Work, and only to the extent such acts continue after the Contractor furnishes the Town with written notice of such interference. In no event shall the Contractor be entitled to any compensation or recovery of any damage, in connection with any delay, including without limitation, consequential damages, lost opportunity cost, impact damages or other similar remuneration. The Town's exercise of any of its rights or remedies under the Contract Documents (including without limitation, ordering changes in the work or directing suspension, rescheduling or correction of the work), regardless of the extent or frequency of the Town's exercise of such rights or remedies, shall not be construed as active interference with the Contractor's performance of the Work.

If the Contractor submits a progress report or schedule indicating or otherwise expresses an intention to achieve, completion of the Work prior to any completion date required by the Contract Documents or expiration of the Contract Time, no liability of the Town to the Contractor for any failure of the Contractor to so complete the Work shall be created or implied.

In addition to the foregoing and to all other express provisions in the Contract Documents, the following are areas of delay which could occur and are clearly contemplated by the parties:

1. Delay caused by Change Orders;
2. Delays caused by the bankruptcy or insolvency of one or more Contractors or Subcontractors;
3. Delays caused by changes necessitated by changes in laws or regulations;
4. Unavailability or shortage of building materials;
5. Job site theft;
6. Water and/or weather conditions;



7. Failure of one or more Contractors or Subcontractors to perform;
8. Vandalism or natural disaster requiring reconstruction.

ARTICLE 34. INSURANCE AND BONDS

Liability Insurance shall include all major divisions of coverage and be on a comprehensive basis including:

- a. Premises Operations (including X, C and U coverage as applicable).
- b. Independent Contractors' Protective.
- c. Products and Completed Operations.
- d. Contractual, including specified provision for Contractor's obligation under Paragraph 3.18.
- e. Non-owned, and hired motor vehicles.
- f. Broad Form Property Damage including Completed Operations.

General Liability must be provided on an occurrence basis.

The insurance required shall be written for not less than the following limits, or greater if required by law:

1. Worker's Compensation:
  - (a) State:  
Statutory
  - (b) Applicable Federal (e.g., Longshoremen's):  
Statutory
  - (c) Employer's Liability;  
\$500,000.00 per Accident  
\$500,000.00 Disease, Policy Limit  
\$500,000.00 Disease, Each Employee
2. Commercial General Liability (including Promises-operations; independent Contractors' Protective; Products and Completed Operations; Broad Form Property Damage):
  - (a) Bodily injury & Property Damage  
\$2,000,000.00 Each Occurrence  
\$4,000,000.00 Aggregate
  - (c) Products and Completed operations to be maintained for 2 years after final payment;  
\$1,000,000.00 Aggregate

- (d) Property Damage Liability insurance shall provide X, C, and U coverage.
  - (e) Broad Form Property Damage Coverage shall include Completed Operations.
3. Contractual Liability:
- (a) Bodily Injury:  
\$1,000,000.00 Each Occurrence  
\$1,000,000.00 Aggregate
  - (b) Property Damage:  
\$1,000,000.00 Each Occurrence  
\$1,000,000.00 Aggregate
4. Umbrella/Excess-Insurance  
\$5,000,000.00 Aggregate

, All notices pertaining to insurance shall be addressed to "Berlin Town Hall, Office of the Town Manager, Room 1, 240 Kensington Road, Berlin, CT 06037".

If this insurance is written on the Comprehensive General Liability policy form, the Certificates shall be AIA Document G705, Certificate of Insurance. If this insurance is written on a Commercial General Liability policy form, ACORD Form 25S will be acceptable.

The Contractor shall furnish to the Owner copies of any endorsements subsequently issued amending coverage or limits.

- 1. Business Auto Liability (non-owned, and hired vehicles):
  - (a) Combined Single Limit:  
\$1,000,000.00
- 2. The policies for the above required General Liability and Auto Liability coverage shall name the State of Connecticut; Town of Berlin; CARDINAL Engineering Associates, Inc, with an address at 3 Colony Street, Meriden CT 06451, as additional insured and shall, in addition, indemnify and hold harmless the State of Connecticut, Town of Berlin, CARDINAL Engineering Associates, Inc, and employees of any of them as required by the General Conditions.

