

PURCHASING DEPARTMENT

The bid listed below has had addenda issued. Documents are available over the Internet at <http://www.norwalkct.org> Adobe Acrobat reader is required to view this document. If you do not have this software you may download it free from Adobe. The document number to request will be the same as the project number indicated below.

Project #	Addendum #	# of Pages	Original Issue Date
3896	1	24	January 25, 2019

Addendum Issued Date	February 8, 2019		
Project Number	3896		
Addenda Number	1		
Deadline	2:00PM	February 21, 2019	
Project Title	Testing and Inspection for the Ponus Ridge School Addition and Renovation Project (State # SCG No.103-0246 EA/EC/CV)		

This Addendum is a contract document modifying previously issued documents, which remain in full force except as specifically modified below.

Quotations appearing on the Proposal are to reflect the provisions of this Addendum. Failure to acknowledge receipt of this Addendum in the space provided on the response sheet may subject candidate to disqualification.

NEW INFORMATION:

Adding 1.3 Sample Contract and 1.4 Insurance requirements for this project.

RESPONSE TO QUESTION:

Question: Under “Special Cases (Post Installed Anchors)”. Will the inspection be pull testing of the anchors or inspection of the installation of the anchors?

Response: The requirement is for installation of the anchors. (i.e. depth of hole, hole clean out, anchor type, anchor embedment depth, adhesive type). Pull tests would only be required if an anchor is in question or if it was not observed being installed. That would be an additional test required because of a deficiency and not part of the submitted SI schedule.

1.3 SAMPLE CONTRACT

“The following document is the City’s standard professional engineering contract. Please be advised that the substantive terms and requirements outlined therein may be revised only with the approval of Norwalk’s Corporation Counsel.”

**AGREEMENT
BY AND BETWEEN
CITY OF NORWALK
AND
«VendorName» FOR
«Project»**

THIS AGREEMENT, entered into this ____ day of _____, 2019, by and between the **CITY OF NORWALK**, a municipal corporation organized and existing under the laws of the State of Connecticut, acting herein by Harry W. Rilling, its Mayor, duly authorized (hereinafter referred to as the "CITY"), and **«VendorName»**, a professional engineering firm licensed to practice in the State of Connecticut under the provisions of Section 20-306a of the General Statutes of the State of Connecticut, and having offices at «VendorAddress1» «VendorAddress2», «VendorCity», «VendorState» «VendorZip», acting herein by «VendorContactFirstName» «VendorContactMiddleName», «VendorContactLastName», its duly authorized «VendorContactTitle» (hereinafter referred to as the "ENGINEER").

WITNESSETH THAT:

WHEREAS, the CITY has determined that it needs professional engineering services to provide comprehensive design services, plans, specifications and project oversight for _____ (hereinafter, the "Project"); and

WHEREAS, the CITY has selected the ENGINEER based on the ENGINEER’s representations that it is qualified and capable of performing the necessary services in a professional and timely manner, in order to meet the CITY’s needs and requirements; and

WHEREAS, the ENGINEER has agreed to perform the required services in accordance with the terms and requirements set forth herein, in a diligent, professional and timely manner; and

WHEREAS, the compensation to be paid to the ENGINEER under this Agreement is comparable to the compensation paid for similar services within the State of Connecticut.

NOW, THEREFORE, the CITY and the ENGINEER, for the

consideration and based on the terms and conditions of this Agreement, hereby agree as follows:

Article 1. Employment of the Engineer

101. The CITY hereby engages the ENGINEER and the ENGINEER hereby agrees to perform the services hereinafter set forth. The principal in charge of the services to be performed by the ENGINEER pursuant to this Agreement shall be _____, or such other qualified person designated by the ENGINEER in writing and approved by the CITY.

102. The CITY's Director of _____, or his designated representative (hereinafter, the "Director"), will oversee the performance of the Project under this Agreement on behalf of the CITY. The Department of Public Works shall be referred to herein as the "Department."

103. A. The CITY intends to secure the personal services of the ENGINEER'S experienced, licensed and competent employees, acceptable to the CITY. Failure of the ENGINEER for any reason to make such employees available to the extent necessary to complete the Project in compliance with this Agreement in a reasonably skillful, professional, and prompt manner shall be cause for termination of this Agreement. All persons engaged in the services required under this Agreement shall either themselves be properly authorized, licensed, and permitted under State law to perform such services or shall be directly supervised by such an individual as set forth in Chapter 391 of the Connecticut General Statutes.

Article 2. Scope of Services

201. A. The scope and details of the services to be performed by the ENGINEER under this Agreement are outlined in Section 1 - Project Specifications, set out in the CITY's Request for Proposals dated _____, and Addendum No. 1 dated _____, together with the ENGINEER's Proposal for Engineering Services, dated _____, copies of which are attached hereto and made a part of this Agreement as **Exhibits A, A-1 and B**, respectively (hereinafter, "the Services").

