



STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES

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CJG

BUSINESS ADMINISTRATION
STATE MILITARY RESERVATION
4 PEMBROKE ROAD
CONCORD, NEW HAMPSHIRE 03301-5652

David J. Mikolaities, Major General
The Adjutant General

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Deputy Adjutant General

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June 26, 2024

His Excellency, Governor Christopher T. Sununu
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

1. Authorize the Department of Military Affairs and Veterans Services to enter into a contract with Turnstone Corp (VC#169530), Milford, NH in the amount of \$233,100.00 for the NHARNG Pembroke Road Gate and Fence Repair at the State Military Reservation (SMR) in Concord, New Hampshire effective upon Governor and Council approval through June 30, 2025. **100% General Funds.**
2. Further, authorize a contingency in the amount of \$10,000.00 for unanticipated expenses bringing the contract total to \$243,100.00 effective upon Governor and Council approval through June 30, 2025. **100% General Funds.**

Funding is available in account, Administration & Armories, as follows:

	<u>FY 2024</u>
02-12-12-120010-22200000-103-500736- Contract for Operational Services	\$243,100.00

EXPLANATION

This project will repair damage that occurred due to a vehicular accident at the Pembroke Road gate on the State Military Reservation. It will include the replacement of crash rated piers, fencing, cables, gate motor, gate, and associated electrical, masonry, and site work to restore the crash rated system.

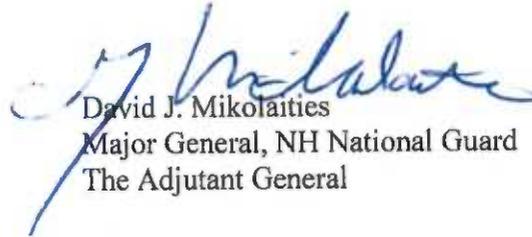
The Department of Military Affairs and Veterans Services solicited for these repair services by posting a Request for Bid (RFB) on the State of New Hampshire Bureau of Purchase and Property

His Excellency, Governor Christopher T. Sununu
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June 26, 2024
Page 2 of 2

website on April 10, 2024. Two (2) vendors submitted qualified responses. Turnstone Corp submitted the lowest bid.

This contract has been approved for form, substance, and execution by the New Hampshire Department of Justice.

Respectfully submitted,



David J. Mikolaities
Major General, NH National Guard
The Adjutant General

RFB#: DMAVS 2024-03

Name of RFB: NHARNG Pembroke Road Gate and Fence Repair

Number of Responses to RFB: Two (2)

Contractor	Bid Amount	Rank
Turnstone Corp	\$233,100.00	A
D.L. King & Associates, Inc.	\$242,500.00	B

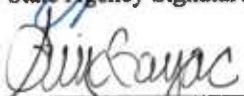
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Military Affairs and Veteran Services		1.2 State Agency Address 4 Pembroke Road, Concord, NH 03301	
1.3 Contractor Name Turnstone Corporation (VC#:169530)		1.4 Contractor Address 479 Nashua st. Milford, NH 03055	
1.5 Contractor Phone Number (603)249-9300	1.6 Account Unit and Class 010-012-22200000-103-500736	1.7 Completion Date 06/30/2025	1.8 Price Limitation Not to Exceed \$243,100.00
1.9 Contracting Officer for State Agency Erin Zayac		1.10 State Agency Telephone Number (603) 225-1361	
1.11 Contractor Signature  Date: 5/6/2024		1.12 Name and Title of Contractor Signatory Stacy J. Clark, President	
1.13 State Agency Signature  Date: 5/17/2024		1.14 Name and Title of State Agency Signatory Erin Zayac, Administrator	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 06/03/2024			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

Contractor Initials 
 Date 5/6/2024

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

Contractor Initials

Date

[Handwritten signature]
[Handwritten date]

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Contractor Initials
Date

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES**

**EXHIBIT A
SPECIAL PROVISIONS**

SUBJECT: NHARNG Pembroke Road Gate and Fence Repair

The following special provisions modify, change, delete or add to the General Provisions of the agreement. Where any part of the General Provisions is modified or voided by these Special Provisions, the unaltered provisions for that part shall remain in effect.

1. The term "Contracting Officer" as used in this agreement shall mean the State's Contracting Officer as is specified at item #1.9 of the General Provisions of this agreement or his/her authorized representative. No individual shall be an authorized representative of the Contracting Officer unless he or she is so appointed in writing by the Contracting Officer, in which case such written appointment shall be provided to the Contractor.
2. The Contractor shall be responsible to correct, at his own cost and expense, defective work, or damaged property when defects and damage are caused by the Contractor's employees, equipment, or supplies. The Contracting Officer may withhold all, or part of, payments due to the Contractor until defective work or damaged property caused by the Contractor, his employees, equipment, or materials, is placed in satisfactory condition.
3. **General Provisions** are amended as follows:
 - a. **Provision 14. INSURANCE:** *Add* the following sub-sub-part:

"14.1.3 Insurance against all claims arising from the Contractor's use of automobiles in the conduct of this agreement, in amounts of not less than \$250,000.00 per person bodily injury liability, \$500,000.00 per occurrence bodily injury liability and \$50,000.00 property damage liability."
4. *Add* the following as Special Provisions to the extent not inconsistent with the express terms of this Agreement:

CONTRACT SECURITY

The Contractor shall within ten (10) days after the receipt of the Notice of Award furnish the Owner with a performance bond and a payment bond in penal sums equal to the amount of the Contract price conditioned upon the performance by the Contractor of all undertakings,

covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the Work provided by the Contract Documents. Such Bonds shall be executed by the Contractor and a corporate bonding company licensed to transact business in the state in which the Work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these Bonds shall be borne by the Contractor.

DRUG FREE WORKPLACE

The Contractor covenants and agrees to comply with the requirements regarding drug-free workplace in of 32 CFR Part 26, which implements section 5151-5160 of the Drug-Free Workplace act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

INFRASTRUCTURE INVESTMENT AND JOBS ACT ("IIJA")

The DMAVS covenants and agrees that it will not expend any funds unless all of the iron, steel, manufactured products, and construction materials used in projects undertaken for the Department are produced in the United States. The contractor covenants and agrees to utilize American made iron, steel, manufactured products, and construction materials for the completion of the work under this agreement. The contractor further agrees to notify the Contracting Officer" as used in this agreement shall mean the State's Contracting Officer as is specified at item #1.9 of the General Provisions of this agreement in the event that American materials are not available.

**NATIONAL DEFENSE AUTHORIZATION ACT (NDAA)
for Fiscal Year (FY) 2019 (Public Law 115-232)**

The contractor covenants and agrees that it will not use "covered telecommunications equipment or services," as that term is defined in Section 889 of the NDAA for FY 2019, as a substantial or essential component of any system or as critical technology as part of any system involved in the contractor's performance of this contract. The contractor further covenants and agrees that it will not subcontract any part of its performance under this contract to any entity that uses such covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES**

**EXHIBIT B
SCOPE OF SERVICES**

SUBJECT: NHARNG Pembroke Road Gate and Fence Repair

The Exhibit B – (“Scope of Services”) as stated in the contract (Form P-37) and related to the above referenced project, shall include all the information and requirements about the project that are derived from the project specifications (Exhibit B – Appendix 1), and the authorized construction drawings/documents and clarification sketches (Exhibit B – Appendix 2), as well as any addendums.

PROJECT OVERVIEW

This project will repair damage that occurred due to a vehicular accident at the Pembroke Road gate on the State Military Reservation. It will include the replacement of crash rated piers, fencing, cables, gate motor, gate and associated electrical, masonry and site work to restore the crash rated system.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES**

**EXHIBIT B – APPENDIX 1
SPECIFICATIONS**

SUBJECT: NHARNG Pembroke Road Gate and Fence Repair

STATEMENT OF UNDERSTANDING

The Contractor clearly understands the following NHARNG Pembroke Road Gate and Fence Repair Specifications and will meet all requirements specified herein.

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Initials:
Date: 5/14/24

GENERAL CONDITIONS

1. CONTRACT DOCUMENTS

- a. The Contract Documents consist of the Contract Agreement, General Conditions, and Supplementary General Conditions, Drawings and Specifications, including all Addenda issued prior to execution of the Contract; Bonds where required; insurance certificates: and subsequently thereto, Change Orders issued in accordance with the General Conditions.
- b. The Contract Documents shall be signed by the Department and the Contractor in as many original counterparts as may be mutually agreed. No Contract shall be considered as in effect until it has been fully executed by all of the parties thereto and the award concurred in by Governor and Council. If there is federal funding, it must also have the concurrence of the applicable Federal Agency having jurisdiction.
- c. This Contract is executed in a number of counterparts, each of which is an original and constitutes the entire agreement between the parties. This Contract shall be construed according to the laws of the State of New Hampshire. No portion of this Contract shall be understood to waive the sovereign immunity of the State. This Contract shall not be amended, except as specified herein, except with the approval of the Governor and Council.
- d. The Contract Documents are complementary, and anything called for by one of the Contract Documents and not called for by the others shall be of like effect as if required by all.
- e. Should the Contract Documents disagree in themselves or with each other, the Contractor shall provide the better quality or greater quantity of work and or materials, unless specifically otherwise directed by written Addendum to the Contract.
- f. The Contractors and all subcontractors shall refer to all of the Contract Documents, including those not specifically showing the work of their specialized trades, and shall perform all work reasonably inferable from them as being necessary to produce the intended results.
- g. All indications or notations which apply to one of a number of similar situations, materials or processes shall be deemed to apply to all such situations, materials, or processes wherever they appear in the work, except where a contrary result is clearly indicated by the Contract Documents.
- h. Where codes, standards, requirements, and publications of public and private bodies are referred to in the Contract Documents, such references shall be understood to be to the latest revision prior to the date of receiving Bids, except where otherwise indicated.
- i. Where no explicit quality or standards for materials or workmanship is established for work, such work is to be of good quality for the intended use and consistent with the quality of the surrounding work and of the construction of the Project in general.
- j. All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, tested, cleaned, and conditioned in accordance with the manufacturer's written or printed directions and instructions, unless specifically indicated otherwise in the Contract Documents.
- k. The Drawings are generally made to scale, but all working dimensions shall be taken from the figured dimensions or by actual measurements at the job. In case by scaling. Study and compare all the Drawings and verify all figures before laying out or constructing work. The Contractor shall be responsible for errors in his work that might have been avoided thereby. Whether or not an error is believed to exist, deviation from the Drawings and the dimensions given thereon shall be made only after approval in writing from the Department.

1. The Mechanical, Fire Protection (sprinkler) and Electrical Drawings, when provided, are diagrammatic only, and are not intended to show the exact physical locations or configurations of work. Such work shall be installed to clear all obstructions, permit proper clearances by coordinating his work with other trades, and present an orderly appearance where exposed.

2. ACCESS TO THE WORK

- a. The Contractor shall provide for access to the work for inspection by the Department and government officials having jurisdiction. The Consultant, Engineer, and officials of Local, State, and Federal Agencies in the case of such programs as they administer and their authorized representatives shall have access at all times to the work for inspection wherever it is in preparation or progress, and the Contractor shall provide proper facilities for such access and inspection.

3. CONTRACT ADMINISTRATION

- a. The Department shall determine the amount, quality, and acceptability and fitness of all parts of the work, shall interpret the Contract Documents, and any Change Orders, and shall decide all other issues in connection with the work. The Department shall have the authority to approve or order changes in the work that alter the terms or conditions of the Contract. The Department shall confirm in writing any oral order, direction, requirements, or determination.
- b. When a Federal Agency participates in the cost of the work covered by this Contract, the work shall be under the observation and inspection of the Department, but subject to the inspection and approval of the proper officials of the Federal Agency.