ARTICLE 35. Certificates of Completion and Final Payment

- (a) Upon written notice from the Contractor that the Project is complete, the Engineer will make a final inspection with the Contractor and will notify the Contractor in writing of any particulars in which this inspection reveals that the Work is defective. The Contractor shall immediately make such corrections as are necessary to remedy such defects.
- (b) After the Contractor has completed any such corrections to the satisfaction of the Engineer and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection and other documents all as required by the Contract Documents, the Town will issue a certificate of completion and the

Contractor may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by such supporting data as the Engineer may require including but not limited to as built plans, together with complete and legally effective releases or waivers (satisfactory to the Town) of all liens arising out of the Contract Documents and the labor and services performed and the material and equipment furnished thereunder and consent to final payment from the Contractor's surety. If any Subcontractor or supplier fails to furnish a release or receipt in full, the Contractor may furnish a bond satisfactory to the Town to indemnify it against any lien or claim.

- (c) If, on the basis of its observation and review of the Work during construction, its final inspection and its review of the final Application for Payment – all as required by the Contract Documents, the Engineer is satisfied that the Work has been completed and the Contractor has fulfilled all of his obligations under the Contract Documents, the Engineer will, within thirty days after receipt of the final Application for Payment, indicate in writing his approval of payment and present the Application to the Town for payment. Otherwise, he will return the Application to the Contractor, indicating in writing his reasons for refusing to approve final payment, in which case the Contractor will make the necessary corrections and resubmit the Application.
- (d) Final payment shall constitute 95% of the final Contract Price as adjusted by Change Orders. The remaining 5% will be payable in accordance with Article 23 "Warranty and Guarantee, Removal or Acceptance of Defective Work." The Town will, within fourteen days of presentation to him of an approved final Application for Payment, pay the Contractor the amount approved by the Engineer.

#### ARTICLE 36. Assignment of Causes of Action

The Contractor, for itself and all Subcontractors, offers and agrees to assign to the Town of Berlin all right, title and interest in and to all causes of action it (they) may have under Section 4 of the Clayton Act, 15 U.S. Section 15, or under Chapter 624 of the Connecticut General Statutes, arising out of the purchase of services, property or intangibles of any kind pursuant to a public purchase contract or subcontract. This assignment shall be made and become effective at the time the Town of Berlin awards or accepts such contract, without further acknowledgments by the parties.

#### ARTICLE 37. Sanitary Provisions

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees as may be necessary to comply with the requirements and regulations of the State Department of Health or of other bodies or tribunals having jurisdiction therewith.

#### ARTICLE 38. Waiver of Consequential Damages and Time Impact Claims

The Contractor hereby knowingly, voluntarily and expressly waives claims against the Town for consequential damages, incidental damages and delay damages arising out of or relating to this Agreement or the Work. This waiver includes, but is not limited to: damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing,

business and reputation, for loss of profit, lost productivity, labor inefficiency, idle equipment and unabsorbed overhead.

ARTICLE 39. Executive Order No. Three

The Guidelines and Rules of State Labor Commissioner Implementing Governor Executive Order No. Three is a required provision of this contract.

SEC. 1 PERSONS AND FIRMS SUBJECT TO EXECUTIVE ORDER NO. THREE AND GUIDELINES AND RULES.

a. Every contractor, or subcontractor as defined in Sec. 2 hereof, supplier of goods or services, vendor, bidder and prospective contractor or subcontractor, having ten or more employees as defined in Sec. 3 of these Guidelines, having or entering into or bidding to enter into any type of contractual relationship with the State of Connecticut or any of its agencies, boards, commissions, departments or officers, and if the consideration, cost, subject matter or value of the goods or services exceeds \$5,000.00, shall be subject to the Governor's Executive Order No.

