

**ADDENDUM #2  
TO  
AGENDA**

**CITY COUNCIL MEETING**

**MONDAY, OCTOBER 16, 2017**

7:00 p.m.

City Council Chambers, City Hall - 45 Lyon Terrace  
Bridgeport, Connecticut

**ADDED:**

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- 161-16**      Communication from Mayor re: Appointment of Raquel Rivera-Pablo (D) to the Food Policy Council, referred to Miscellaneous Matters Committee.
- 162-16**      Communication from Mayor re: Reappointment of Christine E. Stafstrom (D) to the Food Policy Council, referred to Miscellaneous Matters Committee.
- 163-16**      Communication from Mayor re: Appointment of Anna E. Greer (D) to the Food Policy Council, referred to Miscellaneous Matters Committee.
- 164-16**      Communication from Mayor re: Appointment of John M. Hosier (U) to the Board of Park Commissioners, referred to Miscellaneous Matters Committee.
- 165-16**      Communication from Mayor re: Appointment of Richard D. Greenwood (D) to the Harbor Management Commission, referred to Miscellaneous Matters Committee.

**ADDENDUM  
TO  
AGENDA**

**CITY COUNCIL MEETING**

**MONDAY, OCTOBER 16, 2017**

7:00 p.m.

City Council Chambers, City Hall - 45 Lyon Terrace  
Bridgeport, Connecticut

**ADDED:**

Mayoral and City Council Citation(s): Recognizing "Bridgeport Unidos Por El Mundo" for assisting with the Hurricane Harvey and Puerto Rico Relief Efforts by collecting supplies, donations and shipping them out.

**MATTERS TO BE ACTED UPON:**

- 141-16** Ordinance Committee Report re: Amendments to the Municipal Code of Ordinances, Chapter 3.20 – Tax Incentive Development Program, amend Section 3.20.060(G) – Miscellaneous Provisions.
- 142-16** Ordinance Committee Report re: Amendments to the Municipal Code of Ordinances, Chapter 3.24 – Affordable Housing Tax Incentive Development Program, amend Section 3.24.040(F) – Miscellaneous.

AGENDA  
CITY COUNCIL MEETING  
MONDAY, OCTOBER 16, 2017

7:00 P.M.  
CITY COUNCIL CHAMBERS, CITY HALL – 45 LYON TERRACE  
BRIDGEPORT, CONNECTICUT

Prayer

Pledge of Allegiance

Roll Call

City Council Citation: Recognizing the Black Rock Food Pantry and Volunteers for helping their community.

**MINUTES FOR APPROVAL:**

Approval of City Council Minutes: September 18, 2017

**COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

- 159-16** Communication from City Attorney re: Proposed Design-Build Agreement with Tancreti Construction, LLC for a new Spider Monkey Exhibit at Beardsley Zoo, referred to Contracts Committee.
- 160-16** Communication from OPED re: Proposed Amphitheater Development and Operating Agreement with Harbor Yard Amphitheater, LLC and Request to Order a Public Hearing Relative to the Same, referred to Contracts Committee.

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

- \*130-16** Public Safety and Transportation Committee Report re: Honorary Naming of Lafayette Street between South Frontage Road and Railroad Avenue as “Winifred Timberlake Way”.
- \*134-16** Public Safety and Transportation Committee Report re: Grant Submission: State of Connecticut Office of Policy and Management Police and Youth Program for Urban Communities (#18283).
- \*136-16** Public Safety and Transportation Committee Report re: (Ref. #217-15) Resolution regarding Sidewalk Repair Pilot Program Cost Estimates.
- \*137-16** Public Safety and Transportation Committee Report re: Letter of Commitment – FEMA National Flood Insurance Program Community Rating System (CRS).

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, OCTOBER 16, 2017 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

**NAME**

**SUBJECT**

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John Marshall Lee  
30 Beacon Street  
Bridgeport, CT 06605

City Priorities – Fiscal Realities.

Dasha Spell  
144 Golden Hill Street  
Bridgeport, CT 06604

Education & Youth.

Rev. Carl McCluster  
Shiloh Baptist Church  
477 Broad Street  
Bridgeport, CT 06604

Development and Jobs in the City of  
Bridgeport.

Richard T. Leger  
Brookside Discount Wine & Liquor  
4575 Main Street  
Bridgeport, CT 06606

Proposed zoning change on liquor.

Angela Chapman  
120 Holly Street  
Bridgeport, CT 06607

Law enforcement & citizen harassment,  
Board of Education and estate issues.



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Law enforcement & citizen harassment,  
Board of Education and estate issues.

**CITY COUNCIL MEETING  
PUBLIC SPEAKING  
MONDAY, OCTOBER 16, 2017  
6:30 PM**

**City Council Chambers, City Hall  
45 Lyon Terrace  
Bridgeport, CT**

**CALL TO ORDER**

Council President McCarthy called the Public Speaking session to order at 6:45 p.m.

**ROLL CALL.**

The Assistant City Clerk Frances Ortiz called the roll.

130<sup>th</sup> District: Kathryn Bukovsky, Scott Burns  
131<sup>st</sup> District: Jack O. Banta  
132<sup>nd</sup> District: M. Evette Brantley, John Olson  
133<sup>rd</sup> District: Thomas McCarthy, Jeanette Herron  
134<sup>th</sup> District: Michelle Lyons, AmyMarie Vizzo-Paniccia  
135<sup>th</sup> District: Mary McBride-Lee (7:02 p.m.); Richard Salter  
136<sup>th</sup> District: José Casco, Alfredo Castillo  
137<sup>th</sup> District: Aidee Nieves, Milta Feliciano  
138<sup>th</sup> District: Anthony Paoletto, Nessah Smith (7:00 p.m.)  
139<sup>th</sup> District: Eneida Martinez, James Holloway

RECEIVED  
CITY CLERKS OFFICE  
17 OCT 23 AM 10:40  
ATTEST  
CITY CLERK

**THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, OCTOBER 16, 2017 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.**

**NAME**

**SUBJECT**

**John Marshall Lee**  
30 Beacon Street  
Bridgeport, CT 06605

City Priorities – Fiscal Realities.

Greetings to the Council members present and voting this evening and to the members of the public who pay for the decisions, one way or another.

For more than six years I have written and spoken about governance of our City. The last approved Charter significantly removed a fiscal review body called the Board of Taxation and Apportionment. It stripped the City of fiscal watchdogs with knowledge and memory of what

City of Bridgeport  
City Council  
Regular Meeting  
October 16, 2017

was happening in the City. The power to initiate and to execute was retained by the Mayor. The Council was left with a duty to review the operating and capital budgets annually and little else. Between actual conflicts of interest with Council members employed by the City or legal opinions that restricted any desire to get "smarter" with measured decision making and evaluations, progressive results from the Council have been wanting.

I have often spoken about OPEN, ACCOUNTABLE, TRANSPARENT and HONEST governance. Where has the Council made progress in two years in this regard?

Did you realize that the Ordinances you address tonight revoke language adopted by the Council on November 4, 2013? Did you read that 47 months ago the City Council assigned OPED the task, in consultation with the tax collector and tax assessor of establishing *"uniform and consistent policies, procedures and forms to ensure compliance with this chapter making such procedures, and forms publicly available within one hundred twenty (120) days of the enactment of the ordinance codified in this chapter."* Did the Council Ordinance Committee ever follow up on this deadline? And why did the City require a grace period of more than three years to comply? Is it because of a deal on Main Street where visuals have been presented, but not the financials that will show the guts of the deal and where the taxpayer stands at risk?

Have you taken a look at all the numbers that must be entered in categories that must be defined and then entered in work sheets? Is this more complicated than your personal tax return? Do you ask for professional assistance? My 2015 City Council running mate Tyisha Toms, now of the City Attorney Office looked for such language, had she been on the City Council. So I favor some type of standardization. But why is this rushed and at the last minute? Why give up your power to approve? If you have a new approach that is standard, then approval should be as automatic as the consent calendar, shouldn't it? But are you sure how this formula works today?

Perhaps you should consider accepting the formulas from OPED as a starting point? But perhaps you should hold onto your review power and vote until you see how this all works out in practice? What is the goal of OPED? Does the Mayor have the same goal and priority? How would you know when he does not state such often and proudly? Another clause you have eliminated states: *"The policies, procedures and forms shall be made available for public comment for a thirty day period prior to their implementation..."* Why is that being ignored at this time?

If the resolutions provided and approved were to pass, inasmuch as they are a part of a process where a developer needs to apply for financial aid, just as families do for college aid for family members, will the taxpayer be part of the review team? Will the forms be made public for review? Or will they be considered confidential because of proprietary issues? Isn't it about time that the 100% taxpayers are let in on the full picture since we are making an investment when the Vibes leave town with hundreds of thousands owed to the City? When a baseball team is credited with paying rent with an accrual by one administration and then the current

administration has to reverse the accrual and let the current taxpayer, perhaps not a baseball fan, make the funds up? When a Port Authority has almost \$1 Million of debt settled from OPED Capital funds illegally as well as property sell offs completed with two Commission members missing and no fiscal reporting to the public for almost nine years?

I favor open, accountable, transparent, and honest governance and representatives who are both knowledgeable and responsive. Are you such a group tonight? Time will tell.

**Dasha Spell**

Education & Youth.

144 Golden Hill Street  
Bridgeport, CT 06604

Ms. Dasha Spell came forward and said that City Council Members represents the concerns and issues of their constituents or at least that is what the website says. She said that she was present on behalf of the children. There were two murders in the City recently. The City is losing our youths. How is it that the Mayor can say they have no funding for education but there are developers walking in the door?

There is a rubber band BOE situation. There are 5.1 charter programs in the City. The State has allowed 13,000 for each student. The funding follows the students to the charter school. The State has also decided to have the BOE pay for the education for the residents in the juvenile detention center. And whatever is left over goes to the children that live in Bridgeport.

Please consider this when you consider funding.

**Rev. Carl McCluster**

Development and Jobs in the City of  
Bridgeport.

Shiloh Baptist Church  
477 Broad Street  
Bridgeport, CT 06604

Council President McCarthy called Rev. McCluster next but there was no response. He called for Rev. McCluster two more times but there was still no answer.

*Council Member McBride-Lee joined the meeting at 7:00 p.m.*

**Richard T. Leger**

Proposed zoning change on liquor.

Brookside Discount Wine & Liquor  
4575 Main Street  
Bridgeport, CT 06606

Mr. Ledger said that he was present to represent 200 business owners. There are 43 liquor stores and a number of other liquor outlets. Mr. Ledger said that Ms. Lynn Haig had decided to increase the number of liquor stores by 33%. The law has a setback for liquor stores and outlets. Churches, schools and daycare will no longer have a buffer zone around them. Ms. Haig never spoke with any of the business owners that would be affected by this. The restrictions were put in place and showed common sense. The State does not discern between wine, beer or liquor.

There is no conclusion on how this would benefit and clear indication of how it would harm established Bridgeport businesses and those who are located within the 1500 foot setback zones.

**Angela Chapman**  
120 Holly Street  
Bridgeport, CT 06607

Law enforcement & citizen  
harassment, Board of Education and  
estate issues.

Ms. Chapman came forward to speak to the Council Members. She addressed her remarks to Mayor Ganim. When Council President McCarthy explained that he was not Mayor Ganim, she pointed out that Council President McCarthy was sitting in Mayor Ganim's seat. Council President McCarthy explained that he presides over the Public Speaking portion of the meeting and the Mayor presides over the regular Council Meeting.

Ms. Chapman spoke about how she had been allegedly harassed by a Bridgeport police officer, issues with the Board of Education and some estate issues. Ms. Chapman read what appeared to be several complaint forms aloud to the Council Members. At one point, she stated that she had more time to continue speaking. After she concluded her remarks, Ms. Chapman left the meeting.

**Cecil C. Young**  
99 Carroll Avenue  
Bridgeport, CT 06607

Mr. Young came forward and said that he wants justice and that there were people being denied justice. He said that he sees developments and that means investments in the City. However, he would like to know if people were making sure that those who get the tax breaks have been investing in the City.

Mr. Young then said that he had left a copy of a check stub for \$23,000 that he made in one month from serving summons for the WPCA.

Mr. Young then said that if he was elected to office, he would be organizing groups for justice. He said that he had created a uniform as a city sheriff so that he would be recognizable to residents. He asked why the City didn't have community police officers and he hoped that he would be elected.

**Ethan Book**  
144 Coleman Street  
Bridgeport, CT 06604

Mr. Book came forward and said that he was a resident of the Hollow and a member of the Republican Town Committee. At the July 20th meeting of the RTC, there was a vote for reappointment of candidates but there was not a full quorum. He went on to give the details and added that there were about 25 vacant seats. Mr. Book said that Mr. McClain had made a number of nominations and they were illegally approved.

He then said that he had initiated a lawsuit against the Republican Registrar of Voters and other officials because the Registrar had included the illegally elected names on the ballot. Mr. Book said that things would be changing in the near future.

### **ADJOURNMENT**

Council President McCarthy adjourned the public speaking portion of the Council meeting at 7:23 p.m.

Respectfully submitted,

S. L. Soltes  
Telesco Secretarial Services



**CITY OF BRIDGEPORT**  
**CITY COUNCIL MEETING**  
**MONDAY, OCTOBER 16, 2017**

**7:00 PM**

**City Council Chambers, City Hall - 45 Lyon Terrace**

**Bridgeport, Connecticut**

**CALL TO ORDER**

Mayor Ganim called the meeting to order at 7:27 p.m.

**PRAYER.**

Mayor Ganim requested Council Member Olson lead those present in prayer. Council Member Olson did so, referring to Numbers 21 and 22 in his prayer.

**PLEDGE OF ALLEGIANCE**

Mayor Ganim then requested a Council Member to lead those present in reciting the Pledge of Allegiance.

**ROLL CALL**

The Assistant City Clerk called the roll.

130<sup>th</sup> District: Kathryn Bukovsky, Scott Burns  
131<sup>st</sup> District: Jack O. Banta  
132<sup>nd</sup> District: M. Evette Brantley, John Olson  
133<sup>rd</sup> District: Thomas McCarthy, Jeanette Herron  
134<sup>th</sup> District: Michelle Lyons, AmyMarie Vizzo-Paniccia  
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138<sup>th</sup> District: Anthony Paoletto, Nessah Smith  
139<sup>th</sup> District: Eneida Martinez, James Holloway

A quorum was present.

**City Council Citation: Recognizing the Black Rock Food Pantry and Volunteers for helping their community.**

Council President McCarthy requested that those who were involved in the Black Rock Food Pantry come forward. He then spoke about their work and presented them with a City Council Citation recognizing their work in assisting the community.

**Mayoral and City Council Citation(s): Recognizing “Bridgeport Unidos Por El Mundo” for assisting with the Hurricane Harvey and Puerto Rico Relief Efforts by collecting supplies, donations and shipping them out.**

Council President McCarthy requested that those who were involved in the “Bridgeport Unidos Por El Mundo” project to please come forward. Council Member Martinez then spoke about the work the group had done to assist the recent hurricane victims. Council President McCarthy presented them with a City Council Citation recognizing their work in assisting the community.

Mayor Ganim then read the Mayoral Citation to those present and presented it to the group. He thanked them for their work in assisting the hurricane victims.

#### **MINUTES FOR APPROVAL:**

**Approval of City Council Minutes: September 18, 2017**

**\*\* COUNCIL PRESIDENT MCCARTHY MOVED THE MINUTES OF SEPTEMBER 18, 2017.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION TO APPROVE THE MINUTES OF SEPTEMBER 18, 2017 AS SUBMITTED PASSED UNANIMOUSLY.**

#### **COMMUNICATIONS TO BE REFERRED TO COMMITTEES:**

**\*\* COUNCIL MEMBER HERRON MOVED THE FOLLOWING ITEMS TO BE REFERRED TO COMMITTEE AND RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:**

**159-16 COMMUNICATION FROM CITY ATTORNEY RE: PROPOSED DESIGN-BUILD AGREEMENT WITH TANCRETI CONSTRUCTION, LLC FOR A NEW SPIDER MONKEY EXHIBIT AT BEARDSLEY ZOO, REFERRED TO CONTRACTS COMMITTEE.**

**160-16 COMMUNICATION FROM OPED RE: PROPOSED AMPHITHEATER DEVELOPMENT AND OPERATING AGREEMENT WITH HARBOR YARD AMPHITHEATER, LLC AND REQUEST TO ORDER A PUBLIC HEARING RELATIVE TO THE SAME, REFERRED TO CONTRACTS COMMITTEE.**



**161-16 COMMUNICATION FROM MAYOR RE: APPOINTMENT OF RAQUEL RIVERA-PABLO (D) TO THE FOOD POLICY COUNCIL, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**162-16 COMMUNICATION FROM MAYOR RE: APPOINTMENT OF CHRISTINE E. STAFSTROM (D) TO THE FOOD POLICY COUNCIL, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**163-16 COMMUNICATION FROM MAYOR RE: APPOINTMENT OF ANNA E. GREER (D) TO THE FOOD POLICY COUNCIL, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**164-16 COMMUNICATION FROM MAYOR RE: APPOINTMENT OF JOHN M. HOSIER (U) TO THE BOARD OF PARK COMMISSIONERS, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**165-16 COMMUNICATION FROM MAYOR RE: APPOINTMENT OF RICHARD D. GREENWOOD (D) TO THE HARBOR MANAGEMENT COMMISSION, REFERRED TO MISCELLANEOUS MATTERS COMMITTEE.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**MATTERS TO BE ACTED UPON (CONSENT CALENDAR):**

**\*130-16 Public Safety and Transportation Committee Report re: Honorary Naming of Lafayette Street between South Frontage Road and Railroad Avenue as "Winifred Timberlake Way".**

**\*134-16 Public Safety and Transportation Committee Report re: Grant Submission: State of Connecticut Office of Policy and Management Police and Youth Program for Urban Communities (#18283).**

**\*136-16 Public Safety and Transportation Committee Report re: (Ref. #217-15) Resolution regarding Sidewalk Repair Pilot Program Cost Estimates.**

**\*137-16 Public Safety and Transportation Committee Report re: Letter of Commitment – FEMA National Flood Insurance Program Community Rating System (CRS).**

Mayor Ganim asked if there was any Council Member who would like to remove an item from the Consent Calendar. Council Member Vizzo-Paniccia requested that Agenda Items 130-16; 136-16 and 137-16 be removed from the Consent Calendar.

Mayor Ganim requested that the Assistant City Clerk read the remaining Consent Calendar items into the record.

**\*\* COUNCIL PRESIDENT MCCARTHY MOVED THE FOLLOWING ITEM ON THE CONSENT CALENDAR"**

**\*134-16 PUBLIC SAFETY AND TRANSPORTATION COMMITTEE REPORT RE: GRANT SUBMISSION: STATE OF CONNECTICUT OFFICE OF POLICY AND MANAGEMENT POLICE AND YOUTH PROGRAM FOR URBAN COMMUNITIES (#18283).**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*130-16 Public Safety and Transportation Committee Report re: Honorary Naming of Lafayette Street between South Frontage Road and Railroad Avenue as "Winifred Timberlake Way".**

**\*\* COUNCIL PRESIDENT MCCARTHY MOVED AGENDA ITEM 130-16 PUBLIC SAFETY AND TRANSPORTATION COMMITTEE REPORT RE: HONORARY NAMING OF LAFAYETTE STREET BETWEEN SOUTH FRONTAGE ROAD AND RAILROAD AVENUE AS "WINIFRED TIMBERLAKE WAY".**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED WITH EIGHTEEN (18) IN FAVOR (BUKOVSKY, BURNS, BANTA, OLSON, BRANTLEY, MCCARTHY, HERRON, LYONS, MCBRIDE-LEE, SALTER, CASCO, CASTILLO, NIEVES, FELICIANO, PAOLETTO, SMITH, MARTINEZ AND HOLLOWAY) AND ONE (1) OPPOSED (VIZZO-PANICCIA).**

**136-16 Public Safety and Transportation Committee Report re: (Ref. #217-15) Resolution regarding Sidewalk Repair Pilot Program Cost Estimates.**

**\*\* COUNCIL PRESIDENT MCCARTHY MOVED AGENDA ITEM 136-16 PUBLIC SAFETY AND TRANSPORTATION COMMITTEE REPORT RE: (REF. #217-15) RESOLUTION REGARDING SIDEWALK REPAIR PILOT PROGRAM COST ESTIMATES.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED WITH EIGHTEEN (17) IN FAVOR (BUKOVSKY, BURNS, BANTA, OLSON, BRANTLEY, MCCARTHY, HERRON, LYONS, MCBRIDE-LEE, SALTER, CASCO, CASTILLO, NIEVES, FELICIANO, PAOLETTO, SMITH, MARTINEZ AND) ONE (1) OPPOSED (VIZZO-PANICCIA) AND ONE (1) ABSTENTION (HOLLOWAY).**

**\*137-16 Public Safety and Transportation Committee Report re: Letter of Commitment – FEMA National Flood Insurance Program Community Rating System (CRS).**

**\*\* COUNCIL PRESIDENT MCCARTHY MOVED AGENDA ITEM 137-16 PUBLIC SAFETY AND TRANSPORTATION COMMITTEE REPORT RE: LETTER OF COMMITMENT – FEMA NATIONAL FLOOD INSURANCE PROGRAM**

**COMMUNITY RATING SYSTEM (CRS).**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED WITH EIGHTEEN (18) IN FAVOR (BUKOVSKY, BURNS, BANTA, OLSON, BRANTLEY, MCCARTHY, HERRON, LYONS, MCBRIDE-LEE, SALTER, CASCO, CASTILLO, NIEVES, FELICIANO, PAOLETTO, SMITH, MARTINEZ AND HOLLOWAY) AND ONE (1) OPPOSED (VIZZO-PANICCIA).**

*Council Member Martinez left the meeting at 8:15 p.m.*

**MATTERS TO BE ACTED UPON:**

**141-16 Ordinance Committee Report re: Amendments to the Municipal Code of Ordinances, Chapter 3.20 – Tax Incentive Development Program, amend Section 3.20.060(G) – Miscellaneous Provisions.**

**\*\* COUNCIL MEMBER PAOLETTO MOVED THE ITEM.**

**\*\* COUNCIL MEMBER CASTILLO SECONDED.**

Council Member Bukovsky said that she was very skeptical that it had been approved by the City Council. She then said that there had been a compelling case for the program. She suggested that Mr. Coleman be given approval as a PILOT program.

Council Member Olson said that he was not opposed against this proposal, but was concerned that they would be giving up some of the Council's power. He said that he could not remember a time when the Mayor lost a proposal. He said that he would be voting against this because of this, though the basic ordinance was good.

Council Member Burns said that he also agreed with what Council Member Bukovsky said earlier. This will help to modernize and professionalize Bridgeport and will remove the feeling that there are back room deals going on. There is an element of giving up some power, but it will also de-politicize some of the proposals.

Council President McCarthy said that he was an advocate for creating a tax policy for the City but his problem was that while he wanted a tax policy, he could not give up the right of the Council Members to have final say. It is always good to have sunshine in the process. Council President McCarthy added that he believed in good and fair debate on the projects. He has tremendous respect for OPED but felt that it would be best for the City to have the ability to make the final decision.

Council Member Holloway said that the Council was the legislative branch of the administration. He was not against giving incentives to developers that come to Bridgeport. However, there are more senior citizens in the City than there are young people. After the kids go off to college, they don't come back. With WPCA and the tax incentives, the people are leaving. The future City Council will have to make a deal for the taxes, and this is wrong. Council Member Holloway said that he was not in favor of having OPED cutting the Council Members out of the

loop. He said that he wanted to know from OPED that they would not have the ability to approve the tax incentives.

Mr. Coleman from OPED came forward and said that the proposal had very tight proposal parameters. No one will be paying less. If a developer makes more money, they will have to pay more. If they don't make enough money, too bad.

Council Member Holloway said that it would be important for the agreement to be in writing for the new council.

Council Member Feliciano said that during her first term on the Council, the former administration granted a 40-year tax incentive for Crescent Crossing. She said that she pays over \$2,000 per unit for her duplex while Crescent Crossing pays about \$700 per unit on over 90 units. Because of the fact that there are residents losing their homes due to the WPCA, she refuses to approve another tax incentive for Bridgeport.

Council Member Feliciano said that the Council approves the various properties that were auctioned. But they don't know if the properties are going to abutters or being given away. Council Member Feliciano said that Council did still have power and people would have known this if they read the full proposal. She thanked Mr. Gill and Mr. Coleman for their hard work.

Council Member McBride-Lee said that she did not believe in giving up any of the Council power. She spoke about an amendment and added that there will have to be some kind of tax abatement to have developers come into Bridgeport. She said that she believed it would be good for the City because she was tired of her taxes going up on her house and her car. Council Member McBride-Lee said that the Council will still have power and while she would vote for it tonight, she will be watching the program closely.

Council Member Lyons said that she had been on the Council for a number of years and remembers when the tax abatements were for 5 or 7 years. Now they are 10 or 20 years. While she understands that the economic times have changed, it is important not to lose sight of their responsibility of checks and balances.

Council Member Lyons said that she had been at the meeting when Mr. Perez had gone over where the various parcels that were going up for auction were described in detail and who the potential bidders might be for the various properties. It would be very difficult to have the staff fill in all the little details of each transaction. That's the staff job and it is the job of the Council to provide checks and balances.

Council Member Herron said that the City has been dying for so long and unless the City starts moving forward, it will die. People are moving away because their taxes are too high. The New Haven Council runs their Council meetings, not the Mayor. If this is a PILOT program, the Council can stop it if does not work out well.

Council Member Vizzo-Paniccia said that she would be voting no on both items because she did not see how the City Council would get their power back. She added that there was information



available on the properties that were being auctioned, but she did not want to give up the approval process. It will be important to be positive and work together to bring more developers into the City. She asked her fellow Council Members not to give up their approval authority.

Council Member Olson said that there seems to be an agreement that taxes are too high. The disagreement is on sacrificing some of the control that the Council has. But politics are here to stay and forces people to talk to one another. The resolution can be brought back to the Council.

A request for a roll call vote was made.

**\*\* THE MOTION PASSED WITH TEN (10) IN FAVOR (BUKOVSKY, BURNS, HERRON, MCBRIDE-LEE, CASTILLO, NIEVES, FELICIANO, PAOLETTO, SMITH, AND HOLLOWAY) AND EIGHT (8) OPPOSED (BANTA, BRANTLEY, OLSON, MCCARTHY, LYONS, VIZZO-PANICCIA, SALTER, AND CASCO).**

**142-16 Ordinance Committee Report re: Amendments to the Municipal Code of Ordinances, Chapter 3.24 – Affordable Housing Tax Incentive Development Program, amend Section 3.24.040(F) – Miscellaneous.**

**\*\* COUNCIL MEMBER PAOLETTO MOVED THE ITEM.**

**\*\* COUNCIL MEMBER BUKOVSKY SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* COUNCIL MEMBER HERRON MOVED TO SUSPEND THE RULES TO ADD ITEM 150-16 REPORT RE: LICENSING AGREEMENT WITH THE UNIVERSITY OF BRIDGEPORT FOR THE USE AND IMPROVEMENT OF THE BASEBALL FIELD, DIAMOND #1 LOCATED AT SEASIDE PARK.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**Item 150-16 Report re: Licensing Agreement with the University of Bridgeport for the use and improvement of the Baseball Field, Diamond #1 located at Seaside Park.**

**\*\* COUNCIL MEMBER HERRON MOVED AGENDA ITEM 150-16 REPORT RE: LICENSING AGREEMENT WITH THE UNIVERSITY OF BRIDGEPORT FOR THE USE AND IMPROVEMENT OF THE BASEBALL FIELD, DIAMOND #1 LOCATED AT SEASIDE PARK.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

Council Member Olson congratulated the administration and staff for the renovations of the Council Chambers. He said that he noticed the new bronze name plaques and was willing to donate his at the end of his term to be melted down for his successor's plaque.

**\*\* COUNCIL MEMBER VIZZO-PANICCIA MOVED TO SUSPEND THE RULES TO ADD ITEM REGARDING REFERRING A PROPOSED WORKER'S COMPENSATION SETTLEMENT/STIPULATION AWARD IN THE MATTER OF CLAIMANT JOSEPH SAVINO TO THE MISCELLANEOUS MATTERS COMMITTEE.**

**\*\* COUNCIL PRESIDENT MCCARTHY SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

**\*\* COUNCIL MEMBER VIZZO-PANICCIA MOVED TO REFER A PROPOSED WORKER'S COMPENSATION SETTLEMENT/STIPULATION AWARD IN THE MATTER OF CLAIMANT JOSEPH SAVINO TO THE MISCELLANEOUS MATTERS COMMITTEE.**

**\*\* COUNCIL MEMBER PAOLETTO SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY. (ITEM #166-16)**

Council President McCarthy said that he would like to publicly thank Tom Gaudett for all his hard work during the renovation of the Council Chambers.

### **ADJOURNMENT**

**\*\* COUNCIL MEMBER PAOLETTO MOVED TO ADJOURN.**

**\*\* COUNCIL PRESIDENT MCCARTHY SECONDED.**

**\*\* THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned 8:25 p.m.

Respectfully submitted,

S. L. Soltes  
Telesco Secretarial Service

CITY ATTORNEY  
R. Christopher Meyer

DEPUTY CITY ATTORNEY  
John P. Bohannon, Jr.

ASSOCIATE CITY ATTORNEYS

Mark T. Anastasi  
Richard G. Kascak, Jr.  
Bruce L. Levin  
John R. Mitola  
Lawrence A. Ouellette, Jr.  
Tyisha S. Toms  
Lisa R. Trachtenburg

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, Connecticut 06604-4328



ASSISTANT CITY ATTORNEYS

Eroll V. Skyers  
Tamara J. Titre

OF COUNSEL

Russell Liskov  
Ronald J. Pacacha

October 4, 2017

Telephone (203) 576-7647  
Facsimile (203) 576- 8252

COMM. #159-16 Ref'd to Contracts Committee on 10/16/2017.

Lydia Martinez  
City Clerk  
45 Lyon Terrace  
Bridgeport, CT 06604

Re: Zoo Spider Monkey Exhibit Design Build Contract

Dear City Clerk:

Please find attached fifteen (15) Resolutions with Design Build Contract that I wish to be added to the City Council agenda on October 16, 2017 for referral to the Contracts Committee.

Thank you in advance for your time and attention to this matter.

SINCERELY,  
OFFICE OF THE CITY ATTORNEY



By: Lisa R. Trachtenburg  
Its: Associate City Attorney

cc. Greg Dancho  
Don Goff

RECEIVED  
CITY CLERKS OFFICE  
17 OCT -4 PM 2:54  
ATTEST  
CITY CLERK

**RESOLUTION**

*(SPIDER MONKEY EXHIBIT)*

WHEREAS, the City of Bridgeport bonded for and issued a Request for Proposals for a design-builder to design and construct a new Spider Monkey Exhibit at the Beardsley Zoo; and

WHEREAS, a successful proposer came in qualified, prepared and under budget; and

WHEREAS, the design-build contract has been drafted by the Office of the City Attorney; and

WHEREAS, the design-build contract is a contract for professional services under our purchasing ordinance; and

WHEREAS, since the contract is in excess of \$25,000.00, it requires Council approval.

NOW, THEREFORE, be it hereby Resolved by the City Council that the Mayor and/or his designee may execute the attached Design-Build Contract substantially in the form attached hereto and upon final approval of the Office of the City Attorney, and execute such other documents such as permit applications as may be deemed appropriate or necessary in furtherance of the project and as further approved by the Office of the City Attorney.



## **DESIGN-BUILD AGREEMENT**

**AGREEMENT** ("Agreement") is entered into as of \_\_\_\_\_, 2017 between the **CITY OF BRIDGEPORT**, a municipal body corporate and politic, having an address at 45 Lyon Terrace, Bridgeport, Connecticut 06604 ("**Owner**"), and **TANCRETI CONSTRUCTION, LLC**, a corporation organized and existing under the laws of the State of \_\_\_\_\_, having a principal place of business at 50 Unit Drive, Unit J, North Haven., CT 06473 ("**Design-Builder**"). This Agreement pertains to services to be performed in connection with the design and construction of a new Spider Monkey Exhibit for the Beardsley Zoo in Bridgeport, CT, as more particularly described herein.

In consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Owner and Design-Builder agree as set forth below:

### **ARTICLE I DEFINITIONS**

**Addendum** – A document issued by the Owner during the proposal period that may modify or supersede portions of the Contract Documents.

**Agency** – Federal, state, municipal or other governmental department, commission, board, bureau, agency, institution, public authority, office, council, association, instrumentality or political subdivision having jurisdiction of all or any portion of the Project.

**Agreement Amendment** – An amendment to this Agreement in writing executed by the parties hereto.

**Applicable Laws** – Any applicable or relevant State, federal or municipal laws, codes, regulations, ordinances, requirements, rules or rulings, including any Environmental Laws, and any judicial or administrative interpretations, orders or decrees with respect to such laws.

**Approval** – The Owner's written approval or acceptance of a request from Design-Builder including approvals of designs, Refinement Documents, changes to the Work or the Project, changes in price, and the like.

**Architect** – A Connecticut licensed architect, employed by the Design-Builder, who is responsible for all engineering and architectural services to be performed in connection with the Project.

**Calendar Day** – Each of 365 days in a calendar year.

**Certificate of Compliance** – The certificate issued by the design professional retained by the Design-Builder ("Design Professional") in the form specified in **Appendix F**.

**Certificate of Substantial Completion** – The certificate issued by Design-Builder pursuant to the provisions of Section 5.3 in the form specified in Appendix F.

**Clarification** – An interpretation of the Contract Documents that may result in minor changes to the Work not involving an adjustment to the Contract Price or an extension of the Construction Schedule and not inconsistent with the intent of the Contract Documents, provided that the Clarification is documented and approved by the Owner and Design-Builder in writing.

**Construction Administrator** – An individual, partnership, firm, corporation or other business organization under contract with or employed by the Owner and engaged and/or authorized to oversee the completion of all requirements of the Contract Documents. The authorized Construction Administrator may be a Department of Public Facilities project manager or any other designee authorized and identified by the Owner.

**Construction Documents** – Construction Documents are part of the Contract Documents and include all the documents furnished by the Design-Builder as required for the construction of this Project and approved by the Owner. Construction Documents include without limitation all items appropriate or necessary for the proper execution and completion of the Work to the Owner's satisfaction. The Construction Documents shall describe the quality of construction materials, assemblies, and other information deemed necessary to adequately describe the Owner's needs. The Construction Documents shall be prepared by the Architect.

**Construction Schedule** – The Design-Builder's schedule for completion of the Work, as the same may be adjusted from time to time, except that the Substantial Completion Date, which may only be adjusted by an Agreement Amendment.

**Contractor** – An individual, partnership, firm or corporation, under direct contract with the Design-Builder, responsible for performing the Work under this Agreement, if any. Otherwise, the Design-Builder shall be deemed to be the Contractor.

**Contract Documents** – This Agreement, including the Appendices attached hereto, the Request for Proposals dated December 27, 2016, the Design-Builder's proposal dated January 31, 2017, together with all Refinement Documents, the Construction Documents, and any and all Agreement Amendments.

**Contract Price** – Not to exceed Seven Hundred Thirty Four Thousand Five Hundred Thirty Five Dollars and three cents (\$734,535.03) as proposed as Design #1 with Alternatives in Contractors Proposal set forth as Appendix B.

**Critical Path** – The sequence of all critical tasks that have a significant impact on the completion of the Construction Schedule.

**Day** – A business day other than Saturdays, Sundays and days designated as holidays observed by the Owner.

**Design-Builder** – Tancreti Construction, LLC, including the Architect, any person or business organization that provides licensed contracting, architectural, consulting, engineering services or any other necessary services to the Design-Builder for this Project.