4. ACCIDENT PROTECTION

- a. It is a condition of this Contract, and shall be made a condition of each subcontract entered into pursuant to the Contract, that the Contractor and any Subcontractors shall not require any laborer or mechanic employed in the performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety as determined by construction safety and health standards of the Occupational Safety and Health Administration, United States Department of Labor, which standards include, by reference, the established Federal Safety and Health Regulations for Construction. These standards and regulations comprise Part 1910 and Part 1926 respectively of Title 29 of the Code of Federal Regulations and are set forth in the Federal Register. In the event any revisions in the Code of Federal Regulations are published, such revisions will be deemed to supersede the appropriate Part 1910 and Part 1926 and be effective as of the date set forth in the revised regulation.

5. HAZARDOUS MATERIALS

- a. The Contractor shall also be aware of laws and regulations relating to hazardous materials that may be encountered during construction operations, either within project limits or at material sites off the project. The health and safety of employees, the general public, and the potential of damage to the overall environment is possible if hazardous materials are not recognized, reported, and the appropriate action taken to dispose of, remove from the site, or otherwise contain the possible contaminants.
- b. If any abnormal condition is encountered or exposed that indicates the presence of a hazardous

material or toxic waste, construction operations shall be immediately suspended in the area and the Department notified. No further work shall be conducted in the area of the contaminated material until the site has been investigated and the Department has given approval to continue the work in the area. The Contractor shall fully cooperate with the Department and perform any remedial work as directed. Work shall continue in other areas of the Project unless otherwise directed.

- c. Exposure to hazardous materials may result from contact with, but not necessarily limited to, such items as drums, barrels, and other containers, waste such as cars, batteries, and building construction debris. Containers leaking unknown chemicals or liquids, abandoned cars leaking petroleum products, batteries leaking acid, construction debris which may include asbestos, or any other source of suspected hazardous material found within excavation areas or stockpiled on land within construction limits shall be referred to the Department of Environmental Services and the Department so that a proper identification of the materials may be made and disposal procedures initiated as required.
- d. Disposition of the hazardous material or toxic waste shall be made under the requirements and regulations of the Department of Environmental Services. Work required disposing of these materials and any remedial work shall be performed under a Supplemental Agreement or Contract item, if included in the Contract.

6. SUBCONTRACTS

- a. Nothing contained in the Specifications or Drawings shall be construed as creating any contractual relationship between any Subcontractor and the Department. The Divisions or Sections of the Specifications are not intended to control the Contractor in dividing the work among Subcontractors or to limit the work performed by any trade.
- b. The Contractor shall be as fully responsible to the Department for the acts and omissions of Subcontractors and of persons employed by them, as he is for the acts and omissions of persons directly employed by him.
- c. The Contractor shall, without additional expense to the State, utilize the services of specialty Subcontractors, as required.
- d. The Department will not normally undertake to settle any differences between the Contractor and his Subcontractors or between Subcontractors.
- e. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the General Conditions and other Contract Documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Department may exercise over the Contractor under any provisions of the Contract Documents.
- f. Within fifteen (15) days after the award of the Contract, the Contractor shall submit a complete list of all of the Subcontractors setting forth in detail the work they will be responsible for. If a subcontractor is added during the construction process the Contractor will revise the list and resubmit to the Department.

7. RESPONSIBILITY OF CONTRACTOR TO ACT IN EMERGENCY

- a. In case of any emergency that threatens loss or injury of property, and/or safety of life, the

Contractor shall act, without previous instructions from the Department, as the situation may warrant. He shall notify the Department thereof immediately thereafter. Any compensation claimed by the Contractor together with substantiating documents in regard to expense, shall be submitted to the Department and the amount of compensation shall be determined by agreement.

8. SEPARATE CONTRACTS

- a. The Department may award other Contracts in connection with the Project, the work under which will proceed simultaneously with the execution of this Contract. The Contractor shall coordinate operations with those of other Contractors.

9. MUTUAL RESPONSIBILITY OF CONTRACTORS

- a. If the Contractor or any of his/her Subcontractors or employee's causes loss or damage to any separate Contractor or Subcontractor on the work, the Contractor or Subcontractor agrees to settle with such separate Contractor or Subcontractor by agreement, if he/she will so settle. If such separate Contractor or Subcontractor sues the State because of any loss so sustained, the Department shall notify the Contractor and/or their subcontractors, who shall indemnify and hold harmless the Department against any expenses or judgment arising there from.

10. PAYMENTS TO CONTRACTOR

- a. The Department will manifest payments to the Contractor each calendar month on the basis of duly certified and approved estimate of the work performed during the preceding period. In preparing estimates, the material delivered on the site and any preparatory work done may be taken into consideration.
- b. At least ten (10) days before the end of the billing period, the Contractor shall submit to the Department an itemized Requisition for Payment, supported by such data substantiating the Contractor's right to payment as the Department may require. If payment is to be made on account of materials or equipment not incorporated in the work, but delivered and suitably stored at the site, such payment shall be conditional upon submission by the Contractor of bills of sale or such other procedure satisfactory to the Department to establish the State's title to such materials or equipment or otherwise protect the State's interest including applicable insurance.
- c. Immediately upon receipt of the Department Approved Monthly Requisition for Payment, Contractor shall post same at the Contractor's Field Office or project site in a location where Subcontractors and Suppliers have clear access.
- d. A five (5) percent retainage of the value of the work performed on each partial estimate will be deducted and retained by the Department until after completion of the entire Contract in an acceptable manner. The balance remaining after the specified percentage has been retained, less all previous payments, will be certified for payment on each partial estimate.
- e. Within thirty (30) days after acceptance, the Department shall pay to the Contractor the amount of the Contract less all prior payments. All prior payments and estimates, including those relative to extra work, shall be subject to correction by this payment, which is throughout this Contract called the Final Payment.
- f. Retainage will be released at Final Payment.
 - i. After the Certificate of Substantial Completion has been issued, upon written application by

the Contractor and with the approval of the Surety, the Department **may** release a portion of the retained amount.

g. Payment for Material on Hand:

- i. Partial payments are made for materials to be incorporated in the Work, provided the materials meet the requirements of the Contract and are delivered on, or in the vicinity of, the Project site and stored in acceptable places. Partial payments will not exceed 90 percent of the Contract unit price for the item, or the amount supported by copies of paid invoices, freight bills, or other supporting documents required by the Department. The quantity paid will not exceed the corresponding quantity estimate in the Contract. No partial payment will be made on living or perishable materials until incorporated in the Work.
- ii. When material payments exceed \$100,000 or 10 percent (10%) of the total contract amount, whichever is less, notarized copies of paid invoices or copies of canceled checks for all such materials must be submitted to the Department within 45 days of the end date of the estimate on which the material allowance was paid. Failure to provide such documentation will result in the deduction of such material allowance from future estimates until documentation is provided.
- iii. All material and work covered by partial payments made shall thereupon become the sole property of the Department, but this provision shall not be construed as relieving the Contractor of the sole responsibility of all materials and work upon which payments have been made or the restoration of any damaged work or as a waiver of the right of the State to require the fulfillment of all the terms of the Contract.

h. Payment for Material Not on Hand:

- i. The Department will not pay for products and or materials that have not been delivered and stored properly on the construction site.

i. Release of Claims:

- i. Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver a complete release of all claims arising under and by virtue of this Contract, including claims for all Subcontractors and suppliers of either materials or labor, plus a release of the Contract Bond and a statement that all Subcontractors and suppliers have been paid. The Department may pay any and all such claims, in whole or in part, and deduct the amount or amounts so paid from any partial or final payment.

j. Final Payment:

- i. Application for Final Payment received from the Contractor will be processed for payment not less than 60 days after project acceptance and final completion unless accompanied by a release of the Contract Bond. This payment shall be the amount of the Contract, amended by approved change orders, less previous payments minus liquidated damages, additional penalties or holdbacks. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

k. Acceptance of Final Payment Constitutes Release:

- i. The acceptance of the Final Payment by the Contractor shall be and shall operate as a release to the Contractor of all claims and of all liability to the Department for all things done or furnished in connection with this work. No payment, however, final or otherwise, shall operate to release the Contractor and its Sureties from any obligations under this Contract or the

Contract Bond. Acceptance of Final Payment shall not impact any warranties provided by the Contractor with respect to this project.

11. LIMITATION OF CONSTRUCTION OPERATIONS

- a. The normal working hours will be from 7:00 am until 3:30 pm M-F unless otherwise agreed in writing by the department.
- b. The contractor may be displaced at any time with no notice in the event of a military mission that takes priority over construction.
- c. In the State of New Hampshire, legal holidays occur on:
- d. New Year's Day
- e. Washington's Birthday
- f. Memorial Day Fourth of July
- g. Labor Day
- h. Veterans' Day
- i. Thanksgiving Day and Day After
- j. Christmas Day
- k. Whenever a holiday is observed on a Friday or a Monday. The Contractor shall be required to suspend work for three (3) calendar days.
- l. No work shall be performed on Saturday, Sundays, or legal holidays except in cases of emergency and upon permission of the Department.

12. CONTRACTOR'S TITLE TO MATERIALS

- a. No materials or supplies for the work shall be purchased by the Contractor or any Subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies for which he accepts partial payment. If any claim is made with respect to materials provided by the contractor, subcontractors, or Independent Contractors, the Contractor shall defend any such claim and shall pay any judgment or settlement thereon.

13. CHANGES IN WORK

- a. The Department may at any time, by a written order, and without notice to the Sureties, make changes in the Drawings and Specifications and Completion Date of this Contract and within the general scope thereof.
- b. The order shall stipulate the mutual agreed upon lump sum price, which shall be added to or deducted from the Contract Price. The Contractor shall furnish an itemized breakdown of the prices used in computing the value of any change that might be ordered.
- c. The compensation herein provided shall be accepted by the Contractor as payment in full, including superintendence, bond, overhead, and profit, for extra work performed on a force account basis. For all such work, the Contractor shall furnish certified copies of the payrolls on forms provided for that purpose, invoices of all materials, and such other information as may be required by the Department.

14. TAXES

- a. The Contractor shall pay all applicable Federal, State and Local sales and other taxes, except taxes and assessments on the real property comprising the site of the Project.

15. PATENTS

- a. The Contractor shall hold and save the Department and its officers, agents, servants, and employees harmless from liability of any nature including cost and expenses, for or on account of any patented or unpatented invention, process, article or applicable manufactured or used in the performance of the Contract, including its use, unless otherwise specifically stipulated in the Contract Documents.

16. ASSIGNMENTS

- a. The Contractor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder, without the written consent of the Department and of all Sureties executing any Bonds on behalf of the Contractor if in connection with said Contract.

17. SUPERINTENDENCE BY CONTRACTOR

- a. The Contractor shall employ a competent Foreman or Superintendent, satisfactory to the Department, on the work site **at all times** to supervise the work in progress, with authority to act for him. The Contractor shall not change superintendents without permission from the Department and shall submit a request in writing with justification for such a change.
 - i. The superintendent shall be responsible for verifying that all materials, installation, coordination, and workmanship are in conformance with the contract documents.
 - ii. Unless the Department has granted prior written approval, the superintendent shall not, himself, engage in "hands on" construction work.
 - iii. In the event the superintendent fails or refuses to perform functions mentioned above as determined by the Department, the Contractor agrees to a stipulated penalty of up to \$500.00 per day, in addition to any liquidated damages provided hereunder.

18. FAILURE TO COMPLETE WORK ON TIME

- a. If the Contractor fails to complete all of the work or sections of the Project, if sections are indicated, within the time specified in the Contract or within any additional time allowed, for each working day the Liquidated Damages identified in Section C below will be deducted from any money due the Contractor. This deduction will be made, not as a penalty, but as fixed, agreed liquidated damages for inconvenience to the Department and for reimbursing the Department the cost of the Administration of the Contract, including personnel, time, engineering, and inspection. Should the amount of money otherwise due the Contractor be less than the amount of such liquidated damages, the Contractor and its Surety shall be liable to the Department for such deficiency.
- b. If the Department permits the Contractor to continue and finish the work after the time fixed for its completion, it shall in no way operate as a waiver on the part of the Department of any of its rights under the Contract. When the final acceptance has been duly made by the Department, any liquidated damage charges shall end.
- c. The fixed, agreed, liquidated damages shall be assessed in accordance with the following schedule.