B. The ENGINEER shall not commence performance of any Services, nor shall it incur any charges in connection therewith, until such time as it receives written authorization from the Director to do so. Upon receipt of such notice to proceed, the ENGINEER shall immediately commence its performance and diligently perform same in order to complete the Project by the date set forth in Article 4 hereof.

C. The CITY may, from time to time, request changes in the Services to be performed by the ENGINEER hereunder. Any such change, including any increase or decrease in the Services to be performed and the corresponding amount of compensation to be paid therefor shall be mutually agreed upon by and between the CITY and the ENGINEER, and shall be incorporated in a written amendment to this Agreement signed by both parties.

202. The ENGINEER warrants to CITY that it will perform its Services under this Agreement in accordance with the generally prevailing standards of care and practices of its profession. The ENGINEER assumes full and complete responsibility for the accuracy and appropriateness of all products of its Services and that of any subconsultants utilized under this Agreement. It shall so indicate this by having the signature and the Connecticut Professional Engineer's Seal of each engineer used to perform Services hereunder affixed on the title sheet(s) of all plans and/or documents. The ENGINEER shall also be responsible for verifying the accuracy of all information and documents provided to it by the CITY upon which it may rely upon in performing its Services hereunder. Failure of the plans, designs or documents produced by the ENGINEER to conform to applicable laws, regulations and professional standards shall be considered negligence on the part of and a breach by the ENGINEER for purposes of this Agreement.

203. In performing the Services required under this Agreement the ENGINEER shall be responsible for ensuring that all plans, designs and other documents submitted by it in connection with the Project shall conform to all applicable provisions of Federal, State and local laws and regulations, especially those requirements necessary to obtain approval of the design documents by governing bodies having authority over the Project including the State of Connecticut.

204. In performing the Services, the ENGINEER shall meet with staff representatives of the Department as often as reasonably necessary and shall also be available upon request to meet and consult with members and staff of various departments of the CITY and with other persons or entities, including Federal or State officials.

205. All plans, drawings and documents prepared by the ENGINEER pursuant to this Agreement shall be submitted to the Department for review and approval by the CITY as being in conformity with the Project's needs and requirements. The CITY shall review materials submitted by the ENGINEER within a reasonable period of time. In the event the CITY disapproves of any of the submitted materials, or any portion thereof, or requires additional, modified or substituted material in order to properly review the

submission, the ENGINEER shall revise such disapproved work and submit the revised, additional, modified or substituted materials to the CITY for its review and approval, which approval shall not be unreasonably withheld. Such revisions shall be performed by the ENGINEER at its sole cost if the submitted materials are disapproved due to the negligence of the ENGINEER, or the failure of the ENGINEER's Services to conform either to reasonable standards within the profession, the terms and requirements set out in this Agreement to the applicable provisions of federal, state and local laws, relevant standards, regulations and requirements described in paragraph 202 of this Agreement, or to the scope of Services and the standards and requirements of this Agreement. Notwithstanding the above described review by the CITY the ENGINEER shall be and remain responsible for all aspects of its Services hereunder and shall indemnify the CITY for any negligence in connection therewith as stated herein.

206. Unless otherwise specified in the Agreement, all written materials required to be submitted under this Agreement shall be submitted in three (3) copies. With respect to full-size plans and drawings, the ENGINEER shall submit one (1) signed and sealed black line print thereof sealed and with original ENGINEER's signature. In addition, the ENGINEER shall provide all documents, both written and drawings, in electronic format.

207. A. All of the materials prepared by the ENGINEER under this Agreement, including any partially completed documents, shall be sole and exclusive property of the CITY. The ENGINEER shall label all drawings and documents accordingly. The CITY shall use materials prepared by the ENGINEER under this Agreement solely for the purpose of bidding and construction for the Project. The ENGINEER, only upon prior written approval by the CITY, may publish materials prepared under this Agreement.

B. Notwithstanding the foregoing or anything in this Agreement to the contrary, the CITY acknowledges that the Drawings and Data developed in the performance of this Agreement are not intended or represented to be suitable for use or reuse by the CITY or others on any other project without written verification or adaptation by the ENGINEER.

208. The ENGINEER agrees that it shall preserve all of its records and accounts concerning the performance and implementation of this Agreement for a period of six (6) years after final payment is made under this Agreement. If any litigation, claim or audit, directly or indirectly pertaining to the Project or the ENGINEER's Services in connection therewith, is started before the expiration of the six (6) year period, the records shall be retained until all litigations, claims or audit findings involving the records have been finally resolved.

209. Additional Services

A. Additional Services beyond the scope of this Agreement shall be performed by the Engineer only with the prior written authorization of the Director and pursuant to a written Amendment to this Agreement signed by the parties hereto. The CITY shall not be liable to the ENGINEER for the cost of any Additional Services performed outside of or without such a signed Amendment to this Agreement.