**Design-Builder's Proposal** – The Design-Builder's written Proposal attached as **Appendix B** submitted in response to the Request for Proposals.

**Engineer** – A Connecticut licensed engineer employed by the Design-Builder Architect who is responsible for engineering services for the Project. There may be more than one engineer, depending on the work required, (i.e., civil, structural, electrical, geo-technical, mechanical or environmental).

**Environmental Laws** – Any federal, state, or local statute, law, ordinance, code, rule, regulation, order, permit, or decree regulating or relating to the protection of human health or the environment, or imposing liability or standards of conduct concerning any hazardous, toxic, or waste substance, element, compound, mixture or material, as now or at any time hereafter in effect, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9601 et seq.; the Emergency Planning and Right to Know Act, 42 U.S.C. § 11101 et seq.; the Endangered Species Act, 16 U.S.C. § 1531 et seq.; the Lead Based Paint Exposure Reduction Act, 15 U.S.C. § 2681 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Solid Waste Disposal Act (including the Resource Conservation and Recovery Act) 42 U.S.C. § 6901 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 9601 et seq.; Clean Air Act, 42 U.S.C. § 7401 et seq.; the Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; The River and Harbors Act of 1899, 33 U.S.C. § 401 et seq.; and all rules and regulations of the U.S. Environmental Protection Agency (EPA), or any other state or federal department, board, or agency, or any other agency or governmental board or entity having jurisdiction over environmental or health and safety matters, as such may have been amended.

**Final Acceptance** – The Owner's written approval and acceptance of the Work issued to the Design-Builder after the Architect's deliver of the Certificate of Compliance.

**Final Completion Date** – The date on which Owner notifies Design-Builder in writing that all punch list items have been completed and that all plans, training, warranties, guarantees, documents, instruments and other materials contemplated in this Agreement have been delivered to and are complete and acceptable to the Owner.

**Final Completion** – The point in the Project when all punch list items, plans, training, warranties, guarantees, documents, instruments and other materials contemplated in this Agreement have been delivered to, and are complete and acceptable to Owner.

**Force Majeure** – Each party shall not be obligated to perform an activity for reasons of excusable delay described in Section 14.17 so long as it complies with the provisions thereof.

**Hazardous Material** – Any and all materials, chemicals, or other substances defined as hazardous, hazardous waste or toxic waste, or otherwise regulated or controlled pursuant to any of the Environmental Laws.

**Modification** – A written Agreement Amendment, but not a Clarification of the Work.

**Owner** – The City of Bridgeport acting through the Owner's Representative.

**Owner's Representative** – The individual duly-authorized in writing to act on behalf of the Owner in connection with the Project, which at the inception of this Agreement is Don Goff.

**Owner's Requirements** – The Request for Proposals, any addenda thereto, Design-Builder's Proposal, Refinement Documents, plans, specifications, Applicable Laws, rules, regulations and other written requirements of the Owner with respect to the Project, and any Agreement Amendments.

**Project** – The site for the new spider monkey exhibit and related improvements at the Beardsley Zoo, Bridgeport, Connecticut as set forth in **Appendix C** hereto that are to be constructed in accordance with this Agreement.

**Refinement Documents** – Meeting notes, drawings, sketches and other documentation (including the Critical Path Method chart) developed and approved by the Owner and Design-Builder to clarify and refine Design-Builder's Proposal, all of which are included in or will be deemed part of **Appendix D** hereto.

**Regulated Substances** – Any (a) chemical, substance, material, or waste that is designated, classified, or regulated as "hazardous waste," "hazardous material," "hazardous substance," "Connecticut regulated waste," "toxic substance," "radioactive material," or words of similar import, under any applicable Environmental Law; (b) petroleum, petroleum hydrocarbons, petroleum products, petroleum substances, crude oil, and components, fractions, derivatives, or by-products thereof; (c) asbestos or asbestos-containing material (regardless of whether in a friable or non-friable condition), or polychlorinated biphenyls; and (d) any substance that, whether by its nature or its use, is subject to regulation under any applicable Environmental Law then in effect or for which a governmental entity requires remedial action at the property or any areas emanating therefrom.



**Request for Proposal (RFP)** – The RFP contains the scope of the Project and includes project duration, size, type, and desired design character of the Project, including the new spider monkey exhibit and improvements to the Project site described therein.

**Schedule of Values** – A document furnished by the Design-Builder to the Owner stating the portions of the contract sum allocated to the various portions of the Work, which Schedule is to be used in connection with the Design-Builder's applications for payment.

**Subcontractor** – Any party performing a portion of the Work pursuant to a subcontract with the Design-Builder or Architect related to the Project.

**Substantial Completion** – As described in Section 5.3 hereof.

**Substantial Completion Date** – As set forth in Section 5.1 hereof, as the same may be amended by an Agreement Amendment.

**Work** – The design, Bid and construction and other services required by the Contract Documents, and including all labor, materials, equipment, and services provided or to be provided by the Design-Builder to fulfill the Design-Builder's obligations under this Agreement.

## ARTICLE II

### DESIGN-BUILDER'S RESPONSIBILITIES

#### Section 2.1 Responsibilities With Respect to Design

2.1.1. Design-Builder shall furnish all the design, architecture and engineering services, surveying services, and Project permitting including, but not limited to, testing, subsurface borings, and geo-technical data necessary to prepare and furnish design documents (drawings, plans, and specifications) required to complete the Work. The Design-Builder has examined the site and has determined that the site meets all requirements for development of the Project including, but not limited to, those related to public utilities such as electric, telephone, storm, sewer, water, etc., that the site is also suitable for the Work, and that there will be no change orders related to site conditions above and below grade level, except as modified and defined in Sections 2.1.4 and 2.1.5 hereof.

2.1.2. Design-Builder prepared a preliminary or conceptual design of the Project taking into account the needs and objectives of the Owner as set forth in this Agreement as **Appendix E**, as refined by the Refinement Documents to be attached hereto as Appendix D, once initialed, shall constitute the Owner's Approval. Design-Builder shall cause the Architect, subcontractors, consultants and engineers to prepare the necessary detailed plans and specifications as required for the Project from the

preliminary design previously approved by Owner and in accordance with Owner's Requirements and with all Applicable Laws. All Construction Documents and other design documents shall be submitted to Owner for review, comment and Approval, as appropriate, prior to Bid and the start of construction. Approval by Owner shall not relieve Design-Builder of responsibility for any error, inconsistency, or omission in the designs, plans and specifications for the Project, including, but not limited to, those relating to the Americans with Disabilities Act (ADA). If such error, inconsistency, or omission is discovered, Design-Builder shall revise all appropriate drawings, plans, specifications, and other Contract Documents and design documents to correct such error or omission and immediately upon becoming so aware, shall change, alter, and modify the Project accordingly, all at no cost to the Owner.

2.1.3. If there is any inconsistency between the terms of this Agreement and the Owner's Requirements, this Agreement shall control.

2.1.4. If at any time during construction of the Project, Design-Builder discovers any Hazardous Materials not previously described in the Contract Documents in, at, on, or under the site, Design-Builder shall in no way move, disturb, or remediate the Hazardous Materials. Instead, Design-Builder shall immediately notify Owner of the presence of the Hazardous Materials. Owner shall test, remove, or remediate the condition. Design-Builder shall do and perform all things that are necessary or appropriate to facilitate the remediation, if requested by Owner, of the Hazardous Materials. If as a result of following the procedures in this subsection 2.1.4 there is a delay on the critical path of the Construction Schedule as determined by Owner, then Design-Builder shall be entitled to receive an appropriate extension of time in the Construction Schedule to accommodate the delay.

2.1.5. Not Applicable.

2.1.6. Design-Builder will pay for all costs and expenses relating to the performance of its responsibilities pursuant to all of the terms and conditions of this Agreement, including, without limitation, all applicable permits, fees, assessments, and other charges.

## **Section 2.2. Responsibilities With Respect to Construction.**

2.2.1. Except for those responsibilities set forth in Article III hereof, which owner has agreed to undertake, the Design-Builder shall execute all Work and assume all responsibilities in regard to the design, Bid and construction of the Project and performance of the Work including, without limitation, (i) obtaining and paying for all utility services, utility charges and sewer charges, as indicated in the project documents, required for construction of the project; (ii) obtaining and paying for all necessary authorizations, permits, and approvals required for construction and occupancy of the Project including, without limitation, all Certificates of Occupancy and Certificate of Substantial Completion; (iii) satisfying all quality control, testing and inspections, record

keeping, and reporting requirements; (iv) preparing maintaining, and furnishing all Construction Documents, addenda, Clarifications, and Modifications; and (v) making available appropriate representatives to attend regular progress meetings with Owner and other authorities. Design-Builder shall also assume incidental and related responsibilities applicable to the foregoing which may not be specifically enumerated in the Contract Documents.

2.2.2. Design-Builder, using its best skill and attention, will provide or cause to be provided all construction, construction supervision, inspection, labor, materials (including spare parts), tools (including any special tools that may be necessary and appropriate to complete the project), construction equipment and subcontracted items necessary for the execution and completion of the Project and the Work in accordance with the provisions of this Agreement, the Owner's Requirements, the Contract Documents, and all Applicable Laws. Subject to the terms of this Agreement and the Owner's Requirements, Design-Builder shall be solely responsible for and shall have sole control over the means and methods of design and construction, including techniques, sequences, and procedures for coordinating all portions of the Work.

2.2.3. Prior to Final Completion, Design-Builder will pay all applicable costs and expenses, if any, relating to the Work and all costs relating to the performance of its responsibilities pursuant to all of the terms and conditions of this Agreement, including, without limitation, all fees, assessments and other charges payable as a condition to obtaining utilities, permits and approvals. Wages paid by Design-Builder, any contractor or sub-contractors shall be in accordance with the provisions of Section 31-53 of the Connecticut General Statutes, as amended, which provides in part, the following:

The wages paid on an hourly basis to any mechanic, laborer or workman employed shall be prevailing wage in accordance with the most recently published rates of the Connecticut Department of Labor.

2.2.4. Upon Substantial Completion of the Work, Design-Builder shall remove all waste material and rubbish generated by the Work from and around the Project site as well as its tools, construction equipment, machinery, and surplus materials not needed for Final Completion, so that the Project shall be delivered in the condition required for Substantial Completion.

2.2.5. Design-Builder shall keep such reasonable and detailed accounts as may be necessary for proper management under this Agreement, and shall keep and furnish to Owner in Bridgeport, CT those accounts and such other reports, documents, and information as may reasonably be requested by Owner. Design-Builder shall preserve all such records for a period of seven (7) years after the Substantial Completion of the Project or longer if required by law, Grant, or the Owner's Requirements.

2.2.6. Except as specified herein or for reasons of Force Majeure, Design-Builder assumes all design, architectural, engineering and construction delays and other risks relating to the Project in accordance with this Agreement.



2.2.7. The Owner's Representative and any agent of Owner designated by the Owner's Representative shall at all times have access to the Project site.

2.2.8. In the event the Work is delayed by reason of events of Force Majeure, the Design-Builder's performance may be excused for the period of the delay caused by such events as provided in this Agreement.

2.2.9. Prior to the execution of this Agreement, Design-Builder shall submit executed original payment and performance bonds in the amount of 100% of the Contract Price, such bonds to be provided by a surety and in a form approved by Owner. The bonds shall include a "dual obligee rider" approved by the Owner as to form and substance, naming Owner as dual obligee.

2.2.10. Prior to Final Completion, Design-Builder shall provide to Owner, or cause to be provided, photographic documentation of all systems installations, including, but not limited to, electrical, mechanical, fire suppression, and plumbing systems, and "As-Built" drawings certified as complete, accurate, and current by the Architect or Engineer, on diskettes, in a CADD system file format approved by Owner. Design-Builder shall assign, convey or otherwise transfer, or cause the assignment, conveyance or transfer of the right, title, ownership, and interest in and to said "As-Built" drawings to Owner at Final Completion. Copyright and other intellectual property rights shall remain with the Design-Builder's rights.

### **Section 2.3 Representations, Warranties, and Completion.**

2.3.1. Design-Builder represents, acknowledges, and warrants good and marketable title to and ownership of all the Work, whether incorporated in the Project or held in storage on or off the Project site, and that immediately upon any part of the Work being completed and paid for in accordance with this Agreement, such title shall vest in the Owner. Design-Builder further represents, acknowledges, and warrants that it shall not encumber or otherwise create or permit to be created any lien or security interest in any part of the Project.

2.3.2 Design-Builder further represents and warrants to Owner that all materials and equipment made part of the Project and Work will be new, unless otherwise previously expressly permitted in writing by Owner, and that the Project, including all materials and equipment, will be designed and constructed in a good and workmanlike fashion and in accordance with the terms and conditions of this Agreement and the Owner's Requirements, and that the Project, including all materials and equipment, will be free of any defects, including, without limitation, design, architectural, structural, or mechanical defects. The foregoing representations and warranties exclude any remedy for damage or defect to the extent caused by normal wear and tear, Owner's abuse, improper or insufficient maintenance, or improper operation, or for any consequential damages otherwise recoverable pursuant to any applicable implied warranties including the implied warranties of merchantability and fitness for a particular use. The



representations and warranties provided in this Agreement shall be limited as to duration as provided herein or in the Owner's Requirements, whichever is longer, or to such longer period as provided by material and equipment manufacturers or as may be mandated by Applicable Laws. Without limiting any other remedies that may be available to the Owner in the event of any breach of any such representations and warranties, Design-Builder within a reasonable time after receipt of notice from Owner, and immediately in the event of an emergency, shall repair, replace, or correct all Work performed under this Agreement that proves to be defective in design, engineering, architecture, material or workmanship, or otherwise not in compliance with Contract Documents for a period of eighteen (18) months after Substantial Completion or for such longer periods of time as may be required by Applicable Laws.

2.3.3 Warranties, Guarantees and Bonds shall be provided in accordance with this Agreement. Four (4) copies of each document shall be submitted to the Owner's Representative at the time of Final Completion.

2.3.4 Warranties called for by this Agreement shall commence upon Substantial Completion of the Project unless otherwise specified in manufacturer's warranties. Design-Builder's obligations under this Section shall survive termination or expiration of the Agreement and shall be in force for the periods prescribed above, except that eighteen (18) months after Substantial Completion, the Equipment and Product – Manufacturers Warranties and Workmanship and Installation Warranties shall be assigned and delivered to Owner and thereafter shall not be the responsibility of Design-Builder. Subsequent to the expiration of such 18-month period, Owner shall have the exclusive responsibility of enforcing such Manufacturers' Warranties and Workmanship and Installation Warranties, and Design-Builder's direct warranty shall expire.

2.3.5 Upon Final Completion Design-Builder will obtain, collect and deliver to Owner all written warranties, guarantees, equipment, operating and maintenance manuals, Contract Documents, specifications, and other such data in its possession relating to the Project. All warranties and guarantees relating to the Project and warranties and guarantees of suppliers of mechanical and other equipment located in the Project shall be assigned to the Owner upon Substantial Completion. Certified As-Builts will be delivered to the Owner within six (6) weeks after Substantial Completion.

2.3.6 Design-Builder will be responsible for the initial start-up and all testing required to provide complete and operational utilities, equipment, and systems, and to coordinate start-up and testing schedules in order to accommodate Owner's personnel who may want to observe. Design-Builder shall cause to create and implement a training program for Owner representatives responsible for the ongoing operations of the Project. Such program will include, but not limited to, instruction in the operation and maintenance of the electrical, mechanical, HVAC, conveyance, security, life safety and other systems. Such program will be completed prior to submission of a Certificate of Substantial Completion by Design-Builder to Owner.

2.3.7. Except for the conditions described herein and subject to the provisions and time limits specified herein, Design-Builder shall indemnify, defend, and hold harmless Owner, its officers, agents, employees, and its successors and assigns against any claims, suits, actions, losses, costs, expenses (including, without limitation, attorneys' and other professional fees and expenses), and liabilities that arise out of any breach by Design-Builder of any of the terms and conditions of this Agreement, including, without limitation, any of the representations, warranties, and critical path items in the Schedule provided by Design-Builder. Nothing herein shall require Design-Builder to defend, indemnify, or hold harmless Owner for Owner's negligence or damages caused by owner or its agents, successors, assigns or other separate contractors. This provision shall survive the full performance of or the earlier termination of this Agreement.

2.3.8 Design-Builder shall not use or occupy the Project or the property where the Project is located contrary to any statute, rule, order, ordinance, requirement, or regulation applicable thereto (including the Owner's Requirements), or in any manner that would cause the value or the usefulness of the Project to be diminished or would cause a public nuisance, waste or contamination of the site or violation of any Applicable Law.

2.3.9 Design-Builder acknowledges and represents that it has received and completely reviewed the Owner's Requirements and all Applicable Laws and that all Work shall be performed in accordance with the same

**Section 2.4. OSHA.** With respect to Design-Builder responsibilities under this Agreement, Design-Builder shall provide all facilities and shall follow all procedures set forth in its project safety plan and such other requirements of the Occupational Safety and Health Act ("OSHA") including, but not limited to, providing and posting all required posters and notices, and shall otherwise be responsible for compliance with all other mandatory safety laws.

## **ARTICLE III**

### **OWNER RESPONSIBILITIES**

#### **Section 3.1. Owners Responsibilities.**

3.1.1. The Owner shall pay the Design-Builder's request for payment up to the Contract Price for the Project, as the same may be amended by Agreement Amendment, provided that the Design-Builder is otherwise in full compliance with all applicable payment and other provisions of this Agreement.

3.1.2. The Owner may change the Owner's Representative at any time by informing the Design-Builder in writing. The Owner's Representative shall have sole authority to execute Clarifications regarding the Work on behalf of the Owner. The

Owner's Representative shall furnish information and review, comment and approve or disapprove proposed Clarifications within fifteen (15) days of Owner's receipt from Design-Builder.

3.1.3. In addition to any construction and inspection and testing undertaken by Design-Builder, Owner may engage in construction inspection and testing throughout the design and construction of the Project. The Design-Builder shall provide Owner access to and the ability to copy any and all Construction Documents including, but not limited to, reports, statements, testing results, inspection reports, or other materials relating to the design and construction of the Project at any time during the design and construction of the Project. The access shall be for a period of seven (7) years after the issuance of a Certificate of Final Acceptance.

3.1.4. Owner shall timely perform all obligations assigned to it in accordance with the Construction Schedule consistent with this Agreement and provide all information required by this Agreement. Any negligent delays by Owner in meeting any deadlines imposed hereby may extend subsequent deadlines of Design-Builder in the like manner to the extent made necessary by the delay. Upon request from Design-Builder, Owner may execute an appropriate Agreement Amendment to evidence any such extensions that Owner does not in good faith contest. Design-Builder shall have the right to seek payment from Owner for any reasonable additional costs that are the direct result of a negligent delay by Owner, but only if the delay affects the Completion Date of the Project.

3.1.5. Owner shall timely submit, review, and/or Approve such other items or requests as may occur or be required in the course of the Work to avoid delays in the commencement, continuance, or completion of the Work.

3.1.6. Owner shall pay its pro rata share of charges for utilities incurred by reason of Owner occupying any portion of the Work or the Project prior to Substantial Completion. If these utilities are not separately metered, Design-Builder and Owner shall equitably adjust all such utility bills so that Design-Builder and Owner each pay their fair share of each bill.

3.1.7. If Owner has actual knowledge of any fault or defect in the Project or nonconformance with the Owner's Requirements, it shall give prompt written notice and a reasonable opportunity to cure the condition to Design-Builder prior to declaring a default in performance by Design-Builder; provided, however, that any failure by Owner to do so shall not relieve Design-Builder from any of its obligations pursuant to this Agreement.

3.1.8. Prior to Substantial Completion, Owner and its employees, agents, and representatives, as authorized by the Owner's Representative, shall have full access to the Project for activities of a business nature related to the Project, and shall comply at all times with the Applicable Laws and Design-Builder's insurance policies with respect

to any activities of Owner at the Project, provided, however, that Owner shall use reasonable efforts not to interfere with the Design-Builder or the Work.

## ARTICLE IV

### SUBCONTRACTS

**Section 4.1. Subcontracts.** All portions of the Work that Design-Builder is to perform pursuant to this Agreement that Design-Builder does not perform with its own forces shall be performed under subcontracts, and all materials and equipment not supplied directly by Design-Builder shall be supplied under subcontracts, however, Design-Builder shall be responsible for the performance of and materials supplied by all such subcontractors, material and equipment suppliers.

**Section 4.2. Privity.** No contractual relationship shall exist by reason of this Agreement between the Owner and any subcontractor, material or equipment supplier. Design-Builder shall have sole responsibility for the management of the subcontractors and suppliers in the performance of the Work. Any communication the Owner desires to direct to a subcontractor shall be directed through Design-Builder who shall deliver all such communications with reasonable promptness. Notwithstanding the above, the Owner shall not be prohibited from communicating directly with a sub-consultant, subcontractor vendor with whom the Owner itself has privity of contract.

**Section 4.3. Subcontracts Assignable.** All subcontracts shall by their terms be assignable to the Owner and its successors and assigns if the Design-Builder is in breach of this Agreement, and shall contain such terms as are required under the Owner's Requirements and be subject to the terms of this Agreement. The Design-Builder shall assign any or all of these subcontracts to the Owner, at the Owner's sole option, upon termination by Owner or, upon the failure of the Design-Builder to assign such subcontracts in a timely fashion, the Owner may contact all subcontractors and assume the Design-Builder's obligations under each of them accruing after the date of such assignment. The Owner shall not be responsible for any of the Design-Builder's obligations to such subcontractors prior to the date of their assignment to the Owner.

## ARTICLE V

### CONSTRUCTION SCHEDULE

#### Section 5.1. Completion.

5.1.1. The Work to be performed under this Agreement shall be carried out by the Design-Builder in accordance with the Construction Schedule, and the Work shall be concluded in accordance with all terms and conditions required for Substantial



Completion by the dates provided in the Construction Schedule. **TIME BEING OF THE ESSENCE** with respect to the obligations of Design-Builder hereunder.

5.1.2. Substantial Completion shall be accomplished no later than the Substantial Completion Date set forth in the Construction Schedule included in **Appendix A** of this Agreement. The Construction Schedule, as it may be revised from time to time, shall be deemed to be a part of this Agreement, as if fully set forth herein. The Construction Schedule shall be prepared and updated by Design-Builder, subject to the approval of the Owner, so long as the date of Substantial Completion does not change except as provided in this Agreement. The Construction Schedule shall set forth a detailed precedence-style, critical-path method format that (1) incorporates all critical dates for Substantial Completion, (2) provides a graphic representation of all significant activities and events that will occur during performance of the Work, (3) identifies each phase of design, construction, and occupancy, and (4) sets forth dates that are critical for ensuring the timely and orderly completion of the Work in accordance with the requirements of this Agreement and Contract Documents (hereinafter referred to as "Milestone Dates"). Design-Builder shall monitor the progress of the Work for conformance with the requirements of the Construction Schedule, including, without limitation, specifically noting whether or not Milestone Dates are being met, and shall promptly advise Owner of any delays or potential delays. The Construction Schedule shall be updated monthly to reflect actual conditions versus the original Construction Schedule (sometimes hereinafter referred to as "progress reports") or on a more frequent basis if requested by Owner. The Construction Schedule shall be updated on a monthly basis and any variation from the sequence or Construction Schedule shall be identified. An updated Construction Schedule shall be submitted with applications for payment. No payment will be released until the Construction Schedule is reviewed and Approved by the Owner's Representative. The Construction Schedule shall not exceed the date for Substantial Completion.

**Section 5.2. Liquidated Damages.** The Parties acknowledge and agree that the damages that are to be expected as a result of a breach of contract by Design-Builder are uncertain in amount or very difficult to prove. Accordingly, the Parties do intend and in fact now agree to liquidate damages in advance and stipulate that the amount set forth in this Section is reasonable and an appropriate remedy. In the event the Substantial Completion Date is not met and such delay is not otherwise excused under this Agreement, Design-Builder shall pay to owner liquidated damages of Two Hundred Fifty Dollars (\$250.00) per calendar day for each calendar day of delay beyond the Substantial Completion Date.

**Section 5.3. Substantial Completion.** "Substantial Completion" of the Project occurs when the progress of the Work is complete as evidenced by a Certificate of Compliance, a certificate of occupancy is issued, and the Owner is able to occupy or utilize the Work for its intended use, except for the completion of punchlist items. Punchlist items shall not include basic elements of the Work.

5.3.1 Upon Substantial Completion, Owner shall indicate its Approval of the Work by dating and signing the Certificate of Substantial Completion delivered to Owner.

5.3.2 Submission of the Certificate of Substantial Completion by Design-Builder shall constitute a certification by Design-Builder that all Work has been performed in accordance with this Agreement as the same may be amended by Agreement Amendment, and all Applicable Laws, and that all statements contained in the Certificate of Substantial Completion are true and correct as of the date it is delivered to the Owner. Design-Builder shall give to Owner at least a thirty (30) day advance notice of the submission of a Certificate of Substantial Completion. Owner shall be entitled to conclusively rely on the accuracy of the statements and information set forth in the Certificate of Substantial Completion and provided therewith.

**Section 5.4. Delay.** If Design-Builder wishes an extension of the Substantial Completion Date, it shall give Owner written notice within fourteen (14) Calendar Days after the Design-Builder became aware or should have become aware of the act or occurrence which caused the delay. Such request shall be granted only by means of an Agreement Amendment and only in cases where Force Majeure exists that warrants a change in the Substantial Completion Date, the Owner fails to perform its obligations under this Agreement, or the Owner modifies the scope of Work or the Substantial Completion Date.

## ARTICLE VI

### CONTRACT PRICE

**Section 6.1. Contract Price; Changes.** The "Contract Price" is a not to exceed **Seven Hundred Thirty Four Thousand Five Hundred Thirty Five Dollars and three cents (\$734,535.03)** and represents the price to be paid by Owner to Design-Builder for the Project on a total cost basis when complete and Approved by Owner. The Contract Price shall be paid in accordance with this Agreement and may only be increased or decreased by an Agreement Amendment. The Contract Price includes the costs, fees, and expenses of the Project and the performance by Design-Builder of all of its duties and obligations pursuant to this Agreement with respect to the Project.

6.1.1 The Design-Builder shall establish and implement a change order control system for increases or decreases in the cost of the Work, changes in the law that increase the cost of the Work, changes in contract time occasioned by the Owner's increase in the Project scope or on account of events of Force Majeure, and the like ("Change Order"). All proposed Owner-initiated changes shall first be confirmed in writing by the Design-Builder. The Architect shall prepare technical drawings and specifications together with detailed information concerning the costs and time adjustments, if any, necessary to perform the proposed Change Order work. The

Design-Builder shall discuss the proposed Change Order with the Owner to determine the Design-Builder's cost and/or time basis and the affect, if any, on the Contract Price. Following Owner's Approval of the Change Order, the Design-Builder shall prepare a Change Order for the Owner's, Architect's and Design-Builder's signatures. The Design-Builder shall then prepare an amended Construction Schedule that takes into account the Work involved in the Change Order or any change in the Construction Schedule that may be necessary as a result of such Change Order.

**Section 6.2. Allocation of Risks Included.** Except as otherwise expressly provided in this Agreement, the Contract Price takes into account all risks whatsoever relating to the Project, surface and subsurface conditions to include, but not be limited to, unsuitable soils, utility conflicts, design, architectural, engineering, demolition, construction, and delay risks.

## ARTICLE VII

### CHANGES IN THE PROJECT

**Section 7.1. Agreement Amendments.** Any changes in the Work resulting in an adjustment in the Construction Schedule, Payment Schedule, Contract Price and/or Substantial Completion Date will be executed via an Agreement Amendment or a Change Order. Each Agreement Amendment or Change Order shall specify any change in the Contact Price, Payment Schedule, Construction Schedule or Substantial Completion Date and will require written Approval of the Owner and Design-Builder, and in the case of Change Orders, by the Architect as well.

**Section 7.2. Agreement Amendment Required.** Except for Clarifications or as may be otherwise provided in this Agreement, neither Design-Builder nor Owner will make any changes to the Project or the Work except under an executed Agreement Amendment.

**Section 7.3. Payment.** Any increases in the Contract Price resulting from an Agreement Amendment shall be paid upon application by Design-Builder in the manner prescribed herein for payment of the Contract Price.

## ARTICLE VIII

### PAYMENTS TO DESIGN-BUILDER

**Section 8.1. Payments.** Owner will make progress payments to Design-Builder in accordance with the Design-Builder's invoicing of time and materials used over the invoice time frame submitted by Design-Builder to and as Approved by the Owner. Retainage is defined in this Agreement will be calculated at five (5%) percent of the value of the Contract Price ("Retainage") and will be withheld as Five (5%) of the

Approved value of each invoice. Approved invoices will be paid within forty-five (45) days of receipt. The Owner will pay Retainage to Design-Builder in accordance with the requirements for Final Payment set forth in this Agreement. The cost of professional services for the Architect and permit costs and other reimbursable out-of-pocket expenses will not be subject to the Retainage requirement. However, the Design-Builder shall be required to separately account on each progress payment requisition, the fee of the Architect with the percentage of completion for the phase of the Work being invoiced at that time.

8.1.1 Notwithstanding any provisions in this Agreement to the contrary, the Owner's Representative shall have the sole discretion to reduce the Retainage from Five (5%) to One (1)% if the Work is proceeding in a manner consistent with the requirements of this Agreement and in accordance with the Construction Schedule. The decision of the Owner's Representative to reduce the Retainage percentage will be based upon, but shall not be limited to, the following:

1. Substantial Completion has been accomplished.
2. The Design-Builder timely submits an appropriate and complete Construction Schedule and Schedule of Values in compliance with the Contract Documents.
3. The Design-Builder timely provides all submissions required by the Contract Documents including, but not limited to, shop drawings, material certificates and material samples.
4. The Design-Builder provides for proper and adequate supervision of the Project resulting in coordinated progress and proper quality control for the Work.
5. The Work stated to be completed in a request for payment has been installed or finished in a manner that is satisfactory to the Owner.
6. The progress of the Work is consistent with the approved Construction Schedule.

**Section 8.2. Title to Work.** Prior to Final Completion, title to the Work shall pass to the Owner upon acceptance of the Work contained in a request for payment and payment being made to Design-Builder in accordance with this Agreement. At final Completion, title to the entire Work of the Project shall pass to the Owner upon the Owner's acceptance of a Completion Certificate and the issuance of a certificate of occupancy.

**Section 8.3. Lien Waivers.** Lien waivers, releases and consents of surety, in a form and substance satisfactory to Owner, shall be submitted by Design-Builder with all progress payment requests certifying that the Project is free and clear of all liens or



rights to liens and free and clear of any other encumbrance for all Work completed to the extent of payments received by Design-Builder to date. Final lien waivers, general releases, and consent of surety shall also be provided by Design-Builder at the Final Completion in form and substance satisfactory to the Owner to enable the release of Retainage. The Design-Builder is obligated to deliver title to the Work and the Project site at Final Completion free and clear of all liens and encumbrances and, if any exist, the Design-Builder shall be obligated to remove or bond such liens or encumbrances within thirty (30) days at its sole cost and expense. If a subcontractor refuses to furnish the documents required by the Owner, the Design-Builder shall furnish a surety bond satisfactory to the Owner within thirty (30) days to indemnify the Owner against the existence and enforcement of such lien against the Project site. This Section shall survive the full performance of this Agreement or the earlier termination thereof.

#### **Section 8.4. Acceptance and Review of Work.**

8.4.1 Design-Builder shall submit to Owner all backup documentation necessary to demonstrate its entitlement to a progress payment together with such other documentation as the Owner may reasonably require or request.

8.4.2. Notwithstanding any provision in this Agreement to the contrary, the Owner may, at any time and from time to time, inform the Design-Builder that the Owner rejects a portion of the Work performed by Design-Builder that is inconsistent with the requirements of this Agreement. The Owner shall give such a notice promptly and shall detail the specific reasons for rejection.

8.4.3 Design-Builder shall promptly correct Work rejected by Owner as provided herein for failing to conform to the requirements of this Agreement. Design-Builder shall bear the costs of correcting such rejected Work, including additional testing and inspections and compensation for any additional architectural services and expenses made necessary thereby. Similarly, Design-Builder shall bear the cost of correcting destroyed or damaged Work caused by Design-Builder's correction or removal of Work that is not in accordance with the requirements of this Agreement.

### **ARTICLE IX**

#### **INDEMNITY AND INSURANCE**

##### **Section 9.1. Indemnity.**

9.1.1. Indemnity. Design-Builder hereby indemnifies, shall indemnify, defends and holds harmless the Owner and its successors and assigns from and against all (1) actions, suits, claims, investigations, or legal or administrative or arbitration proceedings pending or threatened, whether at law or in equity in any forum (collectively, "Claims") arising directly or indirectly in connection with the performance of this Agreement

including, but not limited to, acts of commission, omission, or misconduct (collectively, the "Acts") by Design-Builder or any of its members, directors, officers, shareholders, representatives, agents, servants, subcontractors, consultants, employees, or any other person or entity with whom Design-Builder is in privity of oral or written contract (collectively, "Design-Builder Parties"); (2) liabilities arising under this Agreement directly or indirectly as a result of Design-Builder's or Design-Builder Parties' acts concerning its or their duties and obligations as set forth in this Agreement; and (3) damages, losses, costs and expenses, including, but not limited to, reasonable attorneys' and other professionals' fees, that may arise out of such Claims and/or liabilities for bodily injury, death and/or property damage. Design-Builder shall not be responsible for indemnifying or holding Owner harmless from any liability arising due to the Owner's negligent acts or omissions, or willful misconduct, or caused by any other person or entity acting under the direct control or supervision of Owner.

## **Section 9.2. Insurance**

9.2.1 The following insurance coverage is required to be produced to the Owner prior to the commencement of any Work and shall be maintained and kept in force by the Design-Builder throughout the duration of the Project at its sole cost and expense. All non-standard endorsements and provisions shall be disclosed in advance in writing to the Owner. The Design-Builder shall provide evidence to the Owner and maintain in effect for the duration of this Agreement without interruption and for one year after the Design-Builder's last activity at the Project site the insurance coverages identified below from insurers licensed to conduct business in the State of Connecticut and having a Moody's or Best's financial rating of A - 10 or rating otherwise acceptable to the Owner. The Design-Builder will not enter upon the Project site or commence any Work or other activity until the required insurance is purchased and evidence thereof is provided to the Owner in the manner specified. The Owner shall have the right to terminate this Agreement if any of the insurance coverages provided hereunder lapse or are cancelled without a reasonable and prompt substitution by the Design-Builder ensuring that there is no gap in any such coverage. The coverages and policy amounts required are as follows:

Commercial General Liability (occurrence form) naming the Owner as an additional insured party by policy endorsement and insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of operations conducted under this Agreement. Coverage shall be broad enough to include contractual liability, premises and operations, and personal injury, with limitations of \$1,000,000 for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage. Exclusions for employees will be removed. The Design-Builder or its agent shall inform the Owner in advance of any non-standard endorsements or policy provisions that may be part of the insurance contract(s). Limits may be made up of primary and umbrella or excess coverage.

Comprehensive Automobile Liability insuring against claims or suits brought by members of the public alleging bodily injury, personal injury or property damage,

and uninsured motorist and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business naming the Owner as an additional insured party by policy endorsement. Coverage will include limitations of \$1,000,000 for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage. Limits may be made up of primary and umbrella or excess coverage.

Workers' Compensation insuring in accordance with statutory requirements including voluntary compensation, employer's liability insurance and occupational disease insurance in order to meet obligations towards employees in the event of injury or death sustained directly or indirectly in the course of employment. Liability for employee suits shall not be less than \$500,000 per claim.