Three and these Guidelines and Rules

b. A copy of the Governor's Executive Order No. Three and of these Guidelines and Rules shall be available to each said contractor, subcontractor, supplier, vendor, bidder and prospective contractor and subcontractor, and the said Executive Order No. Three and these Guidelines and Rules shall be incorporated by reference and made a part of the contract, purchase order, agreement or document concerned. A copy of the Executive Order and of these Guidelines and Rules shall be furnished to a contracting party or bidder on request.

c. All persons, partnerships, associations, firms, corporations and other entities having less than ten employees as defined in Sec. 3 at the time of the bid and execution of the contract and continuing through the performance of the contract are exempt from the provisions of the said Executive Order and these Guidelines and Rules. All contracts, subcontracts, purchase orders and agreements wherein the consideration is \$5,000.00 or less shall be exempt from Executive Order No. Three and from these Guidelines and Rules.

SEC 2. SUBCONTRACTORS.

As used herein, subcontractors are persons, partnerships, associations, firms or corporations or other entities having contractual relationship with a contractor who in turn has a contract with the State of Connecticut or any of its agencies, boards, commissions or departments. Subcontractors below this tier are exempt from the Executive Order and from these Guidelines and Rules.

SEC. 3 EMPLOYEES

As used herein, employees are persons working full or part-time irrespective of personnel classification whose wages, salaries, or earnings are subject to the Federal Insurance Contribution Act and/or to Federal Withholding Tax as a matter of law (whether in fact or not any actual withholding occurs in a given case), in an employee-employer relationship at the time of bid, contract execution, or offer or acceptance. and/or during any time thereafter during the existence of the performance period of the contract to the conclusion thereof.

#### SEC. 4 REPORTS.

a. Prior to the execution of the contract or prior to acceptance of a bid, as the case may be, the contractor, subcontractor, bidder or vendor shall file a report with the State Labor Commissioner, which report shall be complete and contain all of the information therein prescribed. The report shall be on Form E.O. .3-1, a facsimile of which is attached hereto and made a part hereof, or in lieu thereof the contractor, subcontractor, bidder or vendor shall submit a detailed report containing all of the information required in Form E.O.3-1.

b. The Labor Commissioner may require the filing of additional reports prior to final payment or prior to any renewal or extension of the contract and during the duration of the contract at such times as the Commissioner may, in his discretion, from time to time deem necessary. . The Labor Commissioner may require the filing of additional information or reports, and the contractor, subcontractor, bidder or vendor shall furnish said information or reports within the times prescribed by the Labor Commissioner.

c. The Labor Commissioner may, at his discretion, also require timely statistical reports on the number of minority employees employed or to be employed in\_ the performance of the contract, and the Labor Commissioner may define such minority groups or persons.

d. Reports filed pursuant to these Guidelines and Rules in implementation of Executive Order No. Three are not public records subject to public inspection, but may be inspected only by federal and state officials having jurisdiction and authority to investigate matters of this type. All federal and state agencies empowered by law to investigate matters relating to Executive Order No. Three shall have access to these reports for inspection or copying during regular business hours.

e. Any person who willfully, wantonly or through negligence destroys or permits to be destroyed, alters or allows to be altered after filing, any reports submitted in compliance herewith shall be subject to penalties as prescribed by law.

#### SEC.5 MANDATORY CLAUSES IN DOCUMENTS.

a. All contracts shall contain the following provisions verbatim:

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be cancelled, terminated or suspended by the state labor commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the state labor commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

The (contractor), (subcontractor), (bidder), (vendor) agrees, as part consideration hereof, that this (order) (contract) is subject to the Guidelines and Rules issued by the state labor commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the state labor commissioner.