Additional Services under this Agreement may include, but are not limited to the following:

1. Providing special overnight courier service, and reproduction of design and construction documents in excess of the number of copies required herein.
2. Preparation of special presentation materials such as detailed presentation models or renderings.
3. Special testing services.
4. Services in addition to those described in Article 2.

The ENGINEER agrees that, should the scope of the Services be reduced, such reduction will be reflected in a commensurate reduction of the amount of compensation paid to the ENGINEER hereunder.

Article 3. CITY's Responsibilities

301. The CITY shall provide the ENGINEER with all information in its possession regarding requirements for the Project and shall use its best efforts to obtain such other information as may be needed by the ENGINEER to perform the Services required under this Agreement. If necessary, the CITY shall assist the ENGINEER in obtaining any other information necessary for the Project. However, the CITY shall not be responsible for and shall not warrant the accuracy or content of any of the information or data set forth in the documents that it provides or assists the ENGINEER in obtaining. The ENGINEER expressly agrees that it shall make no claim against the CITY for any alleged damages arising out of the information or data provided or obtained by the CITY. The ENGINEER shall be responsible at its own expense to make all reasonable and necessary field inspections and to perform such other tasks needed to verify all information provided or obtained by the CITY.

Article 4. Time Provisions

401. Commencing with the date hereof, this Agreement shall remain in full force and effect, unless earlier terminated, until all Services required under this Agreement have been completed by the ENGINEER and accepted by the CITY.

402. The ENGINEER shall complete the Services to be performed under Article 2 in accordance with the timeline set out in Section 1 of Exhibit A.

Construction and Bidding Phase Services shall commence with the advertisement for bids and shall continue throughout the construction of the Project until its final completion by the construction contractor and the acceptance of the Project by the CITY.

403. The CITY may, by a written statement signed by the Director, extend the time for performance of the Services hereunder beyond the period stipulated above when the ENGINEER has been delayed for reasons beyond its control. In the event that the CITY extends the time for performance beyond one (1) year from the date for completion specified in Section 402, the ENGINEER and the CITY may renegotiate the compensation payable hereunder on the basis of current conditions.

Article 5. Compensation

501. Payment for Engineering Services

A. The CITY shall compensate the ENGINEER for the satisfactory performance of the professional services set forth in Article 2 based on the fee breakdown set out in the Pricing Response Form incorporated into Exhibit B. The total fees payable hereunder shall not exceed _____ **DOLLARS AND NO CENTS (\$_____ .00).**

B. In addition to professional fees, the CITY shall reimburse the ENGINEER for certain direct expenses incurred in connection with the performance of the Services hereunder. Reimbursable costs directly related to the ENGINEER's Services shall only be paid by the CITY if incurred with the specific, prior written approval of the Director for each expense.

C. The total amount of professional fees and reimbursable expenses payable hereunder shall not exceed _____ **DOLLARS AND NO CENTS (\$_____ .00).**

D. Method of Compensation

(i) For the Services performed under this Agreement,

the CITY shall pay the ENGINEER on the basis of an itemized invoice, certified by a principal of the ENGINEER, setting forth the Services performed, the percentage of completion of the Project that has been accomplished by the Services covered by the invoice, and the compensation due the ENGINEER based upon the calculation of payment set forth in Section 501. The CITY may, prior to making any payment under this Section, require the ENGINEER to submit such additional information as is reasonable.

(ii) After completion of all components of the Project, the ENGINEER shall submit an invoice for one hundred percent (100%) completion of engineering Services under this Agreement. Compensation previously paid shall be adjusted to reflect additions or deductions based upon final accounting of all invoices for work performed in accordance with the provisions of Section 501. Payment of such adjustments shall not be deemed to require an amendment to this Agreement, with the one exception that the maximum payment specified in Section 501 shall not be exceeded without an amendment to this Agreement. Acceptance by the Engineer of final payment for the Services performed under this Agreement shall constitute a full and complete release of the CITY, its officers and agents, of all claims, demands and liabilities to the ENGINEER related to this Agreement.

E. The parties acknowledge that no payment (final or otherwise) made under or in connection with this Agreement shall be conclusive evidence of the proper performance of the Services or of this Agreement by the ENGINEER, in whole or in part, and no such payment shall be construed to be an acceptance of defective, faulty or improper Services nor shall it release the ENGINEER from any of its obligations under this Agreement.