General requirements. All policies shall include the following provisions:

Cancellation notice—The Owner shall be entitled to receive from the insurance carriers not less than 30 days' written notice of cancellation or non-renewal by policy endorsement. All notices are to be given to the respective parties at the following addresses:

If to the Owner;  
Purchasing Department  
City of Bridgeport  
Margaret E. Morton Government Center  
999 Broad Street, 2<sup>nd</sup> Floor  
Bridgeport, Connecticut 06604

Certificates of Insurance—All policies will be evidenced by an original certificate of insurance on an ACORD-25 form, with endorsement, reflecting all coverage required and delivered to the Owner prior to any work or other activity commencing under this Agreement.

Additional insured—The Design-Builder shall submit to the Owner upon execution of this Agreement and periodically thereafter, but in no event less than once during each year of this Agreement, evidence of the existence of such insurance coverages in the form of original Certificates of Insurance issued by reputable insurance companies licensed to do business in the State of Connecticut signed by a representative of the insurer or its agent. Such certificates shall designate the Owner in the following form and manner:

The City of Bridgeport, its elected officials, officers,  
department heads, employees, agents, servants, successors  
and assigns ATIMA  
Attention: Purchasing Agent  
Margaret E. Morton Government Center  
999 Broad Street, 2<sup>nd</sup> Floor

Bridgeport, Connecticut 06604

The coverage afforded to the Owner shall be primary insurance with respect to work performed under this Agreement. If the Owner has other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the Design-Builder's liability under any insurance shall not be reduced by the existence of such other insurance. The coverage afforded to the additional insured shall not apply to the sole negligence of the additional insured. The cost of all deductibles on any policy of insurance to be purchased by the Design-Builder shall be borne by the Design-Builder.

9.2.2. Design-Builder shall require by contract and endorsement from and architectural, engineering, or any other professional entity participating in the Project or the Work, the following insurance coverage, naming in the same manner as set forth above, the City as additional loss payee with notice of cancellation:

Errors and Omissions insurance coverage in an amount at or exceeding \$1,000,000.00 per occurrence.

**Section 9.3. Insurance To Protect Project.**

9.3.1. Design-Builder shall purchase and maintain property insurance/Builder's Risk insurance upon the entire Project for the full cost of replacement at the time of any loss. This insurance shall include Owner as named insured, the Design-Builder, its subcontractors, and their respective successors and assigns, as additional insureds. Said insurance shall cover the named and additional insureds against loss from perils of fire, and shall include "all Risk" insurance for physical loss or damage, including, without duplication of coverage, at least theft, vandalism, malicious mischief, transit, collapse, flood, earthquake, testing, and damage resulting from defective design, workmanship, or material. Design-Builder agrees to reconstruct, at the request of Owner, any portion of the Project that is damaged or destroyed so long as the proceeds of such insurance are made available for such purpose.

9.3.2. If Owner finds it necessary to access a portion or portions of the Project prior to Substantial Completion for the purpose of installing and testing equipment, such access shall not commence prior to a time mutually agreed to by Owner and Design-Builder. Owner shall give Design-Builder ten (10) days notice of when and where such installations and testing are to occur. Design-Builder shall use reasonable efforts to arrange for the insurance company or companies providing the property insurance to consent to such access by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of Owner's access to the Project. Owner shall be required to pay for any additional premium costs as the result of such access.



**Section 9.4. Waiver of Subrogation.** The policies required to be obtained pursuant to the provisions of this Agreement shall contain waivers by the insured(s) of their rights of subrogation against all insureds, if such waivers are obtainable.

**Section 9.5. Design-Builder Expense.** Except as otherwise expressly provided in this Agreement, all insurance coverage required pursuant to this Agreement, as well as such additional insurance as may be required under Owner's Requirements, shall be obtained and maintained by Design-Builder at Design-Builder's sole cost and expense.

**Section 9.6. Deficiencies.** Owner does not represent that the insurance coverage specified above, whether in scope of coverage or amounts of coverage, are or will be adequate to protect Design-Builder with respect to the risks it is assuming pursuant to this Agreement, and Design-Builder shall be solely responsible for any deficiencies thereof, and the Design-Builder shall replace all or any part of the Work regardless of the sufficiency of insurance coverage.

## **ARTICLE X**

### **TERMINATION**

#### **Section 10.1. Owner's Right to Terminate Agreement.**

10.1.1. Notwithstanding any provision or language in the Agreement to the contrary, the Owner shall have the sole authority to terminate the Agreement if it finds that such termination is in the best interests of the Owner, or in the interest of public necessity, convenience or safety as determined by the Owner. Any Termination specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination shall be effective upon written notice to the Design-Builder. In the event of such termination, the Design-Builder shall be entitled to reasonable compensation for Work performed and materials provided for the Work, however, no claim for lost overhead or profit for Work not yet performed shall be allowed. The Design-Builder shall provide all information necessary to determine the final payment due for completed Work within 15 days of the Owner's request, including but not limited to a final report of the status of construction in sufficient detail to satisfy the Owner. Upon receipt of complete and correct information, the Owner will issue the final payment to the Design-Builder within thirty (30) days. The Design-Builder shall be responsible for delivering all drawings, shop drawings, manufacturer's warranties (to the extent that a manufacturer's product is installed or completed and the Owner is entitled to such warranties), completed as-built drawings or annotated but not complete as-built drawings, and other close-out items that are either available or can be delivered pursuant to this Agreement.

10.1.2. If any proceeding is instituted against Design-Builder seeking to adjudicate Design-Builder as bankrupt or insolvent, and such proceeding is not



dismissed within sixty (60) Calendar Days from the date of filing, or if Design-Builder declares itself bankrupt or files for bankruptcy protection, or if Design-Builder makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Design-Builder, or if Design-Builder files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts, or if there is a material adverse change in the financial condition or operations of the business or prospects of Design-Builder that substantially affects Design-Builder's ability to perform the Work in accordance with the Construction Schedule, then Owner may, without prejudice to any other right or remedy Owner may have, terminate this Agreement. Such termination shall be effective by delivery to the Design-Builder of a written Notice of Termination specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination shall be effective. Upon the giving of such notice, the Agreement will be terminated and the parties shall have no obligation to one another except for those items which are specifically stated to survive early termination.

10.1.3. Termination of this Agreement shall not relieve the Design-Builder or its surety of their responsibilities for the completed Work, nor shall it relieve the Design-Builder's surety of its obligations to ensure completion of the Work and to pay legitimate claims arising out of Work.

10.1.4. In the event of termination, materials obtained by the Design-Builder for the Work that have been inspected, tested as required, accepted by the Owner, and that are not incorporated in the Work, may, at the Owner's option, be purchased from the Design-Builder at actual cost as shown by receipted bills plus actual costs for delivery.

10.1.5 In the event of any such termination pursuant to this Section:

1. Upon the effective date of termination, the Design-Builder shall: (a) immediately discontinue all further Work, stabilize all Work that is then in progress as directed by Owner, (b) immediately quit the Project; (c) immediately quit the Project site, or such part thereof, as directed by Owner, leaving all plant, materials, equipment, tools (except personal tools), and supplies to be incorporated into the Work on site; and (d) provide Owner with a final accounting for the Project as of the date of termination.

2. Owner may have the Work completed in accordance with the Contract Documents by such means and in such manner as it may deem to be advisable, utilizing for such purpose, without additional cost to Owner, such of Design-Builder's design, plant, materials, equipment, tools (except personal tools) and supplies remaining on the Project site and stored off the Project Site in a bonded warehouse, and shall have the right, by contract, to utilize those of Design-Builder's subcontractors as the Owner may deem to be advisable, and the Design-Builder shall provide the Owner with a detailed report containing the subcontractor's contract with all changes, the extent to which such subcontractor

or subcontractors have completed their work, and an accounting of all amounts paid to such subcontractor or subcontractors to the date of termination of this Agreement.

3. Design-Builder shall be liable to Owner for 100% of the amount thereafter expended by Owner and reasonably required to complete the Work of the Project, to the extent such amount exceeds the balance of the Contract Price unpaid as of the date of such termination, and Design-Builder's obligation for payment shall survive the termination of this Agreement. This obligation, together with any damages due hereunder for delays caused by Design-Builder or other monies owed by the Design-Builder to the Owner, may be deducted from monies due or to become due to Design-Builder under this Agreement. If the total of such amounts is greater than the sum of the Contract Price, Design-Builder shall pay the amount of such deficiency to Owner within ten (10) days of written demand.

4. Design-Builder shall remain liable under the warranties given by it under this Agreement for all Work performed by it through the date of such termination.

5. At the Owner's discretion, Design-Builder shall assign to Owner and any replacement design-builder all subcontracts and purchase orders, shall deliver to Owner all Contract Documents, plans, drawings including shop drawings, specifications, other design information pertaining to the Project, submittals, invoices, and all other documents necessary to compete the Project, and shall remove from the Project site all such equipment, waste material, and rubbish as may be requested by Owner.

## ARTICLE XI

### DISPUTES

**Section 11.1. Friendly Dispute Resolution.** The parties agree that all disputes between them arising under this Agreement or involving its interpretation, if they cannot be first resolved by mutual agreement, are subject to the following dispute resolution procedure:

**Initiation of Dispute Resolution Process.** In the event that a dispute is not resolved after good faith effort to arrive at a mutual agreement, either party may send written notice to the other, in the manner specified for giving notice in this Agreement, that a dispute continues to exist. The party giving such notice shall also forward a copy to the Chief Administrative Officer ("**Director**"), 999 Broad Street, 2<sup>nd</sup> Fl., Bridgeport, CT 06604. The notice shall set forth the nature of the dispute, the notifying party's position statement,

and copies of documents supporting its position regarding the dispute. Within seven (7) calendar days after the date such notice is given, the other party shall file its position statement and supporting documents to the Director. Within five (5) working days after receipt of such reply, the Director shall review the matter, issue a written determination ("**Determination**"), and mail a copy thereof to the parties. The Director may reach a Determination with or without a face-to-face meeting with the parties and with or without testimony of witnesses, in his/her sole and absolute discretion. Such Friendly/Initial Dispute Resolution is a precondition to the resolution of any dispute in a court of law.

**Section 11.1. Mediation.** Owner and Design-Builder may agree to submit any unresolved claims, controversies, interpretations and disputes arising out of or pertaining to this Agreement to non-binding mediation before a mediator mutually agreed to by the parties. Such non-binding mediation is not a precondition to the resolution of any dispute in a court of law.

**Section 11.2. Continued Performance.** Unless otherwise agreed to in writing, Owner and Design-Builder shall continue with performance of their respective duties under the Agreement pending completion of any mediation proceeding.

**Section 11.3 Resolution of Disputes.** All disputes under this Agreement shall be resolved by a court having competent jurisdiction over the parties located in Fairfield County, Connecticut.

## ARTICLE XII

### ASSIGNMENT AND AMENDMENT

**Section 12.1. Assignment.** Except as otherwise provided herein, Design-Builder shall not have the right to assign its interest or obligations under this Agreement or to sell or assign a controlling interest in the ownership of Design-Builder without the prior written consent of Owner. Owner may assign its rights under this Agreement to any affiliate or other subdivision of Owner.

**Section 12.2. Entire Agreement; Amendment.** This Agreement, all attachments, all items incorporated by reference and all other items intended to be part of this Agreement represent the entire Agreement between Owner and Design-Builder, which Agreement supersedes all prior negotiations, representations, oral statements or other agreements between such parties regarding the Project. This Agreement may be amended only by means of an Agreement Amendment.

## ARTICLE XIII

### FINAL COMPLETION

**Section 13.1. Responsibility of Design-Builder.** Design-Builder represents and warrants that it has full right, power and authority to enter into this Agreement. Prior to Final Completion, the Design-Builder shall provide to Owner evidence that (i) the Work has been performed as described herein; (ii) the conditions to payment specified in this Agreement have been fully satisfied and, in particular, that all payrolls, materials, bills, and other indebtedness of Design-Builder and any subcontractor or material supplier relating to the Project have been paid or otherwise satisfied; (iii) all appropriate final lien waivers, general releases and consents of surety have been obtained; and (iv) any right to file or any notice of lien previously filed have been discharged of record or the cause giving rise to the filing of any such lien has been satisfied. At final Completion, the Design-Builder shall assign to the Owner any interest of Design-Builder or any other party in the Work free and clear of all liens, encumbrances, conditions, restrictions and claims. At Final Completion and upon final payment, which when added to all previous progress payments will equal the Contract Price, Design-Builder shall provide or cause to be provided to the Owner all close-out items, including but not limited to, all warranties, guarantees, bonds, operating and maintenance manuals, and other documents and things necessary to convey to Owner any interest of Design-Builder or any other party in the Work.

**Section 13.2. Notification.** At Design-Builder's request and upon satisfaction of the conditions specified in the Agreement, the Owner shall notify Design-Builder of Final Completion.

## **ARTICLE XIV**

### **MISCELLANEOUS PROVISIONS**

**Section 14.1. Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefits of the respective successors and assigns (where permitted under this Agreement) of Design-Builder and Owner.

**Section 14.2. Headings.** The headings set forth in this Agreement are used for organizational purposes only and are not intended to and shall not constitute substantive parts of the Agreement.

**Section 14.3. Further Assurances.** Design-Builder and Owner shall provide such information, execute and deliver any instruments and documents, and take such other actions as may be necessary or reasonably requested by the other party, which are not inconsistent with the provisions of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement, Design-Builder warrants and represents to Owner that:



1. Design-Build is an entity duly organized and validly existing under the laws of the State of \_\_\_\_\_ and that it has all requisite power and authority to enter into, and perform this Agreement;

2. The delivery and execution of this Agreement by the undersigned officer and the performance of the obligations agreed to by Design-Build herein have been duly-authorized by all necessary action, and Design-Build shall deliver evidence of same to Owner upon execution of this Agreement; and

3. This Agreement when duly executed by Design-Build shall constitute a valid and binding obligation of Design-Build, enforceable in accordance with its terms.

**Section 14.4. All Required Provisions Incorporated.** All provisions required under the Owner's Requirements and under all Applicable Laws, rules, regulations, and ordinances are herein incorporated by reference as if fully set forth herein.

**Section 14.5. Interpretation of Documents.** The Design-Build represents that it has fully examined all Contract Documents and has notified the Owner of any discrepancies or conflicts in the Contract Documents prior to execution of this Agreement. The Design-Build agrees that any discrepancies or conflicts in the Contract Documents shall not be construed against the Owner nor shall they form the basis of any claim by the Design-Build against the Owner. If any discrepancy or conflict exists between any of the various documents constituting the Contract Documents, then the Design-Build shall provide the greater quality or greater quantity or the more stringent requirements.

**Section 14.6. Counterparts.** This Agreement may be executed in counterparts, each one of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

**Section 14.7. Remedies Cumulative.** The rights and remedies provided herein are cumulative, provided, however, that the liquidated damages specified in this Agreement shall be the sole damages remedy of Owner against Design-Build for a delay of the Substantial Completion Date.

**Section 14.8. Governing Law.** This Agreement shall be governed by the laws of the State of Connecticut without giving effect to its conflicts of law provisions.

**Section 14.9. Non-Discrimination.** Design-Build shall be bound by all of the terms and conditions of City of Bridgeport ordinances, which shall be deemed to be incorporated by reference as if fully set forth herein.

**Section 14.10. MBE Requirements and Goals.** Design-Build has previously provided the Owner with information concerning the Design-Build's achievement of the requirements and goals contained in the Owner's Minority Business Enterprise



Ordinance, Chapter 3.08.070 of the Bridgeport Municipal Code, and shall adhere to all of the requirements thereof throughout the performance of the Work under this Agreement.

**Section 14.11. Attorney's Fees.** If either party asserts a claim under this Agreement against the other party, each party shall bear its own costs incurred in asserting or defending said claim, but the court hearing such claim shall have the right to award reasonable attorneys' fees and court costs to the prevailing party.

**Section 14.12. State Tax.** The Owner is a tax-exempt municipal subdivision of the State of Connecticut. The Design-Builder shall not assess or charge taxes to the Owner except such taxes that are not exempt to municipalities. The Owner has advised Design-Builder, and Design-Builder hereby so acknowledges, that the purchase of supplies and materials that are to be physically incorporated into and become a permanent part of the Work of the Project will not be subject to Connecticut sales and use taxes. Notwithstanding the above, the Design-Builder shall familiarize itself with the current regulations of the State of Connecticut Department of Revenue Services. The Design-Builder may obtain a tax exempt certificate from the City of Bridgeport Department of Public Purchases for purchases that are tax-exempt.

**Section 14.13. Consent Order.** Design-Builder agrees not to enter into any settlement, consent, decree, or other agreement, written or oral, between the Design-Builder and the government of the United States, or any department or agency thereof, or any state thereof, which allocates or apportions responsibility or which otherwise affects the liability of or grants immunity to Design-Builder for any noncompliance with any of the Environmental Laws or otherwise relates to any remediation or removal of any environmental condition located, at, on, or under the property where the Project is located without the express prior written consent of the Owner.

**Section 14.4. Duty to Cooperate.** In the event Owner is required by an agency of the United States or a State thereof, to investigate or remediate any environmental condition at, on, or under the property where the Project is located, Design-Builder agrees to cooperate with Owner with respect to such matters as the enforcement agency may request including, but not limited to, production of shipping manifests and related documents, past inventory information, provision of materials related to site history, and internal reports related to the site.

14.4.1 Furthermore, if the Owner makes a claim against any policy of insurance or reinsurance related to the property where the Project is located, or against any third party, or against the Connecticut Underground Storage Tank Fund, or similar fund, Design-Builder agrees to cooperate with Owner in making such application.

14.1.2 Design-Builder shall strictly comply with the requirements of all applicable Environmental Laws. Furthermore, the Design-Builder shall not store, generate, dispose of or use any Regulated Substances at, on, or under the property in violation of Environmental Laws. Design-Builder shall limit the use and storage of any Regulated

Substances at, on, or under the property to only those quantities required for the execution of the Work. Excess quantities shall be promptly removed from the property upon completion of the operations requiring their use. Under no circumstances shall Regulated Substances be disposed of at, on, or under the property or adjacent property or discharged into any watercourse or sewer. All Regulated Substances shall be shipped off-site in accordance with the Environmental Laws and shall list the Design-Builder as the generator of the Regulated Substances on all manifests.

**Section 14.5. Environmental Laws Indemnification.** Design-Builder hereby agrees to protect, indemnify, defend, and hold harmless the Owner and its officers, employees, and agents and their respective heirs, legal representatives, successors, and assigns from and against any and all loss, damage, cost, charge, lien, debt, fine, penalty, injunctive relief, claim, demand, expense, suit, order, judgment, adjudication, liability, or injury to person, property, or natural resources, including attorneys' fees and consultant fees (any of the foregoing being referred to in this Agreement as a "Claim") arising out of, attributable to, which may accrue out of, or which may result from (i) a violation of the Environmental Laws in connection with the Project by Design-Builder or any person or entity or other source employed by Design-Builder, or (ii) the disposal or alleged disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) by the Design-Builder or any person or entity or other source, except that these obligations shall not apply in the event of the disposal of Hazardous Materials by Owner's employees, agents, representatives, contractors, or subcontractors, provided that the Design-Builder is not Owner's contractor for the removal or remediation.

**Section 14.6 Survival.** All Design-Builder obligations hereunder shall survive this Agreement or any other agreement or action including, without limitation, any consent decree, order, or any other agreement between Design-Builder and the government of the United States or any department or agency thereof.

**Section 14.7 Notices.** All notices required or desired to be given or delivered under this Agreement shall be in writing and shall be deemed to have been validly given when received by hand-delivery, by a courier or express service guaranteeing overnight delivery, by certified mail, return receipt requested and addressed to a party at the following addresses or to such other address given to the other party by similar notice:

**Section 11.4 Notices:** All notices required herein, except insurance notifications, shall be sent certified mail, return receipt requested as follows:

TO THE CONTRACTOR

At the Address first written above

TO THE CITY

Beardsley Zoo

c/o Don Goff  
1875 Noble Avenue, Administration (Casino)  
Bridgeport, CT 06610

With copy to:

Office of the City Attorney  
999 Broad Street  
Bridgeport, CT 06604

**14.8 Force Majeure.** Excusable delays consist of natural disasters, catastrophic events, casualties to persons or properties, war, governmental preemption in a national emergency, enactment of a law, rule or regulation or a change in existing laws, rules or regulations which prevents any party's ability to perform its respective obligations under this Agreement, or actions by other persons beyond the exclusive control of the party claiming hindrance or delay, so long as the party claiming delay gives prompt written notice to the other party of the nature of such hindrance or delay, its effect upon such party's performance under this Agreement, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such party's performance. Notwithstanding notification of a claim of hindrance or delay by one party, such request shall not affect, impair or excuse the other party hereto from the performance of its obligations hereunder unless its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the party claiming delay or hindrance. The occurrence of such a hindrance or delay may constitute a change in the obligations of the parties or compensation, for example, and may result in the need to modify the Agreement accordingly.

IN WITNESS WHEREOF, the parties hereto and their respective successors and assigns agree to be bound by the terms hereof.

**TANCRETI CONSTRUCTION, LLC**

By: \_\_\_\_\_  
Name:  
Title:  
Duly-authorized

**CITY OF BRIDGEPORT**

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

Joseph P. Ganim  
Its: Mayor  
Duly-authorized

EXHIBIT A

Construction Schedule to be Developed



EXHIBIT B :

Proposal

Original

(1)

# Tancreti Construction LLC

50 United Drive, Unit J  
North Haven, CT, 06473  
HIC# 0633044

## RFP # BZB8321171 -Design/Bid/Build- Spider Monkey Exhibit

To: City of Bridgeport  
999 Broad Street  
Bridgeport, CT, 06604  
C/O: Joe Tiago

From: Tancreti Construction LLC  
50 United Drive, Unit J  
North Haven, CT, 06473

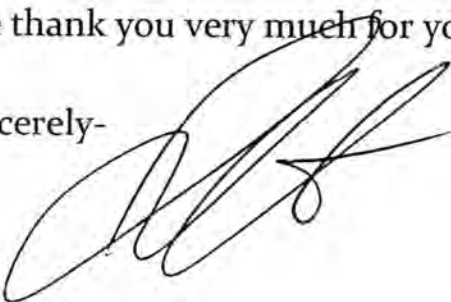
### Table of content-

Tancreti Construction intro	Cover page
Proposal/Base bid/ Design # 1	Pages 1, 2
Add Alternatives/ Grand total for design #1	Page 3
Proposal/ Base bid/ Design # 2	Pages 4 & 5
Add Alternatives/ Grand total for design #2	Page 6
Team/ Qualifications & Subs	Pages 7 & 8
Job References	Page 9
Contact Information	Page 10
Non-Collusion Affidavit	Page 11
CHRO Form	Pages 12 - 16

Please find information requested in this packet.

We thank you very much for your consideration on this project.

Sincerely-



Joe Tancreti  
Member/ Operator  
Tancreti Construction LLC

# PROPOSAL

Date : 1/31/2017

Tancreti Construction LLC  
50 United Drive, Unit J  
North Haven, CT  
203-815-3556  
JAT@TancretiConstruction.com  
HIC #0633044

City of Bridgeport  
1875 Noble Ave  
Bridgeport, CT  
06610

## Job

Design / Bid/ Build for RFP#BZB8321171 SPIDER MONKEY EXHIBIT

## Break down on proposed work

## Cost

-A rough sketch was provided to bidders at mandatory pre-bid meeting 1/11/2017. After the pre-bid meeting a sketch was send via email on 1/23/2017 that was produced by ThermeQ.	
-Tancreti Construction LLC has put a proposal for labor and materials together that reflects the structure design produced by ThermeQ. The structural components will be fastened in the same manor proposed on the drawings.	
<b>This proposal is for design #1</b>	
-Interior demolition/ rebuild. Including storage room and Monkey holding area. Painting, flooring in viewing room, windows to separate viewing room, plus wall finish. Window schedule : 4 windows total.	\$49,168.32
-Exterior decking plus general finish work	\$81,990.44
-Concrete work: Including form work, rebar, cast in place bolts, masonry anchors, 3,500 PSI concrete mix.	\$91,491.99
-Windows / thermal	\$9,073.89
-Electrical rough / finish work for interior space	\$19,440.00
-Plumbing work for interior / exterior space (carried cost for pond water feed)	\$20,160.00
-Stainless steel wire mesh for exterior exhibit. Supplied plus installed	\$99,960.00
-Structural steel: posts with base plates fabricated, turnbuckle fabrication for cable tie backs. Supplied and installed.	\$37,180.00
-Pavement repairs : carried cost for 1,000 SQ FT	\$3,960.00
-HVAC: Replace existing unit plus 30' +/- of duct work. No carried cost for engineering / designing system. No balancing of system included.	\$33,600.00
-General equipment needed to complete the project start to finish:	\$34,068.00
General conditions: Insurances, Tancreti Construction LLC management in the field and office, architecture design, Structural engineer, civil engineer.	\$121,536.00
-Permits and fees with the City of Bridgeport	\$9,024.42
-Add Alternates : ***See attached cost sheet***	

## Exclusions

- This proposal excludes the following-
- All items off the attached add alternate sheet
- Design or engineered pump system for pools within the facility
- Electrical, HVAC or plumbing engineer is not included in general conditions total.
- Grading or landscape design
- Testing of soil for compaction rate

- Testing of soil for contamination
- Disposal of any contaminated materials
- Containment of any contaminated materials
- There is thought to be NO asbestos or lead based paint within job site.
- Structural repairs to buildings that are existing / adjacent
- X-ray of existing concrete footing to be built on.
- No cost carried for core samples on exiting concrete wall.
- No cost carried for power washing / chemical cleaning
- No cost carried for repairs / finished to floor inside monkeys interior space.
- \*\*\*Cost was carried for repairs to damaged turf areas (addition of seed and hay), no cost was carried for landscape or planting.
- No field office trailer or temp facilities provided by Tancreti Construction LLC.

**Tancreti Construction LLC is proud to be an affirmative action / equal opportunity employer.**

<b>BASE BID</b>	<b>\$610,653.06</b>
-----------------	---------------------

*Thanks' for considering Tancreti Construction LLC on your project.*

# ADD ALTERNATE SHEET

Date :1/31/2017

Tancreti Construction LLC  
50 United Drive, Unit J  
North Haven, CT  
203-815-3556  
JAT@TancretiConstruction.com  
HIC #0633044

To City of Bridgeport  
1875 Noble Ave  
Bridgeport, CT  
06610

## Project

Design/ Bid/ Build for RFP # BZB8321171 SPIDER MONKEY EXHIBIT

## Break Down On Add Alternate Work

## Cost

Design #1

1: Steel column plus concrete footing centered inside monkeys interior exhibit.	\$11,520.00
2: Decorative stone for under decks : materials plus installation	\$6,947.71
3: Metal play structures fabricated and attached to the masonry of building. 3 structures	\$8,160.00
4: Foe stone panels to cover masonry of building (not in its entirety), plus installation of veneer.	\$31,440.60
5: Interior viewing room tanks supplied plus installed	\$22,063.26
6: Replace windows that are existing in masonry building = 12 total (separating Marmosets from spider monkeys).	\$9,980.42
7: Install lattice under decks opposed to decorative stone	\$4,950.82
8: Construct 2 ponds plus a stream connecting ponds out of 3,500 PSI concrete with steel re-enforcement.	\$29,119.15

Total Add Alternate sheets **\$123,881.95**

Base bid for design #1 **\$610,653.06**

**Total Package \$734,535.03**

*Thanks' for considering Tancreti Construction  
LLC on your project.*



# PROPOSAL

Date :1/31/2017

Tancreti Construction LLC  
50 United Drive, Unit J  
North Haven, CT  
203-815-3556  
JAT@TancretiConstruction.com  
HIC #0633044

City of Bridgeport  
1875 Noble Ave  
Bridgeport, CT  
06610

## Job

Design / Bid / Build for RFP #BZB8321171 (SPIDER MONKEY EXHIBIT)

## Break down on proposed work

## Cost

-A rough sketch was provided to bidders at mandatory pre-bid meeting 1/11/2017	
-Tancreti Construction LLC has created its own design based off of the rough sketch provided. This design was created so different trades could have a better idea of what was actually getting built / overall scope of work.	
-This design is for a free standing structure that incorporates the use of 8x8 steel posts and 18" T x 6" W I beams. This design will be completely detached from existing building walls but will sit snug to building. It would have a flat canopy roof that would be constructed out of the Stainless Steel 2"x2" mesh.	
<b>This proposal is for design #2</b>	
-Interior demolition/ rebuild. Including storage room and Monkey holding area. Painting, flooring in viewing room, windows to separate viewing room, plus wall finish. Window schedule : 4 windows total.	\$49,168.32
-Exterior decking plus general finish work	\$81,990.44
-Concrete work: Including form work, rebar, cast in place bolts, masonry anchors, 3,500 PSI concrete mix.	\$109,285.02
-Windows / thermal	\$9,073.89
-Electrical rough / finish work for interior space	\$19,440.00
-Plumbing work for interior / exterior space (carried cost for pond water feed)	\$20,160.00
-Stainless steel wire mesh for exterior exhibit. Supplied plus installed	\$132,600.00
-Structural steel: posts, beams, all steel fabricated and installed	\$78,320.00
-Pavement repairs : carried cost for 1,000 SQ FT	\$3,960.00
-HVAC: Replace existing unit plus 30' +/- of duct work. No carried cost for engineering / designing system. No balancing of system included.	\$33,600.00
-General equipment needed to complete the project start to finish:	\$34,068.00
General conditions: Insurances, Tancreti Construction LLC management in the field and office, architecture design, Structural engineer, civil engineer.	\$121,536.00
-Permits and fees with the City of Bridgeport	\$10,431.02
-Add Alternates : ***See attached cost sheet***	

## Exclusions

- This proposal excludes the following-
- All items off the attached add alternate sheet
- Design or engineered pump system for pools within the facility
- Electrical, HVAC or plumbing engineer is not included in general conditions total.

- Grading or landscape design
- Testing of soil for compaction rate
- Testing of soil for contamination
- Disposal of any contaminated materials
- Containment of any contaminated materials
- There is thought to be NO asbestos or lead based paint within job site.
- Structural repairs to buildings that are existing / adjacent
- X-ray of existing concrete footing to be built on.
- No cost carried for core samples on exiting concrete wall.
- No cost carried for power washing / chemical cleaning
- No cost carried for repairs / finished to floor inside monkeys interior space.
- \*\*\*Cost was carried for repairs to damaged turf areas (addition of seed and hay), no cost was carried for landscape or planting.
- No field office trailer or temp facilities provided by Tancreti Construction LLC.

**Tancreti Construction LLC is proud to be an affirmative action / equal opportunity employer.**

**BASE BID**

**\$703,599.69**

*Thanks' for considering Tancreti Construction LLC on your project.*

# ADD ALTERNATE SHEET

Date :1/31/2017

Tancreti Construction LLC  
50 United Drive, Unit J  
North Haven, CT  
203-815-3556  
JAT@TancretiConstruction.com  
HIC #0633044

To City of Bridgeport  
1875 Noble Ave  
Bridgeport, CT  
06610

## Project

Design/ Bid/ Build for RFP # BZB8321171 SPIDER MONKEY EXHIBIT

## Break Down On Add Alternate Work

## Cost

Design #2

1: Steel column plus concrete footing centered inside monkeys interior exhibit.	\$11,520.00
2: Decorative stone for under decks : materials plus installation	\$6,947.71
3: Metal play structures fabricated and attached to the masonry of building. 3 structures	\$8,160.00
4: Foe stone panels to cover masonry of building (not in its entirety), plus installation of veneer.	\$31,440.60
5: Interior viewing room tanks supplied plus installed	\$22,063.26
6: Replace windows that are existing in masonry building = 12 total (separating Marmosets from spider monkeys).	\$9,980.42
7: Install lattice under decks opposed to decorative stone	\$4,950.82
8: Construct 2 ponds plus a stream connecting ponds out of 3,500 PSI concrete with steel re-enforcement.	\$29,119.15

Total Add Alternate sheets **\$123,881.95**

Base bid for design #2 **\$703,599.69**

**Total Package \$827,481.66**

*Thanks' for considering Tancreti Construction  
LLC on your project.*

## Our Team

- 1-Tancreti Construction LLC
- 2- WDM Architects
- 3-MKEC Engineering Success
- 4-Spiegel, Zamecnik & Shah Inc.

### Tancreti Construction LLC

Tancreti Construction LLC is an owner operated business based out of North Haven Connecticut. We provide a wide variety of services to the entire State of CT.

Specializing in Site work, Masonry and Restoration, we work with designers, architects and engineers to ensure the quality and cohesiveness of your project. We maintain continuous education thru Safety Services and OSHA 10 certification with all our staff. The services offered by Tancreti Construction are all encompassing due to the relationships and reputation we maintain within our industry.

We believe that the key to successful general contracting is in great communication.

### WDM Architects

For almost 20 years, WDM has designed exhibits for some of the country's most prestigious zoos. WDM doesn't approach zoo design as a "Theme Park." We want to inspire the public with an immersion experience. We view zoo animals as ambassadors for their wild counterparts, and our goal is to create an authentic environment that tells their story so visitors can connect with animals. We also specialize in creating sustainable buildings on the zoo campus that use the latest in advanced energy-saving technologies. WDM is proud of our stewardship of the natural world, and will continue to find new ways for zoos to sustain, flourish and thrive.

## MKEC Engineering Success

MKEC was founded in 1982 on the principle of providing superior engineering consulting services that are responsive to our clients' needs.

We are a full-service engineering and land-planning firm that offers a broad range of consulting services. We provide engineering feasibility and design services to both private and public sectors. Our customers include industry, developers, city, county, state and federal governments, architects, other engineering groups, institutions and individuals.

## Spiegel Zamecnik & Shah INC (Civil Engineer) SBE

Spiegel Zamecnik & Shah has been providing professional services to a full range of clients for 45 years, for the structural design of building construction including the rehabilitation of existing structures. Our primary activity is the design of framing and foundations for new buildings serving institutions, government, corporations and developers. We design complex building structures, including educational buildings, hospitals, libraries and museums. We are also active in the evaluation and adaptive reuse of existing buildings, including historic landmarks, and the design of special structures. We hold engineering registration in numerous states, and are certified by the D.A.S. as a small business concern. Our projects have won numerous awards from industry organizations for innovative design and meeting our clients' needs.

\*Resumes & Certificates of insurance are available upon request.