<u>Original Contract Amount</u>		<u>Amount of Liquidated damages per day</u>
From more than:	to and including:	
0	25,000	\$200.00
25,000	50,000	\$300.00
50,000	100,000	\$400.00
100,000	500,000	\$500.00

19. SUBSTANTIAL COMPLETION AND FINAL INSPECTION

- a. When the Contractor believes the project is substantially complete, they shall submit an application for substantial completion to the Department. The Contractor shall submit to the Department a list of items of work to be completed or corrected, accompanied by a cost value of these items. The Department will also provide a "punch List" of items to be completed based on their interpretation of the required finished product. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. On the basis of an inspection by the Department which determines that the work is substantially complete, a certificate of Substantial Completion shall be issued which will establish the Date of Substantial Completion and state the responsibilities of the Department and the Contractor for such as security, maintenance, heat, utilities, damage to the work and insurance, any other pertinent issues and fix the time limit within which the Contractor shall complete the items listed herein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion unless otherwise provided in the Certificate of Substantial Completion.
- b. If the Contractor fails to proceed to complete the items on the "punch list," then in addition to the corrective measures listed in the Certificate of Substantial Completion, the Department may use the monies still due the Contractor to have such items completed and the Contractor shall lose any claim to the monies so used.
- c. Upon written notice that the work is ready for final inspection and acceptance, the Department shall promptly make such inspection, and when they find the work acceptable under the Contract Documents and the Contract fully performed, the Contractor will be provided written notice to that effect. The Contractor shall provide all certificates and reports, as required, throughout the contract and shall coordinate their preparation and submission. Failure to submit such certificates and reports shall be considered default of contract.

20. TERMINATION OF CONTRACT WITH FAULT

- a. If the Contractor:
 - i. Fails to begin work under Contract within the time specified in the notice to proceed, or
 - ii. Fails to perform the work with sufficient workmen and equipment, or with sufficient materials to assume prompt completion of said work, or
 - iii. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
 - iv. Discontinues the prosecution of the work, or
 - v. Fails to resume work, which has been discontinued, within a reasonable time after notice to do so, or
 - vi. Becomes insolvent or has declared bankruptcy, or commits any act of bankruptcy or

- insolvency, or
- vii. Fails to pay subcontractors and material/product suppliers, or
 - viii. Makes an assignment for the benefit of creditors, or
 - ix. For any other causes whatsoever, fails to carry on the work in an acceptable manner.
- b. The Department will give notice, in writing, to the Contractor and his Surety for such delay, neglect, and default for any item identified above.
- i. If the Contractor or Surety does not proceed in accordance with the Notice, then the Department will, upon the Contractor's failure to comply with such Notice, have full power and authority without violating the Contract, to take the prosecution of the work out of the hands of the Contractor. The Department may enter into an agreement for the completion of said Contract according to the terms and conditions thereof or use such other methods as in his opinion will be required for the completion of said Contract in an acceptable manner.
 - ii. All extra costs and charges incurred by the Department as a result of such delay, neglect, or default, together with the cost of completing the work under the Contract will be deducted from any monies due or which may become due said Contractor. If such expenses exceed the sum that would have been payable under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Department, the amount of such excess.

21. TERMINATION OF CONTRACT WITHOUT FAULT

- a. Except in cases controlled by the preceding section, the Department, for any cause, including, but not limited to an order of any Federal authority or petition of the Contractor, due to circumstances beyond his control may by written notice to the Contractor and the Surety terminate the Contract or any portion thereof subject to the Condition(s) i, ii, iii and iv provided below.
- b. Notwithstanding anything to the contrary contained in these condition, it is understood and agreed by the parties hereto that all obligations of the Department hereunder, including the continuance of payments, are contingent upon the availability and continued appropriation of State and/or Federal Funds, and in no event shall the Department be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction, termination or failure to appropriate any or all such available funds or appropriations or a reduction of expenditures of State funds the Department may, by written notice to the Contractor and Surety, immediately terminate this Contract in whole or in part in accordance with the following conditions:
 - i. When a Contract, or portion thereof, is terminated before completion of all items of work in the Contract, payment will be made for the actual items of work completed. Payment of items of work not completed at time of termination shall be the greater of the following amounts: (1) a percentage of the Contract unit price, which percentage shall be the percentage of completion of the particular item at time of termination or (2) such amount as shall be mutually agreed upon by the parties. No claim for loss of anticipated profits on items or units of work not completed will be allowed.
 - ii. Reimbursement for organization of the work and mobilization, when not otherwise included in the Contract, shall be made where the volume of work completed is too small to compensate the Contractor for these expenses under the Contract; the intent being that an equitable settlement be made with the Contractor.
 - iii. Acceptable materials obtained or ordered by the Contractor for the work, and that are not

incorporated in the work shall, at the option of the Contractor, be purchased from the Contractor based upon the delivered cost of the materials at such points of delivery as may be designated by the Department. The Contractor shall do everything possible to cancel unfilled orders.

- iv. Termination of a Contract, or a portion thereof, shall not relieve the Contractor of his responsibilities for the work completed nor shall it relieve his Surety of its obligations for and concerning any claims arising out of the work performed.

22. ASSIGNMENT PROVISION

- a. The Contractor hereby agrees that it will assign to the Department all causes of action that it may acquire under the anti-trust laws of New Hampshire and the United States as a result of conspiracies, combinations or contracts in restraint of trade which affect the price of goods or services obtained by the Department under this Contract, if so requested by the Department.

END OF SECTION

PRICE AND PAYMENT PROCEDURES

1. REQUISITION FOR PAYMENT

- a. Submit one copy of each application on the AIA Application and Certificate for Payment G702 and Continuation sheet G703 or another document/form that has been previously approved by the Department.
- b. Content and Format: Items on the Requisition for Payment shall be consistent with the items on the Proposal Form. Utilize the Schedule of Values as documentation for payment items.
- c. Submit updated construction schedule with each Requisition for Payment.
- d. Payment Period: Submit at intervals stipulated in the General Conditions.
- e. Submit with transmittal letter to the attention of the project Architect/Engineer for review and approval.
- f. Substantiating Data: When the Department requires substantiating information, submit data justifying dollar amounts in question.

2. SCHEDULE OF VALUES

- a. Submit printed schedule on AIA Form G703 - Continuation Sheet for G702 or approved equal. (See item 1.A above)
- b. Submit Schedule of Values within 15 days after date of issuance of Notice to Proceed. Failure to submit within specified time period will constitute Default of Contract.
- c. Format: Utilize Table of Contents of these specifications. Identify each line item with number and title of major specification section. Identify bonds, insurance, general conditions, allowances etc.
- d. Include a separate line item for closeout to include record drawings, owner's manuals, and other pertinent information due to the Department.
- e. Include a separate line item for the amount of each Allowance and Alternates specified in this section. For unit cost Allowances, identify quantities taken from Contract Documents multiplied by unit cost to achieve total for each item.
- f. Revise schedule to list approved Change Orders, with each Requisition or Payment.

3. UNIT PRICES

- a. Authority: Measurement methods are delineated in individual specification sections.
- b. Measurement methods delineated in individual specification sections complement criteria of this section: In event of conflict, requirements of individual specification section govern,
- c. Take measurements and compute quantities. Architect/Unit Quantities: Quantities and measurements indicated in Bid Form are for contract purposes only. Quantities and measurements supplied or placed in the Work shall determine payment
 - i. When actual Work requires more or fewer quantities than those quantities indicated, provide required quantities at unit sum/prices contracted.
- d. Payment Includes: Full compensation for required labor, products, tools, equipment, plant and facilities, transportation, services, and incidentals; erection, application or installation of item of the Work; overhead and profit,

- e. Final payment for Work governed by unit prices will be made on basis of actual measurements and quantities accepted by Architect/Engineer multiplied by unit sum/price for Work incorporated in or made necessary by the Work.
- f. Measurement of Quantities: Measurement by Weight: Concrete reinforcing steel, rolled or formed steel or other metal shapes will be measured by handbook weights. Welded assemblies will be measured by handbook or scale weight.
- g. Measurement by Volume: Measured by cubic dimension using mean length, width and height or thickness.
- h. Measurement by Area: Measured by square dimension using mean length and width or radius.
- i. Linear Measurement: Measured by linear dimension, at item centerline or mean chord.
- j. Stipulated Sum/Price Measurement: Items measured by weight, volume, area, or linear means or combination, as appropriate, as completed item or unit of the Work.

4. CHANGE PROCEDURES

- a. Submittals: Submit name of individual authorized to receive change documents and be responsible for informing others in Contractor's employ or Subcontractors of changes to the Work.
- b. The Department will advise of minor changes in the Work not involving adjustment to Contract Sum/Price or Contract Time, or that may be necessary to carry out the work included in the Contract, by issuing Supplemental Instructions.
- c. The Department may issue a Proposal Request including a detailed description of proposed changes with supplementary or revised Drawings and specifications, with or without a change in Contract Time for executing the change. The Contractor will prepare and submit estimate within ten days.
- d. Contractor may propose changes by submitting a request for change(s) to the Department, describing proposed change and its full effect on the Work. Each request shall be a separate item and sequentially numbered. Include a statement describing reason for the change, and effect on Contract Sum/Price and Contract Time with full documentation and a statement describing effect on Work by separate or other Contractors.
- e. Stipulated Sum/Price Change Order: Based on Proposal Request and Contractor's fixed price quotation or Contractor's request for Change Order as approved by the Department. Submit the breakdown of the following items on a Department Change Order Form for review and approval by the Department:
 - i. The Contractor shall include the following indirect costs for work performed by the General Contractor as part of the Contractors' price:
 - a. Worker's Compensation and Employee Liability.
 - b. Unemployment and Social Security Taxes.
 - ii. In addition to the above indirect costs the General Contractor shall be allowed the following markups:
 - a. Twenty percent (20%). Said twenty percent (20%) shall be all inclusive for overhead, supervision, and profit for Work performed by the General Contractor.
 - b. Ten percent (10%) on that part of work performed by all Subcontractors.
 - iii. On any change that involves a net credit to the State, no allowance for overhead, supervision and profit shall be figured.

- iv. Contractor shall provide back-up information for all change order pricing.
- v. Extension of Contract Time: State any requests for extension of Contract Time with justification for such a request.
- f. Unit Price Change Order: For contract unit prices and quantities, the Change Order will be executed on fixed unit price basis. For unit costs or quantities of units of work which are not pre-determined, execute Work under Construction Change Directive. Changes in Contract Sum/Price or Contract Time will be computed as specified for Time and Material Change Order.
- g. Construction Change Directive: The Department may issue a directive instructing the Contractor to proceed with changes in the Work, for subsequent inclusion in a Change Order. Document will describe changes in the Work, and designate method of determining any change in Contract Sum/Price or Contract Time. Promptly execute change. Failure to comply will result in Default of Contract.
- h. Time and Material Change Order: Submit itemized account and supporting data within 10 days of completion of change. The Department will determine change allowable in Contract Sum/Price and Contract Time as provided in Contract Documents.
 - i. Maintain detailed records of work done on Time and Material basis. Provide full information required for evaluation of proposed changes, and to substantiate costs for changes in the Work.
- i. Execution of Change Orders: The Contractor is responsible for preparing and updating a spreadsheet log itemizing all Proposed Changes. A separate spreadsheet shall be completed for each Allowance Item. The spreadsheet shall include columns for Proposed Change Number, Description, Amount of Change, Status, and Approved Amounts. In addition, a current balance remaining shall be included. Change Orders will be processed per the following procedures:
 - i. The Department reviews cost for Change in Work. If needed the Department will request additional items, back-up information, and request any possible changes or clarifications.
 - ii. Contractor can proceed with Change Order Work with direction from the Department.
 - iii. Contractor shall not proceed with any work that will exceed the amount of Allowance remaining.
 - iv. Fully signed and executed Change Order is issued by the Department to the Consultant and Contractor.
- j. Correlation Of Contractor Submittals:
 - i. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as separate line item and adjust Contract Sum/Price.
 - ii. Promptly revise progress schedules to reflect change in Contract Time, revise sub-schedules to adjust times for other items of work affected by the change, and resubmit.
 - iii. Promptly enter changes in Project Record Documents.