Article 6. Subcontracting and Assignments

601. The ENGINEER shall not subcontract any portion of the Services to be performed hereunder unless the prior written consent of the Director is given for both the Services to be subcontracted and the subcontractor to perform the same. The CITY acknowledges that the ENGINEER has assembled a team of professional engineers who will be subcontracted to perform certain services related to the Project as set out in Exhibit B. With regard to all approved subcontractors and subconsultants, the ENGINEER agrees to cooperate as fully as possible with the CITY and any and all such subcontractors and subconsultants in the interests of the Project. Notwithstanding any subcontracting or subconsultant arrangement, the ENGINEER shall be as fully responsible to the CITY for all acts and omissions of its subcontractors and subconsultants as it is for the acts and omissions of its direct employees and shall require all subcontractors or subconsultants to agree in a written contract

to observe and be bound by all obligations and conditions of this Agreement to which ENGINEER is bound hereby, including the requirements regarding insurance and indemnification. The ENGINEER agrees that each subcontractor Agreement entered into in connection with the Services shall preserve and protect the rights of the CITY hereunder.

602. The ENGINEER shall not assign, sell, transfer, delegate or encumber any rights, duties or obligations arising under this Agreement including, but not limited to, any right to receive payments hereunder, without the prior written consent of the CITY, which will be given in its sole discretion. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. In the event the ENGINEER assigns, sells, encumbers or otherwise transfers its rights to any monies due or to become due under this Agreement as security for any loan, financing or other indebtedness (herein "Assignment"), notification to the CITY of such Assignment must be sent by certified mail, return receipt requested, and the Assignment shall not be effective as against the CITY until the CITY provides its written consent to such Assignment.

603. The ENGINEER agrees that no Assignment or subcontract shall relieve the ENGINEER of any of its duties, responsibilities or obligations under this Agreement and shall not create a contractual relationship or a third party beneficiary relationship of any kind between the CITY and any assignee or transferee. The ENGINEER further agrees that all of the CITY's defenses and claims arising out of this Agreement with respect to any Assignment are reserved unless expressly waived in writing by its Corporation Counsel. The ENGINEER hereby agrees to indemnify, defend and hold harmless the CITY from and against any and all losses, costs, expenses or damages that the CITY has, or may incur in connection with any such Assignment.

Article 7. Insurance

701. The Engineer agrees to obtain at its own cost and expense all insurance required by the attached Insurance Rider and to keep the same in continuous effect for a period of three (3) years following the date on which the Director indicates the termination of the Engineer's responsibilities hereunder. Before commencing the Services, the Engineer shall furnish to the CITY a certificate of insurance, and shall thereafter provide renewal certificates, as appropriate, evidencing such coverage written by a company or companies acceptable to the CITY. Each insurance policy shall be endorsed to name the City of Norwalk and the State of Connecticut as additional insured parties and shall provide that the insurance company providing coverage shall notify the CITY by certified mail at least thirty (30) days prior

to the effective termination of or any change in the policy or policies providing coverage. No change in the coverage provided hereunder shall be made without the prior written approval of the Director.

All insurance shall be taken out and maintained at no cost or expense to the CITY and the ENGINEER shall be responsible for the full amount of any deductible.

Failure of the ENGINEER to maintain insurance coverage in accordance with the terms of the Agreement shall constitute a violation of the Agreement and shall subject the ENGINEER to liquidated damages in the amount of ten percent (10%) of the total contract price, subject to the continued commercial availability of such insurance.

Article 8. Indemnification

801. The ENGINEER expressly agrees to that it shall at all times indemnify, defend and save harmless and that it shall require its own contractors, subcontractors, officers, agents, principals, representatives, consultants and employees (the ENGINEER's Parties) to indemnify, defend and save harmless the City of Norwalk and its respective officers, agents and employees, from and against any and all demands; claims; damages; losses; litigation; financial costs and expenses, including counsel's fees; and compensation related to personal injuries (including death), any damage to property, real or personal, and any other loss, expense or aggrievement directly or indirectly arising from, related to or connected with the Project and the Work to be performed hereunder by the ENGINEER, its employees, agents, subcontractors, material suppliers, or anyone directly or indirectly employed by any of them. The ENGINEER shall and does hereby assume and agree to pay for the defense of all such claims, demands, suits, proceedings and litigation. The provisions of this paragraph shall survive the expiration or early termination of this Agreement; shall be separate and independent of any other provision or requirement of this Agreement; and shall not be limited by reason of any insurance coverage provided hereunder. The CITY may withhold from any payment due or to become due to the ENGINEER an amount sufficient in its judgment to protect and indemnify the CITY, its officers, agents, servants and employees from and against any and all such claims and liabilities described above.

The ENGINEER and the ENGINEER's Parties' duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of this Agreement and any extension thereof, without being lessened

or compromised in any way, even where the ENGINEER and the ENGINEER's Parties are alleged or found to have merely contributed in part to the actions or omissions giving rise to the claims and/or where the CITY is alleged or is found to have contributed to the actions or omissions giving rise to the claims.

Nothing in this provision, or elsewhere in this CONTRACT, shall be deemed to relieve the ENGINEER of its duty to defend the CITY or any Indemnified Party, as specified in this Contract, pending a determination of the respective liabilities of the ENGINEER, the CITY, or any Indemnified Party, by legal proceeding or agreement.