## Suppliers/Supplies

B & R Glass (Viewing windows)

Branford Building Supply (lumber/ composite materials/ fasteners/ misc)

Corners Unlimited (Holding cages & mechanical doors)

Habitat Systems Limited (tanks)

That Metal Shop (structural steel)

## Subcontractors

Nets Unlimited Inc. WBE (Design, supply/ install of netting material)

Total Plumbing & Heating (Supply/ Install plumbing)

Mergo Mechanical (Supply/ install new H-vac system)

AAA Electric Services (Supply/ upgrade/ install electrical)



## **References/ Projects**

### **1- Victorian Cottage Historical Restoration, Fairfield CT Complete interior historic restoration/ADA upgrades**

-Contact info: John @ David Scott Parker Architects

Email: jwasilewski@dsparker.com

Michael Jehle @ Fairfield Museum- Email: mjehle@fairfieldhs.org

### **2- Willard Correction Institution, Enfield CT Site work/De-watering/ Foundation/ General Concrete**

-Contact info: Warden Glen (owner- State of Connecticut)

### **3- Common Grounds School- New Haven, CT Thermal protection/ Siding installation**

-Contact info: Dave (owner- State of Connecticut)

Email address: CLSLLC@yahoo.com

### **4- ST Therese church, 105 Leetes Island road, Branford, CT. Handicap upgrades (ADA compliant)**

-Contact info: Helen 203-488-2998 Email: office@sttheresebranford.org

### **5- 6 Cove road, East Haddam, CT (1970's Year Built) Complete rest/Addition /Site work/ Concrete work**

-Contact info John Biller (owner)

Email address: JDBLAW19@yahoo.com

## **Contact Info**

Mailing address:

Tancreti Construction LLC  
50 United Drive unit J  
North Haven, CT  
06473

Joseph A. Tancreti  
Tancreti Construction LLC  
Member/ Operator  
Phone: (203)815-3556  
Email address: [JAT@tancreticonstruction.com](mailto:JAT@tancreticonstruction.com)

Monica Robertson  
Tancreti Construction LLC  
Lead Project Manager  
Phone: (203)306-7507  
Email Address: [MR@tancreticonstruction.com](mailto:MR@tancreticonstruction.com)

Michael Perez  
Tancreti Construction LLC  
Director of Sales & Marketing  
Phone: (203)500-7684  
Email Address: [MAP@tancreticonstruction.com](mailto:MAP@tancreticonstruction.com)

Scott Ramser, AIA  
WDM Architects P.A.  
Office: (316)262-4700  
Cell: (316)258-5180  
Email: [sramser@wdmarchitects.com](mailto:sramser@wdmarchitects.com)  
Website: [wbmarchitects.com](http://wbmarchitects.com)

EXHIBIT C

SCHEMATIC

# Beardsley Zoo

## Tapir and Spider Monkey Exhibit

Plan - 1/8" = 1'-0"

9.9.14

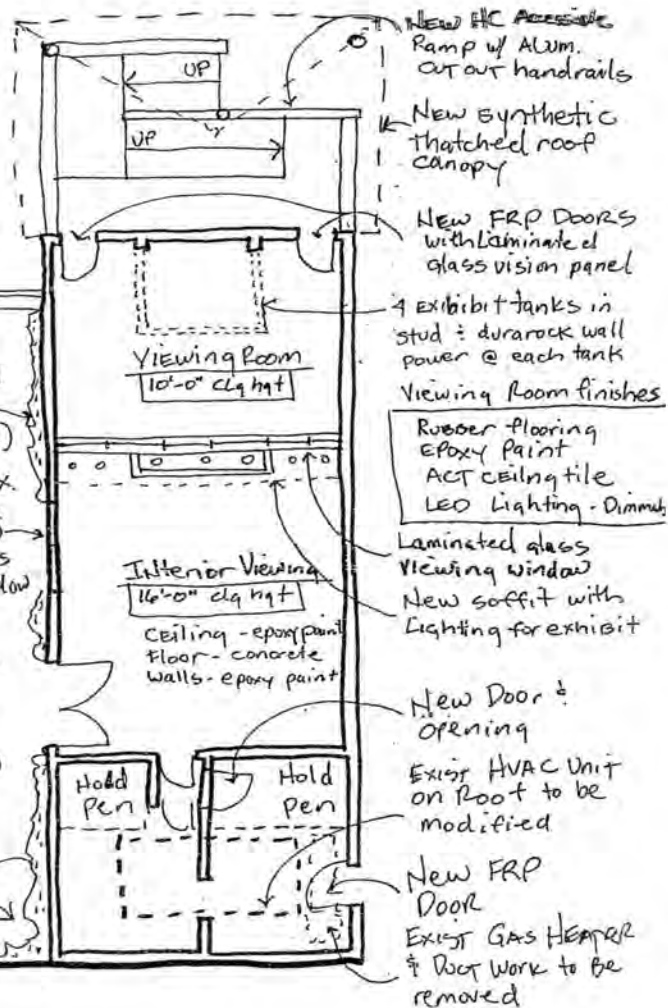
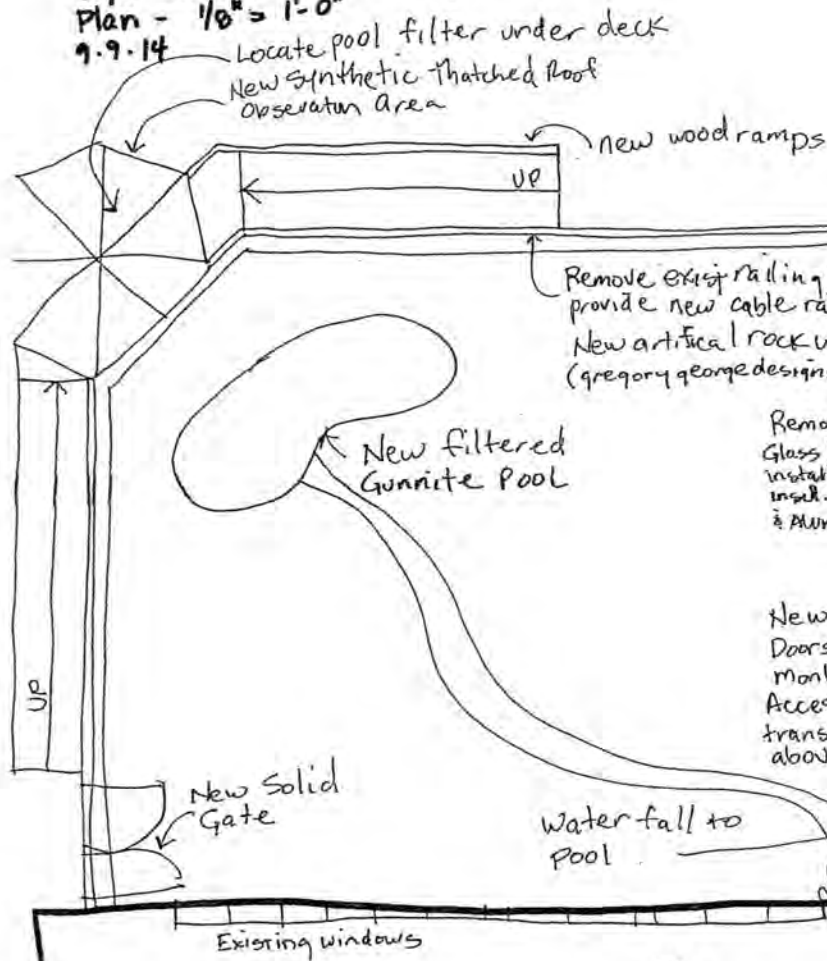


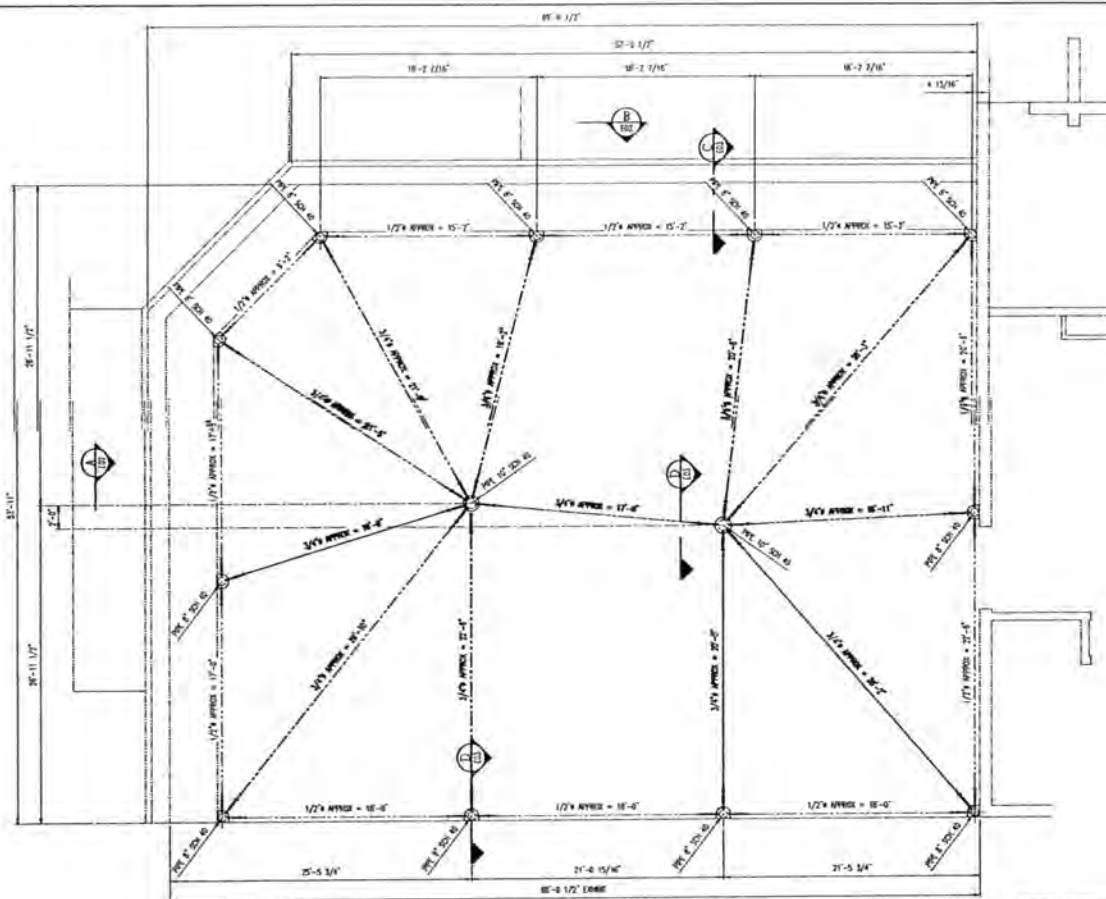
EXHIBIT D

Refined Documents (future document)



EXHIBIT

Preliminary Design



FOR OTHER APPROVAL  
**PRELIMINARY**  
 NOT FOR CONSTRUCTION



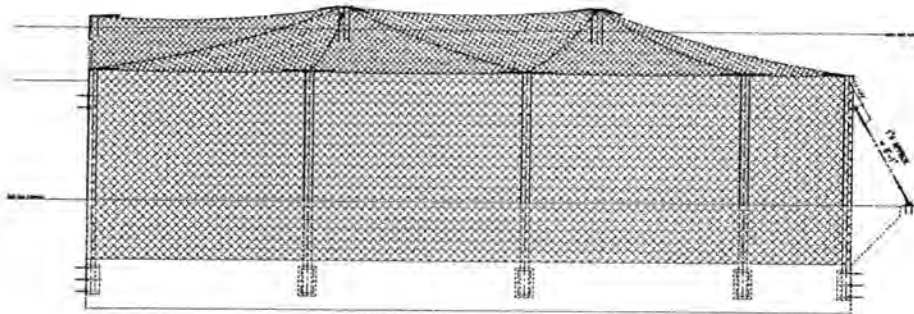
**THERMEQ**

THERMEQ COMPANY TOLEDO, OHIO  
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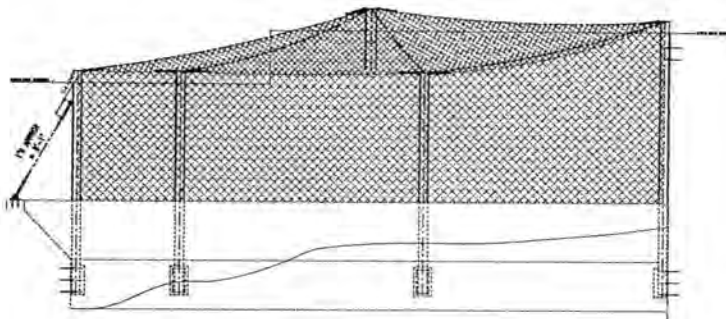
**TAPIR/SPIDER MONKEY EXHIBIT**

GENERAL LAYOUT  
 GL-9497  
 E01

NO.	REV.	DATE	DESCRIPTION
1	1	10/1/04	REVISIONS



SECTION 3  
101



SECTION 4  
101

FOR OWNER APPROVAL  
PRELIMINARY  
NOT FOR CONSTRUCTION

**THERMEQ**

THERMEQ COMPANY TOLEDO, OHIO

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TAPIR/SPIDER MONKEY EXHIBIT

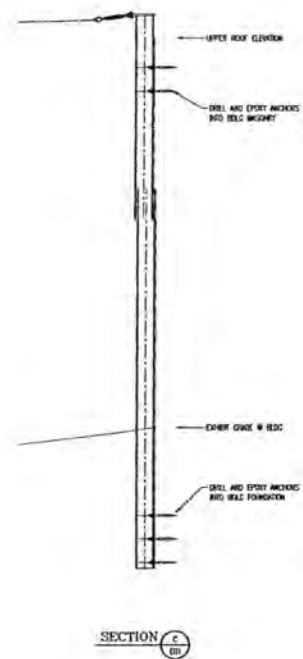
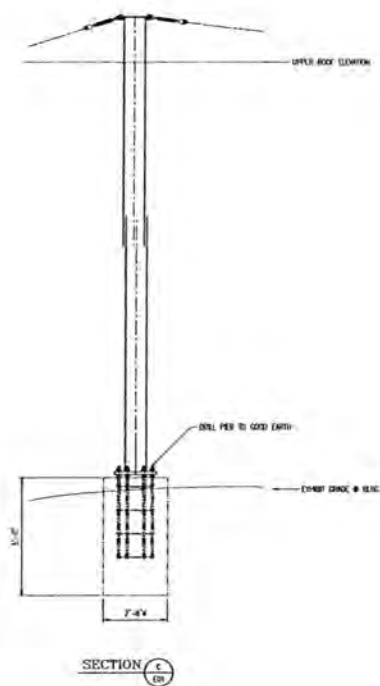
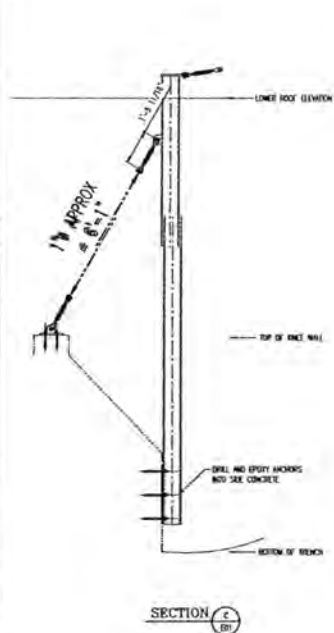
DATE: 06/11/2014 PROJECT NO: 1001

GENERAL LAYOUT

CL-9497

101

NO.	DATE	REVISION
1	06/11/2014	REVISION



FOR OWNER APPROVAL  
PRELIMINARY  
NOT FOR CONSTRUCTION

**THERMEQ**

THERMEQ COMPANY TOLEDO, OHIO  
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TAPIR/SPIDER MONKEY EXHIBIT

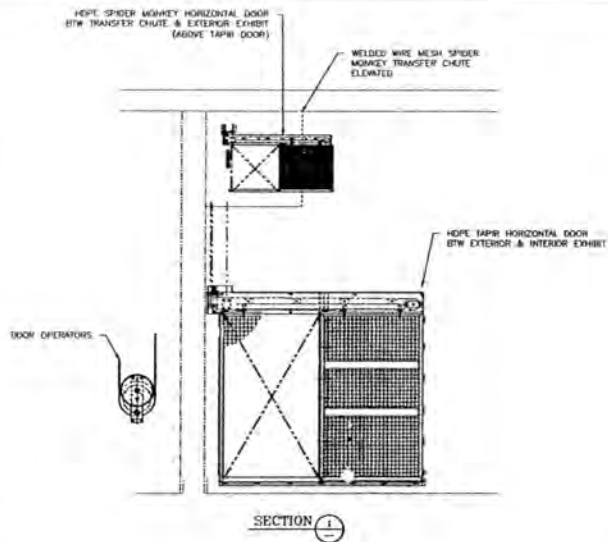
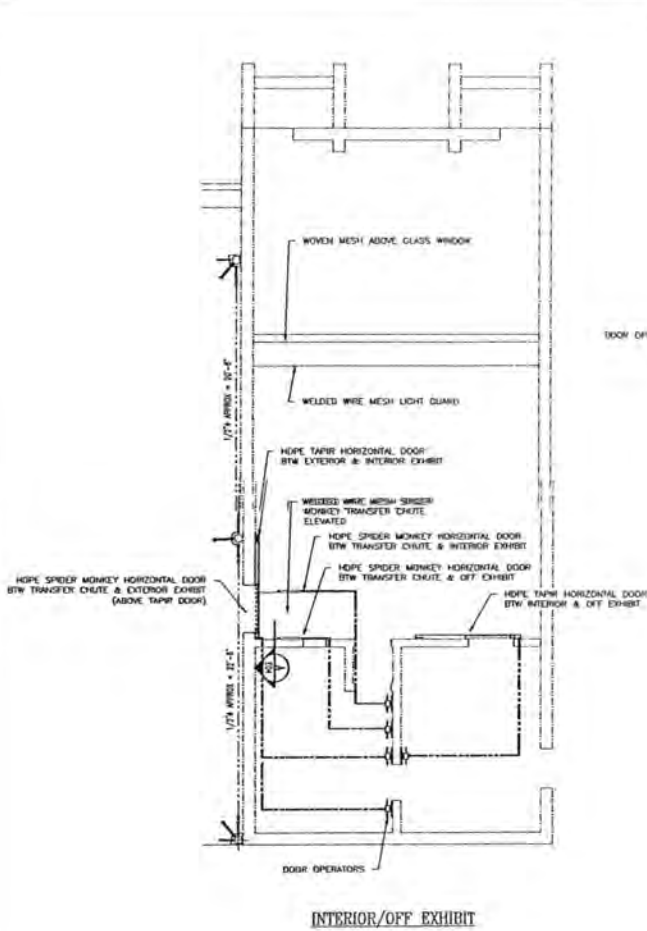
DATE: 10/1/03 DRAWN BY: [signature] CHECKED BY: [signature]

SECTION VIEWS

CL-9497

ED3

REV	DATE	DESCRIPTION
1	10/1/03	REVISION



FOR OTHER APPROVAL  
PRELIMINARY  
NOT FOR CONSTRUCTION

**THERMEQ**

THERMEQ COMPANY TOLEDO, OHIO

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TAPIR/SPIDER MONKEY EXHIBIT

DATE: 10/1/14 DRAWN BY: JLM CHECKED BY: JLM

GENERAL LAYOUT

GL-9497

ED4

NO.	DATE	REVISIONS
1	10/1/14	GENERAL LAYOUT



EXHIBIT F

Form Certificate of Substantial Completion

# CERTIFICATE OF SUBSTANTIAL COMPLETION

AIA DOCUMENT G704

(Instructions on reverse side)

OWNER  
ARCHITECT  
CONTRACTOR  
FIELD  
OTHER

PROJECT

(Name and address)

PROJECT NO.:

CONTRACT FOR:

CONTRACT DATE:

TO OWNER

(Name and address)

TO CONTRACTOR

(Name and address)

DATE OF ISSUANCE:

PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

The Work performed under this Contract has been reviewed and found, to the Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion thereof designated above is hereby established as

which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected is attached hereto. 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.

ARCHITECT

BY

DATE

The Contractor will complete or correct the Work on the list of items attached hereto within

days from

the above date of Substantial Completion.

CONTRACTOR

BY

DATE

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at (time) on (date).

OWNER

BY

DATE

The responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:

(Note: Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)



**CAUTION:** You should use an original AIA document which has this caution printed in red.  
An original assures that changes will not be obscured as may occur when documents are reproduced.



AIA DOCUMENT G704 • CERTIFICATE OF SUBSTANTIAL COMPLETION • 1992 EDITION • AIA® • ©1992 • THE  
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G704-1992



Los Angeles Department of Water and Power  
CERTIFICATE OF COMPLIANCE  
MINIMUM WATER CONSERVATION CRITERIA

Property Address: \_\_\_\_\_

City Zip Code: \_\_\_\_\_ Number of Floors: \_\_\_\_\_

Year Number of Units or Dwelling or Building: \_\_\_\_\_

Number of new units and floor area proposed: \_\_\_\_\_ Total Area: \_\_\_\_\_

THIS IS TO CERTIFY THAT THE FOLLOWING INFORMATION HAS BEEN RECEIVED FROM THE OWNER OF THE ABOVE LISTED ADDRESS COMPLIES WITH THE REQUIREMENTS OF THE MINIMUM CRITERIA. ALL INFORMATION MUST BE IN THE FORM OF A WRITTEN STATEMENT, SUBMITTED BY THE OWNER, AND MUST BE IN THE FORM OF A WRITTEN STATEMENT OF THE OWNER.

PROPOSED USE SCHEDULE	No. of Floors	FSL
1. Single-Family Residential	1	1.0
2. Multi-Family Residential	2	2.0
3. Commercial/Industrial	3	3.0
4. Government/Institutional	4	4.0
5. Educational/Healthcare	5	5.0
6. Religious/Community Center	6	6.0
7. Other	7	7.0
TOTAL FLOOR AREA		

PLEASE HAVE THIS FORM FILLED BY THE LOS ANGELES DEPARTMENT OF WATER AND POWER  
PROPERTY ADDRESS: \_\_\_\_\_

Signature of Owner: \_\_\_\_\_ Signature of City Engineer: \_\_\_\_\_

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

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JOSEPH P. GANIM  
Mayor

*City of Bridgeport*  
**OFFICE OF PLANNING & ECONOMIC DEVELOPMENT**

Margaret E. Morton Government Center  
999 Broad Street, Bridgeport, Connecticut 06604

THOMAS F. GILL  
Director

WILLIAM J. COLEMAN  
Deputy Director

October 11, 2017

COMM. #160-16 Ref'd to Contracts Committee on 10/16/2017.

Lydia Martinez, City Clerk  
City Hall  
45 Lyon Terrace  
Bridgeport, CT 06604

**Re: Amphitheater Development and Operating Agreement  
Referral to Contracts Committee  
Public Hearing Required**

RECEIVED  
CITY CLERKS OFFICE  
17 OCT 11 PM 4:50  
ATTEST  
CITY CLERK

Dear Madame Clerk, City Council President, and Members of the Bridgeport City Council:

I am pleased to forward to the City Council for its consideration and approval, a copy of that certain "Amphitheater Development and Operating Agreement" between the City of Bridgeport and Harbor Yard Amphitheater, LLC, the proposed operator ("HYA"). This is for referral to the Contracts Committee. It requires a public hearing.

You may recall that the Bluefish Professional Baseball Team occupied the Ballpark at Harbor Yard for more than 20 years until its operating agreement expired. In anticipation of this event, the City issued a Request for Proposals seeking proposals for the same use or another use. Proposals were received this summer from HYA, the Bluefish and a soccer organization. HYA was selected as the best and most advanced proposal offered.

The strength of HYA's proposal is based upon a number of factors:

1. HYA's principal and owner is Howard Saffan, a recognized real estate developer in the area who owns the Sports Center of Connecticut in Shelton, Connecticut and was the former President of Webster Bank Arena from 2011 - 2015.
2. Mr. Saffan has a strategic, contractual relationship with Live Nation Entertainment, a Fortune 300 company and the world's leading concert promoter ("Live Nation"), that promotes concerts at approximately 196 venues that it owns or operates worldwide and that expects to present 20 - 30 concert events in Bridgeport.
3. HYA understands the importance of local involvement in its operation and is committed to hiring union contractors, many of them locally-owned, minority-owned contractors and subcontractors, many of them being Bridgeport-based, local food and beverage vendors, and

Bridgeport residents in the hundreds of permanent jobs that will be created during the renovation of the Ballpark and in the operation of the Amphitheater.

4. As soon as the agreement is approved and signed, HYA will take possession of the Ballpark, will winterize it to protect it from cold weather, will fence it for security purposes, and will maintain a security patrol to protect the facility from vandalism.
5. HYA will invest \$7,500,000 in the construction of the Amphitheater and the City will invest a like amount and have the right to approve the design. HYA will act as the City's representative and fiduciary in the construction of the Amphitheater. The City will own all of the improvements as soon as a certificate of occupancy is issued and will be under no obligation to repay HYA for HYA's investment in the Amphitheater.
6. The overall economic, business, and tourism benefits to the City are projected to exceed \$50,000,000 per year.

Attached is the proposed agreement for the Council's consideration. My department is prepared to present this matter to the Council and to answer any of its questions about this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Coleman".

Bill Coleman  
Deputy Director

c: Ron Pacacha, Esq.  
Mark Anastasi, Associate City Attorney  
Thomas F. Gill, OPED Director



**Resolution Authorizing a Development Agreement and Operating Agreement for the Harbor Yard Amphitheater**

WHEREAS, in March of 2017, the City's Office of Planning and Economic Development ("**OPED**") published a Request For Proposals ("RFP") for the re-use and refurbishment of the City-owned Harbor Yard Ballpark at 500 Main Street (the "Facility");

WHEREAS the RFP sought proposals for uses that would either continue the use of the Facility as a sports venue or convert it to an entertainment venue;

WHEREAS, after reviewing development proposals received pursuant to the RFP, and after interviewing the developer and operator candidates who had responded to the RFP, the City selected Harbor Yard Amphitheater LLC ("HYA") as the preferred developer and operator for the Facility;

WHEREAS, HYA proposes to invest \$7,500,000 in the renovation of the city-owned Facility to convert it to an outdoor Amphitheater (the "Project");

WHEREAS, the City will invest a like amount and approve the design of the Amphitheater;

WHEREAS, the Amphitheater operations will produce considerable economic benefit to the City;

WHEREAS, the City wishes to enter into the attached Amphitheater Development and Operating Agreement (the "Agreement") so that HYA may begin renovations of the Facility to allow for its opening in the spring of 2019;

NOW THEREFORE BE IT RESOLVED that the Mayor or the Director of OPED is authorized to finalize and execute the attached Agreement, and is further authorized to negotiate and to execute such other agreements and to take such other necessary or desirable actions in furtherance of the Project and consistent with this resolution as he/she may deem to be in the best interests of the City.

AMPHITHEATER DEVELOPMENT AND OPERATING AGREEMENT

DATED AS OF \_\_\_\_\_, 2017

BY AND BETWEEN

THE CITY OF BRIDGEPORT, CONNECTICUT (“City” or “Owner”)

AND

HARBOR YARD AMPHITHEATER, LLC (“HYA” or “Operator”)

## AMPHITHEATER DEVELOPMENT AND OPERATING AGREEMENT

THIS AGREEMENT (the "**Agreement**") dated as of \_\_\_\_\_, 2017 entered into by and between the **City of Bridgeport**, Connecticut, a municipal body corporate and politic and a political subdivision of the State of Connecticut (the "**City**"), having an address at 45 Lyon Terrace, Bridgeport, CT 06604 and **Harbor Yard Amphitheater, LLC**, a limited liability company organized and existing under the laws of the State of \_\_\_\_\_, having its principal place of business at \_\_\_\_\_ ("**HYA**" or "**Operator**").

### RECITALS:

A. The City is the owner of a baseball stadium commonly known as the Ballpark at Harboryard (the "**Ballpark**") that has been the home field for an Independent League baseball team since 1998 known as the Bridgeport Bluefish ("**Bluefish**").

B. The Stadium Management and Operations Agreement between the City and the Bluefish expired at the end of the 2016 baseball season but the parties entered into a one-year extension of that agreement that has now ended and the Bluefish are in the process of vacating the Facility.

C. In an attempt to determine the future use of the Facility, the City issued a Request For Proposals in early 2017 (#PEB807173R) ("**RFP**"), which is incorporated by reference as if fully set forth herein.

D. The City received a number of proposals in response to the RFP, including a proposal from the Bluefish, but decided, in light of the estimated \$26,000,000 cost associated with renovating or rebuilding the Ballpark for continued baseball operations, to select the proposal submitted by HYA and Live Nation, which is incorporated by reference as if fully set forth herein, a portion of which is recognized as confidential as HYA business or trade secrets protected from disclosure pursuant to the Connecticut Freedom of Information Act ("**Proposal**"). Howard Saffan, HYA's principal and owner, is a life-long Connecticut resident, has extensive business interests and experience in Connecticut as the owner of SportsCenter of Connecticut in Shelton, Connecticut, is an active commercial real estate developer, and, is the former President of the Webster Bank Arena from 2011 - 2015, has a relationship with Live Nation Entertainment, a Fortune 300 company ("**Live Nation**").

E. HYA has entered into a contractual, strategic relationship with Live Nation, the world's leading concert promoter of live music events and festivals that it promotes at amphitheaters that it operates or owns, including the Chevrolet Theater in Wallingford, CT, a relationship that makes the HYA/Live Nation combination capable of attracting and presenting a high level of top-tier entertainment events at the Facility during the warm weather months, that is, from mid-April and extending through mid-October.

F. Live Nation operates and/or books 196 entertainment venues across the world with over 50 amphitheaters and over 100 theaters and clubs such as the House of Blues, The Fillmore, and the Hollywood Palladium.

G. HYA and Live Nation project that the Amphitheater will host 20 – 30 concerts and 50-75 other events of various types (including festivals, expositions, sports events, community events, religious events, etc.) on an annual basis. Live Nation will participate in the Amphitheater endeavor as the exclusive concert promoter, Live Nation and HYA will jointly participate in events that other promoters bring to the Amphitheater, and HYA will promote all other non-concert events (e.g., graduations, exhibits, family shows, etc.)

H. In order to provide a first-class venue to match the high quality of Live Nation events, HYA proposes to renovate the Facility into a modern, luxurious and high-profile amphitheater venue (the “**Amphitheater**” or the “**Facility**”) that is projected to open in the Spring of 2019. HYA and the City have agreed to a maximum hard construction budget of Fifteen Million (\$15,000,000) Dollars, with HYA and the City each contributing Seven Million Five Hundred Thousand (\$7,500,000) Dollars in capital, exclusive of soft costs. The City and HYA will mutually agree on the Amphitheater design that will include as a central design feature a tensile fabric roof over the former grandstands, concourse, premium seating (clubs, skyboxes) and performance area that will greatly reduce or eliminate the historic water-intrusion problem in the Ballpark and thus reduce the historic demands on the City’s capital funds. Upon completion of the renovation project, the City will own all of the improvements made by both parties to create the Amphitheater as well as all furniture, fixtures and equipment incorporated therein. The City continues to own all baseball-related infrastructure and equipment from the Facility and has the right to use or re-use such items at other stadiums or fields or to dispose of any items of such infrastructure and equipment in its sole discretion.

I. HYA will operate the Amphitheater and expects to bring high-value and prominent entertainers that will help to promote, attract, stimulate, develop, grow and expand other business, commerce and tourism opportunities within the City while drawing concert-goers from Connecticut, New York and Rhode Island. The economic impact to the City is anticipated to exceed \$50,000,000 annually.

J. The development and promotion of the Amphitheater on public property owned by the City will provide significant benefits to the general public including (i) construction contracts to local minority contractors and open-shop contractors, (ii) temporary construction jobs and (c) permanent Amphitheater jobs to Bridgeport residents. Based on the projected number and quality of events, there will be significant direct and indirect economic impacts to the City of Bridgeport due to increased demand for goods and services from local contractors, suppliers, vendors and retailers that HYA intends to utilize. HYA has already designated numerous local companies, including minority-owned companies, for construction work and as food and beverage vendors. HYA views the use of recognized, local businesses and the use of their goods and services as essential to the success of this local venue. Increased demand for goods and services will result in more local employment. HYA intends to hire approximately 16 full-time and 305 part-time employees and will focus on hiring from the Bridgeport labor pool to the greatest extent possible and expects that the economic impact of Amphitheater operations will create an additional 900 jobs in the region.

K. HYA expects that the retrofitting and new construction involved in the creation of the Amphitheater from the existing structure and layout of the Facility will have a one-time impact on the economy in terms of the creation of approximately 258 construction jobs, resulting in the use of union labor and union shops based on HYA's relationships with and ongoing commitment to the skilled trades.

L. In addition to committing approximately 50% of construction dollars to union shops, HYA has agreed to use Good Faith Efforts, as defined in the City of Bridgeport's Minority Business Enterprise Ordinance ("**MBE Ordinance**"), to employ qualified minority subcontractors in order to achieve or exceed the mandatory requirements (6% African-American subcontractors in construction) and goals (15% MBE and 15% WBE in total) contained in the MBE Ordinance. The City's Minority Business Resource Office will monitor and report on the use of Good Faith Efforts in all hiring activities and the results achieved.

M. In light of the foregoing, the City has determined that entering into this Agreement to create the Amphitheater represents the prospect of significant economic and employment impacts that will benefit the City, its residents, MBE businesses and the skilled trades, will have a significant positive spillover effect on local business, commerce and tourism, is in the best interests of the City and the welfare of its residents, and is in accord with valid public purposes.

The above recitals are incorporated into and made a part of this Agreement as if fully set forth in the body thereof.

NOW, THEREFORE, intending to be legally bound, for good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties agree as follows:

# ARTICLE I DEFINITIONS; PARTY REPRESENTATIVES AND THEIR RESPECTIVE SCOPES OF AUTHORITY; SUBSTANTIVE CHANGES

## 1.1 Definitions.

"**Affiliate**" shall mean a person who (a) is directly or indirectly controlled by, or under common control with the Operator; (b) owns directly or indirectly thirty-five percent (35%) or more of the equity interests in the Operator; (c) is a member, general partner, officer, director, non-financial institution trustee or fiduciary of the Operator or (d) is a son, daughter, spouse, parent, sibling or in-law of anyone described in (a) – (c).

"**Amphitheater Premises**" shall mean the approximately 7.8176 Ac. parcel of real property and improvements described as "Lot No. 1" on that certain Subdivision Map of Property Located on Broad Street & South Frontage Rd, dated January 14, 2000, rev'd 6-29-00, Scale 1" = 60', prepared by Kasper Group, Inc.,



Bridgeport, Connecticut, a copy of which is attached hereto and made a part hereof as **Schedule A**.

**"Approval"** or **"Approve"** shall mean the City's right to receive prior notice of (a) an HYA request to modify a term or condition of this Agreement or (b) a request that is stated herein to require the City's "Approval", and the City's right to grant, deny or condition its written approval of an action in the manner set forth in this Agreement, which request for action or approval the City agrees to consider and promptly act upon in the exercise of its commercial business judgment, reasonably exercised.

**"Approved Form of Communication"** shall mean, as to any communication required or desired to be given in this Agreement, a written notice or other communication delivered to the other party at the physical address given herein for notice and transmitted (a) by hand, (b) by a recognized overnight delivery service, (c) by certified mail delivered through the United States Postal Service, or (d) by email or facsimile to the email address or facsimile phone number given herein provided, however, that a copy of such email or facsimile must be delivered promptly to the physical address for delivery set forth herein through one of the other Approved Forms of Communication.

**"Capital Item"** shall mean expenditures for any or all capital installations, alterations, improvements, to the Amphitheater structure or building systems, and purchases of additional or replacement furniture, fixtures or equipment at the Amphitheater that are required for the operation thereof or improvements to the same (but not ordinary maintenance) that extend the depreciable life thereof, the depreciable life of which according to Generally Accepted Accounting Principles is five (5) years or more and costs in excess of Twenty-five thousand (\$25,000) Dollars that is for the benefit of the Amphitheater plant and operation itself and does not inure exclusively to any individual person or entity, the purchase or acquisition of which HYA shall competitively procure in a manner reasonably satisfactory to the City.

**"Capital Repair & Replacement"** shall mean the furnishing or replacement of a Capital Item or a modification, repair or addition that will extend the depreciable life of a Capital Item (but not ordinary maintenance) from funds contained in the Capital R&R Account.

**"Capital Repair & Replacement Account"** or **"Capital R&R Account"** shall mean that certain segregated bank account owned jointly by the parties during the entire Term of this Agreement to be used for the construction of the Amphitheater and furnishing or replacement of a Capital Item.