These provisions are in addition to and not in lieu of other clauses required by law.\*

\*N. B. The above paragraphs contain requirements additional to those set forth in the July 16, 1971 directive to state agencies.

b. Every purchase order or like form submitted by a vendor or bidder, as applicable, shall contain the following clause verbatim:

Vendor agrees, as part of the consideration hereof, that this order is subject to the provisions of Executive Order No. Three and the Guidelines and Rules issued by the Labor Commissioner implementing said Order as to nondiscrimination. and vendor agrees to comply therewith.

c. Where preprinted contract forms have been prescribed by federal authority and the rules of the federal agency prohibit the alteration thereof, the compliance officer of the State agency concerned shall submit to the Labor Commissioner a suggested short form or addendum acceptable to the federal agency, and in such cases, after approval by the Labor Commissioner, said clause may be substituted.

#### SEC.6 COOPERATION OF STATE AGENCIES. BOARDS AND COMMISSIONS.

Every agency, board, commission and department of the State of Connecticut shall cooperate with the Labor Commissioner in the implementation of Executive Order No. Three and shall furnish such information and assistance as the Labor Commissioner may from time to time request.

#### SEC. 7 INVESTIGATIONS; COMPLAINTS.

The Labor Commissioner may initiate an investigation upon receipt of a complaint alleging discrimination. The Labor Commissioner may request that an investigation be conducted by the State agency which is the party to the contract in question. Investigations shall be conducted in accordance with acceptable legal standards, safeguarding the rights of all parties involved, and obtaining all of the relevant facts necessary for a complete determination of the issues. If the Labor Commissioner is not satisfied with the investigation or any part thereof he may order it to continue or to proceed further.

## SEC. 8 HEARINGS.

The Labor Commissioner or officers designated by the heads of the State agencies, boards and commissions may conduct hearings on complaints filed. Hearings shall be held only after a report of the complaint has been filed with the Labor Commissioner and after a hearing on the complaint has been authorized or directed by the Labor Commissioner. Hearings shall be conducted in accordance with the accepted principles of administrative law. All parties shall be afforded the opportunity to a full, fair, impartial and complete hearing, the opportunity to examine and cross examine witnesses and to be present at all sessions of the hearing. If any party is vulnerable to a charge of a violation of the law, he shall be afforded the opportunity to procure counsel who may be present at the hearing.

## SEC. 9 EQUAL EMPLOYMENT OPPORTUNITIES.

All State contracting agencies, employers, and labor unions shall use their best efforts to provide equal employment opportunities to all apprentices and to provide training, employment and upgrading opportunities for disadvantaged workers in accordance with section 31-51(d) of the General Statutes.

## SEC.10 DUTIES OF CONTRACTING AGENCIES.

All State contracting agencies shall be responsible for compliance with said Executive Order and with all state and federal laws relating to equal employment opportunities. All contracting agencies conducting investigations for the Labor Commissioner pursuant to Executive Order No. Three and these Guidelines and Rules shall report to the Labor Commissioner the action taken or recommended with regard to each complaint filed. Each officer of the executive department, every commissioner, and each executive head of each State agency, board and commission in the executive branch of the State government is expected to assume the responsibility of seeing to complete compliance with the Governor's Executive Order No. Three and shall forthwith take steps to assure and guarantee that there shall be no discrimination within their departments, agencies, boards or commissions in the performance of any state contract or subcontract on the basis of race, creed, color, sex, age, national origin or national ancestry, or in any way in violation of any state or federal law relating thereto.

## ARTICLE 40. Enforcement of Payment to General Contractor to Subcontractor and by Subcontractor to his Subcontractors

The Contractor and its Subcontractors shall comply with section 49-41c of the general statutes. Within thirty days after payment to the Contractor by the Town of Berlin, the Contractor shall pay any amounts due any Subcontractor, whether for labor performed or materials furnished, when the labor or materials have been included in a requisition submitted by the Contractor and paid by the Town of Berlin. The Contractor shall include in each of its subcontracts a provision requiring each Subcontractor to pay any amounts due any of its Subcontractors, whether for labor performed or materials furnished, within thirty days after such Subcontractor receives a payment from the Contractor which encompassed labor or materials furnished by such Subcontractor.