In furtherance to but not in limitation of the indemnity provisions in this Agreement, ENGINEER hereby expressly and specifically agrees that its obligation to indemnify, defend and save harmless the CITY as provided in this Agreement shall not in any way be affected or diminished by any statutory or constitutional immunity it enjoys from suits by its own employees or from limitations of liability or recovery under workers' compensation laws.

Article 9. Termination

901. The CITY may at any time and for any reason, including the termination of the Project by the State or withdrawal of funding by the State, terminate this Agreement for convenience by written notice specifying the termination date, which shall be not less than seven (7) days from the date such notice is given. In the event of such termination, completed Services shall be paid for in such amount as shall compensate the ENGINEER for the portion of the Services satisfactorily completed prior to termination. Such compensation shall not, however, include unabsorbed home office overhead or lost profits. The ENGINEER's compensation upon a termination for convenience shall be fixed by the CITY after consultation with the ENGINEER, and shall be subject to audit by the CITY's Comptroller. Termination under this section shall not give rise to any claim against the CITY for damages or for compensation in addition to that provided hereunder.

902. In the event the Director determines that there has been a material breach by the ENGINEER of any of the terms of the Agreement, or that the ENGINEER refuses or has failed to perform the required Services or any part thereof in a timely, professional and diligent manner as will ensure its completion in accordance with the requirements hereof, the CITY has the right, power and authority to terminate this Agreement for cause upon providing the ENGINEER three (3) days written notice. By the terms of this Agreement, the CITY may, but is not obligated to, provide the ENGINEER with the opportunity to cure the breach

before the termination becomes effective. In the event the CITY terminates the Agreement for cause, the ENGINEER shall be obligated to pay the CITY for any losses, damages, costs and expenses, including attorneys' fees, sustained or incurred thereby.

903. For the purpose of completing the Project, the CITY may, for itself or for any of its Engineers, take possession of and use or cause to be used any and all documents, plans and specifications or other items that may have been used or drawn up in connection with the performance of this Agreement. This right is in addition to any other right or remedy the CITY may otherwise have.

904. In the event of a termination for cause, all costs, expenses, losses, damages, attorneys' fees, and any and all other charges incurred by the CITY under this Agreement shall be charged to the ENGINEER and deducted and/or paid by the CITY out of any monies due or payable or to become due or payable under this Agreement to the ENGINEER. If any such costs exceed the sum due or to become due to the ENGINEER, then, upon demand, the ENGINEER shall pay the excess amount to the CITY. In computing the amounts chargeable to the ENGINEER, the CITY shall not be held to a basis of the lowest prices for which the completion of the Services or any part thereof, but it shall charge to the ENGINEER, and the ENGINEER shall be liable for all sums actually paid and expenses actually incurred in affecting prompt completion of the Project hereunder. The CITY's rights described herein are in addition to any other rights and remedies provided by law.

905. Termination under this section shall not give rise to any claim against the CITY for damages or compensation in addition to that provided hereunder.

Article 10. General Provisions

1001. The CITY may at any time, and for any reason, direct the discontinuance of the Services contemplated under this Agreement. Such direction shall be in writing and shall specify the period during which the Services shall be discontinued. The Services shall be resumed on the dates specified in such direction, or upon such other date as the CITY may thereafter specify in writing. The period during which such Services are discontinued shall be deemed added to the time for performance. In the event that the CITY directs the discontinuance of the Services hereunder for a period of time in excess of one (1) year, through no fault of the ENGINEER, the parties may negotiate an adjustment in the fees payable hereunder due to a rise in the cost of

performance. Discontinuance of Services under this Article shall not give rise to any claim against the CITY.

1002. ENGINEER shall not assert any claim arising out of any act or omission by any agent, officer or employee of the CITY in the execution or performance of this Agreement, against any such agent, officer or employee individually. Such claims may be made against the CITY.

1003. No member of the governing body of the CITY, and no other officer, employee, or agent of the CITY shall have any personal interest, direct or indirect, in this Agreement, except as permitted by the Code of Ethics of the CITY of Norwalk. The ENGINEER covenants that no person having any such interest shall be employed in the performance of this Agreement.

1004. This Agreement shall be construed in accordance with the laws of the State of Connecticut, and any action or suit at law in connection herewith shall be brought in the Superior Court of the State of Connecticut, Judicial District Stamford/Norwalk.

1005. The ENGINEER shall comply with all applicable laws, ordinances and codes of any governmental body having jurisdiction over any matter related to this Agreement or the Services to be performed hereunder, and shall commit no trespass on any private property in performing any of the Services required by this Agreement.

1006. No right, power, remedy or privilege of the CITY shall be construed as being exhausted or discharged by the exercise thereof in one or more instances, and it is agreed that each and all of said rights, powers, remedies or privileges shall be deemed cumulative and additional and not in lieu of exclusive of any other right, power, remedy or privilege available to the CITY at or in equity.