**"Capital Repair & Replacement Contributions"** shall mean funds generated through the Rent or PILOT payments in excess of Two Hundred Fifty Thousand (\$250,000) Dollars per year up to a maximum of One Million (\$1,000,000) Dollars or such greater amount that may be needed in the near future pursuant to the Facility Condition Report to address the need for anticipated Capital Repair & Replacement of Capital Items.

**"City Events"** means non-commercial events conducted, sponsored or co-sponsored by the City pursuant to this Agreement.

**"City Parking Lot"** shall mean that certain City-owned surface lot or lots comprising approximately 3-Ac. in size located on Broad Street directly across the street from the Facility.

**"City Representative—Administration"** shall mean the Director of the Office of Planning and Economic Development.

**"City Representative—Facility"** shall mean the Director of the Department of Public Facilities.

**"Completion Date"** shall mean the approximately 18-month period agreed to by the parties to achieve substantial completion of the Amphitheater measured from the date that the first building permit is issued.

**"Construction Budget"** shall mean the sum of up to Fifteen Million (\$15,000,000) Dollars for the renovation of the Ballpark into the Amphitheater, to be shared equally by the parties, exclusive of design costs.

**"Emergency Repair"** shall mean any condition or situation that threatens (or if not promptly acted upon will threaten) the health, safety or welfare of users of the Amphitheater or its structure or systems and the immediacy of which threat to health, safety or welfare does not, in the Operator's reasonable judgment, permit sufficient time for the Operator to inform the City of such condition or situation prior to making an emergency expenditure from the Capital R&R Account unless such account is insufficient to address such Emergency Repair in which case the City will reimburse HYA for such repair within thirty (30) days of request for reimbursement.

**"Environmental Condition"** shall mean any current or future condition that results in, or could result in, a violation of Environmental Laws or the release, threatened release, or presence of Hazardous Materials at, upon, under, generated by, emanating or having emanated from, or emitting or having been emitted from the Amphitheater site in violation of the Environmental Laws.

**"Environmental Laws"** shall mean any and all current or future federal, state, local or municipal written and published laws, rules, orders, regulations, statutes, ordinances, codes or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common laws) concerning air, water, solid waste, Hazardous Materials, community right-to-know, radioactive material, resource protection, inland wetlands and watercourses, and other environmental and local government concerns.

**"Event"** shall mean all entertainment, cultural, civic, sporting and other activities, performances and shows that are described in the Proposal and in this Agreement that are conducted at the Amphitheater, whether or not revenue is generated therefrom, and whether or not they are promoted by Live Nation, by Live Nation and

HYA jointly, or by HYA alone that are consistent with the Permitted Uses and provided that the legal capacity of the Amphitheater does not exceed its permitted legal occupancy without the prior Approval of the City or any agency having jurisdiction.

**"Event Parking"** shall mean the City's obligation to provide adequate public parking facilities, including on-street parking spaces, metered parking spaces, surface parking lots, structured parking garages, parking spaces in privately- or publicly-owned parking garages or parking accommodations in other areas within a one-half (1/2) mile radius of the Amphitheater to satisfy the legal requirements of the Amphitheater.

**"Event-Related Expenses"** means those costs and expenses that will be incurred by Operator in connection with, and directly attributable to, each Event in the Amphitheater and that (i) will be reimbursed by the user or promoter, if any, out of its ticket sales for such Event, or (ii) will otherwise be paid by the user or promoter in addition to any other charges for the use of the Amphitheater for such Event. Event-Related Expenses include, but are not limited to, expenses for personnel (including ticket takers, ushers, internal and external security, police, maintenance and cleanup personnel, emergency medical technicians, concierge, restroom assistants, stagehands, box office personnel and other maintenance personnel, utilities and insurance) necessary for the conduct of the Event. The Operator shall charge only Event-Related Expenses to the City for a City Event.

**"Facility Condition Report"** shall mean a study prepared by an appropriate consultant familiar with facilities like the Amphitheater to determine the long-term capital needs for the Amphitheater so that the parties can take appropriate action and prioritize the use of and amounts necessary to be available in the Capital Repair & Reserve Account, which report shall be conducted during the 6<sup>th</sup> year of this Agreement and the cost of which shall be paid from the Capital Reserve & Replacement Account.

**"Facility Maintenance Program"** shall mean a program of ordinary maintenance activities developed by the Operator and Approved by the City that will ensure regular attention to, cleaning, inspecting, parts replacement, lubricating and other activities involving the physical plant, all building systems, and the FF&E constituting the Amphitheater from time to time.

**"Furniture, Fixtures & Equipment"** or **"FF&E"** shall mean the furniture, fixtures and equipment to be identified on **Exhibit 4** to be purchased by the Operator on the City's behalf as part of the Construction Budget, including the useful life of each, that the City will own as part of the Amphitheater immediately upon installation.

**"Hazardous Materials"** shall mean any petroleum, petroleum products, fuel oil, waste oil, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, pollutants, toxic pollutants, herbicides, fungicides, rodenticides, insecticides, contaminant, or pesticides and including, but not limited to, any other element, compound, mixture, solution or

substance which may pose a present or potential hazard to human health or the environment.

**"HYA"** shall mean HYA acting as the Operator and the City's agent with respect to construction of the Amphitheater.

**"HYA Representative"** shall mean HYA's designee in writing.

**"Impositions"** shall mean all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, general and special, real or personal, ordinary and extraordinary, of every kind and nature whatsoever, whether controlled by public law or similar agreement (irrespective of the nature thereof, including, without limitation, all such charges based on the fact of a transaction, irrespective of how measured) which at any time during the Term hereof may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on: (a) all or any part of the Amphitheater; (b) any payments received from any holders of a leasehold interest or license in or to the Amphitheater, from any guests or from any others using or occupying all or any part of the Amphitheater; or (c) this transaction or any document to which the Operator is a party which creates or transfers rights with respect to all or any part of the Amphitheater. Notwithstanding the foregoing, Impositions shall not include any such assessments, fees, taxes or levies assessed or imposed (a) by the City (including, without limitation, under the PILOT); (b) by another governmental authority as a replacement or substitute for those that would otherwise have been assessed or imposed by the City; or (c) by another governmental authority which has agreed to provide the City with some direct economic benefit from such assessments, fees, taxes or levies.

**"Live Nation"** shall mean the concert promoter for the Amphitheater pursuant to a separate contract between Live Nation and HYA.

**"Park City Communities Parking Lot"** shall mean the approximately 3.3-Ac. surface lot located on Broad Street across from the Facility owned by Park City Communities (formerly the Housing Authority of the City of Bridgeport).

**"Parking Lot(s)"** shall mean, singly, either the City Parking Lot or the Park City Communities Parking Lot and when used as a plural term, both the City Parking Lot and the Park City Communities Parking Lot.

**"Parking Lot Operator"** shall mean the City of Bridgeport generally but shall also include HYA, its affiliate or subcontractor for the limited purpose of managing the Parking Lots for as long as the City owns them, or otherwise, the right of HYA to manage the loading-in and loading-out of Event patrons at the Amphitheater, including the ability to perform such activities for Events (a) at any public or private development that occurs on the City Parking Lot and/or the Park City Communities Parking Lot or (b) in connection with the construction of a public parking garage to be used on a non-exclusive basis for patrons of the Amphitheater and other venues to the extent that the City, using commercially-reasonable efforts, is able to reserve for HYA such loading-in



and loading-out ability in connection with the negotiation of future development activities.

**"Permitted Uses"** shall mean the use of the Amphitheater Premises in accordance with all applicable laws and consistent with this Agreement as a state-of-the-art music concert and event amphitheater containing approximately five thousand five hundred (5,500) permanent seats or as many attendees as may be permitted by law or as may be otherwise limited by this Agreement, twenty (20) luxury suites, three (3) VIP clubs/lounges, an outdoor barbeque terrace, VIP parking and such other features and amenities as the parties may agree to and the City may Approve at the inception of this Agreement and from time to time thereafter during the Term.

**"PILOT"** shall mean HYA's annual contribution for the right to operate the Amphitheater in lieu of all rental, usage fees, taxes, Sales Taxes or Impositions consisting of the sum of Three (\$3.00) Dollars per manifested concert ticket sold for Amphitheater Events, which amount shall increase by Twenty-Five (\$0.25) Cents at the beginning of the 6<sup>th</sup>, 11<sup>th</sup>, and 16<sup>th</sup> years of the Term, and during the 1<sup>st</sup> and 6<sup>th</sup> years of the First Renewal Term and during the 1<sup>st</sup> and 6<sup>th</sup> years of the Second Renewal Term, with the minimum payable to the City during each year being One Hundred Fifty Thousand (\$150,000) Dollars. Any PILOT amount that exceeds \$250,000 in a year shall be contributed to the Capital R&R Account to be used for Capital Repair & Replacement.

**"Premium Seating"** shall mean the skybox and/or club seats, suites and club or other premium seats in areas at the Amphitheater designated by the Operator and the City that have exclusive access for patrons in a separate and exclusive manner and are or may be serviced by separate catering, service and maintenance support. Premium Seating shall not include any of the general seating and shall not be considered manifested seating for purposes of ticket sales under the PILOT calculation.

**"Rent"** shall mean the PILOT paid under this Agreement.

**"Sales Taxes"** shall mean sales, use, seat, admission, amusement, occupancy, gross receipts or similar taxes added to the sale price of goods or services and payable to any taxing authority.

**"Schedule"** shall mean the construction schedule applicable to the renovation of the Facility and the construction of the Amphitheater attached or to be attached hereto and made a part hereof as **Exhibit 1**.

**"Schedule of Values"** shall mean the percentage of completion of the Amphitheater construction certified by the project architect that will determine the timing of the City's payment of capital contributions toward construction of the Amphitheater as more particularly described herein that will be determined when the Construction Budget is approved and will be attached as **Exhibit 3** and made a part hereof.

**"Substantial Completion"** shall mean the date that the Amphitheater construction is sufficiently complete to allow legal occupancy thereof, evidenced by the issuance of a certificate of occupancy.



“Year” shall mean a calendar year beginning on January 1 and ending on the following December 31 during the Term of this Agreement, including any period shorter than a year occurring during the initial Year of the Term following the Substantial Completion of the Amphitheater and any period shorter than a year occurring during the final Year of the Term.

1.2 Party Representatives.

(a) City Representative(s). At the inception of this Agreement, the City Representative—Administration shall be Mr. Thomas Gill, with respect to the day-to-day administration, coordination, accounting, compliance, reporting and planning under this Agreement. At the inception of this Agreement, the City Representative--Facility shall be Mr. John Ricci with respect to the condition, maintenance and repair of the physical plant and equipment that are part of the Facility.

(b) HYA Representative. At the inception of this Agreement, Mr. Howard Saffan shall be the HYA Representative.

(c) Any change to a City Representative or to the HYA Representative shall be made in writing with an Approved Form of Communication defined herein.

1.3 Substantive Changes.

(a) Substantive changes to this Agreement may only be made with the Approval of the Bridgeport City Council. Changes to this Agreement, whether made orally or in writing, that have not been Approved by the City Council authorizing an amendment to this Agreement, shall be void and unenforceable against the City.

(b) HYA may not request, and the City is not obligated to ensure or assure affirmative or desired action from a duly-constituted department, agency, commission, or representative of the City of Bridgeport government or of the State of Connecticut acting in the exercise of its, her or his statutory, regulatory or enforcement capacity, such as, for example, the Zoning Department, the Tax Assessor, the Fire Marshal, the Building Official, and the like.

ARTICLE II  
GRANT OF LICENSE, TERM, RENT,  
USE OF AMPHITHEATER PREMISES;  
INDEMNIFICATION AND INSURANCE

2.1 Grant of Use and License; Engagement of Operator; Authority of Operator.

(a) Provided that HYA is not in material default (beyond applicable notice and cure periods) of its obligations under this Agreement, the City hereby directly and independently grants to HYA the license and right to use and occupy the Amphitheater Premises that includes the Facility commencing thirty (30) days following the execution of this Agreement or on such other date set forth in writing between the parties ("**Commencement Date**"), including HYA's obligation to take steps to winterize the Facility, install a security fence, and employ other measures to protect the Facility, subject to the terms, conditions, covenants and provisions of this Agreement, during the Term for the Permitted Uses in accordance with and subject to the terms and conditions hereinafter set forth (the "**License**"). The License granted herein shall be the exclusive grant of use of the Amphitheater directly by the City for the presentation of events that constitute the Permitted Uses.

(b) The City acknowledges that it selected HYA as a result of the RFP to be the principal developer and user of the Amphitheater during the Term, subject to the terms, covenants and conditions of the Agreement and applicable law.

(c) Engagement of Operator.

The City hereby appoints the Operator as the sole and exclusive manager and operator of the Amphitheater during the Term hereof and authorizes the Operator to exercise such powers as may be necessary and appropriate for the management of the Amphitheater consistent with the terms and conditions set forth herein. The Operator hereby accepts the appointment upon the terms and conditions set forth in this Agreement. The Operator shall have the right to delegate duties and responsibilities hereunder to an amphitheater management firm and/or to subcontractors or agents with the Approval of the City, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, no Approval shall be required for the Operator's delegation of such duties to Affiliates of the Operator, and nothing herein shall restrict or limit the Operator's other rights of assignment under this Agreement except for those that require City Approval.

(d) Authority of Operator.

The Operator shall have the exclusive right and authority to exercise, or delegate the exercise of, all rights, powers and duties conferred or imposed on the Operator pursuant to the terms of this Agreement. The powers of the Operator with respect to the Amphitheater shall be subject only to the limitations expressly set forth in

this Agreement, and shall include, but not be limited to, the right to enter into contracts for, or otherwise provide for: the licensing of Premium Seating; the sale or license of advertising; the granting of naming rights; the operation of concessions; the licensing of the Amphitheater for events, including licensing at below-market or subsidized rental rates to charitable, educational or civic groups, in the reasonable discretion of the Operator; the promotion or co-promotion of Events; the repair, maintenance and improvement of the Amphitheater; the provision of security and ushering services; the distribution or sale of tickets; the printing of programs and other printed materials; the purchase of insurance; the operation of the Parking Lots as Parking Lot Operator , and any and all other activities related, in the reasonable judgment of the Operator, to the operation, maintenance and improvement of the Amphitheater. Throughout the Term the Operator, and only the Operator, shall have the sole and exclusive authority to negotiate and enter into agreements and arrangements relating to the use, occupancy or operation of the Amphitheater. No party shall be required to inquire into the authority of the Operator to enter into any of the aforesaid agreements that are consistent with this Agreement.

## 2.2 City Representative Responsibilities and Authority.

The City Representative--Administration is the City's principal authorized representative who shall act as liaison and contact person between the City, the City Representative--Facility, and HYA in administering and implementing the terms of this Agreement. The City Representative--Administration, shall respond to HYA's requests for review, Approval (as to matters requiring Approval) or waivers within fifteen (15) business days after submittal unless a response to such request is in response to an needed Emergency Repair, in which case the response shall be as soon as possible, or if it requires a longer period of consideration the City will be afforded up to thirty (30) days unless the request involves the need for Approval from the Bridgeport City Council. All administrative and ministerial consents or Approvals required of the City (unless such Approval must be granted by the Bridgeport City Council) shall be given by the City Representative--Administration on behalf of City. The Operator and any other person dealing with the City in connection with this Agreement or any matter governed by this Agreement may rely upon and shall be fully protected in relying upon the authority of the City Representative--Administration to act for and bind City in any such matter within and only to the extent of the authority delegated to the City Representative--Administration by this Agreement.

## 2.3 Operator Representative Responsibilities and Authority.

The Operator Representative shall have the sole authority to act for the Operator in all matters concerning this Agreement, including requesting and responding to requests for consents and waivers, giving and receiving notices, and amending or otherwise making decisions hereunder on the Operator's behalf. The Operator shall have the right to designate a substitute authorized representative, who shall also be a senior elected officer of the Operator, by providing written notice thereof to the City. The Operator Representative, or such authorized designee, shall respond to requests for review, consents or waivers within ten (10) business days after submission. The City may rely upon and shall be fully protected in relying upon the authority of the Operator Representative or any such proper designee to act for and bind the Operator in any such matter.

## 2.4 Permitted Uses.

Provided that HYA is not in default of its obligations under this Agreement during the Term, HYA shall be permitted to use the Amphitheater Premises for the Permitted Uses set forth herein.

## 2.5 Term of License; Renewals.

(a) This Agreement shall be effective as a binding contract as of the date that a fully-executed original of this Agreement, consistent with the City Council approval of this matter, is delivered by HYA, but HYA's right and obligation to use the Facility, HYA's duties and obligations hereunder, and therefore the term of this Agreement (the "**Term**") shall not begin until the Commencement Date and shall end twenty (20) years after the date of Substantial Completion unless extended in the manner provided herein.

(b) The Term may be renewed for an additional ten (10) year period ("**First Renewal Term**"), provided that HYA is not in Default beyond any applicable grace or cure period provided hereunder or has not, at the time that HYA requests such renewal, committed an act, which with the giving of notice or the passage of time would constitute a Default hereunder. HYA may request renewal by notice no earlier than 365 days prior to the expiration of the Term and no later than 180 days prior to the expiration of the Term and, provided that HYA has observed and performed the material terms and conditions of this Agreement at the time of giving notice, the City shall grant such request.

(c) The Term may be renewed for a second additional ten (10) year period following the expiration of the First Renewal Term ("**Second Renewal Term**"), provided that HYA is not in Default beyond any applicable grace or cure period provided hereunder or has not, at the time that HYA requests such renewal, committed an act, which with the giving of notice or the passage of time would constitute a Default hereunder. HYA may request renewal by notice no earlier than 365 days prior to the expiration of the First Renewal Term and no later than 180 days prior to the expiration of the First Renewal Term and, provided that HYA has observed and performed the material terms and conditions of this Agreement at the time of giving notice, the City shall grant such request.

## 2.6 Rent or PILOT; Increases; Excess Amounts to Capital R&R Account; Process.

(a) The rent or other compensation payable to the City shall be determined and be payable on the basis of the Operator's payment of Three (\$3.00) Dollars per manifested concert ticket sold for the first five (5) years of the Term, which amount shall increase by an additional Twenty-five (\$0.25) Cents per ticket sold in the 6<sup>th</sup>, 11<sup>th</sup> and 16<sup>th</sup> Seasons ("**PILOT**"), which amount shall increase again by Twenty-Five (\$0.25) Cents at the beginning of the 1<sup>st</sup> and 6<sup>th</sup> years of the First Renewal Term and again at the beginning of the 1<sup>st</sup> and 6<sup>th</sup> years of the Second Renewal Term. "**Tickets Sold**" shall mean manifested tickets sold for concert Events but shall not include (a) a reasonable number of complementary tickets that the performer approves for distribution at the performer's Event, if any, and (b) Premium Seating. The Operator guarantees a



minimum PILOT payment of One Hundred Fifty Thousand (\$150,000) Dollars per Year during the Term.

(b) The Operator believes that, based upon the prevailing business and financial arrangements that prevail in the concert industry and that the entertainment talent dominate, the City's 5% admissions tax is an impediment to obtaining the high quality and number of Events that will be willing to perform at the Amphitheater because it directly and adversely affects the gross receipts from concert events. In order to avoid the consequences of imposing the City's admissions tax, the Operator believes that exemption from the admissions tax will ensure the high quality and number of Events that will be attracted to the Amphitheater and will enhance greater PILOT revenue payable to the City and into the Capital Repair & Replacement Account that will substantially offset the City's admissions tax. The Operator therefore requests that the City seek a partial exemption from the City's admissions tax for concert events only within six (6) months after the Commencement Date.

(c) All PILOT payments in excess of Two Hundred Fifty Thousand (\$250,000) Dollars during a Year shall be deposited into the Capital Reserve & Replacement Account until the Capital Repair & Replacement Account reaches a total of One Million (\$1,000,000) Dollars or such greater amount as may be anticipated for the replacement of Capital Items pursuant to the Facility Condition Report, and amounts collected in excess of such amount shall be paid into the City general fund.

(d) PILOT amounts shall be paid monthly for concerts performed in the prior month.

(e) On February 15 of each Year during the Term, the Operator shall prepare and present to the City a report as to the physical condition of the Amphitheater Premises and whether any Capital Repairs are anticipated in the current or upcoming Year. The Operator and the City shall mutually decide what expenditures should be authorized to be made from the Capital Repair & Reserve Account. The Operator may make Emergency Repairs to the Amphitheater Premises without the City's authorization so long as the Operator provides sufficient information promptly thereafter reasonably acceptable to the City, and provided, further, however, that with respect to Emergency Repairs in excess of \$25,000, the City shall immediately upon receipt of such sufficient information authorize the reimbursement from the Capital R&R Account of the amount so expended; provided, however, that if the Capital Repair & Reserve Account balance is insufficient to pay for such Emergency Repair, the City shall reimburse the Operator for the costs thereof within thirty (30) days of notice and invoice from the Operator that it has incurred such Emergency Repair.

(f) For the avoidance of doubt, Capital Repairs and Replacements costing \$25,000 or less shall be the sole and exclusive responsibility of the Operator and Capital Repairs and Replacements costing in excess of \$25,000 shall be the sole and exclusive responsibility of the City, in each case regardless of whether the cash balance existing from time to time in the Capital R&R Account is sufficient to pay for such Capital Item.



## 2.7 Indemnification of City.

The Operator shall defend, indemnify and hold harmless the City and its elected officials, agents, officers and employees (collectively, "**City Indemnitees**") from and against any and all demands, losses, judgments, damages, suits, claims, actions, and liabilities, in law or in equity, of every kind and nature whatsoever (collectively, "**Claims**") and the reasonable costs and expenses thereof, including, without limitation, reasonable attorneys' fees (collectively, "**Expenses**") which any City Indemnitees may suffer or sustain or which may be asserted or instituted against any of the City Indemnitees in connection with the Amphitheater or this Agreement and resulting from, arising out of or in connection with (i) injury to or death of any individual person or damage to or destruction of property related to the Amphitheater (or any portion thereof) due to any negligence of the Operator, its officers, directors and employees from and after the Commencement Date, (ii) the existence of any Environmental Condition relating to the Facility or violation or alleged violation of any Environmental Laws to the extent that the Operator, or its employees, agents, representatives, users, licensees, contractors or subcontractors, has been finally determined, by a court of competent jurisdiction, to have caused such Environmental Condition or violation by its negligent acts or omissions or by its willful misconduct; (iii) the breach by the Operator of any warranty, representation or covenant made in this Agreement beyond any applicable cure period, (iv) any violation of any copyright, patent, service mark, trade name or trademark by the Operator, or (v) any claim, action or proceeding made or brought by the Operator, but excluding any claim, action or proceeding against the City.

## 2.8 Indemnification of Operator.

The City shall defend, indemnify and hold harmless the Operator and its parent, subsidiaries and Affiliates and their respective directors, officers, employees and agents (collectively, "**Operator Indemnitees**") from and against any and all Claims and Expenses that any Operator Indemnitees may suffer or sustain or that may be asserted or instituted against any of the Operator Indemnitees in connection with the Facility or this Agreement and resulting from, arising out of or in connection with (i) the construction work; (ii) City Events; (iii) the "temporary" nature of the Certificate of Occupancy; (iv) injury to or death of any individual person or damage to or destruction of property related to the Facility (or any portion thereof) prior to the Commencement Date, (v) the existence of any Environmental Condition relating to the Facility or violation or alleged violation of any Environmental Laws, except to the extent that the Operator has been finally determined, through a court of competent jurisdiction, to have caused such Environmental Condition or violation by its negligent acts or omissions or its willful misconduct; (vi) the breach by the City of any warranty, representation or covenant made in this Agreement beyond any applicable cure period; (vii) any violation of any copyright, patent, service mark, trade name or trademark by the City, or (viii) any claim, action or proceeding made or brought by the City, but excluding any claim, action or proceeding against the Operator.

## 2.9 Insurance.

Each party acknowledges that it shall look first to the proceeds of any insurance policies maintained by such party pursuant to this Agreement for recovery in respect of the obligations of the Indemnifying Party under this Agreement and, if such proceeds are insufficient, then to the Indemnifying Party.

## 2.10 Claims.

A party seeking indemnification hereunder (the "**Indemnified Party**") shall, upon obtaining knowledge of facts giving rise to a Claim hereunder, give prompt notice of the Claim to the other party (the "**Indemnifying Party**"). The Indemnifying Party shall, at its expense, defend by all appropriate legal proceedings (and reasonably contest, at its election) any Claim with respect to which it is called upon to provide indemnification hereunder, by attorneys for the Indemnifying Party's insurance carrier (if the Claim is covered by insurance) or by attorneys selected by the Indemnifying Party who are reasonably acceptable to the Indemnified Party. The Indemnified Party may engage its own legal counsel, at its sole expense, and the Indemnifying Party and such counsel shall have the right to be present at all such proceedings and consult with, and shall at all times cooperate with, the Indemnifying Party and its counsel; provided, however, that the Indemnifying Party shall at all times have the full authority to determine all action to be taken with respect to the Claim, including any settlement thereof.

## 2.11 Survival.

The provisions of this indemnification provision shall survive the termination or expiration of this Agreement.

## 2.12 Operator Insurance.

(a) **Casualty.** The City shall be obligated to obtain and maintain the following casualty insurance. However, starting on the Commencement Date, if the City has not provided evidence of such insurance, the Operator shall obtain and maintain insurance against loss or damage to the Facility or to the Amphitheater upon its Substantial Completion resulting from fire, earthquake, windstorm, hail, lightning, vandalism, malicious mischief, flood and such other perils ordinarily included in special all-risk extended coverage insurance policies. Such insurance shall be maintained in an amount not less than the then full replacement cost of the Facility or to the Amphitheater upon its Substantial Completion and the FF&E contained therein. Full replacement cost shall be determined at reasonable intervals by the City's or the Operator's insurer, as the case may be, or other appraiser mutually acceptable to the Operator and the City.

(b) **Business Interruption.** Starting on the Commencement Date, the Operator shall obtain and maintain use and occupancy or business interruption or lost income insurance against the perils of fire, earthquake, windstorm, hail, lightning, vandalism, malicious mischief, flood and such other perils ordinarily included in "special all-risk extended coverage" insurance policies, in an amount equal to not less than

estimated gross Amphitheater operating revenues less non-continuing expenses (assuming for the purposes of such estimate that no business interruption occurred), for the period of time estimated to repair or rebuild the Facility after substantial damage to the Facility.

(c) **Liability.** Starting on the Commencement Date, the Operator shall obtain and maintain commercial general liability insurance with a broad form general liability endorsement which shall provide coverage against claims for personal injury, death and property damage resulting directly or indirectly from any act or activities (in connection with the Facility) of the City, the Operator, any of their respective invitees, officers, partners, shareholders of partners, officers, employees, agents, independent contractors or any other person acting for the City or the Operator or under their respective control or direction (including liabilities for injuries or damages alleged to have resulted from the Operator's sale and/or preparation or dispensing of food or alcoholic beverages). Such insurance shall be maintained in full force and effect during the term of this Agreement in an amount of at least Seven Million Dollars (\$7,000,000) combined single limit, naming the City, and its elected and appointed officials and officers, the Operator, and their respective invitees, licensees, employees, agents, independent contractors or any other person acting for the City or the Operator or under their respective control or direction, as additional insured parties **by policy endorsement**. This insurance shall not limit in any way the extent to which the Operator may be held responsible for the payment of damages to persons or property resulting from the Operator's activities, the activities of its invitees, employees, licensees, agents or independent contractors, or the activities of any other person or persons for whom the Operator otherwise is legally responsible.

(d) **Workers Compensation.** The Operator shall obtain and maintain workers' compensation insurance complying with the statutory requirements of the State of Connecticut to insure all persons employed by the Operator in connection with the Facility. The Operator shall also purchase and maintain employer's liability coverage for no less than \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy aggregate.

(e) **Other Operator Insurance Coverage.** From and after the Commencement Date, the Operator shall obtain and maintain such other insurance coverages and in such amounts as from time to time may be reasonably requested by the City or may be reasonably desired by the Operator, in each case as necessary to insure against such other insurable hazards as are customarily insured against in the case of similar entertainment facilities.

## 2.13 City Insurance.

(a) Prior to scheduling a City Event, City shall obtain (or, at the City's request upon reasonable advance notice to the Operator, Operator shall purchase for the City as a City Event-Related Expense) comprehensive general liability insurance that shall provide coverages against claims for personal injury, bodily injury, death and property damages arising from the conduct of the City Event at the Amphitheater or the

negligence or misconduct of City, its employees, agents, independent contractors, co-promoters or any other person acting on behalf of City. The policy shall have minimum limits of liability of \$2,000,000 combined single limit each occurrence, \$4,000,000 aggregate.

(b) The City shall provide evidence of its self-insurance coverage in connection with its responsibilities under this Agreement, including but not limited to, the Parking Lots in the form of a letter from the City Attorney explaining the City's standing as a self-insured governmental entity.

(c) Builder's Risk or Installation Floater. The City shall maintain during the construction period of the Amphitheater standard "all risk" builder's risk or installation floater insurance written on a completed value basis and including comprehensive liability insurance, in an amount not less than the projected total cost of construction of the Amphitheater and reasonably estimated by the Operator not more than sixty (60) days prior to commencement of construction and as thereafter revised from time to time by the Operator during the course of such construction.

#### 2.14 General Provisions.

(a) All required insurance shall be primary coverage and shall be for the benefit of the Operator and the City.

(b) All required insurance shall be reviewed periodically by the Operator and the City, and in any event at least every three (3) years, for the purpose of determining whether to add additional insurance coverage, increase or decrease the minimum limits and deductibles of such insurance to amounts that may be reasonable and customary for facilities of like size and operation.

(c) All required insurance shall be obtained from financially sound insurance companies, having financial ratings reasonably acceptable to the parties and authorized to do business in the State of Connecticut.

(d) All required insurance shall provide that the waiver of recovery (subrogation) described below shall not invalidate or have any adverse effect on the liability of the insurer.

#### 2.15 Waiver of Recovery.

Neither the Operator nor the City shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to property or injury to persons, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if and to the extent any such loss or damage is covered by insurance benefiting the party suffering such loss or damage.



#### 2.16 Failure to Maintain Insurance.

If the Operator fails or refuses to procure or maintain the insurance required by this Article, after notice to the Operator, the City shall have the right, at its election, to procure and maintain such insurance, in which event, any reasonable premium paid by the City, plus interest at the Prime Rate computed from the date such premium is paid by the City, shall be due and payable by the Operator as an Amphitheater operating expense to the City on the first day of the month following the date on which such premium was paid. If the City fails or refuses to procure or maintain the insurance required by it hereunder, the Operator shall have the right, at its election, to procure and maintain such insurance, in which event, any reasonable premium paid by the Operator, plus interest at the Prime Rate computed from the date such premium is paid by the Operator, shall be due and payable by the City as a City Event-Related Expense on the first day of the month following the date on which such premium was paid.

#### 2.17 Proceeds Disposition.

All insurance proceeds with respect to loss or damage to the Facility or to the Amphitheater, as the case may be, shall be payable, under the provisions of the policy of insurance, into the Capital Repair & Replacement Account and shall be disbursed to the fullest extent necessary to make necessary repairs to, or restorations of, the Amphitheater. All insurance proceeds from any other insurance policies maintained hereunder, e.g., in the nature of business interruption insurance and other insurance for the sole benefit of the Operator, shall be payable to the Operator.

### ARTICLE III

#### RENOVATION AND NEW CONSTRUCTION; APPROVAL OF DESIGN; COMPLETION OF AMPHITHEATER; PARTY CONTRIBUTIONS; SPENDING PLAN; MEETINGS AND REPORTS; WINTERIZATION

3.1 The parties hereto acknowledge that the City and HYA have agreed to renovate the Ballpark in order to make the Amphitheater a top-of-the-line concert and event venue. After HYA has produced preliminary design drawings in accordance with the Schedule, HYA will proceed to have its architect prepare design development drawings, final design drawings and issued-for-construction drawings, each of which will have to be Approved by the City in the exercise of its commercial business judgment, reasonably exercised. Following the City's Approval of the final design drawings, HYA agrees to proceed diligently and in good faith with renovation and construction of the Amphitheater and shall complete the same by no later than the Completion Date set forth in the Schedule, which the parties anticipate will require a construction period of eighteen (18) months following the issuance of the first building permit.

3.2 The parties have agreed to make capital investments in the renovation of the ballpark that will create the Amphitheater by each contributing the sum of Seven Million Five Hundred Thousand (\$7,500,000.00) Dollars toward its completion for a total budget of



Fifteen Million (\$15,000,000.00) Dollars ("**Construction Budget**"). The City shall segregate the amount of its maximum contribution in a separate bank subaccount designated as the Amphitheater construction account ("**Construction Account**") for the Amphitheater project and shall make its contributions in the following amounts and order pursuant to the completion budget that HYA prepares for the Amphitheater project ("**Completion Budget**") to be attached hereto as **Exhibit 2** in accordance with a schedule of values ("**Schedule of Values**") to be attached hereto as **Exhibit 3**:

- The City shall contribute \$5,000,000 into the Construction Account on or before the thirtieth (30<sup>th</sup>) day following the Commencement Date.
- With respect to any construction costs incurred to renovate the Amphitheater up to \$10,000,000 ("First Tier Construction Costs"), the City's contribution to the Construction Account shall equal \$5,000,000, payable as hereinafter set forth and the Operator shall be responsible for the balance of the First Tier Construction Costs.
- On the date that invoices for construction costs are anticipated to exceed \$10,000,000 but have not yet exceeded \$12,000,000 (the "Second Tier Construction Costs"), as evidenced by documentation provided by the Operator to the City, and assuming the Operator is then in substantial compliance with this Agreement, the City shall contribute an additional \$1,000,000 or one-half (1/2) of the anticipated Second Tier Construction Costs), whichever is less, into the Construction Account. The City shall join the Operator in authorizing disbursements from the Construction Account to pay invoices within the Second Tier Construction Costs as long as such Second Tier Construction Costs are borne equally by the City and the Operator.
- On the date that invoices for construction costs are anticipated to exceed \$12,000,000 (the "Third Tier Construction Costs"), as evidenced by documentation provided by the Operator to the City, and assuming the Operator is then in substantial compliance with this Agreement, the City shall contribute up to an additional \$1,500,000, or one-half (1/2) of the anticipated Third Tier Construction Costs, whichever is less, into the Construction Account. The City shall join the Operator in authorizing disbursements from the Construction Account to pay invoices within the Third Tier Construction Costs as long as such Third Tier Construction Costs are borne equally by the City and the Operator.
- Disbursements shall be made from the Construction Account to the Operator in Five Hundred Thousand Dollar (\$500,000) increments to fund the City's share of the First Tier Construction Costs as and when construction is certified as being 10% complete by the Operator's architect, and at such time as every certification is made of an additional 10% completion thereafter by the Operator's architect as set forth in the Schedule of Values.

Upon Substantial Completion of the Amphitheater, the parties shall true-up the construction costs so that the City pays no more than \$7,500,000 (exclusive of professional costs) or one-half (1/2) of the cost of construction up to \$15,000,000, but in no event less than \$5,000,000.

Except for professional design and engineering fees, which are the City's responsibility as the owner of the improvements to the Amphitheater, all construction costs for the Amphitheater that exceed \$15,000,000 shall be the sole financial obligation of the Operator and paid solely by it. The City shall reimburse the Operator for professional design and engineering fees within thirty (30) days of the Operator's presentation to the City of an invoice for such services.

3.3 The City is engaging the Operator to act as the City's representative with respect to the construction of the Amphitheater ("**Owner's Representative**") and the project fiduciary as to the expenditure of the City's capital contribution to the construction ("**Project Fiduciary**"). The construction of the Amphitheater and furnishing it with the FF&E (the "**Work**") will be conducted using "open book" accounting techniques available for City inspection in the City of Bridgeport. The Owner's Representative/Project Fiduciary shall ensure that all contractors are timely paid and that no liens are placed against the Amphitheater Premises and, if such liens arise, the Operator shall be obligated to pay or bond off those liens promptly.