**TOWN OF BERLIN, CONNECTICUT  
ATTACHMENT A: PROPOSER'S STATEMENT OF REFERENCES & STATEMENT OF  
QUALIFICATIONS**

**Main Street Streetscape Project  
Bid # 2020-**

Provide at least three (3) references:

1. BUSINESS NAME

\_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

INDIVIDUAL CONTACT NAME AND POSITION \_\_\_\_\_

\_\_\_\_\_

2. BUSINESS NAME

\_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

INDIVIDUAL CONTACT NAME AND POSITION \_\_\_\_\_

\_\_\_\_\_

3. BUSINESS NAME

\_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

INDIVIDUAL CONTACT NAME AND POSITION \_\_\_\_\_

\_\_\_\_\_



**TOWN OF BERLIN, CONNECTICUT**  
**STATEMENT OF BIDDER'S QUALIFICATIONS**

**(To be submitted by the Bidder with the Bid)**

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary questions may be answered on separate attached sheets. The Bidder may submit any additional information it desires.

1. Name of Bidder: \_\_\_\_\_

2. Bidder's Tax Identification Number: \_\_\_\_\_

3. Permanent Main Office Address: \_\_\_\_\_

\_\_\_\_\_

4. When Organized: \_\_\_\_\_

5. Organizational structure of business entity (select one):

\_\_\_\_\_ General partnership (GP)

\_\_\_\_\_ Limited partnership (LP)

\_\_\_\_\_ Limited liability corporation (LLC)

\_\_\_\_\_ Limited liability partnership (LLP)

\_\_\_\_\_ Corporation

\_\_\_\_\_ Individual doing business under a trade name (sole proprietor)

\_\_\_\_\_ Other (specify)

6. If a Corporation, Where Incorporated: \_\_\_\_\_

7. How many years have you been engaged in construction under your present firm or trade name: \_\_\_\_\_

8. Contracts on hand: (Schedule these, showing gross amount of each Contract and the appropriate anticipated dates of completion).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

General character of work performed by you:

---

9. Have you ever failed to complete any work awarded to you? If so, where and why:

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10. Have you ever been declared to be in default on a Contract? If so, where and why.

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11. List up to six past contracts of this type/size your firm has completed within the last three (3) years:

Project	Date	Contact Person	Phone No.

12. List your major equipment available for this Contract.

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13. Experience in work similar in importance to this project.

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19. Based on the organizational structure of your business, provide a current listing of all corporate officers, principals, general or managing partners, limited partners, managers and members. If sole proprietorship or general partnership, attach trade name certificate filed with the town clerks office.
20. Submit copies of all required business (trade and occupational) licenses with your response.
21. Your company may be asked to submit information relative to your company's financial statements and/or a Dun & Bradstreet report may be obtained prior to receiving an award. This information will be protected to the fullest extent required by law.
22. Additional information/documentation may be requested subsequent to your responding to this solicitation.
23. The undersigned hereby authorizes and requests any persons, firm, or corporation to furnish any information requested by the Town of Berlin in verification of the recitals comprising this statement of the Bidder's qualifications.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
(Name of Bidder)

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

Title: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) SS

County of \_\_\_\_\_ )

\_\_\_\_\_ being duly sworn,

deposes and says that he/she is \_\_\_\_\_ of  
\_\_\_\_\_ and that

he/she answers to the foregoing questions and all statements therein are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_





**TOWN OF BERLIN, CONNECTICUT  
ATTACHMENT C:  
NON-COLLUSIVE BID STATEMENT**

**Main Street Streetscape Project**  
**Bid # 2020-22**

The undersigned bidder, having fully informed itself regarding the accuracy of the statements herein, certifies that:

- (1) The bid has been arrived at by the bidder independently and has been submitted without collusion with, and without any agreement, understanding, or planned common course of action with, any other vendor or bidder of materials, supplies, equipment, or services described in the invitation to bid, designed to limit independent bidding or completion, and
- (2) The contents of the bid have not been communicated by the bidder or its employees or agents to any person not any employee or agent of the bidder or its surety on any bonds furnished with the bid and will not be communicated to any such person prior to the official opening of the bid.