1007. In case of conflict between the terms of this Agreement and the terms or requirements of documents mentioned herein, the stipulations contained in this Agreement shall govern.

1008. Each and every provision 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 such provisions and clauses were included herein. If, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then, upon the written consent of the parties, this Agreement shall forthwith be physically amended to make such insertion.

1009. The CITY and the ENGINEER each binds itself and its

successors and assigns to the other party and to such party's successors and assigns with respect to all covenants of this Agreement. The ENGINEER shall not assign or transfer any interest in this Agreement without the prior written approval of the CITY.

1010. If any provision of this Agreement is held invalid, the balance of the provisions of this Agreement shall not be affected thereby if the balance of the provisions of this Agreement would then continue to conform to the requirements of applicable laws.

1011. The ENGINEER warrants that it has no interest in the Project which is the subject matter of this Agreement and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the Services and duties hereunder. The ENGINEER further warrants that, in the performance of this Agreement, no person having any such interest shall be employed by it.

The ENGINEER represents and warrants that it has not employed or retained any person, other than a bona fide full time salaried employee working solely for the Engineer to solicit or secure this Agreement, and that it has not paid or agreed to pay any person (other than payments of fixed salary to a bona fide full time salaried employee working solely for the Engineer) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of this Agreement. The ENGINEER represents that no person or persons not named in the ENGINEER's qualification and proposal, have any financial or personal interest in the ENGINEER's performance hereunder.

For the breach or violation of this provision, without limiting any other rights or remedies to which the CITY may be entitled or any civil or criminal penalty to which any violator may be liable, the CITY shall have the right, in its discretion, to terminate this Agreement without liability, and to deduct from the payments to be made pursuant to this Agreement, or otherwise to recover the full amount of such fee, commission, percentage, gift or consideration.

During the performance of this Agreement, the ENGINEER agrees not to discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, physical disability or national origin.

1012. This Agreement and its Exhibits, when fully executed, constitute the entire understandings and agreements of the parties respecting the subject hereof and supersede any and all agreements, negotiations, communications, representations, commitments and writings made by the parties prior to the

execution of this Agreement, whether oral or written with respect to the subject matter hereof. No change or modification of this Agreement shall be valid unless it is in writing and signed by both parties hereto.

When the CITY shall have reasonable grounds for believing that:

A. The ENGINEER will be unable to perform the Services required under this Agreement fully, professionally, and satisfactorily within the time fixed for performance; or

B. A meritorious claim exists or will exist against the ENGINEER or the CITY arising out of the negligent, willful or wanton acts, errors or omissions of the ENGINEER, its agents, servants or employees, or the ENGINEER's breach of any provision of this Agreement;

then the CITY may withhold payment of any amount otherwise due and payable to the ENGINEER hereunder. Any amount so withheld may be retained by the CITY for such period as it may deem advisable to protect the CITY against any loss and may, after written notice to the ENGINEER, be applied in satisfaction of any claim herein described. This provision is intended solely for the benefit of the CITY, and no person shall have any right against the CITY or claim against the CITY by reason of the CITY's failure or refusal to withhold monies. No interest shall be payable by the CITY on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of the CITY.

1013. All notices of any nature referred to in this Agreement shall be in writing and sent by registered or certified mail, postage prepaid, to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing:

To the CITY: Department of Public Works
City Hall
125 East Avenue, P.O. Box 5125
Norwalk, Connecticut 06856-5125

With a copy to: Office of Corporation Counsel
City Hall
125 East Avenue, P.O. Box 5125
Norwalk, Connecticut 06856-5125

To the Engineer: «VendorContactFirstName»
«VendorContactMiddleName» «VendorContactLastName»,
«VendorContactTitle»

«VendorName»
«VendorAddress1» «VendorAddress2»
«VendorCity», «VendorState» «VendorZip»

1014. The ENGINEER represents to the CITY as follows:

A. That it has, and has exercised, the required corporate power and authority and has complied with all applicable legal requirements necessary to adopt, execute and deliver this Agreement and to assume the responsibilities and obligations created hereunder on behalf of the ENGINEER; and

B. That this Agreement is duly executed and delivered by a duly authorized representative, in accordance with such duly authorized representative's powers to bind the ENGINEER hereunder, and constitutes a valid and binding obligation enforceable in accordance with its terms, conditions and provisions.

1015. The CITY's hiring practices strive to comply with all applicable federal regulations regarding employment eligibility and employment practices. Thus, all individuals and entities seeking to do work for the CITY are expected to comply with all applicable laws, governmental requirements and regulations, including the regulations of the United States Department of Justice pertaining to employment eligibility and employment practices. The CITY reserves the right at its discretion, but does not assume the obligation to require proof of valid citizenship or, in the alternative, proof of a valid green card for each person employed in the performance of Services for the CITY. By reserving this right the CITY does not assume any obligation or responsibility to enforce or ensure compliance with the applicable laws and/or regulations.