5. DEFECT ASSESSMENT

- a. Any work or materials found to be defective or not in compliance with the plans and specifications in the determination of the Department shall be handled in the following manner.
- b. Replace the Work, or portions of the Work, not conforming to specified requirements.
- c. If, in the opinion of the Department, it is not practical to remove and replace the Work, the Department will direct appropriate remedy or adjust payment.

- d. The defective Work may remain, but unit sum/price will be adjusted to new sum/price at discretion of the Department.
- e. Defective Work will be repaired to instructions of and acceptance by the Department and unit sum/price will be adjusted to new sum/price at discretion of the Department.
- f. Authority of the Department to assess defects and identify payment adjustments, is final.
- g. Non-Payment For Rejected Products: Payment will not be made for rejected products for any of the following:
 - i. Products wasted or disposed of in a manner that is not acceptable.
 - ii. Products determined as unacceptable before or after placement.
 - iii. Products not completely unloaded from transporting vehicle.
 - iv. Products placed beyond lines and levels of required Work.
 - v. Products remaining on hand after completion of the Work.
 - vi. Loading, hauling, and disposing of rejected products.

6. ALTERNATES

- a. Alternates quoted on Proposal Forms will be reviewed and accepted or rejected at the Department's discretion. Accepted Alternates will be identified in the Department -Contractor Agreement.
- b. Coordinate related work and modify surrounding work.

7. ALLOWANCES

- a. Allowances: If included in the Contract, a stipulated amount of funding for use only upon the Department's instruction. An allowance will make money available for modifications and/or additions to contract items due to owner-initiated changes, unforeseen conditions, for unknown, latent, or differing existing conditions, for testing of hazardous materials or for the removal of hazardous materials, asbestos, lead, mercury, sealant etc. that are encountered by construction
- b. Contractor's costs for products, delivery, installation, labor, insurance, payroll, taxes, equipment rental, overhead and profit will be included in Change Orders authorizing expenditure of funds from an Allowance. The cost of the bond for the amount of Allowance shall be included as part of the lump sum base bid.
- c. Funds will be drawn from an Allowance only by Change Order. Contractor can proceed with Change Order Work against Allowance with direction from the Department. The Contractor shall not proceed with any work that will exceed the amount of Allowance remaining.
- d. Notwithstanding the Contractor's objection, the Department may at any time reduce the funds remaining in the Allowance by Change Order.
- e. At Final Payment of the Contract, funds remaining in the Allowance will be credited to the Department.

8. TESTING AND INSPECTION

- a. Testing and Inspecting: Cost to engage testing and inspecting agency; execution of tests and inspecting; and reporting results are to be paid by the Contractor.
- b. Testing as required by plan and specification shall be performed by an independent certified testing agency that may not be a subsidiary or employee of the Contractor.

c. Contractor shall make all testing information readily available to the Department for review before proceeding to the next phase of any such tested work.

END OF SECTION

SUBMITTAL PROCEDURES

1. SUBMITTAL PROCEDURES

- a. Submittals shall be made for all materials to be used in construction of the project for review and acceptance of the Department PRIOR to installation of said materials.
- b. The word "Submittals" shall include all products and materials that will become part of the finished product whether or not they are specified in the construction documents. This shall also include any shop drawings that need to be approved for any kind of layout of installation. (i.e.: Rebar, steel fabrication, etc...)
- c. Shop drawings will be reviewed for the limited purpose of checking for conformance with information given and design concept expressed in the contract documents.
- d. Contractor to indicate any special utility and/or electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances on shop drawings as applicable.
- e. Transmit each submittal electronically via e-mail with a cover sheet and all pertinent information for review to the Department and the Department's Consultant simultaneously. Schedule submittals to expedite the Project.
- f. Sequentially number transmittal forms and separate items logically. Mark revised submittals with original number and sequential alphabetic suffix.
- g. Identify Project, Contractor, subcontractor and supplier, pertinent drawing and detail number, and specification section number, appropriate to submittal.
- h. Apply Contractor's stamp, signed or initialed certifying that review, approval, verification of products required, field dimensions, adjacent construction Work, and coordination of information is in accordance with requirements of the Work and Contract Documents. Incomplete items or items submitted without the Contractor's signed stamp of approval thereon will be returned rejected.
- i. For each submittal for review, allow 14 days excluding delivery time to and from Architect, Engineer and the Department and Contractor.
- j. The Department and the Department's Consultant will review submittals and coordinate return of same to the Contractor.
- k. Identify variations from Contract Documents and product or system limitations that may be detrimental to successful performance of completed Work.
- l. Allow space on submittals for Contractor and Architect or Engineer review stamps.
- m. When revised for resubmission, identify changes made since previous submission.
- n. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.
- o. Work shall not begin until submittal items have been approved and returned to General Contractor by the Department.
- p. Contractor shall keep a binder on site of all approved submittals for review by the Department and their consultants at any time during construction.

2. CONSTRUCTION PROGRESS SCHEDULES

- a. Submit initial schedule at Preconstruction Meeting.

- b. Submit revised Progress Schedules with each Application for Payment.
- c. Distribute copies of revised schedules to Project site file, subcontractors, suppliers, and other concerned parties.
- d. Instruct recipients to promptly report, in writing, problems anticipated by projections indicated in schedules.
- e. Submit horizontal bar chart with separate line for each section of Work, identifying first work day of each week.

3. SAMPLES

- a. Submit for review for limited purpose of checking for conformance with information given and design concept expressed in Contract Documents.
- b. Samples For Selection as specified in individual specification sections or as noted on plans:
 - i. Submit to the Department for aesthetic, color, or finish selection.
 - ii. Submit samples of finishes from full range of manufacturers' standard colors, textures, and patterns for the Department and Architect/Engineer selection.
- c. Submit samples to illustrate functional and aesthetic characteristics of Products, with integral parts and attachment devices, Coordinate sample submittals for interfacing work.
- d. Include identification on each sample with full Project information.
- e. Submit number of samples specified in individual specification sections; the Department will retain one sample and Architect or Engineer will retain one sample.
- f. Reviewed samples which may be used in the Work are indicated in individual specification sections.

4. TEST REPORTS

- a. Submit for Department and Architect and Engineer's knowledge as required per plans or individual specification sections.
- b. Submit test reports for information for limited purpose of assessing conformance with information given and design concept expressed in Contract Documents.

5. CERTIFICATES

- a. When specified in individual specification sections, submit certification by manufacturer, installation/application subcontractor, or Contractor, to the Department in quantities specified for Product Data.
- b. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- c. Certificates may be recent or previous test results on material or Product but must be acceptable to the Department.

6. MANUFACTURER'S INSTRUCTIONS

- a. When specified in individual specification sections, submit printed instructions for delivery, storage, assembly, installation, start-up, adjusting, and finishing, to the Department in quantities specified for Product Data.

- b. Indicate special procedures, perimeter conditions requiring special attention and special environmental criteria required for application or installation.

7. CONSTRUCTION PHOTOGRAPHS

- a. Provide photographs of site and construction throughout progress of Work.
- b. Contractor will **NOT** take any photographs of military personnel or equipment.
- c. Contractor will **NOT** use any project photographs for any reason other than stated in this section without prior written consent of the Department.
- d. Each month submit photographs with Application for Payment.
- e. Photographs: Submit digital images via email.
- f. In addition to progress photos, contractor is to take four site photographs from differing directions and four interior photographs of each building area indicating relative progress of the work, five days maximum, prior to submitting.
- g. Take photographs as evidence of existing project conditions.
- h. Identify each image, identify name of Project, orientation of view, date, and time of view.

END OF SECTION

TEMPORARY FACILITIES AND CONTROLS

1. TEMPORARY ELECTRICITY

- a. The Department will pay cost of energy used. Exercise measures to conserve energy.
- b. Provide temporary electric feeder from existing building electrical service at location as directed by the Department.
- c. Complement existing power service capacity and characteristics as required for construction operations.
- d. Provide power outlets, with branch wiring and distribution boxes located at each floor, as required for construction operations. Provide flexible power cords as required for portable construction tools and equipment.
- e. Provide main service disconnect and over-current protection at convenient location.
- f. Permanent convenience receptacles may be utilized during construction.

2. TEMPORARY LIGHTING FOR CONSTRUCTION PURPOSES

- a. Provide and maintain lighting for construction operations.
- b. Provide and maintain lighting to exterior staging and storage areas after dark for security purposes.
- c. Provide branch wiring from power source to distribution boxes with lighting conductors, pigtails, and lamps for specified lighting levels.
- d. Maintain lighting and provide routine repairs,
- e. Permanent building lighting may be utilized during construction.

3. TEMPORARY HEATING

- a. Provide and pay for any temporary heating devices and cost of heat as needed to maintain specified conditions for construction operations.
- b. Enclose building prior to activating temporary heat.
- c. Prior to operation of permanent equipment for temporary heating purposes, verify installation is approved for operation, equipment is lubricated, and filters are in place,
- d. Provide and pay for operation, maintenance, and regular replacement of filters and worn or consumed parts.
- e. Maintain minimum ambient temperature of 50 degrees F (10 degrees C) in areas where construction is in progress, unless indicated otherwise in product sections.

4. TELEPHONE SERVICE

- a. Provide, maintain, and pay for telephone service to the field office.

5. WATER SERVICE

- a. The Department will pay cost of temporary water used. Exercise measures to conserve energy. Utilize Department's existing water system, extend and supplement with temporary devices as needed to maintain specified conditions for construction operations.
- b. Extend branch piping with outlets located so water is available by hoses with threaded connections. Provide temporary pipe insulation to prevent freezing.

6. TEMPORARY SANITARY FACILITIES

- a. Provide and maintain required facilities and enclosures. Existing facility use is not permitted. Provide facilities at time of project mobilization.

7. FIELD OFFICES AND SHEDS

- a. Do not use existing facilities for field offices or for storage.
- b. Provide Portable or mobile buildings, or buildings constructed with floors raised above ground, securely fixed to foundations with steps and landings at entrance doors. Maintain during progress of Work; remove at completion of Work.
- c. Storage Areas and Sheds: Size to storage requirements fill products of individual Sections, allowing for access and orderly provision for maintenance and for inspection of products.
- d. Maintenance and Cleaning: Maintain approach walks free of mud, water, and snow.
- e. Removal: At completion of Work remove buildings, foundations, utility services, and debris. Restore areas.

8. VEHICULAR ACCESS

- a. Provide unimpeded access for emergency vehicles. Maintain 20 feet (6 m) wide driveways with turning space between and around combustible materials.
- b. Provide and maintain access to fire hydrants and control valves free of obstructions.
- c. Provide means of removing mud from vehicle wheels before entering streets.
- d. Use designated existing on-site roads for construction traffic.

9. PARKING

- a. Parking for contractor and sub-contractors only in areas as directed by the department.

10. PROGRESS CLEANING AND WASTE REMOVAL

- a. Maintain areas free of waste materials, debris, and rubbish. Maintain site in clean and orderly condition.
- b. Collect and remove waste materials, debris, and rubbish from site weekly and dispose off-site.

11. PROJECT IDENTIFICATION

- a. Project Identification Sign:
 - i. One painted sign of construction and design as shown in sample attached to end of specification section. One painted sign, 32 sq ft ([3 sq m) area, bottom [6 feet (2 m) above ground.
 - ii. Content: Specific information to be determined after Award of Contract.
 - a) Project [number] title, [logo] and name of State Entity as indicated on Contract Documents.
 - b) Names Governor.
 - c) Names the Department.
 - d) Names and titles of Architect/Engineer.
 - e) Name of Prime Contractor [and major Subcontractors].