The undersigned bidder further certifies that this statement is executed for the purposes of inducing the Town of Berlin to consider the bid and make an award in accordance therewith.

\_\_\_\_\_  
Legal Name of Bidder

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

\_\_\_\_\_  
Signature and Title of Person  
Authorized to Sign

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**ATTACHMENT D: BID CHRO-CONTRACT**  
**COMPLIANCE REGULATIONS NOTIFICATION TO**  
**BIDDERS**

The contract to be awarded is subject to contract compliance requirements mandated by Sections 4a-60 and 4a-60a of the Connecticut General Statutes; and, when the awarding agency is the State, Sections 46a-7 I (d) and 46a-81i (d) of the Connecticut General Statutes. There are Contract Compliance Regulations codified at Section 46a-68j-21 through 43 of the Regulations of Connecticut State Agencies which establish a procedure for the awarding of all contracts covered by Sections 4a-60 and 46a-71(d) of the Connecticut General Statutes.

According to Section 46a-68j-30 (9) of the Contract Compliance Regulations, every agency awarding a contract subject to the contract compliance requirements has an obligation to "aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials." "Minority business enterprise" is defined in Section 4a-60 of the Connecticut General Statutes as a business wherein fifty-one percent or more of the capital stock, or assets belong to a person or persons: "(1) who are active in daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Section 32-9n. "Minority" groups are defined in Section 32-9n of the Connecticut General Statutes as "(1) Black Americans ... (2) Hispanic Americans ... (3) persons who have origin in the Iberian Peninsula .. (4) Women. (5) Asian Americans and Pacific Islanders; (6) American Indian." An individual with a disability is also a minority business enterprise as provided by Section 32-9e of the Connecticut General Statutes. The above definitions apply to the contract compliance requirements by virtue of Section 46a-68j-21 (11) of the Contract Compliance Regulations.

The awarding agency will consider the following factors when reviewing the bidder's qualifications under the contract compliance requirements:

- (a) the bidder's success in implementing an affirmative action plan;
- (b) the bidders success in developing an apprenticeship program complying with Sections 46a-68-1 to 46a-68-17 of the Regulations of Connecticut State Agencies, inclusive;
- (c) the bidder's promise to develop and implement a successful affirmative action plan;
- (d) the bidder's submission of EE0-1 data indicating that the composition of its workforce is at or near parity when compared to the racial and sexual composition of the workforce in the relevant labor market area; and
- (e) the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises. See Section 46a-68j-30(1O)(E) of the Contract Compliance Regulations.

\*INSTRUCTION: Bidder must sign acknowledgment below, and return acknowledgment to Awarding Agency along with bid proposal.

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The undersigned acknowledges receiving and reading a copy of the "Notification to Bidder's" forms.

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Signature and Title

Date

---

On behalf of

The undersigned acknowledges receiving and understanding a copy of Addenda that may have been issued prior to bidding.

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---

Signature and Title

Date

---

On behalf of

Addendum#

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<hr/>	<hr/>
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PROJECT NAME

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PROJECT NO.



**ATTACHMENT E: STATE OF CONNECTICUT  
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT  
CONTRACT COMPLIANCE DATA FORM  
To be submitted subsequent to award**

(IF your organization files a Federal EEO-1 or EEO-4 form, substitute it for this form.)

1. PRIME CONTRACTOR (Name) \_\_\_\_\_ PRINCIPAL OFFICER (Name) \_\_\_\_\_ (Title) \_\_\_\_\_

ADDRESS (Street) \_\_\_\_\_

(TOWN) \_\_\_\_\_

(ZIP) \_\_\_\_\_

Use figures for pay period ending nearest 15th of previous month.