By signing this Agreement the Engineer hereby certifies to the CITY of Norwalk that it is in compliance with all applicable regulations and laws governing employment practices.

IN WITNESS WHEREOF, the parties have caused four (4) counterparts of this Agreement to be executed as of the day and year first above written.

Signed, Sealed and Delivered
in the Presence of:

CITY OF NORWALK

By: _____

Harry W. Rilling
Its Mayor
Duly Authorized

Date Signed: _____

«VendorName»

By: _____

«VendorContactFirstName»

«VendorAuthorizerMiddleName»,

«VendorContactLastName»

Its «VendorAuthorizerTitle»

Duly Authorized

Date Signed: _____

APPROVED AS TO FORM:
OFFICE OF CORPORATION COUNSEL

By: _____

APPROVED AS TO
AVAILABILITY OF FUNDS:

By: _____
Comptroller

Date Signed: _____

INSURANCE RIDER

The Contractor shall provide and maintain insurance coverage related to its services in connection with the Project in compliance with the following requirements.

The insurance required shall be written for not less than the scope and limits of insurance specified hereunder, or required by applicable federal, state and/or municipal law, regulation or requirement, whichever coverage requirement is greater. It is agreed and understood that the scope and limits of insurance specified hereunder are minimum requirements and shall in no way limit or preclude the City from requiring additional limits and coverage to be provided under the Contractor's policies.

Minimum Scope and Limits of Insurance:

Workers' Compensation Insurance: With respect to all operations the Contractor performs, it shall carry Workers' Compensation Insurance in accordance with the requirements of the laws of the State of Connecticut.

Commercial General Liability: With respect to all operations the Contractor performs it shall carry Commercial General Liability insurance providing for a total limit of One Million Dollars (\$1,000,000) coverage per Occurrence for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification obligations arising under this Agreement. The Annual Aggregate limit shall not be less than Two Million Dollars (\$2,000,000).

Automobile Liability: With respect to each owned, non-owned, or hired vehicles the Contractor shall carry Automobile Liability insurance providing One Million Dollars (\$1,000,000) coverage per accident for bodily injury and property damage.

Umbrella/Excess Liability: With respect to all operations the Contractor performs, the insurance limits required can be provided with a combination of Umbrella or Excess Liability insurance that would "follow form" of the underlying required terms and conditions.

Errors and Omissions/Professional Liability: With respect to any damage caused by an error, omission or any negligent or wrongful act of the Contractor or any subcontractor or subconsultant in connection with any professional services performed under this Agreement the Contractor shall carry One Million Dollars (\$1,000,000) coverage per claim.

"Tail" Coverage: If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of the Project for a duration of twenty-four (24) months, or the maximum time period reasonably available in the marketplace. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for twenty-four (24) months following Project completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Agreement. If continuous "claims made" coverage is used, Contractor shall be required to keep the coverage in effect for a duration of not less than twenty-four (24) months from the date of final completion of the Project.

Acceptability of Insurers: The Contractor's policies shall be written by insurance companies licensed to do business in the State of Connecticut, with an AM Best rating of A-VII, or otherwise acceptable to the City.

Subcontractors: The Contractor shall require all subcontractors to provide the same "minimum scope and limits of insurance" as required herein, with the exception of Errors and Omissions/Professional Liability insurance, unless Errors and Omissions/Professional Liability insurance is applicable to the Work performed by the subcontractors. All Certificates of Insurance shall be provided to the City's Corporation Counsel as required herein.

Aggregate Limits: Any aggregate limits must be declared to and be approved by the City. It is agreed that the Contractor shall notify the City whenever fifty percent (50%) of the aggregate limits are eroded during the required coverage period. If the aggregate limit is eroded for the full limit, the Contractor agrees to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. Any premium for such shall be paid by the Contractor.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Contractor to pay and/or to indemnify.

Notice of Cancellation or Nonrenewal: Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, or cancelled in coverage or in limits before the expiration date except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. Notwithstanding this requirement, the Contractor is primarily responsible for providing such written

notice to the CITY thirty (30) days prior to any policy change or cancellation that would result in a change of the amount or type of coverage provided. In the event of any such change the Contractor shall provide comparable substitute coverage so that there is no lapse in applicable coverage or reduction in the amount of coverage available to the CITY related to the Contractor's services.

Waiver of Governmental Immunity: Unless requested otherwise by the City, the Contractor and its insurer shall waive governmental immunity as defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.

Additional Insured: The liability insurance coverage, except Errors and Omissions, Professional Liability, or Workers' Compensation, if included, required for the performance of the Project shall include the City of Norwalk as an Additional Insured with respect to the Contractor's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Waiver of Subrogation: Contractor hereby waives the right to subrogate or seek recovery from City of Norwalk and its insurance carriers.