- f) Contract Amount.
- g) Legislation that authorized project.
- h) Graphic Design, Colors, Style of Lettering: As shown in attached sample at end of specification section.
- i) Lettering: Typeface - Times New Roman, Universe, Arial or CG Omega.
- b. Finishes and Painting: Adequate to withstand weathering, fading and chipping for duration of construction.
- c. Sign Materials:
 - i. Structure and Framing: New wood or metal, structurally adequate.
 - ii. Lettering: Exterior quality paint, contrasting colors as selected.
- d. Installation:
 - i. Install project identification sign prior to start of construction.
 - ii. Erect at location of high public visibility adjacent to main entrance to site.
 - iii. Erect supports and framing on secure foundation, rigidly braced, and framed to resist wind loadings.
 - iv. Install sign surface plumb and level, with butt joints. Anchor securely.
 - v. Paint exposed surfaces of sign, supports, and framing.

12. BARRIERS

- a. Provide barriers to prevent unauthorized entry to construction areas to allow for the Department's use of the site and facility, and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
- b. Provide protection for plants designated to remain. Replace damaged plants.
- c. Protect non-owned vehicular traffic, stored materials, site, and structures from damage.

13. ENCLOSURES AND FENCING

- a. Construction: Commercial grade chain link fence
- b. Provide 6 feet high fence around construction site; equipment with vehicular and pedestrian gates with locks,
- c. Exterior Enclosures:
 - i. Provide temporary [insulated] weather tight closure of exterior openings to accommodate acceptable working conditions and protection for products, to allow for temporary heating and maintenance of required ambient temperatures identified in individual specification sections, and to prevent entry of unauthorized persons, provide access doors with self-closing hardware and locks.

14. SECURITY

- a. Security Program:
 - i. Protect new Work and existing premises from theft, vandalism, and unauthorized entry.
- b. Entry Control.
 - i. Restrict entrance of persons and vehicles into Project site and existing facilities,
 - ii. Allow entrance only to authorized persons with proper identification.
 - iii. Maintain log of workers and visitors, make available to Department on request.

- iv. Coordinate access of Department personnel to site in coordination with Department security forces.
- c. Personnel Identification
 - i. Maintain list of accredited persons, submit copy to Department on request.
 - ii. A driver's license or other acceptable positive identification will be required.

15. WATER CONTROL

- a. Grade site to drain. Maintain excavations free of water. Provide, operate, and maintain pumping equipment.
- b. Protect site from puddling or running water. Provide water barriers as required to protect site from soil erosion.

16. DUST CONTROL

- a. Execute Work by methods to minimize raising dust from construction operations.
- b. Provide positive means to prevent air-borne dust from dispersing into atmosphere.
- c. After completion of work, clean all interior work surfaces.

17. EROSION AND SEDIMENT CONTROL

- a. Plan and execute construction by methods to control surface drainage from cuts and fills, from borrow and waste disposal areas, prevent erosion and sedimentation.
- b. Minimize surface area of bare soil exposed at one time.
- c. Provide temporary measures including berms, dikes, and drains, and other devices to prevent water flow.
- d. Construct fill and waste areas by selective placement to avoid erosive surface silts or clays.
- e. Periodically inspect earthwork to detect evidence of erosion and sedimentation; promptly apply corrective measures.

18. POLLUTION CONTROL

- a. Provide methods, means, and facilities to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances, and pollutants produced by construction operations.
- b. Comply with pollution and environmental control requirements of authorities having jurisdiction.

19. REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- a. Remove temporary utilities, equipment, facilities, materials, prior to Final Application for Payment.
- b. Remove underground installations. Grade site as indicated on Drawings.
- c. Clean and repair damage caused by installation or use of temporary work.
- d. Restore existing facilities used during construction to original condition.

END OF SECTION

EXECUTION REQUIREMENTS

1. CLOSEOUT PROCEDURES

- a. Submit a signed Substantial Completion Application attesting that the Contract Documents have been reviewed, Work has been inspected, and that all Work is complete in accordance with Contract Documents and ready for the Department review.
- b. Only after completion of all Punch List items and submission of all items the Contractor shall submit a Final Application for Payment identifying total adjusted Contract Sum, previous payments, and sum remaining due.

2. FINAL CLEANING

- a. Execute final cleaning prior to final project assessment.
- b. Clean interior and exterior glass, surfaces exposed to view; remove temporary labels, stains and foreign substances, polish transparent and glossy surfaces, vacuum carpeted and soft surfaces.
- c. Clean equipment and fixtures to sanitary condition with cleaning materials appropriate to surface and material being cleaned. Clean new light fixtures free from dust, dirt and fingerprints.
- d. Replace filters of operating equipment.
- e. Clean debris from roofs, roof drains, downspouts, and drainage systems.
- f. Clean site, sweep paved areas, rake landscaped surfaces.
- g. Remove waste and surplus materials, rubbish, and construction facilities from site.

3. STARTING OF SYSTEMS

- a. Coordinate schedule for start-up of various equipment and systems.
- b. Notify the Department seven days prior to start-up of each item.
- c. Verify each piece of equipment or system has been checked for proper lubrication, drive rotation, belt tension, control sequence, and for conditions which may cause damage.
- d. Verify tests, meter readings, and specified electrical characteristics agree with those required by equipment or system manufacturer.
- e. Verify wiring and support components for equipment are complete and tested.
- f. When specified in individual specification Sections, require manufacturer to provide authorized representative to be present at site to inspect, check, and approve equipment or system installation prior to start-up, and to supervise placing equipment or system in operation.
- g. Execute start-up under supervision of applicable manufacturer's representative and Contractors' personnel in accordance with manufacturer's instructions.
- h. Submit a written report stating that the equipment or system has been properly installed and is functioning correctly.

4. DEMONSTRATION AND INSTRUCTIONS

- a. Demonstrate operation and maintenance of products and equipment to Department personnel prior to date of Substantial Completion at mutually agreed time.
- b. For equipment or systems requiring seasonal operation, schedule and perform demonstration for other season within six months with department personnel.

- c. Utilize operation and maintenance manuals as basis for instruction. Review contents of manual with the Department personnel in detail to explain all aspects of operation and maintenance.
- d. Demonstrate start-up, operation, control, adjustment, troubleshooting, servicing, maintenance, and shutdown of each item of equipment at agreed time, at designated location.
- e. Prepare and insert additional data in operations and maintenance manuals when need for additional data becomes apparent during instruction.
- f. Required instruction time for each item of equipment and system is specified in individual sections.

5. PROTECTING INSTALLED CONSTRUCTION

- a. Protect installed Work and provide special protection where specified in individual specification sections.
- b. Provide temporary and removable protection for installed products. Control activity in immediate work area to prevent damage.
- c. Provide protective coverings at walls, projections, jambs, sills and soffits of openings.
- d. Protect finished floors, stairs, and other surfaces from traffic, dirt, wear, damage, or movement of heavy objects, by protecting with durable sheet materials.
- e. Prohibit traffic or storage upon waterproofed or roofed surfaces. When traffic or activity is necessary, obtain recommendations for protection from waterproofing or roofing material manufacturer.
- f. Prohibit traffic from landscaped areas.

6. PROJECT RECORD DOCUMENTS

- a. Maintain on site one set of the following record documents; record actual revisions to the Work:
 - i. Drawings.
 - ii. Specifications.
 - iii. Addenda.
 - iv. Change Orders and other modifications to the Contract.
 - v. Reviewed Shop Drawings, Product Data, approved submittals and Samples.
 - vi. Manufacturer's instruction for assembly, installation, and adjusting.
- b. Ensure data is complete and accurate, enabling future reference by the Department.
- c. Store record documents separate from documents used for construction.
- d. Record information concurrent with construction progress, not less than weekly.
- e. Specifications: Legibly mark and record at each product section description of actual products installed, including the following:
 - i. Manufacturer's name and product model and number.
 - ii. Product substitutions or alternates utilized.
 - iii. Changes made by Addenda and modifications.
- f. Record Drawings and Shop Drawings: Legibly mark each item to record actual construction including:
 - i. Measured depths of foundations in relation to finish floor datum.
 - ii. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.

- iii. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the Work.
- iv. Field changes of dimension and detail.
- v. Details not on original Contract drawings.
- vi. Contractor to provide record drawings in AutoCAD or Revit format compatible with current Department software as well as in PDF format.
- vii. Contractor to supply two (2) full size paper sets of record drawings to Department.
- g. Submit documents to the Department prior to final payment and release of retainage.

7. OPERATION AND MAINTENANCE DATA

- a. Submit data bound in 8-1/2 x 11-inch text pages, three D side ring binders with durable plastic covers. (2 complete copies of all materials required.)
- b. Prepare binder cover with printed title "OPERATION AND MAINTENANCE INSTRUCTIONS", title of project, and subject matter of binder when multiple binders are required.
- c. Internally subdivide binder contents with permanent page dividers, logically organized as described below; with tab titling clearly printed under reinforced laminated plastic tabs.
- d. Contents: Prepare Table of Contents for each volume, with each product or system description identified, typed on white paper, in three parts as follows:
 - i. Part 1: Directory, listing names, addresses, and telephone numbers of Architect/Engineers), Contractor, Subcontractors, and major equipment suppliers.
 - ii. Part 2: Operation and maintenance instructions, arranged by system and subdivided by specification section. For each category, identify names, addresses, and telephone numbers of Subcontractors and suppliers. Identify the following:
 - a) Significant design criteria.
 - b) List of equipment.
 - c) Parts list for each component.
 - d) Operating instructions.
 - e) Maintenance instructions equipment and systems.
 - f) Maintenance instructions for special finishes, including recommended cleaning methods, materials and schedules, and special precautions identifying detrimental agents.
 - iii. Part 3: Project documents and certificates, including the following as required:
 - a) Shop drawings and product data.
 - b) Air and water balance reports.
 - c) Certificates.
 - d) Originals and Photocopies of warranties and bonds.

8. MANUAL FOR MATERIALS AND FINISHES

- a. Submit one copy of preliminary draft or proposed formats and outlines of contents before start of Work. The Department will review draft and return one copy with comments.
- b. For equipment, or component parts of equipment put into service during construction and operated by the Department, submit documents within ten days after acceptance.

- c. Submit one copy of completed volumes prior to Substantial Completion. Draft copy be reviewed and returned with Architect/Engineer comments. Revise content of document sets as required prior to final submission.
- d. Submit two sets of revised final volumes in final form prior to final inspection.
- e. Building Products, Applied Materials, and Finishes: Include product data, with catalog number, size, composition, and color and texture designations. Include information for re-ordering custom manufactured products.
- f. Instructions for Care and Maintenance: Include manufacturer's recommendations for cleaning agents and methods, precautions against detrimental agents and methods, and recommended schedule for cleaning and maintenance.
- g. Moisture Protection and Weather Exposed Products: Include product data listing applicable reference standards, chemical composition, and details of installation. Include recommendations for inspections, maintenance, and repair.
- h. Additional Requirements: As specified in individual product specification sections.
- i. Include listing in Table of Contents for design data, with tabbed fly sheet and space for insertion of data.

9. MANUAL FOR EQUIPMENT AND SYSTEMS

- a. Submit two copies of preliminary draft or proposed formats and outlines of contents before start of Work. Contract Administrator will review draft and return one copy with comments.
- b. For equipment, or component parts of equipment put into service during construction and operated by the Department, submit documents within ten days after acceptance.
- c. Submit one copy of completed volumes 15 days prior to Substantial Completion. Draft copy shall be reviewed and returned after Substantial Completion, with Architect/Engineer comments. Revise content of document sets as required prior to final submission.
- d. Submit two sets of revised final volumes in final form prior to final inspection.
- e. Each Item of Equipment and Each System: Include description of unit or system, and component parts. Identify function, normal operating characteristics, and limiting conditions. Include performance curves, with engineering data and tests, and complete nomenclature and model number of replaceable parts.
- f. Panelboard Circuit Directories: Provide electrical service characteristics, controls, and communications; typed and/or by label machine.
- g. Include color coded wiring diagrams as installed.
- h. Operating Procedures: Include stall-up, break-in, and routine normal operating instructions and sequences. Include regulation, control, stopping, shutdown, and emergency instructions. Include summer, winter, and special operating instructions.
- i. Maintenance Requirements: Include routine procedures and guide for preventative maintenance and troubleshooting; disassembly, repair, and reassembly instructions; and alignment, adjusting, balancing, and checking instructions.
- j. Include servicing and lubrication schedule, and list of lubricants required.
- k. Include manufacturer's printed operation and maintenance instructions.
- l. Include sequence of operation by controls manufacturer.