3.4 The Operator will engage the designer and the engineer to develop the design of the Amphitheater. At every stage of the design, the City shall have the right to Approve the design. The City will approve the final design (expected to be in excess of 70% complete) and the Budget and the Operator will proceed to complete the design and issued-for-construction drawings on which construction bidding will be based. The City will be responsible for all building permit fees or will arrange to have them waived for this City project. The design will incorporate a tensile fabric roof that will cover the existing grandstand, skyboxes, press box and offices in order to prevent the long-standing problem of water intrusion into the building while three walls of the Amphitheater will remain open. The design must also take into account concerns for soundproofing although the design of the tensile roof and the grandstand's orientation away from residential areas is expected to lessen any sound emanating from the Amphitheater.

3.5 The City has agreed to assist the project by providing millings for the Amphitheater project and the Parking Lots and maintaining any fencing around the Parking Lots.

3.6 The Operator shall provide and the Owner's Representative--Administration shall ensure that all contract awards for the Work, other than FF&E, shall have 100% performance and payment bonds in place prior to the work of any such contract being commenced.

3.7 The Owner's Representative--Administration shall ensure that the City receives monthly progress reports concerning the construction of the Amphitheater in sufficient detail that is reasonably satisfactory to the City and shall further ensure that the City Representative--Facility is included in all project meetings and that the City

Representative—Administration is included in all meetings with State and local regulatory officials and bodies.

3.8 The Operator/Project Fiduciary is responsible to deliver the completed Amphitheater on time and within the Completion Budget and failure to do so will be the sole risk and responsibility of the Operator for delays and cost-overruns.

3.9 It is anticipated as of the date of this Agreement that Events will be produced during the months of April to October. Promptly after the last scheduled Event of each Year, the Operator shall take steps to winterize the building housing the former grandstand, press box, offices, club areas and skyboxes in order to protect those areas from winter weather during the offseason and to winterize any areas of the Amphitheater that require protection. The only portion of the Amphitheater that will remain operational during the offseason will be the structure(s) attached to the main stage that will house the offices of the Operator and Live Nation.

#### ARTICLE IV REPRESENTATIONS, WARRANTIES AND COVENANTS

##### 4.1 Operator's Representations, Warranties and Covenants.

###### (a) Organization.

The Operator is a limited liability company duly organized and validly existing under the laws of the State of Connecticut and has all requisite power and authority to enter into this Agreement.

###### (b) Authorization; No Violation.

The execution, delivery and performance by HYA of this Agreement has been duly authorized by all necessary corporate action and will not violate its charter, bylaws or any written rule, regulation or policy in effect, or result in the breach of or constitute a default under any loan or credit agreement, or other material agreement to which HYA is a party or by which HYA or its material assets may be bound or affected. This Agreement has been duly executed and delivered by HYA and this Agreement and the documents referred to herein constitute valid and binding obligations of HYA.

###### (c) Litigation.

No suit is pending against or affects HYA that could have a material adverse effect upon HYA's performance under this Agreement or upon its financial condition or business. There are no outstanding judgments against HYA that would have a material adverse effect upon its assets, properties or franchises.

(d) No Conflicts.

This Agreement is not prohibited by and does not conflict with any other agreements, instruments, judgments or decrees to which HYA is a party or is otherwise subject.

(e) No Violation of Laws.

HYA is not in violation of any applicable statutes, rules and regulations of the United States of America, the State of Connecticut, or of any other state or municipality or agency having jurisdiction over and with respect to the transactions contemplated in and by this Agreement, and HYA is not in default with respect to any judgment, order, injunction or decree of any court, administrative agency, or other governmental authority that is in any respect material to the transactions contemplated hereby.

(f) Local Taxes.

HYA is not delinquent in any taxes owed to the City of Bridgeport.

4.2 City's Representations Warranties and Covenants.

(a) Organization.

The City is a municipal body corporate and politic and a political subdivision of the State of Connecticut and has all requisite power and authority to enter into this Agreement.

(b) Authorization, Enforceability.

The execution, delivery and performance by the City of this Agreement are within the power of the City and have been duly-authorized by all necessary action of its legislative body and will not violate its charter or result in the breach of any material agreement to which the City is a party. This Agreement has been duly executed and delivered by the City and the documents referred to herein constitute valid and binding obligations upon it.

(c) No Conflicts.

This Agreement is not prohibited by and does not conflict with any other agreements, instruments, judgments or decrees to which the City is a party or is otherwise subject.

(d) City's Covenants.

The City has received no notice as of the date of this Agreement asserting any noncompliance by the City in any material respect with applicable statutes, rules and regulations of the United States of America, the State of Connecticut or any agency having jurisdiction over and with respect to the transactions contemplated in and by this Agreement, and the City is not in default with respect to any judgment, order, injunction or decree of any

court, administrative agency, or other governmental authority that is in any respect material to the transactions contemplated hereby.

#### 4.3 Mutual Covenants.

##### (a) Further Assurances.

The City and HYA shall, whenever and as often as each shall be reasonably requested to do so by the other party, execute or cause to be executed any further documents, including such reasonable documents or reasonable changes in documents, take any further actions and grant any further approvals, acknowledgements, estoppels or non-disturbance assurances as may be necessary or expedient in order to consummate the transactions provided for herein, and to carry out the purpose and intent of this Agreement and any related agreements.

##### (b) Good Faith; Duty to Cooperate.

In exercising their respective rights and fulfilling their respective obligations under this Agreement and any related agreements, the City and HYA shall act in good faith in a commercially reasonable manner to ensure that this public/private partnership achieves the collective and individual goals of each party as expressed in this Agreement. Each party acknowledges that this Agreement and all related agreements contemplate cooperation between HYA and the City. Each party further acknowledges that the terms and conditions of this Agreement and any related agreements have been negotiated on the basis of certain projections and assumptions, including the assumption that the City and HYA will, among other purposes, act to advance, and not unreasonably interfere with, the public purposes to be served by the Amphitheater.

This Article shall survive expiration or termination of the Agreement.

### ARTICLE V DEFAULT AND REMEDIES

#### 5.1 Operator Default Including Operator Bankruptcy or Attachment.

The following events shall constitute an Operator default (each, an “**Operator Default**”):

- (a) HYA shall have commenced any case, proceeding or other action (a) under the Federal Bankruptcy Code, as amended from time to time, or under any other existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered, seeking to adjudicate the organization as bankrupt or insolvent, or seeking reorganization, arrangement, adjustments, winding-up,



liquidation, dissolution, discharge, composition or other relief with respect to itself or its debts or (b) seeking the appointment of a receiver, custodian or other similar official for all or any substantial part of its assets or shall make a general assignment for the benefit of its creditors; or

- (b) There shall be commenced against HYA any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, stayed or bonded pending appeal within one hundred twenty (120) days from the entry thereof; or
- (c) Operator shall have violated any material term or condition of this Agreement that shall not have been cured within thirty (30) days following written notice.

then in such event, in addition to the other remedies for default authorized herein or by law, the City shall be entitled to terminate this Agreement and, in the case of (a) or (b) of this Section 5.1, seek the appointment of a receiver for the specific assets of HYA. Nothing herein shall preclude or prevent HYA from obtaining appointment of a receiver or other remedies with regard to its general assets.

## 5.2 Remedies Cumulative.

In the event of any breach by any party of any of the covenants, agreements, terms or conditions contained in this Agreement, in addition to any and all other rights provided herein and except as otherwise waived herein, the parties shall be entitled to invoke any right and remedy allowed at law or in equity or by statute or otherwise for such breach as though other remedies were not provided for in this Agreement, provided, however, that neither party may seek compensatory, punitive or exemplary damages.

This Article shall survive expiration or termination of this Agreement.

## ARTICLE VI

### PARKING, PARKING MANAGEMENT; TRAFFIC PLAN; EVENT SECURITY

#### 6.1 Utilization of City Parking Lot and Park City Communities Parking Lot; Parking Fees.

Since the Ballpark first opened, the City has provided the City Parking Lot for parking by patrons of the Facility and the Webster Bank Arena and has leased the Park City Communities Parking Lot for parking pursuant to a lease agreement that has expired. The City is taking steps to obtain fee title to or a long-term lease of the Park City Communities Parking Lot in order to ensure its availability for Event parking in the future. It is anticipated that parking fees will not be charged for Amphitheater events and

the City will determine whether to continue to charge parking fees and in what amount for Webster Bank Arena events.

#### 6.2 City Management of Parking Lots For Non-Amphitheater Events; Operator to Handle Loading of Amphitheater Patrons.

The City has taken or will soon take control of the City Parking Lot and the Park City Communities Parking Lot. With respect to Events at the Amphitheater, HYA believes and the City recognizes that parking for Amphitheater events is necessary and that proper loading-in and loading-out of patrons is essential to a smooth Amphitheater experience. Therefore, the City agrees that HYA shall have the right to manage the Parking Lots at its sole cost and expense for Amphitheater Events. The City plans to request proposals for the future development of either or both the City Parking Lot and the Park City Communities Parking Lot and in that regard the City will use reasonable efforts in connection with any future development to ensure that HYA retains the ability to continue such load-in and load-out controls at its sole cost and expense whether any additional parking facility or amenity is privately- or publicly-owned and that the City is responsible to provide sufficient parking within a one-half (1/2) mile radius of the Amphitheater.

#### 6.3 Discontinuance of Allen Street.

The City intends to commence action to discontinue Allen Street so that it effectively becomes an area of additional Event Parking.

#### 6.4 Creation of Additional Public Parking Facility or Parking Accommodations.

The City will use reasonable efforts to seek, in connection with any future development of the City Parking Lot and/or the Park City Communities Parking Lot, assistance from the State and federal governments for financing of part or all of the cost of a new parking facility or parking accommodation, the primary but not exclusive use thereof being for the benefit of the Amphitheater and the Webster Bank Arena.

#### 6.5 Development of a Traffic Plan

The City, HYA and representatives of the Bridgeport Police Department will meet to develop a traffic plan that the Police Department will implement for the general area to accommodate a smooth flow of traffic from all entry points into the area, including I-95, Route 8, and local streets, to various public parking and private parking facilities, and to establish manpower needs based upon a smoother flow of traffic ("**Traffic Plan**"). In this effort, HYA and/or the City intends to (a) create and install digital signage in the general area including, without limitation, on Route 8 and Interstate 95, that will help to direct traffic to parking opportunities, and (b) provide information on social media outlets to advance-ticket patrons and event-day patrons to identify parking opportunities and travel routes in the area to minimize confusion and delay.

## 6.6 Security

The City is obligated to provide traffic security for Amphitheater events at its sole cost and expense. HYA intends to provide event security on the Amphitheater Premises through the use of private security services and reserves the right to request that Bridgeport Police Officers on an overtime basis be present for certain Events where HYA believes that private security may need to be supplemented. The City will use reasonable efforts to incorporate the Amphitheater into the City's Emergency Operations Center through the use of cameras and sensors.

## ARTICLE VII

### PARTIES' RESPECTIVE RESERVATIONS OF RIGHTS

#### 7.1 City Reservation of Rights.

##### (a) Sports/Entertainment Authority.

The Operator understands and agrees that the City has the right to establish a sports or entertainment authority and that this Agreement, and the City's rights, duties and obligations thereunder, may be assigned to such an authority as the City's successor under this Agreement.

##### (b) City Events.

The City, as owner of the Amphitheater, reserves the exclusive, non-assignable right to use the Amphitheater for up to five (5) days during each Season for City Events, subject to the Operator's priority scheduling of all other Events. Any dates not used by the City for City Events during the Season shall terminate and shall not accrue for use during successive Seasons. The City shall give reasonable advance notice to the Operator of its requested date for a City Event, and the Operator shall schedule such City Event provided that it does not conflict with any other Events scheduled or tentatively scheduled for such date. Notwithstanding the foregoing, the Operator may reschedule any such City Event, with at least two (2) months' notice to the City, if, in the Operator's reasonable judgment, it is necessary to avoid losing a commercial, revenue-producing Event at the Amphitheater. The Operator and the City shall mutually agree on such rescheduled date for the City Event. Notwithstanding the foregoing, the City shall have the right to designate one (1) City Event per Season that cannot be rescheduled without the City's Approval.

The Operator shall permit temporary advertising for a City Event that, in the Operator's reasonable judgment, does not conflict with existing advertising. The City shall direct all temporary advertising requests to the Operator. The Operator shall

coordinate the solicitation, use and placement of temporary advertising at the City's sole cost and expense.

Ticket revenue derived from City Events ("**City Event Revenue**") shall be collected by the Operator and distributed to City upon the City's payment in full to Operator of Event-Related Expenses. The City shall promptly reimburse the Operator from City funds (or the Operator shall have the right to set-off against any amounts otherwise owing to the City) for the Event-Related Expenses incurred in connection with a City Event within thirty (30) days after the date of the City Event or the date on which the Operator notifies the City of the Event-Related Expenses, whichever period is longer, or as specified in any applicable use agreement between the Operator and the City Event sponsor. The City shall provide evidence of insurance for such City Events.

(c) City Skybox; Complimentary Tickets.

The City shall be entitled to the exclusive use of one of the twenty (20) skyboxes at the Facility, said skybox to be renovated in the same manner as the other skyboxes ("**City Skybox**"), and shall be entitled to twenty (20) complimentary tickets, subject to the promoter or performer making same available, for general seating to each Event at no cost. The Operator shall hold all complimentary tickets at the Amphitheater box office until one hour before the start of each Event, after which the same may be sold in the ordinary course if not claimed by the City. The City may permit third parties to use its Skybox. The City may sell, assign or sublease its Skybox with the Operator's consent, which shall not be unreasonably withheld.

(d) No Discrimination.

The Operator agrees not to discriminate, nor permit discrimination, against any person in the performance of this Agreement on the grounds of race, color, creed, national origin, religion, sex, gender, sexual disability, marital status, sexual orientation, mental retardation or physical disability, unless it can be shown that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State, and further agrees to provide the Commissioner of Human Rights and Opportunities with information which may be requested from time to time by the Commission concerning the employment practices and procedures of both parties as they relate to the provisions of Section 4a-60 of the Connecticut General Statutes and any amendments thereto.

(e) City Access.

The City reserves the right to enter the Amphitheater during regular business hours to conduct fire, safety and health inspections, to determine that the Operator is in compliance with this Agreement, or to exercise the City's normal police powers, provided, however, that the City (a) shall not interfere with the normal operations of the Amphitheater, (b) shall not disturb the license or concession rights of others except in compliance with applicable Laws and the terms of any such concession or license, and (c) shall not unreasonably interfere with the performers or their preparation for Events.



Additionally, the City shall have the right to enter the Amphitheater at any time and without notice in the case of an emergency.

(f) City Advertising and Announcements.

The City shall have the right to fixed display advertising at two (2) average-sized locations equivalent in size and visibility as those of other advertising locations marketed by the Operator during all Events, consistent with adjacent or comparable commercial ads, at no cost to the City. In the event that the Operator makes a material reduction in the advertising areas in the Amphitheater, the City's advertising rights hereunder shall be reduced proportionately. The Operator agrees that, to the extent that it is in the Operator's control, it shall make available to the City two 30-second public service messages announced over the Amphitheater's public address system or on digital boards during each Event at no charge for the promotion of tourism or other economic opportunities or promotions in and around the City. Such advertising and promotion rights are for the sole use of the City. The City shall not be permitted to resell, sublicense, assign or transfer any such advertising or promotional rights or use them for purposes other than promoting tourism and economic opportunities in the City. All advertising hereunder shall be solely to promote the City and shall be non-commercial, non-partisan and of public service in nature and shall not conflict with other advertising in the Amphitheater. The City shall produce its own advertising copy for all fixed or digital advertisements and all public service announcements at no cost to the Operator.

(g) Tobacco-Free Facility.

The Amphitheater shall be a smoke-free and tobacco-free facility and shall not advertise any tobacco or electronic products that mimic smoking in its operation.

(h) City Audit Rights.

At the City's option, the City may conduct an audit or examination of the Construction Account, the Capital R&R Account, the Tickets Sold, and the complimentary tickets issued for Events at any time upon reasonable notice to the Operator, such examination or audit to be made at the City's sole cost and expense.

(i) State Admissions Taxes.

The State of Connecticut's ten percent (10%) admissions tax applicable to ticket sales at the Amphitheater shall be considered to be the Operator's direct operating costs.

(j) City's Right to Assignment of Concert Promoter's Contract.

The City shall have the right to receive from the Operator or to obtain upon request, in confidence to the extent that all or a portion thereof qualifies for exemption from disclosure pursuant to the Connecticut Freedom of Information Act, a copy of the Operator's contract with a concert promoter.



## 7.2 HYA Reservation of Rights.

(a) The City acknowledges that the Operator has formed its financial projections and assumptions hereunder and established the PILOT on the basis that the PILOT includes an amount that replaces any admission, real property or personal property taxes (or substitutions therefor) that may otherwise be due in connection with the operation of the Amphitheater. All improvements constructed at the Amphitheater and all FF&E purchased by the Operator on the City's behalf, shall become the City's property upon its completion or installation, as the case may be. The Operator agrees that it will not use any of the City's personal property except in connection with the operation of the Amphitheater.

(b) HYA reserves the right to apply for permits to construct a digital billboard on the Amphitheater Premises or on the Park City Communities Parking Lot if the latter is available for that use, and the City agrees to cooperate with the Operator in obtaining approval of such a billboard. If the billboard is located on City property, the parties shall negotiate a billboard agreement that is mutually satisfactory.

(c) The Operator reserves to itself the right to promote and co-promote Events at the Amphitheater, to sell advertising, sponsorships, and naming rights at the Amphitheater for its sole benefit and to receive income from other endeavors at the Amphitheater consistent with this Agreement.

(d) The Operator reserves the right to seek from the City an easement over the internal roadway that passes from Broad Street behind the Ballpark and exits onto South Frontage Road or Water Street for use by selected patrons and performers at Amphitheater Events.

## ARTICLE VIII ASSIGNMENT AND TRANSFER

### 8.1 Operator's Right to Assignment.

If there is not an Operator Event of Default, the Operator shall have the right to assign this Agreement to an Affiliate or to a successor to all or a substantial portion of the Operator's business. Any transferee of the Agreement shall take subject to and must assume all of the obligations of the Operator under this Agreement in a manner satisfactory to the City. Any such transfer shall conform to the terms and restrictions of this Agreement. Any such transfer shall not release the Operator from its obligations hereunder, unless the transferee has executed and delivered to the City an assignment and assumption agreement in such form and content as is reasonably acceptable to the City and that shall not impose any greater obligations on the transferee than exist under this Agreement, in which event the Operator shall be released from further obligations under this Agreement.

Except for the assignment to an Affiliate, the Operator shall not assign or transfer its rights or interests in this Agreement without the prior written Approval of the

City, which Approval shall not be reasonably withheld. It shall be reasonable for the City to withhold its consent only (a) if there is an Operator Event of Default, or (b) if the Operator's proposed assignee (i) has a net worth of less than Ten Million Dollars (\$10,000,000.00) as determined in accordance with generally accepted accounting principles; (ii) is an opposing party in any pending or imminently threatened litigation or arbitration involving the City; (iii) is not engaged in the management and operation of a venue of at least the same size as the Facility and after said assignment the Operator will not continue to function as a separate operating unit that will manage the Facility; or (iv) is not recognized by the industry or industry trade publications as having a national or regional presence or is not otherwise, in the City's reasonable determination, an operator with a comparable reputation to that of the Operator.

#### 8.2 City's Right to Assignment.

The City shall have the right to assign this Agreement to another municipal entity, such as a sports or entertainment authority, subject to the Operator's consent, which shall not be unreasonably withheld, conditioned or delayed. Any assignment shall not release the City from its obligations under this Agreement.

### ARTICLE IX MISCELLANEOUS

#### 9.1 Notices; Cross-Notices Relating to Claimed Defaults.

All notices and other communications required or desired to be given pursuant to this Agreement shall be in writing using an Approved Form of Communication to the City or the Operator, as applicable. Notices shall be deemed properly given upon delivery to the recipient, or refusal of delivery, if sent by an Approved Form of Communication. Notices shall be addressed as follows and shall be presumed delivered upon actual receipt or refusal of delivery by personal delivery or overnight courier, two (2) days after mailing, and upon the date of facsimile or email delivery so long as the same is confirmed by sending a copy of such notice by way of another Approved Form of Communication.

AS TO THE CITY:

Mayor, City of Bridgeport  
Margaret E. Morton Government Center  
999 Broad Street  
Bridgeport, CT 06604

and

City Attorney  
City of Bridgeport  
Margaret E. Morton Government Center  
999 Broad Street  
Bridgeport, CT 06604

and

Director  
Office of Planning and Economic Development  
Margaret E. Morton Government Center  
999 Broad Street  
Bridgeport, CT 06604

AS TO THE OPERATOR:

Harbor Yard Amphitheater, LLC  
9 Squires Lane  
Weston, CT 06880

Attn: Managing Member

With copy to:

David Levine, Esq.  
Cohen and Wolf, P.C.  
1115 Broad Street  
Bridgeport, CT 06604

Each party may by written notice to the other specify a different address for subsequent notice purposes.

9.2 Severability.

If any provision of this Agreement is determined to be illegal or unenforceable by a court of competent jurisdiction, this Agreement shall remain valid as if such provision had not been contained herein, provided that no such severance shall serve to deprive any of the parties of the enjoyment of its substantial benefits under this Agreement.

9.3 Interpretation.

This Agreement constitutes the entire understanding of the parties with respect to the subject matter of this Agreement. There are no oral or written statements, representations, agreements, understandings or surrounding circumstances which modify, amend or vary any of the provisions hereof that are not stated herein.

#### 9.4 Amendment.

This License Agreement shall not be amended or modified except in writing signed by all parties to this Agreement. The City's rights hereunder shall not be waived except with the prior written approval of the City, acting by its Mayor under authorization from the City Council, and any attempt to amend, modify or waive any of the terms or provisions of this Agreement shall be void and unenforceable against the City.

#### 9.5 Successors and Assigns.

This Agreement shall extend to and be binding upon the representatives, successors and permitted or Approved assigns of the respective parties hereto including, without limitation, any successor, assign or replacement of the Operator as the operator of the Amphitheater whether pursuant to the Agreement, by operation of law or otherwise.

#### 9.6 Time of the Essence.

The parties hereto mutually understand and declare that time is of the essence under this Agreement as to those matters that are specifically stated herein to be time of the essence.

#### 9.7 Governing Law; Venue; Dispute Resolution.

This Agreement shall be construed in accordance with and pursuant to the laws of the State of Connecticut and all disputes arising out of this Agreement or its interpretation shall be resolved in a court having jurisdiction in Fairfield County, Connecticut.

#### 9.8 Force Majeure.

Failure in performance by either party hereunder shall not be deemed an Event of Default, and the non-occurrence of any condition hereunder shall not give rise to any right otherwise provided herein, when such failure or non-occurrence is due to war; insurrection; strikes; lock-outs; riots; floods; windstorms; fires; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargos; lack of transportation; governmental restrictions; unusually severe weather; inability (when both parties are faultless) of any contractor, subcontractor or supplier; acts or the failure to act, of any public or governmental agency or entity (except acts or failures to act by the City) or any other causes beyond the control and without the fault of the party claiming an extension of time to perform ("**Force Majeure**"). An extension of time for any such cause shall be limited to the period of delay due to such cause, which period shall be deemed to commence from the time of the commencement of the cause, provided that, if notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall be deemed to commence thirty (30) days prior to the giving of such notice. The period of the delay due to any such cause, shall be an Abatement Period. Times of performance under this Agreement may also be extended as mutually agreed upon in writing by the City and the Operator. However, failure to agree to a proposed extension of time for performance shall not be deemed grounds for delay or failure to timely cure an Event of Default hereunder.

9.9 Interpretations.

To the extent permitted by the context in which used, (a) words in the singular number shall include the plural, words in the masculine gender shall include the feminine and neuter, and vice versa, and (b) reference to "persons" or "parties" in this Agreement shall be deemed to refer to natural persons, corporations, general partnerships, limited partnerships, trusts and other entities.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of \_\_\_\_\_, 2017.

Attest:

CITY OF BRIDGEPORT:

\_\_\_\_\_

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

Attest:

OPERATOR:  
HARBOR YARD AMPHITHEATER, LLC

\_\_\_\_\_

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



**Schedule A**

**Amphitheater Premises**

**Exhibit 1**

**Project Construction Schedule**

**Exhibit 2**

**Construction Completion Budget**

**Exhibit 3**

**Schedule of Values**

**Exhibit 4**

**Furniture, Fixtures & Equipment Schedule**





JOSEPH P. GANIM  
Mayor

OFFICE OF THE MAYOR  
CITY OF BRIDGEPORT, CONNECTICUT  
MARGARET E. MORTON GOVERNMENT CENTER  
999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7201  
FAX (203) 576-3913

**Comm. #161-16 Ref'd to Miscellaneous Matters Committee  
on 10/16/2017**

TO: Lydia Martinez – City Clerk  
FROM: Mayor Joseph P. Ganim  
DATE: October 12, 2017  
RE: Boards & Commissions

16 (P)  
Please place the following name on the October 18, 2017 City Council Agenda for  
referral to the Miscellaneous Matters Committee for appointment to the Food  
**Policy Council:**

Raquel Rivera-Pablo (D)  
468 Brewster Street  
Bridgeport, CT 06605

This term will expire on July 1, 2019.

JPG/ad

RECEIVED  
CITY CLERKS OFFICE  
17 OCT 14 PM 3:02  
ATTEST  
CITY CLERK



JOSEPH P. GANIM  
Mayor

OFFICE OF THE MAYOR  
CITY OF BRIDGEPORT, CONNECTICUT  
MARGARET E. MORTON GOVERNMENT CENTER  
999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7201  
FAX (203) 576-3913

**Comm. #162-16 Ref'd to Miscellaneous Matters Committee  
on 10/16/2017**

TO: Lydia Martinez – City Clerk  
FROM: Mayor Joseph P. Ganim  
DATE: October 12, 2017  
RE: Boards & Commissions

---

Please place the following name on the October 18, 2017 City Council Agenda for referral to the Miscellaneous Matters Committee for the purpose of appointment to the **Food Policy Council**:

Christine E. Stafstrom (D)  
120 Sailor Lane  
Bridgeport, CT 06605

This term will expire on July 1, 2019.

JPG/ad

16 FO

Reappointment FO

RECEIVED  
CITY CLERKS OFFICE  
17 OCT 14 PM 3:02  
ATTEST  
CITY CLERK



JOSEPH P. GANIM  
Mayor

OFFICE OF THE MAYOR  
CITY OF BRIDGEPORT, CONNECTICUT  
MARGARET E. MORTON GOVERNMENT CENTER  
999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7201  
FAX (203) 576-3913

**Comm. #163-16 Ref'd to Miscellaneous Matters Committee  
On 10/16/2017**

TO: Lydia Martinez – City Clerk  
FROM: Mayor Joseph P. Ganim  
DATE: October 12, 2017  
RE: Boards & Commissions

Please place the following name on the October 18, 2017 City Council agenda for  
referral to the Miscellaneous Matters Committee for appointment to the

**Policy Council:**

Anna E. Greer (D)  
59 Harborview Place  
Bridgeport, CT 06605

This term will expire on July 1, 2019.

JPG/ad

16 (FD)  
RECEIVED  
CITY CLERKS OFFICE  
OCT 14 PM 3:02  
AT 8:57  
CITY CLERK



JOSEPH P. GANIM  
Mayor

OFFICE OF THE MAYOR  
CITY OF BRIDGEPORT, CONNECTICUT  
MARGARET E. MORTON GOVERNMENT CENTER  
999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7201  
FAX (203) 576-3913

**Comm. #164-16 Ref'd to Miscellaneous Matters Committee  
On 10/16/2017**

TO: Lydia Martinez – City Clerk  
FROM: Mayor Joseph P. Ganim  
DATE: October 12, 2017  
RE: Boards & Commissions

---

Please place the following name on the October 18 2017 City Council Agenda for  
referral to the Miscellaneous Matters Committee for the purpose of appointment to  
the **Board of Park Commissioners**:

John M. Hosier (U)  
1244 Capitol Avenue  
Bridgeport, CT 06606

This term will expire on December 31, 2020.

JPG/ad

RECEIVED  
CITY CLERKS OFFICE  
17 OCT 14 PM 3:02  
ATTEST  
CITY CLERK



JOSEPH P. GANIM  
Mayor

OFFICE OF THE MAYOR  
CITY OF BRIDGEPORT, CONNECTICUT  
999 BROAD STREET  
BRIDGEPORT, CONNECTICUT 06604  
TELEPHONE (203) 576-7201  
FAX (203) 576-3913

**Comm. #165-16 Ref'd to Miscellaneous Matters Committee  
On 10/16/2017**

TO: Lydia Martinez – City Clerk  
FROM: Mayor Joseph P. Ganim  
DATE: October 12, 2017  
RE: Boards & Commissions

---

Please place the following name on the October <sup>16<sup>th</sup></sup>~~18~~ 2017 City Council Agenda for referral to the Miscellaneous Matters Committee for the purpose of appointment to the **Harbor Management Commission**:

Richard D Greenwood (D)  
126 Yacht Street  
Bridgeport, CT 06605

This term will expire on September 31, 2019.

JPG/ad

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CITY ATTORNEY  
R. Christopher Meyer

DEPUTY CITY ATTORNEY  
John P. Bohannon, Jr.

ASSOCIATE CITY ATTORNEYS

Mark T. Anastasi  
Richard G. Kascak, Jr.  
Bruce L. Levin  
John R. Mitola  
Lawrence A. Ouellette, Jr.  
Tyisha S. Toms  
Lisa R. Trachtenburg

CITY OF BRIDGEPORT  
OFFICE OF THE CITY ATTORNEY

999 Broad Street  
Bridgeport, Connecticut 06604-4328



ASSISTANT CITY ATTORNEYS

Eroll V. Skyers  
Tamara J. Titre

OF COUNSEL

Russell Liskov  
Ronald J. Pacacha

Telephone (203) 576-7647  
Facsimile (203) 576-8252

**Comm. #166-16 Ref'd to Miscellaneous Matters Committee**

October 16, 2017

**On 10/16/2017 (OFF THE FLOOR)**

Mr. Thomas McCarthy  
President  
City Council  
Of the City of Bridgeport  
City Hall  
45 Lyon Terrace  
Bridgeport, CT 06604

**Re: Referral to Miscellaneous Matters Committee - Proposed Workers Compensation Settlement / Stipulate Award in the matter of Claimant Joseph Savino**

Dear President McCarthy:

At this evening's City Council, and at the request of the City's Workers' Compensation legal counsel, Attorney Maureen Driscoll, would you kindly make the two motions as follows:

1. Motion to ADD TO AGENDA the above-referenced item; and
2. Motion for **REFERRAL TO MISCELLANEOUS MATTERS COMMITTEE**

Attorney Driscoll advises that these are time sensitive settlements that must be resolved prior to the conclusion of the current City Council session. Thank you very much for your assistance.

Very truly yours,

  
Mark T. Anastasi

Assoc. City Attorney

Cc: Mayor Joseph P. Ganim

Lydia Martinez, City Clerk  
Frances Ortiz, Asst. City Clerk  
Daniel Shamas, Chief of Staff  
R. Christopher Meyer, City Attorney  
Maureen E. Driscoll, Esq.

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Item# \*141-16 Consent Calendar

Amendments to the Municipal Code of Ordinances,  
amend Chapter 3.20 – Tax Incentive Development  
Program.



**Report  
of  
Committee  
on  
Ordinances**

City Council Meeting Date: October 16, 2017

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by:

Joseph P. Ganim, Mayor

Date Signed:

10/19/17

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# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on Ordinances begs leave to report; and recommends for adoption the following resolution:

Item No. 141-16

### **Resolution Amending Chapter 3.20 of the Municipal Code**

**WHEREAS**, Chapter 3.20 of the Bridgeport Municipal Code (the "Ordinance") establishes a "Tax Incentive Development Program" (the "Program") to promote development and increase tax revenue for the City;

**WHEREAS**, Section 3.20.020(A) of the Ordinance charges the Director of the City's Office of Planning and Economic Development ("OPED") with the responsibility of administering the Program;

**WHEREAS**, pursuant to Sec 3.20.020(B) of the Ordinance, OPED has established uniform and consistent policies, procedures and forms by which to administer the Ordinance (such policies, procedures, and forms attached hereto as Exhibit A – OPED Tax Incentive Development Policy and Affordable Housing Tax Incentive Development Policy - Dated 9-13-17 -- and herein referred to as the "Policy");

**WHEREAS**, the Policy provides specific limiting parameters within which OPED must operate in its administration of the Program; and

**WHEREAS**, in order to maximize the tax revenue generated per the Policy, the Program must be administered in an efficient, transparent, and predictable manner.

**NOW THEREFORE BE IT ORDAINED:** By the City Council of the City of Bridgeport that, effective upon publication, the Municipal Code of Ordinances, Chapter 3.20. Tax Incentive Development Program, is hereby amended to read as follows:

### **Chapter 3.20 - TAX INCENTIVE DEVELOPMENT PROGRAM**

#### **Sections:**

#### **3.20.010 - Established.**

Pursuant to Connecticut General Statutes as amended ("Statutes"), **including but not limited to** Section 7-480, et seq., the Connecticut City and Town Development Act and more specifically, Section 7-498 of that Act; Section 12-65b; and Section 32-70, et seq., the Enterprise Zones Act, more specifically Section 32-71(e) of that act; the ordinance codified in this chapter establishes a tax incentive development program for the city.

(Ord. dated 10/15/90 (part): prior code § 24-170)



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 141-16

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### 3.20.020 - Program administration.

A. Except for the establishment of property assessments as governed by the statutes of the state of Connecticut and the charter and ordinances of the city, the director of the office of planning and **economic** development (OPED) shall administer this tax incentive program.

**B. The attached policies and procedures, dated September 13, 2017 and entitled "Exhibit A - OPED - Tax Incentive Development Policy and Affordable Housing Tax Incentive Development Policy," (the "Policy") are hereby adopted and approved by the City Council.**

~~{B. — OPD shall establish uniform and consistent policies, procedures and forms to ensure compliance with this chapter, making such procedures, and forms publicly available within one hundred twenty (120) days of the enactment of this chapter.~~

~~C. — The policies, procedures and forms shall be made available for public comment for a thirty (30) day period prior to their implementation and shall be approved by the common council through the office of the city clerk.~~

~~D. — The applicant for a tax incentive shall submit a letter of request for such a tax incentive which shall disclose all principals of the applicant. The letter shall substantially conform to the federal redeveloper statement for public disclosure and the federal redeveloper's statement of qualifications and financial responsibility. The applicant must complete and file with OPDOPED all other necessary forms required by OPD.~~

(Ord. dated 10/15/90 (part): prior code § 24-171)

### 3.20.030 - Eligibility criteria.

A. Projects eligible for assistance under this chapter shall be for one of the following uses: office; retail; manufacturing; industrial; residential, if for rental use or low and moderate income (as defined by U.S. Dept. of H.U.D.) owner occupied units; transient residential, hotel/motel; warehousing, storage or distribution; and multilevel parking structures.

B. Projects pursuant to Section 7-498 and 12-65b of the Statutes must have a minimum of three million dollars (\$3,000,000.00) in estimated costs of construction or rehabilitation, excluding the costs of real property acquisition.