Certificate of Insurance: As evidence of the insurance coverage required by this Agreement, the Contractor shall furnish Certificate(s) of Insurance to Corporation Counsel's Office prior to the Contractor's commencement of services under this Agreement. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The Certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring Certificates shall be filed thirty (30) days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to the City of Norwalk Corporation Counsel, 125 East Avenue, Room 237, P.O. Box 5125, Norwalk, Connecticut 06856-5125.

Waiver of requirements: The Corporation Counsel may vary these insurance requirements at Corporation Counsel's sole discretion if Corporation Counsel determines that the City's interests will be adequately protected by the provision of different types or other amounts of coverage.

1.4 INSURANCE REQUIREMENTS

INSURANCE RIDER

The Contractor shall provide and maintain insurance coverage related to its services in connection with the Project in compliance with the following requirements.

The insurance required shall be written for not less than the scope and limits of insurance specified hereunder, or required by applicable federal, state and/or municipal law, regulation or requirement, whichever coverage requirement is greater. It is agreed and understood that the scope and limits of insurance specified hereunder are minimum requirements and shall in no way limit or preclude the City from requiring additional limits and coverage to be provided under the Contractor's policies.

Minimum Scope and Limits of Insurance:

Workers' Compensation Insurance: With respect to all operations the Contractor performs, it shall carry Workers' Compensation Insurance in accordance with the requirements of the laws of the State of Connecticut.

Commercial General Liability: With respect to all operations the Contractor performs it shall carry Commercial General Liability insurance providing for a total limit of One Million Dollars (\$1,000,000) coverage per Occurrence for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification obligations arising under this Agreement. The Annual Aggregate limit shall not be less than Two Million Dollars (\$2,000,000).

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Umbrella/Excess Liability: With respect to all operations the Contractor performs, the insurance limits required can be provided with a combination of Umbrella or Excess Liability insurance that would "follow form" of the underlying required terms and conditions.

Errors and Omissions/Professional Liability: With respect to any damage caused by an error, omission or any negligent or

wrongful act of the Contractor or any subcontractor or subconsultant in connection with any professional services performed under this Agreement the Contractor shall carry One Million Dollars (\$1,000,000) coverage per claim.

"Tail" Coverage: If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of the Project for a duration of twenty-four (24) months, or the maximum time period reasonably available in the marketplace. Contractor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for twenty-four (24) months following Project completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Agreement. If continuous "claims made" coverage is used, Contractor shall be required to keep the coverage in effect for a duration of not less than twenty-four (24) months from the date of final completion of the Project.

Acceptability of Insurers: The Contractor's policies shall be written by insurance companies licensed to do business in the State of Connecticut, with an AM Best rating of A-VII, or otherwise acceptable to the City.

Subcontractors: The Contractor shall require all subcontractors to provide the same "minimum scope and limits of insurance" as required herein, with the exception of Errors and Omissions/Professional Liability insurance, unless Errors and Omissions/Professional Liability insurance is applicable to the Work performed by the subcontractors. All Certificates of Insurance shall be provided to the City's Corporation Counsel as required herein.

Aggregate Limits: Any aggregate limits must be declared to and be approved by the City. It is agreed that the Contractor shall notify the City whenever fifty percent (50%) of the aggregate limits are eroded during the required coverage period. If the aggregate limit is eroded for the full limit, the Contractor agrees to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. Any premium for such shall be paid by the Contractor.

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Contractor to pay and/or to indemnify.

Notice of Cancellation or Nonrenewal: Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, or cancelled in coverage or in limits before the expiration date except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. Notwithstanding this requirement, the Contractor is primarily responsible for providing such written notice to the CITY thirty (30) days prior to any policy change or cancellation that would result in a change of the amount or type of coverage provided. In the event of any such change the Contractor shall provide comparable substitute coverage so that there is no lapse in applicable coverage or reduction in the amount of coverage available to the CITY related to the Contractor's services.

Waiver of Governmental Immunity: Unless requested otherwise by the City, the Contractor and its insurer shall waive governmental immunity as defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.

Additional Insured: The liability insurance coverage, except Errors and Omissions, Professional Liability, or Workers' Compensation, if included, required for the performance of the Project shall include the City of Norwalk as an Additional Insured with respect to the Contractor's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Waiver of Subrogation: Contractor hereby waives the right to subrogate or seek recovery from City of Norwalk and its insurance carriers.

Certificate of Insurance: As evidence of the insurance coverage required by this Agreement, the Contractor shall furnish Certificate(s) of Insurance to Corporation Counsel's Office prior to the Contractor's commencement of services under this Agreement. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The Certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring Certificates shall be filed thirty (30) days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to the City of Norwalk Corporation Counsel, 125 East Avenue, Room 237, P.O. Box 5125, Norwalk, Connecticut 06856-5125.

Waiver of requirements: The Corporation Counsel may vary these insurance requirements at Corporation Counsel's sole discretion if Corporation Counsel determines that the City's interests will be adequately protected by the provision of different types or other amounts of coverage.