- m. Include original manufacturer's parts list, illustrations, assembly drawings, and diagrams required for maintenance.
- n. Include control diagrams by controls manufacturer as installed.
- o. Include Contractor's coordination drawings, with color coded piping diagrams as installed.
- p. Include charts of valve tag numbers, with location and function of each valve, keyed to flow and control diagrams.
- q. Include list of original manufacturer's spare parts, current prices, and recommended quantities to be maintained in storage.
- r. Include test and balancing reports as specified in Section 01400.
- s. Additional Requirements: As specified in individual product specification sections.
- t. Include listing in Table of Contents for design data, with tabbed dividers and space for insertion of data.

10. PRODUCT WARRANTIES AND PRODUCT BONDS

- a. Obtain warranties and bonds executed in duplicate by responsible subcontractors, suppliers, and manufacturers, within ten days after Substantial Completion. All warranties start dates shall be the Substantial Completion Date if project is phased all warranties to start at the date of Substantial Completion of each phase.
- b. Execute and assemble transferable warranty documents and bonds from subcontractors, suppliers, and manufacturers.
- c. Verify documents are in proper form, contain full information, and are notarized.
- d. Co-execute submittals when required.
- e. Include Table of Contents and assemble in three D side ring binder with durable plastic cover.
- f. Submit prior to final Application for Payment.
- g. Time Of Submittals:
 - iv. For equipment or component parts of equipment put into service during construction with State's permission, submit documents within ten days after acceptance.
 - v. Make other submittals within ten days after Date of Substantial Completion, prior to final Application for Payment.
 - vi. For items of Work for which acceptance is delayed beyond Date of Substantial Completion, submit within ten days after acceptance, listing date or acceptance as beginning or warranty or bond period.

11. MAINTENANCE SERVICE

- a. Furnish service and maintenance of components indicated in specification sections during warranty period.
- b. Examine system components at frequency consistent with reliable operation. Clean, adjust, and lubricate as required.
- c. Include systematic examination, adjustment, and lubrication of components. Repair or replace parts whenever required. Use parts produced by manufacturer of original component.
- d. Do not assign or transfer maintenance service to agent or Subcontractor without prior written consent of the Department.

12. GUARANTEE OF WORK

- a. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the Date of Substantial Completion of the work.
- b. If, within any guarantee period, repairs or changes are required in connection with guaranteed work, which in the opinion of the Department, is rendered necessary as a result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the Contract shall, promptly upon receipt of notice from the Department and at his own expense:
 - i. Place in satisfactory condition in every particular, all such guaranteed work, correct all defects therein.
 - ii. Make good all damage to the building or site, or equipment or contents thereof, which in the opinion of the Department is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the Contract.
 - iii. Make good any work or material, or the equipment and contents of said building or site disturbed in fulfilling any such guarantee.
- c. In any case, wherein fulfilling the requirements of the Contract or of any guarantee, embraced in or required thereby, the Contractor disturbs any work guaranteed under another contract, he shall restore such disturbed work to a condition satisfactory to the Department and guarantee such restored work to the same extent as it was guaranteed under such other contracts.
- d. If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the Department may have the defects corrected and the Contractor and his/her Surety shall be liable for all expense incurred.
- e. All special guarantees applicable to definite parts of the work that may be stipulated in the Specifications or other papers forming a part of the Contract shall be subject to the term of this paragraph during the first year of the life of such special guarantee.
- f. Failure to adhere to guarantee terms may result in suspension or barring from the prequalification list, or, alternatively, the requirement of a Letter of Credit or other guaranty equal to a percentage of the Contract amount.

END OF SECTION

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES**

**EXHIBIT B – APPENDIX 2
DRAWINGS**

SUBJECT: NHARNG Pembroke Road Gate and Fence Repair

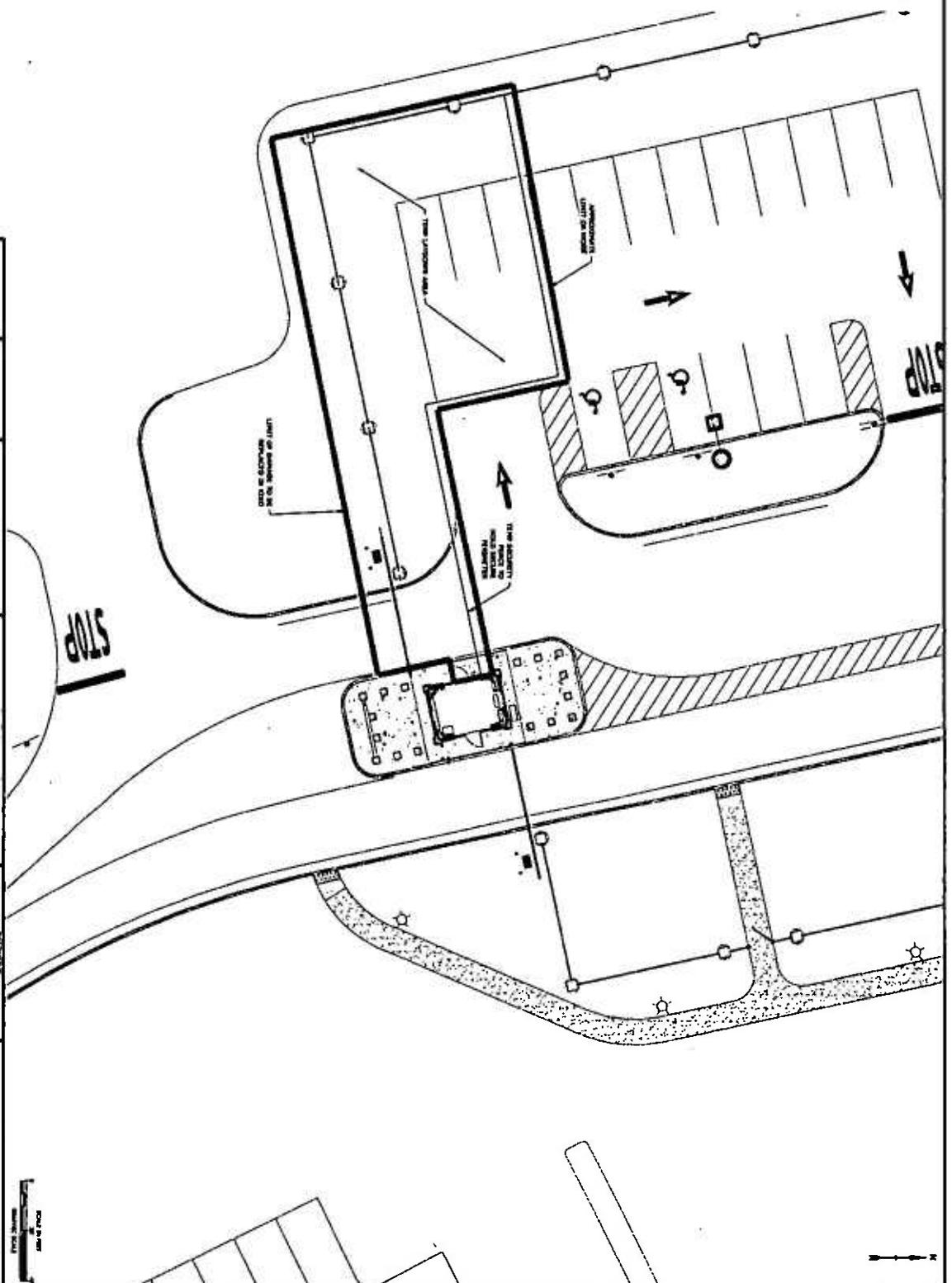
STATEMENT OF UNDERSTANDING

The Contractor clearly understands the following NHARNG Pembroke Road Gate and Fence Repair Drawings and Plans and will meet all requirements specified herein.

1. THE CONTRACTOR TO COORDINATE WITH MANUFACTURERS TO OBTAIN LIMITS OF MANUFACTURE TO COORDINATE WITH MANUFACTURERS TO OBTAIN LIMITS OF MANUFACTURE.