# City of Bridgeport, Connecticut

## Office of the City Clerk

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Report of Committee on Ordinances  
Item No. 141-16

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- C. Projects pursuant to Section 32-71(e) of the Statutes within the enterprise zone as defined in ordinances of the city must have a minimum of one million dollars (\$1,000,000.00) in estimated costs of construction, rehabilitation and/or machinery and equipment, excluding the costs of real property acquisition.
- D. For purposes of this chapter, a project shall further be defined as being a property or group of adjacent properties for which an applicant:
  - 1. Has a plan of development compatible with the city's master plan;
  - 2. Can show ownership or an option to own the property(ies) to accomplish the goals of the project plan; and
  - 3. Can meet the time-to-construct standards of Section 3.20.060(B).
- E. Developers or program participants seeking any benefit, part or whole, under the provisions of this chapter must show full inclusion of minority representation in the procurement of development contracts pursuant to each project seeking benefit (i.e., blacks, hispanics and women).
- F. Developers or program participants in the tax incentive development program shall undertake affirmative action measures designed to eliminate any discriminating barriers in the terms and conditions of employment on the grounds of race, color, creed, national origin, ancestry or sex. Developers or program participants shall take affirmative action to involve minority contractors in the construction of projects receiving property tax incentives pursuant to this chapter. Program participants and/or their general contractors shall notify appropriate minority trade publications and minority contractors associations of the subcontract opportunities. Program participants and/or their general contractors shall retain documentation of these notification attempts.
- G. In the event twenty (20) percent of the dollar value of total constructions costs is not awarded to minority- or women-owned contracting businesses, program participants and/or their general contractors shall be required to demonstrate that an extensive search for minority contractors has taken place for those elements of the project which have already been contracted. This chapter will apply in the absence of an affirmative action clause not already included by any of the following financing sources: U.S. Department of Housing and Urban Development, Connecticut Housing Finance Authority, State of Connecticut Department of Housing and the city of Bridgeport.





# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 141-16

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H. Waivers. Developers and/or program participants may receive waivers to the twenty (20) percent set-aside goal if they can demonstrate through documentation of any of the following:

1. The unavailability of certified disadvantaged business enterprises and/or women business enterprises to perform the subcontracting work required under the contract;
2. That prices submitted by all available and certified disadvantaged business enterprises or women business enterprises exceed those submitted by nondisadvantaged business enterprises and women business enterprises, and that such excessive price is not the result of present effect or discrimination;
3. That it is economically or otherwise impractical for the contractor to break down the contract into subcontracts that would meet the set-aside goals; or
4. That the needed goods and services can only be provided by one source which is not a disadvantaged business enterprise or women business enterprise.

Initial waiver decisions will be made by the contract compliance officer and affirmative action officer subject to appeal to the common council.

(Ord. dated 5/6/91; Ord. dated 10/15/90 (part); prior code § 24-172)

(Ord. dated 4/1/13)

### **3.20.040 - Economic justification.**

- A. OPDOPED shall subject all requests for assistance under this chapter to an economic pro forma analysis that will include, but not be limited to, the following factors: average construction costs of like structures, interest rates, vacancy and absorption rates, developer fees, market rents and pricing, comparable tax liabilities within the region, returns on cash and equity and such additional costs as may be associated with the development.
- B. In the event the applicant's request for assistance exceeds in extent of subsidy that amount which is determined to be fair and reasonable by OPDOPED through economic analysis, OPDOPED may grant greater assistance while also negotiating a recapture of the revenue foregone. Such funds recaptured shall, at a minimum, approximate the difference between OPDOPED's determination of fair and reasonable subsidy and the final award of subsidy.



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 141-16

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- C. The intent of subsection A of this section is to determine that: "but for" the assistance provided by this chapter, the project could not be built.

(Ord. dated 10/15/90 (part): prior code § 24-173)

### **3.20.050 - Public benefits.**

- A. All projects receiving assistance under this chapter shall comply with the public benefits test which shall include local land use and building regulation.
- B. ~~OPD~~**OPED** shall establish policies that consider such other public benefits/costs as, but not be limited to: parking impact, job generation, design standards, neighborhood impact, public service demand, and consistency with the city's adopted master development plan or other area specific development plans such as the downtown design district.

(Ord. dated 10/15/90 (part): prior code § 24-174)

### **3.20.060 - Miscellaneous provisions.**

- A. No property governed by a tax agreement shall generate less in property taxes or revenue in any year of the tax agreement than is received in the year prior to start of the tax agreement. This provision may be waived upon the following findings of the OPED director: 1) The project involves the adaptive reuse of the existing structure, or structures for commercial, industrial or mixed-use residential purposes; 2) The property has experienced significant vacancy for a period of five or more years prior to application for a tax incentive; 3) The project entails a construction cost investment (a) in excess of five million dollars (\$5,000,000.00) and (b) at least one and one-half the pre-project assessed value of the development property.
- B. Construction shall begin within two years and be substantially completed within four years of the granting of the tax agreement or such agreement shall terminate. Extensions may be granted by subsequent approval of the common council.



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 141-16

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- C. Tax incentive development agreements in compliance with this section shall be recorded against title to, and conveyed with, the property, provided that each successive owner of the property, including those who acquire a controlling interest in the entity owning the property, accepts and assumes all of the original applicant's obligations to be performed under such tax incentive development agreement, demonstrates its ability to carry out such obligations, and executes an agreement with OPED to be recorded on the land records. OPED may consent to such assignment in the exercise of its commercial business judgment, reasonably exercised.
- D. In order to become effective, tax incentive development agreements and any subsequent and related tax, payback or recapture agreements shall be recorded on the land records of the city.
- E. All projects awarded a tax incentive development agreement shall comply with all statutes, orders, ordinances, rules and regulations regarding civil rights, equal opportunity and affirmative action.
- F. Tax incentive development agreements and all nonexempt information submitted to ~~OPD~~**OPED** by the applicant shall be subject to the Connecticut Freedom of Information Act, as amended, Section 1-15 et seq.
- G. Once an application meets the eligibility criteria, public benefits and economic analysis tests established by ~~OPD~~**OPED** in accordance with this chapter, ~~[the application shall be forwarded with a report from OPD to the common council for final approval. The report shall explain OPD's rationale for granting and determining the extent of the tax incentive as well as identifying the portion of the tax fixing agreements value attributable to the economic analysis conducted in accordance with Section 3.20.040 and that value attributable to the public benefits gained as defined in Section 3.20.050].~~ **OPED shall make a determination as to the extent of tax incentive to be granted to a particular project and shall submit the tax incentive development agreement to the Mayor for execution in accordance with the Policy adopted by the City Council per 3.20.020(b). No tax incentive exceeding that set forth in the Policy adopted by the City Council may be granted by OPED without final approval of the City Council, in which case the initial application must be forwarded to the City Council with a written report from OPED explaining OPED's rationale for recommending the tax incentive development agreement.**



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 141-16

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- H. Upon completion of construction, OPDOPED shall secure a certification of the costs to construct the facility(ies) comprising the project receiving the tax incentive development agreement. If the costs are less than ninety-five (95) percent of the total costs identified in the economic analysis used to determine the tax incentive development agreement's value, OPDOPED shall make an adjustment to the tax incentive development agreement to reflect such cost differential. The tax incentive development agreement shall not be effective until a certificate of costs is received.
- I. An applicant for a tax incentive development agreement who is able to demonstrate negotiations within the city or its agencies prior to the adoption of the ordinance codified in this chapter by written proof of letter from the city, may be considered for special exemptions to this chapter by the common council. This subsection providing for special exemptions shall expire on December 31, 1990.

(Ord. dated 4/2/01; Ord. dated 1/4/99; Ord. dated 10/15/90 (part): prior code § 24-175)

(Ord. dated 4/1/13; Ord. dated 11/4/13)

### **3.20.070 - Two-year tax incentive bonus areas.**

- A. Eligible Projects. It shall be the policy of the city to offer, as a special development incentive from the date of enactment of the ordinance codified in this chapter, until December 31, 1992, in limited geographic areas of the city as outlined in subsection C of this section for commercial and residential projects meeting or exceeding twenty million dollars (\$20,000,000.00) in the costs of construction or rehabilitation exclusive of real property acquisition, and that comply with criteria established in or for Sections 3.20.030, 3.20.050 and 3.20.060, a tax fixing development agreement equal to one hundred (100) percent exemption of the increased assessment attributable to the improvements for a period of five years from the granting of the permanent certificate of occupancy.
- B. Economic Justification. During the special development window, projects meeting the eligibility criteria established in subsection A of this section shall be exempt from Section 3.20.040.





# City of Bridgeport, Connecticut

## Office of the City Clerk

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Report of Committee on Ordinances  
Item No. 141-16

-8-

- C. Geographic Area. Areas eligible for this special program shall be located only in the "downtown" and "lower east side" as defined by that area within the following boundaries: "downtown": as defined by that area bounded on the north by Washington Avenue, on the west by Route 8/25 highway, on the south by the Interstate-95 highway and on the east by the Bridgeport Harbor/Pequonnock Riverfront; and in the "lower east side": as defined by that area bounded on the north by the Metro-North Railroad, on the east by the Yellow Mill Pond and south and west by the Bridgeport Harbor/Pequonnock Riverfront.
- D. Other Projects and Areas. It is not the intent of this special program to exclude tax incentive contracts in other areas of the city of projects with costs ranging from three million dollars (\$3,000,000.00) to twenty million dollars (\$20,000,000.00). Such other projects may remain eligible for some level of benefits as determined by ~~OPD~~**OPED** economic analysis and public benefits tests as provided for in Sections 3.20.010 through 3.20.060 of this chapter.
- E. Eighteen-Month Review. ~~OPD~~**OPED** shall present a report on the usefulness of the special two-year tax incentive bonus areas program within eighteen (18) months of its enactment for the review of the common council.

(Ord. dated 10/15/90 (part): prior code § 24-176)





# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 141-16

-9-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ORDINANCES

*Eneida L. Martinez, D-139th, Co-Chair*

*Jose R. Casco, D-136th, Co-Chair*

*Michelle A. Lyons*  
*Michelle A. Lyons, D-134th*

*Mary McBride-Lee*  
*Mary McBride-Lee, D-135th*

*Kathryn M. Bukovsky*  
*Kathryn M. Bukovsky, D-130th*

*Jack O. Banla*  
*Jack O. Banla, D-131st*

*Richard D. Salter, Sr.*  
*Richard D. Salter, Sr., D-135th*

*City Council Date: October 16, 2017*

**EXHIBIT A**

September 13, 2017  
OPED  
"Tax Incentive Development Policy"  
and  
"Affordable Housing Tax Incentive Development Policy"  
for  
Ch. 3.20 Municipal Code - Tax Incentive Development Program  
and  
Ch. 3.24 Municipal Code – Affordable Housing Tax Incentive Development Program

**1)OPED Director shall administer these tax incentive development programs**

*- per Ch 3.20.020 (A) and Ch 3.24.020 (A)*

**2)Developers shall make application using standardized form**

*- per Ch. 3.20.020 (B) and Ch 3.24.020 (B)*

*-Form Shall Be: CHFA DOH Consolidated Application – (8-16-17), applicable sections, minimally:  
-detailed development budget  
-detailed sources and uses of funds  
-20 year operating pro-forma  
-(see form attached)*

**3)OPED shall follow standardized 3-step procedure for review of applications**

**Step 1: Initial Analysis for Completion of Application**

**Step 2: Financial Analysis – Economic Justification Analysis**

**Step 3: Calculation of Allowable Tax Payment Within Policy Parameters**

*- per Ch. 3.20.020 (B) and Ch 3.24.020 (B)*

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### **3A) Step One of Review – Initial Review of Application for Completeness**

#### **Review of Developer's experience, standing, financial capacity to confirm:**

- a) evidence of positive long-term banking relationships
- b) evidence of previous project completions
- c) absence of prejudicial litigation or judgments
- d) absence of city-developer litigation other than normal assessment appeal
- e) absence of non-compliance with any other city regulatory requirements
- f) evidence that applicant is current on all local tax and user fee obligations
- f) financial strength as evidenced by CPA-reviewed-quality financial statements (2 years)

#### **Review of Completeness of Development Proposal to confirm that it provides:**

- a) construction or rehabilitation costs
- b) rents and/or sales prices
- c) vacancy and absorption rates
- d) cost of, and amount of, financing
- e) developer fees as percentage of cost
- f) return on equity invested
- g) transactional costs in structuring deal and closing financing
- h) carrying costs and soft costs during pre-development and construction
- i) operating costs once stabilized
- j) assumptions as to escalators on revenue and expenses
- k) acquisition cost recognized at lesser of purchase price or current appraised value

#### **Issue Report to Developer:**

OPED shall issue written report to Developer confirming that the Application is complete, or detailing what information needs to be submitted or clarified. Developer may resubmit additional or clarifying evidence for further City review.

### **3B) Step Two of Review- Economic Justification Analysis –**

- Per 3.20.040

#### **Developer Equity Contribution\***

Minimum of 5% of Total Development Cost ("TDC") on Deed-Restricted Income-Limited\* Deals

Minimum of 10-15% of TDC on Strictly Commercial (non-residential) Deals

Minimum of 10-15% on Market-Rate Residential and Mixed-Use Deals

#### **Private Financing**

Maximized per project's cash flow debt-carrying capacity

Per prevailing lender loan-to-value ratios: (e.g. 50% to 70% of finished appraised value)

Per prevailing lender debt-coverage ratios: (e.g. of 1.0 to 1.4)

#### **Public Funding**

As applicable and available, maximizing use of State and Federal Funding Resources

#### **Reasonable Developer Return**

For Deed-Restricted Income-Limited, allow up to 15% of TDC allowed as Developer Fee

For Commercial and Market-Rate Residential Deals, allow up to:

- 20% "Internal Rate of Return" over 20 years as modeled at prevailing capitalization rate
- 12% "Cash-on-Cash Return" Measured in Stable Operating Year (year #2)
  - o Cash Flow (After Vacancy, Operating Expenses, Taxes, Debt Service / Equity
- 8% "Cash-on Cost Return" in Stable Operating Year (year #2)
  - o Net Operating Income (After Vacancy, Operating Expenses, Taxes) / TDC

---

\*Deed Restricted Income-Limited shall mean residential units which, by deed-restriction, may only be rented or owned by households earning less than 80% of the Area's Median Income as defined by HUD. Market Rate Residential shall mean residential units to which no income-limiting deed-restriction applies, with the exception of income-limiting deed restrictions that allow for such units to be rented or owned by households earning equal to or more than 80% of the Area's Median Income as defined by HUD.

*\*Developer Equity Shall Include:*

1)Value of property and improvements as determined by appraisal at time of City analysis

2)Value of cash contributed by the developer toward development, as opposed to pure carrying costs

3)Value of deferred developer fees

### **3C) Step Three – Calculation of Tax Payment Within Policy Parameters**

- per 3.20.040 (C)

#### **Length of term:**

- up to 2 years during construction
- up to 20 years during operations

#### **Pre-Existing Tax and Tax During Construction and 1<sup>st</sup> Year of Operation**

- Pre-existing tax payment obligation shall remain and may not be reduced
- No new incremental tax payment shall be due during construction
- No new incremental tax payment shall be due during first year of operation

#### **New Base Tax Payment and Escalation Schedule**

##### Commercial and, Market-Rate Development:

New base tax payment shall be due the second year of operation and shall be between 2.5% and 7.5% of the project's EGI, provided that, as applies to commercial development, the new base tax payment shall be no less than \$1.00 per gross square foot of development, and further provided that, as applies to residential or mixed-use (residential and commercial) development, the new base tax payment shall at a minimum be equivalent to the lesser of \$1.00 per gross square foot of residential development or \$1,000 per residential unit. The new base tax payment shall remain fixed for operating years 2-7 and then shall escalate annually to reach full taxation in the year following the end of the term.

##### Deed-Restricted Development:

As applies to deed-restricted residential or mixed-use (residential and commercial) development, the new base tax payment shall be due the second year of the operation and shall be between 7.5% and 10% of the project's EGI, provided that the new base tax payment shall at a minimum be equivalent to the lesser of \$1.00 per gross square foot of residential development or \$1,000 per residential unit. Beginning in the third year of operation, the new base tax payment shall escalate annually to reach full taxation in the year following the end of the term.

##### Notes:

"EGI" = "Effective Gross Income" = gross revenue minus vacancy and operating exps.

Vacancy Allowance for Deed-Restricted Residential shall be 5%

Vacancy Allowance for Non-Deed-Restricted Residential shall be 10%

Vacancy Allowance for Commercial Space within Mixed-Use Buildings shall be 25%

Base Tax Payment derived on blended basis for mixed-use or multiple property deals



#### **4)Enforcement Policy, Verifications, and Claw-Back Provisions:**

- Development costs certified upon completion of construction
- Cost discrepancy ( >20%) triggers claw-back or commensurate adjustment of tax payment
- All Agreements filed on Land Records
- OPED retains right of review and consent as to successors and assigns.
- Projects convert to full taxation upon default
- Owner must submit annual CPA-reviewed financial statements for project and/or tax returns
- OPED to conduct Variance Analysis Annually
- If Variance Analysis Reveals Discrepancy (>20% over EGI), then claw-back provisions apply
- Claw-Back via lump-sum retroactive payment or by adjustment of tax payment going forward

#### **5)OPED Reporting Requirements to City Council**

##### **a) Deal Specific Reporting**

Within 30 days of the execution of any specific Tax Incentive Agreement, OPED shall provide to the City Council an Executive Summary Report of the Incentive Agreement, detailing:

- 1)The specific schedule of new tax payments to be made under the Agreement;
- 2)The cumulative value of new tax payments to be made under the Agreement;
- 3)The cumulative value of the theoretical taxes foregone under the Agreement
- 4)A direct comparison of new tax payments realized versus theoretical tax payments foregone;
- 5)The value of the investment to be made in the City per the Agreement
- 6)The impact of the investment on the assessed value of the property

##### **b)Program-Wide Reporting**

Every six months, beginning June 30<sup>th</sup>, 2018, OPED shall provide the City Council with a Summary Report as to the Tax Incentive Program's cumulative impact with regard to:

- 1)Total number of Tax Incentive Agreements executed
- 2)Total amount of new tax revenue to be realized
- 3)Total value of theoretical taxes to be foregone
- 4)Total investment leveraged
- 5)Geographic locations of projects approved
- 6)Total commercial square footage
- 7)Total residential units and type
- 8)Total impact on underlying assessed value of properties

**Item# \*142-16 Consent Calendar**

Amendments to the Municipal Code of Ordinances,  
amend Chapter 3.24 - Affordable Housing Tax  
Incentive Development Program.



**Report  
of  
Committee  
on  
Ordinances**

City Council Meeting Date: October 16, 2017

Attest: Lydia N. Martinez  
Lydia N. Martinez, City Clerk

Approved by: Joseph P. Ganim  
Joseph P. Ganim, Mayor

Date Signed: 10/19/17

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# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on Ordinances begs leave to report; and recommends for adoption the following resolution:

Item No. 142-16

### **Resolution Amending Chapter 3.24 of the Municipal Code**

**WHEREAS**, Chapter 3.24 of the Bridgeport Municipal Code (the "Ordinance"), establishes an "Affordable Housing Tax Incentive Development Program," (the "Program") to promote development and increase tax revenue for the City;

**WHEREAS**, Section 3.24.020(A) of the Ordinance charges the Director of the City's Office of Planning and Economic Development ("OPED") with the responsibility of administering the Program;

**WHEREAS**, pursuant to Sec 3.24.020(B) of the Ordinance, OPED has established uniform and consistent policies, procedures and forms by which to administer the Ordinance (such policies, procedures, and forms attached hereto as Exhibit A – OPED Tax Incentive Development Policy and Affordable Housing Tax Incentive Development Policy -Dated 9-13-17 -- and herein referred to as the "Policy");

**WHEREAS**, the Policy provides specific limiting parameters within which OPED must operate in its administration of the Program;

**WHEREAS**, in order to maximize the tax revenue generated per the Policy, the Program must be administered in an efficient, transparent, and predictable manner;

**NOW THEREFORE BE IT ORDAINED:** By the City Council of the City of Bridgeport that, effective upon publication by the City Council, the Municipal Code of Ordinances, Chapter 3.24 Affordable Housing Tax Incentive Development Program, is hereby amended to read as follows:

### **Chapter 3.24 - AFFORDABLE HOUSING TAX INCENTIVE DEVELOPMENT PROGRAM**

#### **Sections:**

#### **3.24.010 - Established.**

Pursuant to Connecticut General Statutes as amended ("Statutes"), **including but not limited to** Section 8-4215 and Section 8-4216; the ordinance codified in this chapter establishes an affordable housing tax incentive development program for the city, and allows for the abatement of real property taxes until such time that such housing is not solely for low or moderate-income persons or families.

(Ord. dated 11/4/13)



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 142-16

-2-

### **3.24.020 - Program administration.**

- A. Except for the establishment of property assessment as governed by the statutes of the state of Connecticut, and the charter and ordinances of the city, the director of the office of planning and economic development (OPED) shall administer this tax incentive program.
- B. The attached policies and procedures, dated September 13, 2017 and entitled "Exhibit A - OPED - Tax Incentive Development Policy and Affordable Housing Tax Incentive Development Policy," (the "Policy") are hereby adopted and approved by the City Council.**
- ~~[B. In consultation with the tax collector and tax assessor, OPED shall establish uniform and consistent policies, procedures and forms to ensure compliance with this chapter making such procedures, and forms publicly available within one hundred twenty (120) days of the enactment of the ordinance codified in this chapter.~~
- ~~C. The policies, procedures and forms shall be made available for public comment for a thirty-day period prior to their implementation and shall be approved by the city council through the office of the city clerk.~~
- ~~D. The applicant for a tax incentive under this chapter shall submit a letter of request for such a tax incentive which shall disclose all principals of the applicant. The applicant must complete and file with OPED all other necessary forms required by OPED.]~~

(Ord. dated 11/4/13)

### **3.24.030 - Eligibility criteria.**

- A. Projects eligible for assistance under this chapter must be projects that include housing for low or moderate-income persons or families as defined by the US Department of Housing and Urban Development or as defined by the state of Connecticut Department of Housing, the state of Connecticut Department of Economic and Community Development, or by the Connecticut Housing Finance Authority, or by their successor agencies in the federal or state government.



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 142-16

-3-

- B. A tax incentive development agreement shall provide that moneys equal to the amount of such tax incentive shall be used for any one or more of the purposes stated in Section 3.24.040.A hereof and that such tax incentive shall terminate at any time when such housing is not solely for low or moderate-income persons or families.

(Ord. dated 11/4/13)

### **3.24.040 - Miscellaneous.**

- A. All projects receiving a tax incentive under this chapter are receiving the incentive so as to achieve one or more of the following objectives:
- (1) To reduce rents below the levels that would be achieved in the absence of such tax incentive and to improve the quality and design of such housing;
  - (2) To effect occupancy of such housing by persons and families of varying income levels within limits determined by the relevant agencies as described in Section 3.24.030 hereof; or
  - (3) To provide necessary, related and complementary facilities or services in such housing.
- B. Tax incentive development agreements in compliance with this section shall be recorded against title to, and shall be conveyed with, the property, provided that each successive owner of the property, including those who acquire a controlling interest in the entity owning the property, accepts and assumes all of the original applicant's obligations to be performed under such tax incentive development agreement, demonstrates its ability to carry out such obligations, and executes an agreement with OPED to be recorded on the land records. OPED may consent to such assignment in the exercise of its commercial business judgment, reasonably exercised.
- C. To become effective, tax incentive development agreements shall be executed as a contract between the owner of the property and the city and shall be recorded on the land records of the city.
- D. All projects awarded a tax incentive development agreement shall comply with all statutes, orders, ordinances, rules and regulations regarding civil rights, equal opportunity and affirmative action.





# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 142-16

-4-

- E. Tax incentive development agreements and all nonexempt information submitted to OPED by the applicant shall be subject to the Connecticut Freedom of Information Act as amended, Section 1-15 et seq.
- F. Once an application meets the eligibility criteria established by OPED in accordance with this chapter, ~~[the application shall be forwarded with a report from OPED to the city council for final approval. The report shall explain OPED's rationale for supporting the tax incentive development agreement.]~~  
**OPED shall make a determination as to the extent of tax incentive to be granted to a particular project and shall submit the tax incentive development agreement to the Mayor for execution in accordance with the Policy adopted by the City Council per 3.24.020(b). No tax incentive exceeding that set forth in the Policy adopted by the City Council may be granted by OPED without final approval of the City Council, in which case the initial application must be forwarded to the City Council with a written report from OPED explaining OPED's rationale for recommending the tax incentive development agreement.**

(Ord. dated 11/4/13)



# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Ordinances  
Item No. 142-16

-5-

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
ORDINANCES

Eneida L. Martinez, D-139th, Co-Chair

Jose R. Casco, D-136th, Co-Chair

Michelle A. Lyons, D-134th

Mary McBride-Lee, D-135th

Kathryn M. Bukovsky, D-130th

Jack O. Banta, D-131st

Richard D. Salter, Sr., D-135th

City Council Date: October 16, 2017

**EXHIBIT A**

September 13, 2017  
OPED  
"Tax Incentive Development Policy"  
and  
"Affordable Housing Tax Incentive Development Policy"  
for  
Ch. 3.20 Municipal Code - Tax Incentive Development Program  
and  
Ch. 3.24 Municipal Code – Affordable Housing Tax Incentive Development Program

1) OPED Director shall administer these tax incentive development programs  
- per Ch. 3.20.020 (A) and Ch 3.24.020 (A)

2) Developers shall make application using standardized form  
- per Ch. 3.20.020 (B) and Ch 3.24.020 (B)

- Form Shall Be: CHFA DOH Consolidated Application – (8-16-17), applicable sections, minimally:  
- detailed development budget  
- detailed sources and uses of funds  
- 20 year operating pro-forma  
- (see form attached)

3) OPED shall follow standardized 3-step procedure for review of applications  
Step 1: Initial Analysis for Completion of Application  
Step 2: Financial Analysis – Economic Justification Analysis  
Step 3: Calculation of Allowable Tax Payment Within Policy Parameters  
- per Ch. 3.20.020 (B) and Ch 3.24.020 (B)

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CITY CLERK

### **3A) Step One of Review – Initial Review of Application for Completeness**

#### **Review of Developer's experience, standing, financial capacity to confirm:**

- a) evidence of positive long-term banking relationships
- b) evidence of previous project completions
- c) absence of prejudicial litigation or judgments
- d) absence of city-developer litigation other than normal assessment appeal
- e) absence of non-compliance with any other city regulatory requirements
- f) evidence that applicant is current on all local tax and user fee obligations
- f) financial strength as evidenced by CPA-reviewed-quality financial statements (2 years)

#### **Review of Completeness of Development Proposal to confirm that it provides:**

- a) construction or rehabilitation costs
- b) rents and/or sales prices
- c) vacancy and absorption rates
- d) cost of, and amount of, financing
- e) developer fees as percentage of cost
- f) return on equity invested
- g) transactional costs in structuring deal and closing financing
- h) carrying costs and soft costs during pre-development and construction
- i) operating costs once stabilized
- j) assumptions as to escalators on revenue and expenses
- k) acquisition cost recognized at lesser of purchase price or current appraised value

#### **Issue Report to Developer:**

OPED shall issue written report to Developer confirming that the Application is complete, or detailing what information needs to be submitted or clarified. Developer may resubmit additional or clarifying evidence for further City review.

### **3B) Step Two of Review- Economic Justification Analysis –**

- Per 3,20,040

#### **Developer Equity Contribution\***

Minimum of 5% of Total Development Cost ("TDC") on Deed-Restricted Income-Limited\* Deals

Minimum of 10-15% of TDC on Strictly Commercial (non-residential) Deals

Minimum of 10-15% on Market-Rate Residential and Mixed-Use Deals

#### **Private Financing**

Maximized per project's cash flow debt-carrying capacity

Per prevailing lender loan-to-value ratios: (e.g. 50% to 70% of finished appraised value)

Per prevailing lender debt-coverage ratios: (e.g. of 1.0 to 1.4)

#### **Public Funding**

As applicable and available, maximizing use of State and Federal Funding Resources

#### **Reasonable Developer Return**

For Deed-Restricted Income-Limited, allow up to 15% of TDC allowed as Developer Fee

For Commercial and Market-Rate Residential Deals, allow up to:

- 20% "Internal Rate of Return" over 20 years as modeled at prevailing capitalization rate
- 12% "Cash-on-Cash Return" Measured in Stable Operating Year (year #2)
  - o Cash Flow (After Vacancy, Operating Expenses, Taxes, Debt Service / Equity
- 8% "Cash-on Cost Return" in Stable Operating Year (year #2)
  - o Net Operating Income (After Vacancy, Operating Expenses, Taxes) / TDC

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\*Deed Restricted Income-Limited shall mean residential units which, by deed-restriction, may only be rented or owned by households earning less than 80% of the Area's Median Income as defined by HUD. Market Rate Residential shall mean residential units to which no income-limiting deed-restriction applies, with the exception of income-limiting deed restrictions that allow for such units to be rented or owned by households earning equal to or more than 80% of the Area's Median Income as defined by HUD.

*\*Developer Equity Shall Include:*

*1)Value of property and improvements as determined by appraisal at time of City analysis*

*2)Value of cash contributed by the developer toward development, as opposed to pure carrying costs*

*3)Value of deferred developer fees*



### **3C) Step Three – Calculation of Tax Payment Within Policy Parameters**

- per 3.20.040 (C)

#### **Length of term:**

- up to 2 years during construction
- up to 20 years during operations

#### **Pre-Existing Tax and Tax During Construction and 1<sup>st</sup> Year of Operation**

- Pre-existing tax payment obligation shall remain and may not be reduced
- No new incremental tax payment shall be due during construction
- No new incremental tax payment shall be due during first year of operation

#### **New Base Tax Payment and Escalation Schedule**

##### Commercial and, Market-Rate Development:

New base tax payment shall be due the second year of operation and shall be between 2.5% and 7.5% of the project's EGI, provided that, as applies to commercial development, the new base tax payment shall be no less than \$1.00 per gross square foot of development, and further provided that, as applies to residential or mixed-use (residential and commercial) development, the new base tax payment shall at a minimum be equivalent to the lesser of \$1.00 per gross square foot of residential development or \$1,000 per residential unit. The new base tax payment shall remain fixed for operating years 2-7 and then shall escalate annually to reach full taxation in the year following the end of the term.

##### Deed-Restricted Development:

As applies to deed-restricted residential or mixed-use (residential and commercial) development, the new base tax payment shall be due the second year of the operation and shall be between 7.5% and 10% of the project's EGI, provided that the new base tax payment shall at a minimum be equivalent to the lesser of \$1.00 per gross square foot of residential development or \$1,000 per residential unit. Beginning in the third year of operation, the new base tax payment shall escalate annually to reach full taxation in the year following the end of the term.

##### Notes:

"EGI" = "Effective Gross Income" = gross revenue minus vacancy and operating exps.

Vacancy Allowance for Deed-Restricted Residential shall be 5%

Vacancy Allowance for Non-Deed-Restricted Residential shall be 10%

Vacancy Allowance for Commercial Space within Mixed-Use Buildings shall be 25%

Base Tax Payment derived on blended basis for mixed-use or multiple property deals

#### **4)Enforcement Policy, Verifications, and Claw-Back Provisions:**

- Development costs certified upon completion of construction
- Cost discrepancy ( >20%) triggers claw-back or commensurate adjustment of tax payment
- All Agreements filed on Land Records
- OPED retains right of review and consent as to successors and assigns.
- Projects convert to full taxation upon default
- Owner must submit annual CPA-reviewed financial statements for project and/or tax returns
- OPED to conduct Variance Analysis Annually
- If Variance Analysis Reveals Discrepancy (>20% over EGI), then claw-back provisions apply
- Claw-Back via lump-sum retroactive payment or by adjustment of tax payment going forward

#### **5)OPED Reporting Requirements to City Council**

##### **a) Deal Specific Reporting**

Within 30 days of the execution of any specific Tax Incentive Agreement, OPED shall provide to the City Council an Executive Summary Report of the Incentive Agreement, detailing:

- 1)The specific schedule of new tax payments to be made under the Agreement;
- 2)The cumulative value of new tax payments to be made under the Agreement;
- 3)The cumulative value of the theoretical taxes foregone under the Agreement
- 4)A direct comparison of new tax payments realized versus theoretical tax payments foregone;
- 5)The value of the investment to be made in the City per the Agreement
- 6)The impact of the investment on the assessed value of the property

##### **b)Program-Wide Reporting**

Every six months, beginning June 30<sup>th</sup>, 2018, OPED shall provide the City Council with a Summary Report as to the Tax Incentive Program's cumulative impact with regard to:

- 1)Total number of Tax Incentive Agreements executed
- 2)Total amount of new tax revenue to be realized
- 3)Total value of theoretical taxes to be foregone
- 4)Total investment leveraged
- 5)Geographic locations of projects approved
- 6)Total commercial square footage
- 7)Total residential units and type
- 8)Total impact on underlying assessed value of properties

**Item# \*130-16 Consent Calendar**

Honorary Naming of Lafayette Street between South Frontage Road and Railroad Avenue as "Winifred Timberlake Way".



**Report  
of  
Committee  
on**

**Public Safety and Transportation**

City Council Meeting Date: October 16, 2017

Attest: Lydia N. Martinez  
Lydia N. Martinez, City Clerk

Approved by: [Signature]  
Joseph P. Ganim, Mayor

Date Signed: 10/19/17

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## City of Bridgeport, Connecticut Office of the City Clerk

*To the City Council of the City of Bridgeport:*

The Committee on **Public Safety and Transportation** begs leave to report; and recommends for adoption the following resolution:

### **Item No. \*130-16 Consent Calendar**

**WHEREAS**, Mrs. Winifred Barnes Timberlake lived with her family at 616 Lafayette Street, Bridgeport for many years, there she and her husband raised their family in the city's Southend, the house being raised in 1953 to make way for a new housing development; and

**WHEREAS**, in the early 1980's Winifred Timberlake ran for and won a seat on the Bridgeport City Council, making her the first African-American woman to ever hold such a position in the city, and where she worked to make life better for her constituents in the 131<sup>st</sup> District; and

**WHEREAS**, Councilwoman Winifred Timberlake moved the city forward, casting the deciding vote to approve the "Harborpointe Redevelopment Project", now known as "Steelpointe"; and

**WHEREAS**, Winifred Timberlake received numerous awards, citations and accolades for her service including awards from the City of Bridgeport, Action for Bridgeport Community Development (A.B.C.D.) Bridgeport Housing Authority, African-American Historical Association of Fairfield County, the Eldorado Club, and for work with Senior Citizens; and

**WHEREAS**, Mayor Joseph Ganim and the City Council recognized Winifred Timberlake May 1, 2017 for having given selflessly of herself and for her many contributions to the City; and

**WHEREAS**, it would be an honor for her family, friends and everyone that she touched, and who are very grateful, that her contributions as a public servant be recognized by the City and the street that she lived on for so many years be renamed "**Winifred Timberlake Way**"; and

**NOW THEREFORE, BE IT RESOLVED** that we celebrate the memory, rich life and many accomplishments of Winifred Timberlake by coming together as a community and designate Lafayette Street between South Frontage Road and Railroad Avenue as "**Winifred Timberlake Way**" with appropriate signs honoring her to be placed on the corner street signs at the intersection of Lafayette Street with South Frontage Road, Allen Street, and Railroad Avenue.