JOB Categories	OVERALL Totals Male/Female	A. WHITE (Non-Hispanic) Male/Female	B. BLACK (Non-Hispanic) Male/Female	C. HISPANIC Male/Female	D. OTHER Male/Female
Officials & Managers					
Professionals					
Technicians					
Sales Workers					
Office & Clerical					
Craft Workers (skilled)					
Operatives (semi-skilled)					
Laborers (unskilled)					
Service-Workers					
TOTALS ABOVE					
TOTALS ONE YEAR AGO					
APPRENTICES					

Is the composition of your work force at or near parity when compared to the racial and sexual composition of the work force in the relevant labor market areas? Yes [ ] No [ ]

Does the contractor promise to set aside a portion of the contract for legitimate minority business enterprises? Yes  No

CONTRACTOR'S AUTHORIZED SIGNATURE

DATE

**ATTACHMENT F: CONTRACTOR'S MINORITY BUSINESS  
ENTERPRISES UTILIZATION FORM**

**To be submitted subsequent to bid award**

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NAME AND ADDRESS OF AWARDING AGENCY: NAME AND ADDRESS OF  
CONTRACTOR:

---

PROJECT NO. \_\_\_\_\_  
DATE AWARDED \_\_\_\_\_  
DATE BID OPENED \_\_\_\_\_

---

NOTICE TO CONTRACTORS: Under Section 4-114a-5 of the Contract Compliance Regulations, contractors are required to make GOOD FAITH EFFORTS to employ Minority Business Enterprises (MBEs) as subcontractors and suppliers of materials on all projects subject to compliance requirements. The contract, which is referenced above, is subject to contract compliance requirements.

INSTRUCTIONS: List the name and addresses of all MBEs you have selected as subcontractors and suppliers of materials for this project. If the MBEs selected as subcontractors and suppliers of materials meet the criteria for MBEs set out in Section 4-114a of the Connecticut General Statutes, contractors **MUST COMPLETE** the attached affidavit. If such businesses are not currently registered with the Department of Administrative Services and if the contractor wishes the Commission on Human Rights and Opportunities (CHRO) to consider favorably the selection of an unregistered MBE in the evaluation of the contractor's good faith efforts, contractors **MUST** complete the attached affidavit. In either case, the affidavit must be filled out in triplicate, with the original sent to the CHRO, Contract Compliance Unit, 90 Washington Street, Hartford, CT 06106; one copy sent to the Awarding Agency; one copy retained by contractor. If the Contractor does not wish the CHRO to consider selection of an unregistered MBE in its evaluation of the contractor's good faith efforts, no affidavit need be made.

(Attach additional pages if necessary, using same headings)

NAME AND ADDRESS OF MBE SUBCONTRACTOR (S) OR SUPPLIER(S) OF MATERIALS:	Check here if MBE(s) qualify under Section 4-114a of the C.G.S.	Check here if MBE is unregistered but wants to be considered for good faith efforts.
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This form developed pursuant to Section 4-114a-5 of the Contract Compliance Regulations.

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**ATTACHMENT G: AFFIDAVIT**  
**To be submitted subsequent to bid award**

I, \_\_\_\_\_, acting on behalf of \_\_\_\_\_,  
(Name of person signing certification) (Contractor)

of which I am the \_\_\_\_\_, certify and affirm:  
(Title)

     Check if provision applicable:

THAT the following Minority Business subcontractors and/or suppliers of materials that  
\_\_\_\_\_ has hired for Contract No. \_\_\_\_\_  
(Contractor)

with \_\_\_\_\_, meet the criteria for Minority Business  
(Awarding Agency)

Enterprises that qualify under current statutory requirements. List of

names of registered SBEs/MBEs:

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

     Check if provision applicable:

THAT \_\_\_\_\_ has hired the following Minority Business subcontractors or  
(Contractor)

suppliers of materials for Contract No. \_\_\_\_\_ with \_\_\_\_\_,  
(Awarding Agency)

that are not registered with the Department of Administrative Services, but which should be considered by the Connecticut Commission on Human Rights and Opportunities when evaluating the \_\_\_\_\_ good faith efforts:  
(Contractor)

List of names of unregistered SBE'S/MBEs:

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

I further certify and affirm that I have read and understand the contract compliance requirements codified at Section 4a-60 and Section 46a-71(d) of the Connecticut General Statutes.