LEGEND

— Manufacturer's Limit of Manufacture
 --- Limit of Work

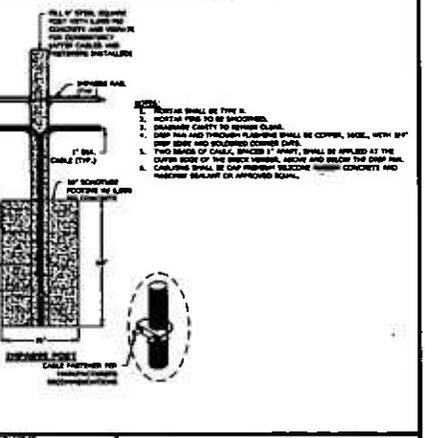
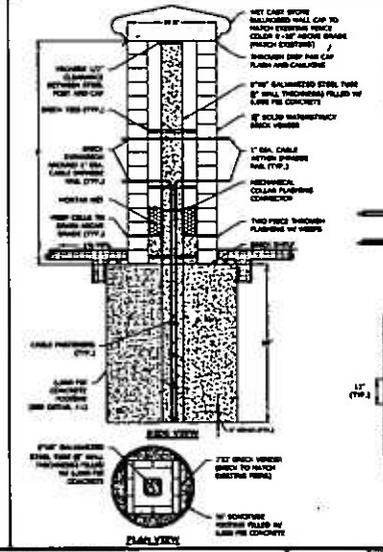
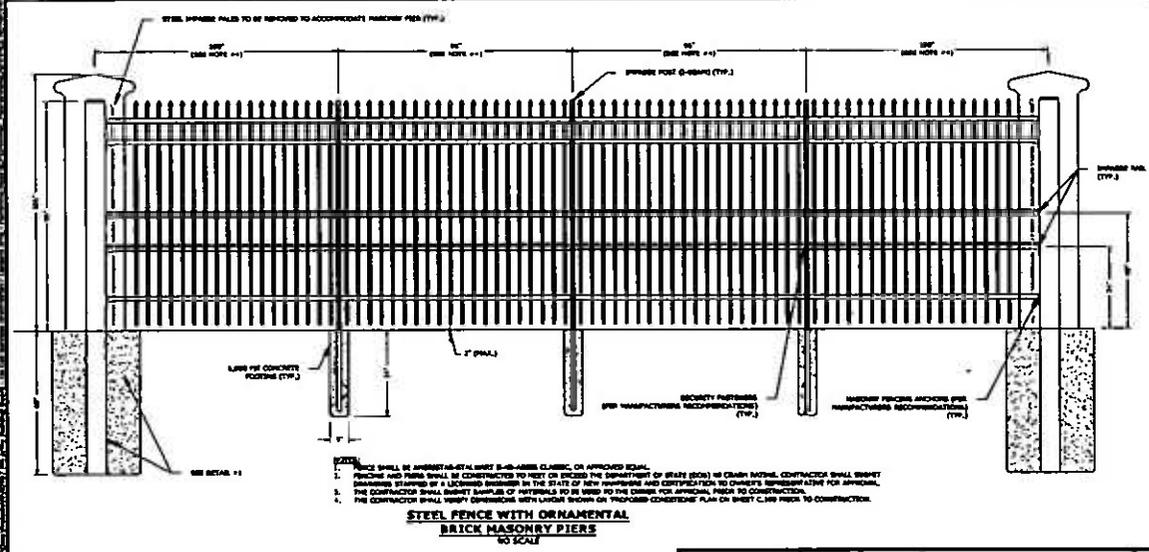
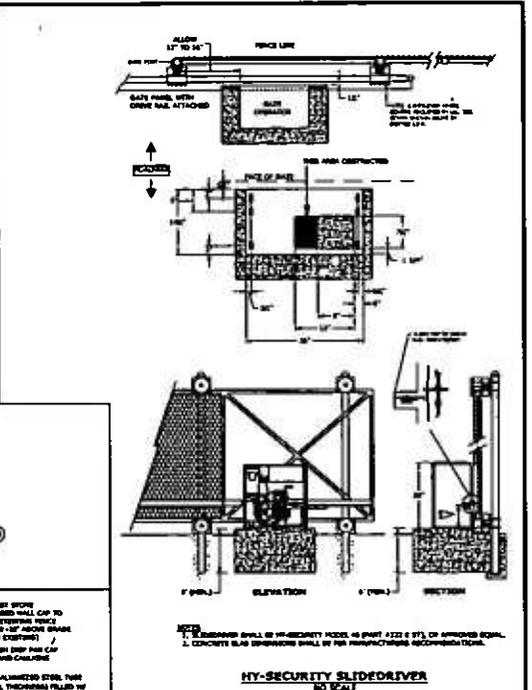
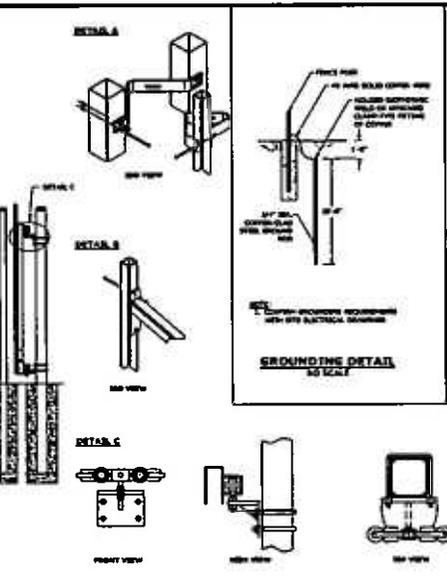
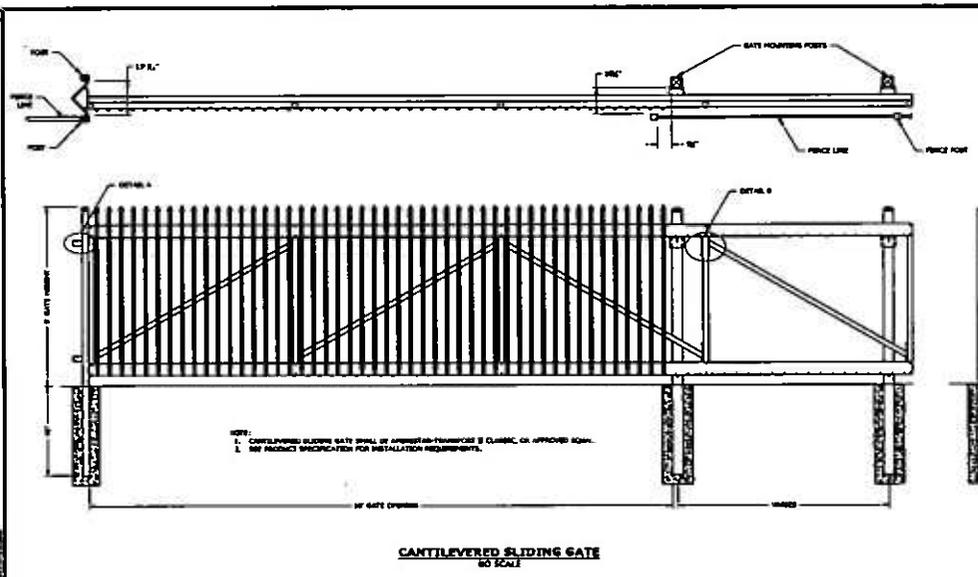


Tyco & Bond
 117 Corporate Drive
 Paramaribo, MD 20681
 (301) 433-8018

STATE OF NEW JERSEY DEPARTMENT OF
 COMMUNITY DEVELOPMENT AND
 CONSTRUCTION
 140 WEST WALK
 TRENTON, NJ 08646
 (609) 982-2000

NO.	DATE	REVISION

MEASUREMENTS CONFORM TO PROJECT SPECIFICATIONS
 DRAWING NO. 100-100-100-100
 SHEET NO. 100-100-100-100
 SCALE: 1" = 10'-0"



Tight & Bond
Environmental Specialists
177 Corporate Drive
Portsmouth, NH 03801
(603) 433-8818

STATE OF NEW HAMPSHIRE ADJUTANT GENERAL'S DEPARTMENT-FM
CONSTRUCTION & FACILITIES MANAGEMENT OFFICE
FACILITIES UNIT
CONCRETE NEW HAMPSHIRE
800-0483 (403) 225-1300

NO.	DESCRIPTION	DATE

MAINTAINING CONCRETE SUB FENCE REPAIR
FORWARD TO
CONCRETE NEW HAMPSHIRE
DETAILS SHEET
CS-3

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES**

**EXHIBIT C
CONTRACT PRICE**

SUBJECT: NHARNG Pembroke Road Gate and Fence Repair

CONTRACT PRICE

The Department of Military Affairs and Veterans Services will pay the Contractor a maximum total of \$243,100.00. This amount shall not be exceeded without issuance of an amendment to this agreement and approval by the Governor and Executive Council of the State of New Hampshire.

The undersigned, having carefully examined the specifications for the referenced services, hereby proposes to furnish all materials and to perform all work for the above-captioned project in strict accordance with said specifications for the following price amount.

Contract price: \$ 233,100.00

Allowance for unforeseen conditions
and/or owner-initiated changes: \$ 10,000.00

Total contract price: \$ 243,100.00

TERMS AND METHOD OF PAYMENT

1. The Department will manifest payments to the Contractor each calendar month on the basis of duly certified and approved estimate of the work performed during the preceding period. In preparing estimates, the material delivered on the site and any preparatory work done may be taken into consideration.
2. At least ten (10) days before the end of the billing period, the Contractor shall submit to the Department an itemized Requisition for Payment, supported by such data substantiating the Contractor's right to payment as the Department may require. If payment is to be made on account of materials or equipment not incorporated in the work, but delivered and suitably stored at the site, such payment shall be conditional upon submission by the Contractor of bills of sale or such other procedure satisfactory to the Department to establish the State's title to such materials or equipment or otherwise protect the State's interest including applicable insurance.
3. Immediately upon receipt of the Department Approved Monthly Requisition for Payment, Contractor shall post same at the Contractor's Field Office or project site in a location where Subcontractors and Suppliers have clear access.
4. A five (5) percent retainage of the value of the work performed on each partial estimate will be

deducted and retained by the Department until after completion of the entire Contract in an acceptable manner. The balance remaining after the specified percentage has been retained, less all previous payments, will be certified for payment on each partial estimate.

5. Within thirty (30) days after acceptance, the Department shall pay to the Contractor the amount of the Contract less all prior payments. All prior payments and estimates, including those relative to extra work, shall be subject to correction by this payment, which is throughout this Contract called the Final Payment.

6. Retainage will be released at Final Payment.

a. After the Certificate of Substantial Completion has been issued, upon written application by the Contractor and with the approval of the Surety, the Department **may** release a portion of the retained amount.

7. Payment for Material on Hand:

a. Partial payments are made for materials to be incorporated in the Work, provided the materials meet the requirements of the Contract and are delivered on, or in the vicinity of, the Project site and stored in acceptable places. Partial payments will not exceed 90 percent of the Contract unit price for the item, or the amount supported by copies of paid invoices, freight bills, or other supporting documents required by the Department. The quantity paid will not exceed the corresponding quantity estimate in the Contract. No partial payment will be made on living or perishable materials until incorporated in the Work.

b. When material payments exceed \$100,000 or 10 percent (10%) of the total contract amount, whichever is less, notarized copies of paid invoices or copies of canceled checks for all such materials must be submitted to the Department within 45 days of the end date of the estimate on which the material allowance was paid. Failure to provide such documentation will result in the deduction of such material allowance from future estimates until documentation is provided.

c. All material and work covered by partial payments made shall thereupon become the sole property of the Department, but this provision shall not be construed as relieving the Contractor of the sole responsibility of all materials and work upon which payments have been made or the restoration of any damaged work or as a waiver of the right of the State to require the fulfillment of all the terms of the Contract.

8. Payment for Material not on hand:

a. The Department will not pay for products and or materials that have not been delivered and stored properly on the construction site.

9. Release of Claims:

- a. Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver a complete release of all claims arising under and by virtue of this Contract, including claims for all Subcontractors and suppliers of either materials or labor, plus a release of the Contract Bond and a statement that all Subcontractors and suppliers have been paid. The Department may pay any and all such claims, in whole or in part, and deduct the amount or amounts so paid from any partial or final payment.

10. Final Payment:

- a. Application for Final Payment received from the Contractor will be processed for payment not less than 60 days after project acceptance and final completion unless accompanied by a release of the Contract Bond. This payment shall be the amount of the Contract, amended by approved change orders, less previous payments minus liquidated damages, additional penalties, or holdbacks. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

11. Acceptance of Final Payment Constitutes Release:

- a. The acceptance of the Final Payment by the Contractor shall be and shall operate as a release to the Contractor of all claims and of all liability to the Department for all things done or furnished in connection with this work. No payment, however final or otherwise, shall operate to release the Contractor and its Sureties from any obligations under this Contract or the Contract Bond. Acceptance of Final Payment shall not impact any warranties provided by the Contractor with respect to this project.

Invoices will be submitted by the Contractor to:

Department of Military Affairs and Veterans Services
4 Pembroke Road, Bldg. C
Concord, NH 03301-5652

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES**

**EXHIBIT D
ENVIRONMENTAL MANAGEMENT SYSTEM NOTICE FOR CONTRACTORS AND
CONTRACTOR EMPLOYEES**

SUBJECT: NHARNG Pembroke Road Gate and Fence Repair

ENVIRONMENTAL MANAGEMENT SYSTEM

The New Hampshire Army National Guard (NHARNG) has implemented an environmental Management System (eMS), in accordance with Executive Orders 13423 and 13514, to guide its operations in an environmentally sound manner. Under its eMS, the NHARNG has identified significant activities, products or services that can interact with the environment (known as aspects) and potential environmental impacts from its operations.

The significant environmental aspects are listed below:

- Energy Use
- Vehicle Travel (fleet) Between Workstations

These significant aspects and their associated impacts are closely monitored by the NHARNG. Further, the NHARNG is tracking the success of the implementation plans established to achieve the NHARNG's objectives.

For the purposes of this notice, applicability is limited to those actions that the contractor or subsequent employees are likely to perform on NHARNG properties.

The primary purpose of this notice is to communicate the three basic tenets of the NHARNG's eMS policy:

- eMS (ISO 14001) is the management system the NHARNG uses to implement the Adjutant General's Environmental Policy.
- The eMS Environmental Policy commits the NHARNG to comply with environmental laws and regulations, to prevent pollution and to promote continual improvement of the eMS.
- Contractors are responsible for knowing the environmental impacts of their services and must understand the management requirements for any activities that could affect any of NHARNG's significant aspects, or that could result in potential environmental impacts.

ENERGY USE

The NHARNG is committed to reducing its consumption of energy. Reducing energy consumption may be realized by turning off electrical equipment when not in use, or reducing heating temperatures/increasing cooling temperatures, using alternative fuels (if available, such as E85 or

biodiesel), etc. Contracts that include the use or installation of equipment will seek the most energy efficient technology within the scope of the contract.

VEHICLE TRAVEL (FLEET) BETWEEN WORKSTATIONS:

The NHARNG is committed to preventing pollution through monitoring of Federal GSA Fleet vehicle usage. Usage of fleet vehicles by contractors is prohibited.

CONTACT INFORMATION:

The Department of Military Affairs and Veterans Services Environmental Staff (603) 227-1439

RESOURCES PROVIDED UPON CONTRACTOR REQUEST:

NHARNG Integrated Cultural Resources Management Plan (ICRMP)
NHNG Green Procurement Plan
Facility Specific Integrated Contingency Plans (ICPs); established for the State Military Reservation, Manchester RC / FMS, Army Aviation Support Facility (AASF)
NHARNG Hazardous Waste Management Plan

THE AMERICAN INSTITUTE OF ARCHITECTS



Premium Amount Based
on Final Contract Amount

Bond No. 0254202

**AIA Document A312
Performance Bond**

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
**TURNSTONE CORPORATION
479 NASHUA STREET
MILFORD, NH 03055**

SURETY (Name and Principle Place of Business):
**BERKLEY INSURANCE COMPANY
P.O. BOX 9010
WESTBROOK, ME 04098**

OWNER (Name and Address):
**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES
4 PEMBROKE ROAD
CONCORD, NH 03301**

CONSTRUCTION CONTRACT

Date: **MAY 6, 2024**

Amount: **TWO HUNDRED FORTY-THREE THOUSAND, ONE HUNDRED AND 00/100 DOLLARS (\$243,100.00)**

Description (Name and Location):

NHARNG PEMBROKE ROAD GATE AND FENCE REPAIR, RFB DMAVS 2024-03

BOND

Date (No earlier than Construction Contract Date): **MAY 6, 2024**

Amount: **TWO HUNDRED FORTY-THREE THOUSAND, ONE HUNDRED AND 00/100 DOLLARS (\$243,100.00)**

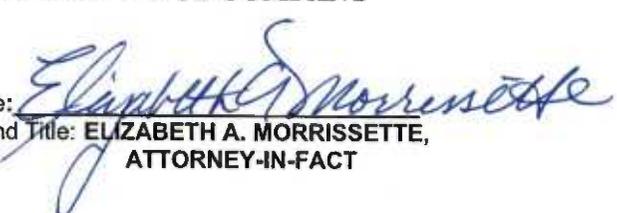
Modifications to this Bond: None

See Page 3

CONTRACTOR AS PRINCIPAL
COMPANY: (Corporate Seal)
TURNSTONE CORPORATION

SURETY
COMPANY: (Corporate Seal)
BERKLEY INSURANCE COMPANY

Signature: 
Name and Title: **STACY J. CLARK
PRESIDENT**

Signature: 
Name and Title: **ELIZABETH A. MORRISSETTE,
ATTORNEY-IN-FACT**

(Any additional signatures appear on page 3)

FOR INFORMATION ONLY-Name, Address, and Telephone
AGENT OR BROKER:
**FIAI INC. DBA CROSS INSURANCE-MANCHESTER
1100 ELM STREET
MANCHESTER, NH 03103**

OWNER'S REPRESENTATIVE (Architect,
or Engineer or other party):

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its rights to perform and complete, arrange for completion, or obtain a new contractor and with

reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefore to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefore.

5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.

8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation avail-

able to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Con-

tractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corporate Seal)

SURETY

Company: _____ (Corporate Seal)

Signature: _____

Signature: _____

Name and

Title: _____ Name and Title:

Address: _____ Address:

THE AMERICAN INSTITUTE OF ARCHITECTS



Premium Amount Based
on Final Contract Amount

Bond No. 0254202

**AIA Document A312
Payment Bond**

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
**TURNSTONE CORPORATION
479 NASHUA STREET
MILFORD, NH 03055**

SURETY (Name and Principle Place of Business):
**BERKLEY INSURANCE COMPANY
P.O. BOX 9010
WESTBROOK, ME 04098**

OWNER (Name and Address):
**STATE OF NEW HAMPSHIRE
DEPARTMENT OF MILITARY AFFAIRS AND VETERANS SERVICES
4 PEMBROKE ROAD
CONCORD, NH 03301**

CONSTRUCTION CONTRACT

Date: **MAY 6, 2024**

Amount: **TWO HUNDRED FORTY-THREE THOUSAND, ONE HUNDRED AND 00/100 DOLLARS (\$243,100.00)**

Description (Name and Location):

NHARNG PEMBROKE ROAD GATE AND FENCE REPAIR, RFB DMAVS 2024-03

BOND

Date (No earlier than Construction Contract Date): **MAY 6, 2024**

Amount: **TWO HUNDRED FORTY-THREE THOUSAND, ONE HUNDRED AND 00/100 DOLLARS (\$243,100.00)**

Modifications to this Bond: None

See Page 3

CONTRACTOR AS PRINCIPAL
COMPANY: (Corporate Seal)
TURNSTONE CORPORATION

SURETY
COMPANY: (Corporate Seal)
BERKLEY INSURANCE COMPANY

Signature: 
Name and Title: **STACY J. CLARK
PRESIDENT**

Signature: 
Name and Title: **ELIZABETH A. MORRISSETTE,
ATTORNEY-IN-FACT**

(Any additional signatures appear on page 6)

FOR INFORMATION ONLY-Name, Address and Telephone
AGENT OR BROKER:
**FIAI INC. DBA CROSS INSURANCE-MANCHESTER
1100 ELM STREET
MANCHESTER, NH 03103**

OWNER'S REPRESENTATIVE (Architect,
Engineer or other party):

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly, or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4. The Surety shall have no obligation to Claimants under this Bond until:

4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2 Claimants who do not have a direct contract with the Contractor:

- .1 Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
- .2 Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
- .3 Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety that is sufficient compliance.

6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim,

stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2 Pay or arrange for payment of any undisputed amounts.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by

Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this

Bond shall be construed as a statutory bond and not as a common law bond.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the

Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

Paragraph 6 above is deleted in its entirety and the following is substituted in its place:

6. When the Claimant has satisfied the conditions of Paragraph 4, and has submitted all supporting documentation and any proof of claim requested by the Surety, the Surety shall, with reasonable promptness, notify the Claimant of the amounts that are undisputed and the basis for challenging any amounts that are disputed, including, but not limited to, the lack of substantiating documentation to support the claim as to entitlement or amount, and the Surety shall, with reasonable promptness, pay or make arrangements for payment of any undisputed amount; provided, however, that the failure of the Surety to timely discharge its obligations under this paragraph or to dispute or identify any specific defense to all or any part of a claim shall not be deemed to be an admission of liability by the Surety as to such claim or otherwise constitute a waiver of the Contractors or Surety's defenses to, or right to dispute, such claim. Rather, the Claimant shall have the immediate right, without further notice, to bring suit against the Surety to enforce any remedy available to it under this Bond.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title: , Attorney-in-Fact

Address:

Address:



Please **verify the authenticity** of the instrument attached to this Power by:

Toll-Free Telephone: (800) 456-5486; or

Electronic Mail: BSGInquiry@berkleysurety.com

Any written notices, inquiries, claims or demands to the Surety on the bond attached to this Power should be directed to:

Berkley Surety
412 Mount Kemble Ave.
Suite 310N
Morristown, NJ 07960
Attention: Surety Claims Department

Or

Email: BSGClaim@berkleysurety.com

Please include with all communications the bond number and the name of the principal on the bond. Where a claim is being asserted, please set forth generally the basis of the claim. In the case of a payment or performance bond, please also identify the project to which the bond pertains.

Berkley Surety is a member company of W. R. Berkley Corporation that underwrites surety business on behalf of Berkley Insurance Company, Berkley Regional Insurance Company and Carolina Casualty Insurance Company.

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that TURNSTONE CORPORATION is a New Hampshire Profit Corporation registered to transact business in New Hampshire on April 17, 2002. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 403646

Certificate Number: 0006655922



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 2nd day of April A.D. 2024.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan
Secretary of State

Corporate Resolution Certification of Authority

I, Tony DaCosta, hereby certify that I am duly elected Clerk/Secretary/Officer of
(Name of Attestor)

Turnstone Corporation. I hereby certify the following is a true copy of a vote taken at
(Name of Corporation)

a meeting of the Board of Directors/shareholders, duly called and held on May 6, 2024,
at which a quorum of the Directors/shareholders were present and voting.

VOTED: That Stacy J. Clark, President is duly authorized to enter
(Name and Title of Authorized Signatory)

into contracts or agreements on behalf of Turnstone Corporation
(Name of Corporation)

with the State of New Hampshire and any of its agencies or departments and further is authorized
to execute any documents which may in his/her judgment be desirable or necessary to affect the
purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date
of the contract to which this certificate is attached. This authority **remains valid for thirty (30) days** from the
date of this Corporate Resolution. I further certify that it is understood that the State of New Hampshire will rely
on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that
they have full authority to bind the corporation. To the extent that there are any limits on the authority of any
listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are
expressly stated herein.

DATED: 5/6/2024

ATTESTOR: [Signature]

NAME: Tony DaCosta

TITLE: Vice President



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
05/06/2024

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY Cross Insurance-Laconia 155 Court Street Laconia NH 03246		PHONE (A/C, No, Ext): (603) 524-2425	COMPANY Acadia Ins Co. One Acadia Commons P.O. Box 9010 Westbrook ME 04098-5010	
FAX (A/C, No): (603) 524-3668	E-MAIL ADDRESS: tracy.andriski@crossagency.com			
CODE:	SUB CODE:			
AGENCY CUSTOMER ID #: 00178165			LOAN NUMBER	POLICY NUMBER CIM5595404-10
INSURED Department of Military Affairs Turnstone Corporation 479 Nashua Street Milford NH 03055-0539		EFFECTIVE DATE 05/06/2024	EXPIRATION DATE 05/06/2025	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION NHARNG Pembroke Road Gate and Fence Repair
--

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION	PERILS INSURED	BASIC	BROAD	SPECIAL	AMOUNT OF INSURANCE		DEDUCTIBLE
					COVERAGE / PERILS / FORMS		
Builders Risk, RC, Special Form					243,100		1,000

REMARKS (Including Special Conditions)
--

CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
--

ADDITIONAL INTEREST																	
NAME AND ADDRESS Department of Military Affairs 4 Pembroke Road Concord NH 03301	<table border="1"> <tr> <td>ADDITIONAL INSURED</td> <td>LENDER'S LOSS PAYABLE</td> <td><input type="checkbox"/></td> <td>LOSS PAYEE</td> </tr> <tr> <td>MORTGAGEE</td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4">LOAN #</td> </tr> <tr> <td colspan="4">AUTHORIZED REPRESENTATIVE <i>Tracy Andriski</i></td> </tr> </table>	ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	<input type="checkbox"/>	LOSS PAYEE	MORTGAGEE				LOAN #				AUTHORIZED REPRESENTATIVE <i>Tracy Andriski</i>			
ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	<input type="checkbox"/>	LOSS PAYEE														
MORTGAGEE																	
LOAN #																	
AUTHORIZED REPRESENTATIVE <i>Tracy Andriski</i>																	



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/06/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cross Insurance-Laconia 155 Court Street Laconia NH 03246		CONTACT NAME: Tracy Andriski, CISR PHONE (A/C, No, Ext): (603) 524-2425 E-MAIL ADDRESS: tracy.andriski@crossagency.com FAX (A/C, No): (603) 524-3666																						
INSURED Department of Military Affairs c/o Turnstone Corporation 479 Nashua Street Milford NH 03055		<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A :</td> <td>Acadia Ins Co.</td> <td>31325</td> </tr> <tr> <td>INSURER B :</td> <td></td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	Acadia Ins Co.	31325	INSURER B :			INSURER C :			INSURER D :			INSURER E :			INSURER F :		
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COVERAGES **CERTIFICATE NUMBER:** CL245272395 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL/SUBR		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
		INSD	WVD					
A	COMMERCIAL GENERAL LIABILITY			OCP5597987-10	05/06/2024	05/06/2025	EACH OCCURRENCE	\$ 2,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
	<input checked="" type="checkbox"/> Owners & Contractors Protective						MED EXP (Any one person)	\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	\$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE	\$ 3,000,000
	OTHER:						PRODUCTS - COMP/OP AGG	\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> OWNED AUTOS ONLY						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY							\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DED						RETENTION \$	\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH)						E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: NHARNG Pembroke Road Gate and Fence Repair

CERTIFICATE HOLDER Department of Military Affairs 4 Pembroke Road Concord NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Tracy Andriski</i>
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