I further certify and affirm that I have read and understand the Contract Compliance Regulations codified at Section 4a-60-1 and the following Regulations of Connecticut State Agencies.

I understand that false statements made herein are punishable at law.

\_\_\_\_\_  
(Name of Corporation or Firm)

\_\_\_\_\_  
(Signature and Title of Official Making the Affidavit)

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Notary Public/Commissioner of the Superior Court

My Commission Expires \_\_\_\_\_

APPENDIX H  
STATE OF CONNECTICUT  
Certificate of Compliance with  
Connecticut General Statute Section 31-57b

\*\*\*\*\*

hereby certify that all of the statements herein contained below have been examined by me, and to the best of my knowledge and belief are true and correct.

The \_\_\_\_\_ **HAS / HAS NOT**  
*Company Name* *(Cross out Non-applicable)*

been cited for three or more willful or serious violations of any occupational safety and health act or of any standard, order or regulation promulgated pursuant to such act, during the three year period preceding the bid, provided such violations were cited in accordance with the provisions of any state occupational safety and health act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency or court having jurisdiction or **HAS / HAS NOT** received one or more criminal convictions related to the injury or death of any employee in the three year period preceding the bid.

The list of violations (if applicable) is attached.

\_\_\_\_\_  
*(Name of Firm, Organization or Corporation)*

Signed: \_\_\_\_\_  
*Written Signature:*

\_\_\_\_\_  
*Name Typed: (Corporation Seal)*

Title: \_\_\_\_\_  
*(Title of Above Person, typed)*

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

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )      ss:                      A.D., 20\_\_\_\_\_

Sworn to and personally appeared before me for the above, \_\_\_\_\_,  
*(Name of Firm, Organization or Corporation)*

Signer and Sealer of the foregoing instrument and acknowledged the same to be the free act and deed of

\_\_\_\_\_, and his/her free act and deed as  
*(Name of Person appearing in front of Notary or Clerk)*

\_\_\_\_\_  
*(Title of Person appearing in front of Notary or Clerk)*

My Commission expires:

\_\_\_\_\_  
*Notary Public                      Sea*

APPENDIX I – WAGE RATES (to be added)

Contractor must pay State Prevailing Wages as per the wage rates delineated herein.



APPENDIX J – SIGN REQUIREMENT



MAIN STREET STREETScape 

TOWN OF BERLIN

Constructed in cooperation with the

STATE OF CONNECTICUT  
NED LAMONT, GOVERNOR

Department of Economic and Community Development  
David Lehman, Commissioner

and the  
TOWN OF BERLIN  
MARK KACZYNSKI, MAYOR

Name of Architect

Name of General Contractor

**SIGN PANEL:** 3/4" MDO-EXT-APA PLYWOOD SUPPORTED WITH (2) 4X4 TREATED WOOD COLUMNS AND SECURED 4' INTO GRADE. TOP OF SIGN AT 8'-0" ABOVE GRADE.

**COLORS:** ALL LETTERS AND SYMBOLS ARE TO BE ROYAL BLUE. THE BACKGROUND WILL BE WHITE ENAMEL. BACK OF PLYWOOD AND SUPPORT STRUCTURE SHALL BE PAINTED MATTE BLACK.

**TYPEFACE:** HELVETICA MEDIUM

**LOCATION:** SIGN MUST BE LOCATED TO BE CLEARLY VISIBLE TO THE PUBLIC.

**TIMING:** INSTALL AT THE START OF CONSTRUCTION AND REMOVE AT CONSTRUCTION COMPLETION.

**STATE SEAL & DECD LOGO:** TO BE PROVIDED