# City of Bridgeport, Connecticut

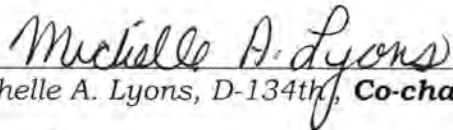
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Report of Committee on **Public Safety and Transportation**  
**Item No. \*130-16 Consent Calendar**

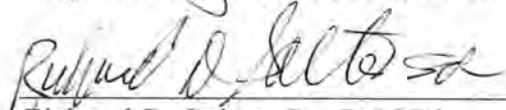
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RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**PUBLIC SAFETY AND TRANSPORTATION**

  
Michelle A. Lyons, D-134th, **Co-chair**

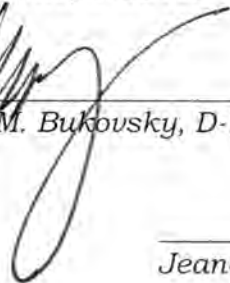
  
Mary McBride-Lee, D-135th, **Co-chair**

  
Jack O. Banta, D-131st

  
Richard D. Salter, Sr., D-135th

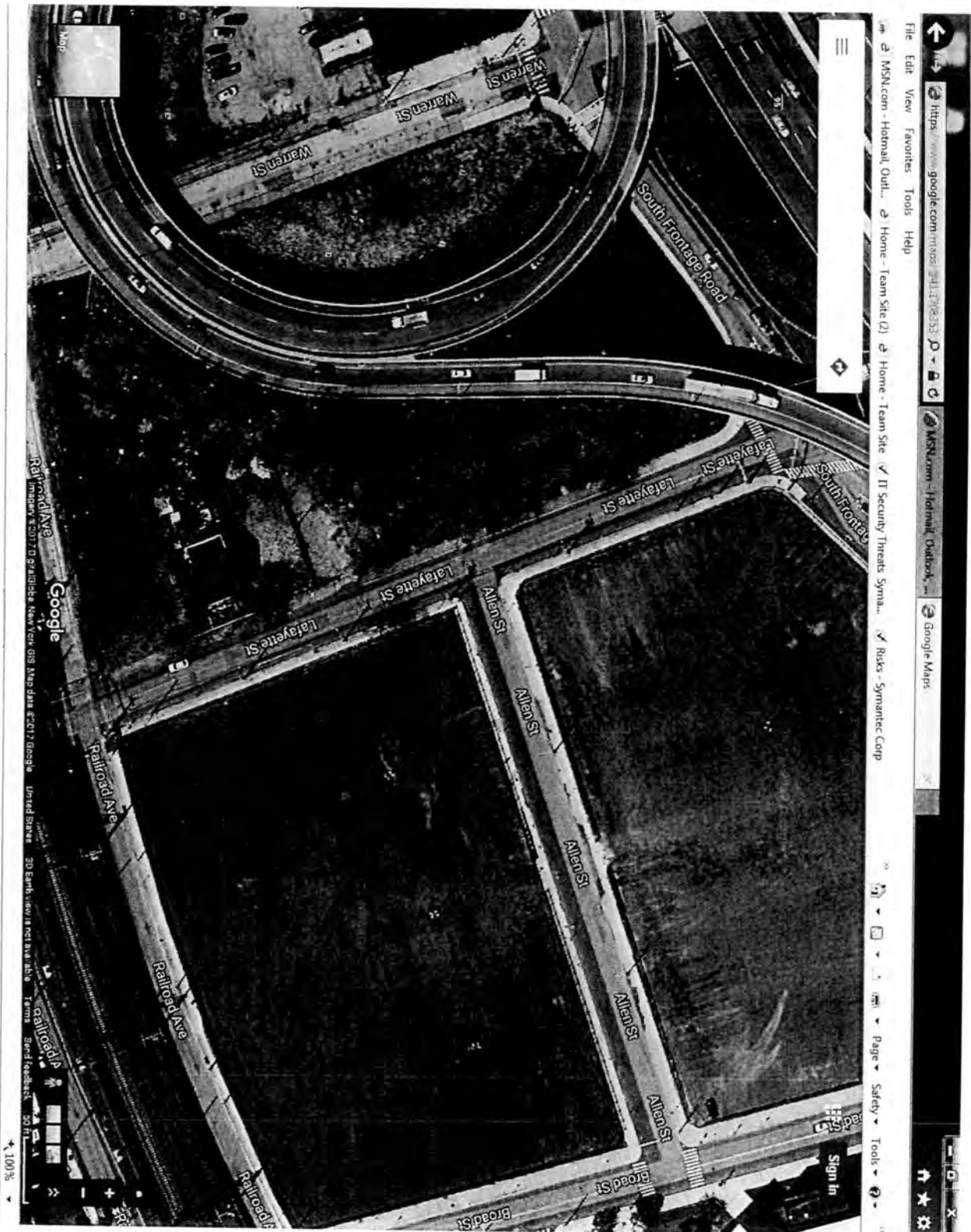
  
Kathryn M. Bukovsky, D-130th

Eneida L. Martinez, D-139th

  
Jeanette Herron, D-133rd

City Council Date: October 16, 2017





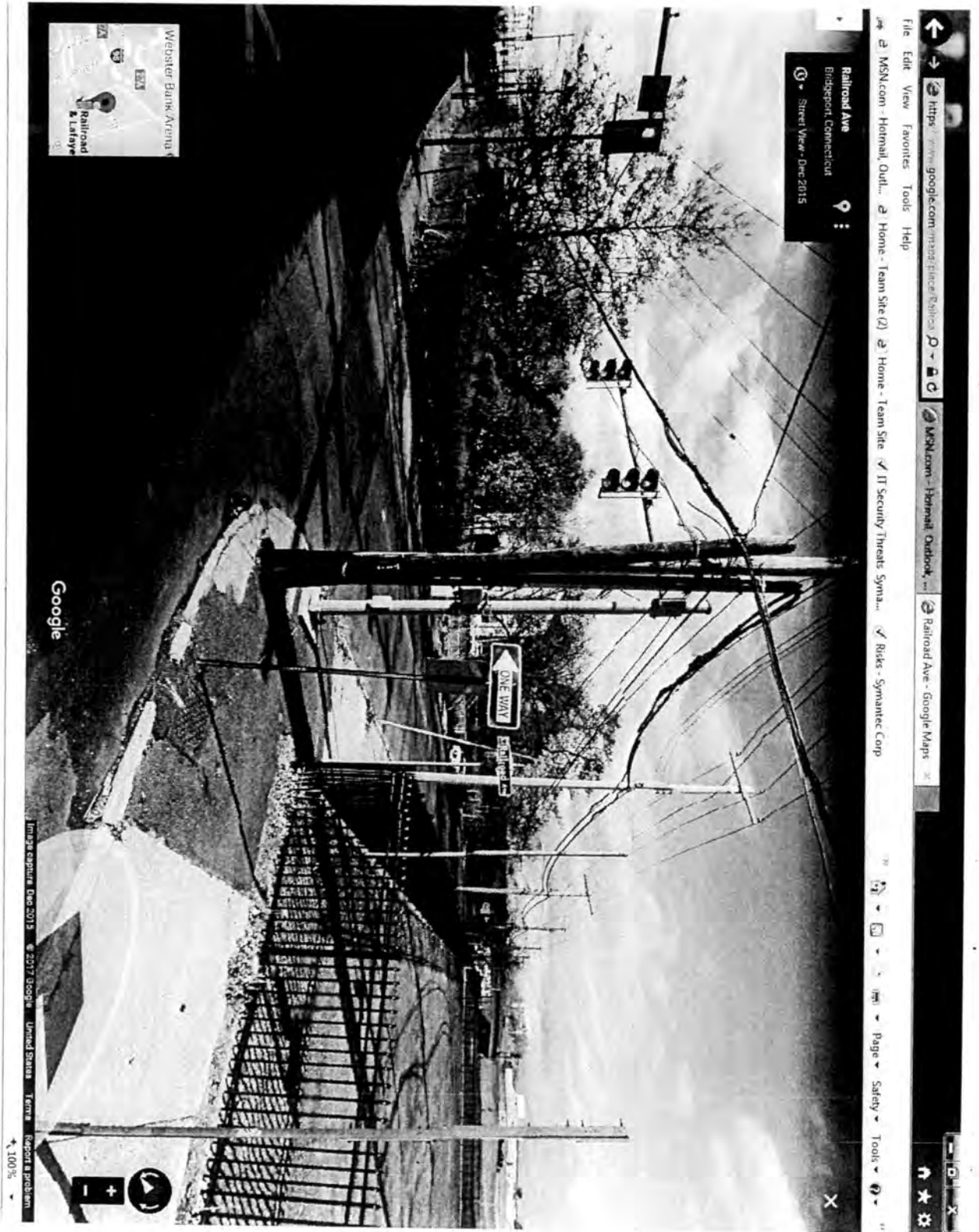




98 Allen St  
Bridgeport, Connecticut  
Street View - Dec 2015



Google



Item# \*134-16 Consent Calendar

Grant Submission: re State of Connecticut Office of Policy and Management Police and Youth Program for Urban Communities. (#18283)



Report  
of  
Committee  
on

Public Safety and Transportation

City Council Meeting Date: October 16, 2017

Attest:

*Lydia N. Martinez*  
Lydia N. Martinez, City Clerk

Approved by:

*Joseph P. Ganim*  
Joseph P. Ganim, Mayor

Date Signed:

*10/20/17*

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# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on **Public Safety and Transportation** begs leave to report; and recommends for adoption the following resolution:

**Item No. \*134-16 Consent Calendar**

**A Resolution by the Bridgeport City Council  
Regarding the  
State of Connecticut Office of Policy and Management  
Police and Youth Program for Urban Communities (#18283)**

**WHEREAS**, the **State of Connecticut Office of Policy and Management** is authorized to extend financial assistance to municipalities in the form of grants; and

**WHEREAS**, this funding has been made possible through the **Police and Youth Program for Urban Communities**; and

**WHEREAS**, funds under this grant will be used to support activities of the Bridgeport Police and Youth Together project; and

**WHEREAS**, it is desirable and in the public interest that the City of Bridgeport submits an application to the **State of Connecticut Office of Policy and Management** to support activities geared toward increasing positive interactions between police and youth as well as increasing the number of police officers trained to work with youth.

**NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:**

1. That it is cognizant of the City's grant application to and contract with the **State of Connecticut Office of Policy and Management** for the purpose of its **Police and Youth Program for Urban Communities**.
2. That it hereby authorizes, directs and empowers the Mayor or his designee, the **Central Grants Director**, to execute and file such application with the **State of Connecticut Office of Policy and Management Police and Youth Program for Urban Communities** and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.



# City of Bridgeport, Connecticut

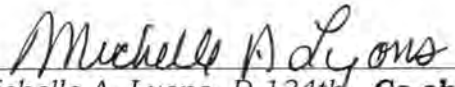
## Office of the City Clerk

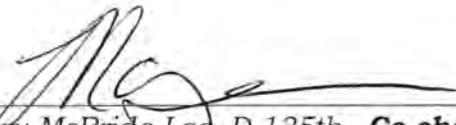
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Report of Committee on **Public Safety and Transportation**  
**Item No. \*134-16 Consent Calendar**

-2-

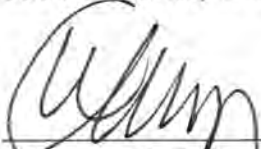
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**PUBLIC SAFETY AND TRANSPORTATION**


  
Michelle A. Lyons, D-134th, **Co-chair**

  
Mary McBride-Lee, D-135th, **Co-chair**

  
Jack O. Banta, D-131st

  
Richard D. Salter, Sr., D-135th

  
Kathryn M. Bukowsky, D-130th

  
Eneida L. Martinez, D-139th

  
Jeanette Herron, D-133rd

Item# \*136-16 (Ref. #217-15) Consent Calendar  
Resolution regarding Sidewalk Repair Pilot  
Program Cost Estimates.



**Report  
of  
Committee  
on**

**Public Safety and Transportation**

City Council Meeting Date: October 16, 2017

Attest: Lydia N. Martinez  
Lydia N. Martinez, City Clerk

Approved by: [Signature]  
Joseph P. Panim, Mayor

Date Signed: 10/19/17

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# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on **Public Safety and Transportation** begs leave to report; and recommends for adoption the following resolution:

**Item No. \*136-17 (Ref. #217-15) Consent Calendar**

### **RESOLUTION**

**WHEREAS**, numerous sidewalks in the City of Bridgeport ("City") are in varying states of disrepair; and

**WHEREAS**, the City can be held liable under certain circumstances for injuries which may occur due to disrepair of sidewalks; and

**WHEREAS**, the City has the right to force sidewalk repairs and recoup from the homeowner 100% of the costs for the repair; and

**WHEREAS**, the Administration desires to continue its efforts to make the City a safer place for its citizens and visitors to live and work; and

**WHEREAS**, the City desires to engage in an aggressive and proactive pilot program to have sidewalks repaired; and

**WHEREAS**, on May 1, 2017, the City Council passed a resolution which stated:

**NOW, THEREFORE**, in furtherance of public safety and the need for a City wide program to repair these sidewalks in a progressive, fair, deliberate manner and in accordance with available funding, it is hereby RESOLVED by the City Council, in support and approval of the pilot program, that the City proceed with the sidewalk repair pilot program and to the extent the City cause's participants' sidewalks to be repaired, to absorb fifty (50%) percent the cost of the same, apply such Senior Citizen and Social Security Disability credits as may be applicable, and to invoice the homeowner(s) the remaining balance. Should the invoice remain unpaid for thirty (30) days, and should the actual costs NOT exceed 10% of the estimates as set forth to the Council in advance, the City Council will approve and accept the then filing of the appropriate lien(s) against the respective property(ies), providing however, the City is not hereby authorized to pursue a foreclosure on a sidewalk repair lien, but rather should await payment from the affected owners, mortgagees, insurance companies, or through a sale of the subject parcel; and



## City of Bridgeport, Connecticut Office of the City Clerk

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Report of Committee on **Public Safety and Transportation**  
**Item No. \*136-16 (Ref. #217-15) Consent Calendar**

-2-

**WHEREAS**, the approval of the Program was contingent on the Department of Public Facilities causing periodic lists of anticipated sidewalk repairs and estimated costs to be submitted to the Council for permission to lien those parcels in the event that the City causes said repairs to be made and should the respective homeowner(s) fail to pay the remaining invoice within thirty (30) days of mailing of the invoice (the City may, prior to completing the repair, work out a payment arrangement with the homeowner as exigencies may require); and

**WHEREAS**, the City has compiled the first list which is attached hereto and made a part hereof as Exhibit A.

**NOW THEREFORE**, pursuant to the approved Sidewalk Repair Pilot Program, it is hereby

**RESOLVED BY THE CITY COUNCIL**, that the City proceed with the repairs set forth in Exhibit A and it is further

**RESOLVED** that if any of the subject homeowners fail to pay their fifty (50%) percent within the allotted time and/or fails to work out and adhere to an approved payment schedule, the City Council hereby approves the filing of a lien on those respective parcels for the actual cost of repairs, but in no event more than 10% more than the estimates set forth in Exhibit A, but also NOT to foreclose on or sell such sidewalk repair liens as per the Program's initial approval.





# City of Bridgeport, Connecticut

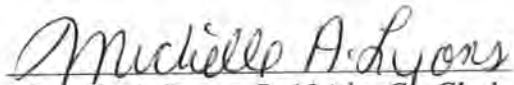
## Office of the City Clerk


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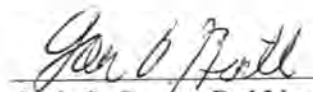
Report of Committee on **Public Safety and Transportation**  
**Item No. \*136-16 (Ref. #217-15) Consent Calendar**

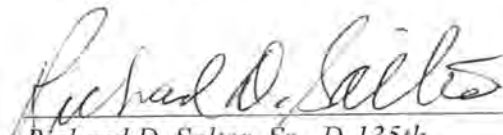
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RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
PUBLIC SAFETY AND TRANSPORTATION

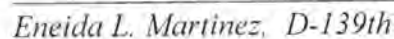
  
Michelle A. Lyons, D-134th, **Co-Chair**

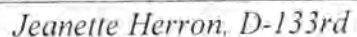
  
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Kathryn M. Bukovsky, D-130th

  
Eneida L. Martinez, D-139th

  
Jeanette Herron, D-133rd

## FIRST ROUND

EXHIBIT A

## SIDEWALK REPAIR PILOT PROGRAM - COST ESTIMATES

Submitted for City Council Review - October 4, 2017

At House #	At Street	Zip	Owner First	Owner Last	Homeowner	COB	TOTAL
117	Alpine Street	06610	Cruz M. & Norma I.	Cotto	\$1,997.75	\$1,997.75	\$3,995.50
33	Anson Street	06606	Garfield & Marcia	Walters	\$2,509.50	\$2,509.50	\$5,019.00
67	Bartram Avenue	06605	Alice & Peter	Martin	\$1,407.50	\$1,407.50	\$2,815.00
240	Beechmont Avenue	06606	Chante	Austin	\$2,748.00	\$2,748.00	\$5,496.00
315	Beechmont Avenue	06606	Sharlene	McPhail	\$1,609.00	\$1,609.00	\$3,218.00
123	Birdsey Street	06610	Rosa	Castro	\$2,586.75	\$2,586.75	\$5,173.50
289	Black Rock Avenue	06605	Richard	Mercado	\$4,106.25	\$4,106.25	\$8,212.50
50	Brooklawn Avenue	06604	Efrain & Nury	Reyes	\$658.25	\$658.25	\$1,316.50
77	Brooklawn Avenue	06604	Bryhanna Coombs-Brown	c/o Marcel Brown	\$3,727.50	\$3,727.50	\$7,455.00
340	Brooklawn Avenue	06604	Ellen	Lieberman	\$3,606.50	\$3,606.50	\$7,213.00
21	Brooklawn Place	06604	Susan	Tabachnick	\$2,517.00	\$2,517.00	\$5,034.00
51	Brooklawn Place	06604	Margaret A.	Judge	\$1,813.25	\$1,813.25	\$3,626.50
68	Brooklawn Place	06604	Steve	Farrell	\$4,292.50	\$4,292.50	\$8,585.00
1224	Capitol Avenue	06606	Rock & Mareille	Desances	\$1,868.25	\$1,868.25	\$3,736.50
250	Clark Street	06606	Chris	Kalfayan	\$809.50	\$809.50	\$1,619.00
190	Clermont Avenue	06610	Nestor	Estrella	\$5,340.00	\$5,340.00	\$10,680.00
289	Cleveland Avenue	06604	Rahmani & Erika	Alford	\$1,672.00	\$1,672.00	\$3,344.00
506	Dewey Street	06605	Eve	Parson	\$1,456.00	\$1,456.00	\$2,912.00
216	Dixon Street	06604	Richard & Latesha	Anderson	\$1,462.00	\$1,462.00	\$2,924.00
195	Eaton Street	06605	Francisco	Acosta	\$2,113.50	\$2,113.50	\$4,227.00
212-214	Ellsworth Street	06605	Vincent	Aurellia	\$1,673.75	\$1,675.75	\$3,349.50
197	Elmwood Avenue	06605	Collie	Ramsay	\$3,710.75	\$3,710.75	\$7,421.50
295	Gilman Street	06605	James & Laura	Canning	\$3,069.00	\$3,069.00	\$6,138.00
140	Harborview Avenue	06605	Faith & Christopher	Ippolito	\$5,480.75	\$5,480.75	\$10,961.50
41	Harborview Place	06607	Laura	Pennock	\$2,088.50	\$2,088.50	\$4,177.00
146	Holly Street	06607	Alberta Curtis &	Kathleen Ellis	\$2,392.75	\$2,392.75	\$4,785.50
35	Judson Place	06610	Eton	Perry	\$1,969.25	\$1,968.25	\$3,937.50
308	Kent Avenue	06610	Timothy & Susan	Marra	\$2,644.00	\$2,644.00	\$5,288.00
1357	Kossuth Street	06608	Merline & George	Cole	\$2,669.50	\$2,669.50	\$5,339.00
1375	Kossuth Street	06608	Guillermo & Norma	Figuroa	\$2,290.25	\$2,290.25	\$4,580.50

## FIRST ROUND

EXHIBIT A

At House #	At Street	Zip	Owner First	Owner Last	Homeowner	COB	TOTAL
434	Lafayette Street	06604	Charles	McNeil	\$2,366.75	\$2,366.75	\$4,733.50
944	Laurel Avenue	06604	Elizabeth	Huckabee	\$607.50	\$607.50	\$1,215.00
964	Laurel Avenue	06604	Igancio & Kathleen	Gandarillas	\$2,074.00	\$2,074.00	\$4,148.00
1210	Laurel Avenue	06604	Aaron	Ricketts	\$2,550.25	\$2,550.25	\$5,100.50
30	Laurel Court	06605	Guiteau	Brutus	\$3,141.75	\$3,141.75	\$6,283.50
68	Lindley Street	06604	Jenny	Rosario-Mora	\$2,296.00	\$2,296.00	\$4,592.00
46	Lorraine Terrace	06604	Judith	Drew	\$1,453.00	\$1,453.00	\$2,906.00
712	Madison Avenue	06606	Lucille	Piccirillo	\$473.00	\$473.00	\$946.00
77	Magnolia Street	06610	Juan & Maria	Rodas	\$1,257.50	\$1,257.50	\$2,515.00
552	Maplewood Avenue	06605	Peter & Marlene	George	\$5,549.75	\$5,549.75	\$11,099.50
233	Monroe Street	06605	Jonathan	Stanley	\$835.00	\$835.00	\$1,670.00
1530-1532	Noble Avenue	06610	Mary F.	Jester	\$4,450.00	\$6,250.00	\$10,700.00
1133	Norman Street	06604	Victor & Zoraida	Vargas	\$694.50	\$694.50	\$1,389.00
80	Pixlee Place	06610	Adolph	Hasbrouck	\$1,476.50	\$1,476.50	\$2,953.00
147	Sixth Street	06607	Marsha & Johnnie	Williams	\$2,393.50	\$2,393.50	\$4,787.00
80-82	Sixth Street	06607	David	Ricks, Jr.	\$1,576.75	\$1,576.75	\$3,153.50
346	Spring Street	06608	Jacqueline	Richardson	\$2,030.00	\$2,030.00	\$4,060.00
55	Sterling Place	06604	Robert	Halstead	\$2,232.00	\$2,232.00	\$4,464.00
150	Victory Street	06606	Kevin	Bria	\$756.25	\$756.25	\$1,512.50
80	Vincellette Street	06606	Jean Wren	Westcott	\$2,518.25	\$2,518.25	\$5,036.50
350	Wade Street	06604	Winsome	Stephenson	\$1,917.00	\$1,917.00	\$3,834.00
246	West Avenue	06604	Luis	Hernandez	\$3,175.25	\$3,175.25	\$6,350.50
539	West Jackson Avenue	06604	Heriberto & Gloria	Reyes	\$2,336.25	\$2,336.25	\$4,672.50
605	West Jackson Avenue	06604	Jose & Kelly	Gonzales	\$5,168.75	\$5,168.75	\$10,337.50
616	West Jackson Avenue	06604	Carole	Dorante	\$2,372.25	\$2,372.25	\$4,744.50
249	Willow Street	06610	Ronald	Setal	\$789.25	\$2,389.25	\$3,178.50
1415	Wood Avenue	06604	Sylvia	Ortega	\$2,026.25	\$2,026.25	\$4,052.50
	<b>TOTAL</b>				\$134,806.75	\$138,207.75	\$273,014.50

**Item# \*137-16 Consent Calendar**

Letter of Commitment regarding FEMA National  
Flood Insurance Program Community Rating System  
(CRS).



**Report  
of  
Committee  
on**

**Public Safety and Transportation**

City Council Meeting Date: October 16, 2017

Attest:

Lydia N. Martinez, City Clerk

Approved by:

Joseph P. Ganim, Mayor

Date Signed:

10/19/17

RECEIVED  
CITY CLERKS OFFICE  
17 OCT 20 AM 11:53  
ATTEST  
CITY CLERK



# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on **Public Safety and Transportation** begs leave to report; and recommends for adoption the following resolution:

### **\*137-16 Consent Calendar**

### **RESOLUTION**

**RESOLVED**, That Joseph P Ganim, Mayor of the City of Bridgeport, be and hereby is authorized to sign the attached "Letter of Commitment, FEMA National Flood Insurance Program Community Rating System (CRS) Program" and any and all other documents and agreements necessary to complete the entrance into the program.

RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**PUBLIC SAFETY AND TRANSPORTATION**

*Michelle A. Lyons*

Michelle A. Lyons, D-134th, Co-Chair

*Mary McBride-Lee*

Mary McBride-Lee, D-135th, Co-Chair

*Jack O. Banta*

Jack O. Banta, D-131st

*Richard D. Salter, Sr.*

Richard D. Salter, Sr., D-135th

*Kathryn M. Bukovsky*

Kathryn M. Bukovsky, D-130th

Eneida L. Martinez, D-139th

Jeanette Herron, D-133rd

*City Council Date: October 16, 2017*





JOSEPH P. GANIM  
Mayor

## CITY OF BRIDGEPORT ENGINEERING DEPARTMENT

CITY HALL - 45 Lyon Terrace  
Bridgeport, Connecticut 06604-4023  
Telephone (203) 576-7211  
Fax (203) 576-7154

JOY URQUIDI  
City Engineer

May 30, 2017

Christopher Markesich  
Sr. Natural Hazards Program Specialist  
Connecticut State Liaison Officer  
Mitigation Division, FEMA Region 1  
99 High Street, 6th Floor  
Boston, MA 02110

Re: Community Letter of Interest to join the Community Rating System

Dear Mr. Markesich:

The City of Bridgeport is interested in participating in the Community Rating System (CRS) so that our residents will qualify for discounted flood insurance premiums.

Our CRS Coordinator is Eugene Kohls, who can be reached at [\(305\)-202-1780](tel:305-202-1780) or [ekohls@iso.com](mailto:ekohls@iso.com).

We will cooperate with FEMA, the Insurance Services Office, Inc. (ISO), and the CRS verification process to ensure that our credited activities are fully earned and warranted.

Please ask ISO to visit us to review our program in depth and verify the creditable activities. We understand that approval from the FEMA Regional Office is needed for the ISO/CRS Specialist to visit the community.

Should you have any questions please contact Megha Jain from the City's Engineering Office at (203)-576-7141 or [Megha.jain@bridgeportct.gov](mailto:Megha.jain@bridgeportct.gov).

Sincerely,

---

Joseph P. Ganim  
Mayor

cc: Eugene Kohls, ISO/CRS Specialist  
Diane Ifkovic, NFIP Coordinator  
Jon Urquidi, Engineering Department  
Megha Jain, Engineering Department



National Flood Insurance Program

# Community Rating System

A Local Official's Guide to

Saving Lives

Preventing Property Damage

Reducing the Cost of Flood Insurance

FEMA B-573 / May 2015



**FEMA**

# How the Community Rating System Works

Every year, flooding causes hundreds of millions of dollars' worth of damage to homes and businesses around the country. Standard homeowners and commercial property policies do not cover flood losses. So, to meet the need for this vital coverage, the Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP).

The NFIP offers reasonably priced flood insurance in communities that comply with minimum standards for floodplain management.

The NFIP's Community Rating System (CRS) recognizes community efforts beyond those minimum standards by reducing flood insurance premiums for the community's property owners. The CRS is similar to — but separate from — the private insurance industry's programs that grade communities on the effectiveness of their fire suppression and building code enforcement.

CRS discounts on flood insurance premiums range from 5% up to 45%. Those discounts provide an incentive for new flood protection

activities that can help save lives and property in the event of a flood.

To participate in the CRS, your community can choose to undertake some or all of the 19 public information and floodplain management activities described in the *CRS Coordinator's Manual*.

You're probably already doing many of these activities. To get credit, community officials will need to prepare an application documenting the efforts.

The CRS assigns credit points for each activity. Table 2 lists the activities and the possible number of credit points for each one. The table also shows the average number of credit points communities earn for each activity. These averages may give a better indication than the maximums of what your community can expect.

To be eligible for a CRS discount, your community must do Activity 310, Elevation Certificates. If you're a designated repetitive loss community, you must also do Activity 510,

Floodplain Management Planning.  
All other activities are optional.

Based on the total number of points your community earns, the CRS assigns you to one of ten classes. Your discount on flood insurance premiums is based on your class.

For example, if your community earns 4,500 points or more, it qualifies for Class 1, and property owners

in the floodplain get a 45% discount. If your community earns as little as 500 points, it's in Class 9, and property owners in the floodplain get a 5% discount. If a community does not apply or fails to receive at least 500 points, it's in Class 10, and property owners get no discount.

Table 1, below, shows the number of points required for each class and the corresponding discount.

Table 1:

### How much discount property owners in your community can get

Rate Class	Discount		Credit Points Required
	SFHA*	Non-SFHA**	
1	45%	45%	4,500
2	40%	40%	3,500
3	35%	35%	2,500
4	30%	30%	1,500
5	25%	25%	1,000
6	20%	20%	750
7	15%	15%	500
8	10%	10%	250
9	5%	5%	50
10	0%	0%	0

\* Special Flood Hazard Area

\*\* Preferred Risk Policies are available only in B, C, and X Zones for properties that are shown to have a minimal risk of flood damage. The Preferred Risk Policy does not receive premium rate credits under the CRS because it already has a lower premium than other policies. Although they are in SFHAs, Zones AR and A99 are limited to a 5% discount. Premium reductions are subject to change.

Item # \*150-16 Consent Calendar

Licensing Agreement with the University of Bridgeport for the use and improvement of the Baseball Field, Diamond #1 located at Seaside Park.



Report  
of  
Committee  
on

Contracts

City Council Meeting Date: October 16, 2017

(Off The Floor)

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by:

Joseph P. Ganim, Mayor

Date Signed: 10/19/17

RECEIVED  
CITY CLERKS OFFICE  
OCT 20 AM 11:53  
ATTEST  
CITY CLERK





# City of Bridgeport, Connecticut

## Office of the City Clerk

*To the City Council of the City of Bridgeport.*

The Committee on Contracts begs leave to report; and recommends for adoption the following resolution:

Item No. 150-16

### **SEASIDE PARK DIAMOND #1 LICENSING AGREEMENT RESOLUTION**

**WHEREAS**, the University of Bridgeport ("UB") desires to improve and use Diamond #1 at Seaside Park for its baseball team; and

**WHEREAS**, the City of Bridgeport ("City") agrees to allow UB to use Diamond #1 as desired pursuant to the Agreement attached hereto as Exhibit A; and

**WHEREAS**, the Parties agree to share the cost of making Diamond #1 NCAA compliant as UB will match the City's expenditure on a 2:1 basis up to a total of \$600,000 on UB's part with a maximum contribution in the amount of \$300,000 from the City; and

**WHEREAS**, in consideration for the aforementioned expenditures, the City will grant UB a license to use Diamond #1 for baseball practices and games from February 1 through May 1 (or longer in the case that the Team qualifies for the NCAA playoffs); and

**WHEREAS**, the Agreement shall commence when executed and continue for a period of 15 years unless otherwise terminated with the option to extend for an additional 15 years; and

**WHEREAS**, the effectiveness of this Agreement is contingent upon the availability of funding; and

**WHEREAS**, the conceptual site plan for the reconstruction of Diamond #1 was unanimously approved by the Parks Board on July 11, 2017.

**NOW THEREFORE, BE IT HEREBY RESOLVED, BY THE CITY COUNCIL:**

1. That it is cognizant of the City's plans to allow UB to use and improve Diamond #1 at Seaside Park.
2. That it hereby authorizes, directs and empowers the Mayor or his designee, the Director of Public Facilities, to execute such Licensing Agreement and other documents as may be necessary to facilitate the use and improvement of Diamond #1 to a NCAA compliant baseball field.



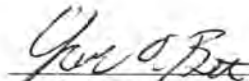
# City of Bridgeport, Connecticut

## Office of the City Clerk

Report of Committee on Contracts  
Item No. 150-16

-2-

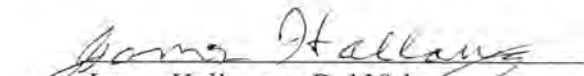
RESPECTFULLY SUBMITTED,  
THE COMMITTEE ON  
**CONTRACTS**

  
\_\_\_\_\_  
Jack O. Banta, D-131st, Co-Chair

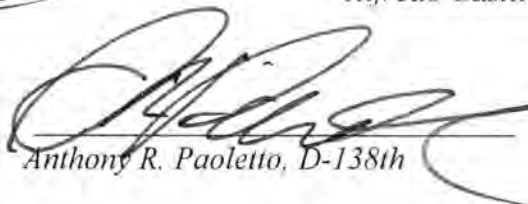
\_\_\_\_\_  
Jeanette Herron, D-133rd, Co-Chair

  
\_\_\_\_\_  
Milta I. Feliciano, D-137th

  
\_\_\_\_\_  
Amy Marie Vizzo-Paniccia, D-134th

  
\_\_\_\_\_  
James Holloway, D-139th

\_\_\_\_\_  
Alfredo Castillo, D-136th

  
\_\_\_\_\_  
Anthony R. Paoletto, D-138th

*City Council Date: October 16, 2017 (Off The Floor)*

LICENSING AGREEMENT  
BETWEEN  
UNIVERSITY OF BRIDGEPORT  
AND  
CITY OF BRIDGEPORT  
AND ITS  
BOARD OF PARKS COMMISSIONERS

RECEIVED  
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17 OCT 17 AM 9:31  
ATTEST  
CITY CLERK

This agreement ("Agreement") is entered into between the **City of Bridgeport, the Board of Park Commissioners, acting through the Department of Public Facilities of the City of Bridgeport**, having an address at Margaret E. Morton Government Center, 999 Broad Street, 2<sup>nd</sup> Floor, Bridgeport, CT 06604 ("City") and the **University of Bridgeport**, a private university organized under the laws of the State of Connecticut, having an address at 126 Park Avenue, Bridgeport, CT 06605 ("UB") with respect to making physical improvements to the baseball field at Seaside Park shown on Exhibit 1 attached hereto (the field, together with the surrounding area, hereafter described as "Diamond #1") to install an NCAA-compliant baseball field which UB will utilize for the limited number of months each year for practices/games for its NCAA men's baseball team ("Team") while allowing unrestricted use to the City at all other times.

NOW THEREFORE, for good and valuable consideration, each received by the other, the parties hereby agree as follows:

1. License to Use the Diamond. In consideration for expenditures (as defined below) toward agreed improvements to Diamond #1, as reflected in Exhibit 1, together with annual pre-season maintenance and in-season grooming as set forth below, the City grants a license to UB to use Diamond #1 for Team baseball practices and games from February 1 through May 1 (or longer in the case that the Team qualifies for NCAA playoffs) and during the Fall semester (collectively hereafter referred to as the "Season") of each year during the Term (defined below).

2. Term. This Agreement shall commence upon signing and continue for a period of fifteen (15) years ("Term"), unless sooner terminated by either party as set forth herein.

a. Extension Option. Either Party shall have the right to renew the Term for an additional fifteen (15) years upon providing the other Party with notice of its intent to renew within three hundred sixty-five (365) days of the expiration of the Term.

3. Improvements. (a.) Both parties agree to contribute monetary payments and/or material or services of value (hereafter "expenditures") to accomplish the agreed upon improvements reflected in Exhibit 1 to Diamond #1 in accordance with a mutually agreed upon Budget and schedule. UB will match the City's expenditures on a 2:1 basis up to a total expenditure of \$600,000 on UB's part. UB agrees to use all reasonable efforts to ensure the best price for the labor and material procured for the project. (b.) The improvements shall be NCAA compliant. (c.) UB shall supervise the improvements in collaboration with City. (d.) As their respective financial resources may allow, UB and City will complete the improvements to Diamond #1 as specified in

Exhibit 1. If either party desires to make an improvement beyond those specified in Exhibit 1, it shall obtain the other party's written approval.

4. Maintenance.

(a.) UB agrees to maintain all playing surfaces year-round.

(b.) City agrees to be responsible for safety inspections and to maintain the areas around the playing field and to remove litter and leaves year-round.

(c.) City shall retain general responsibility for securing the fence around Diamond #1 and for limiting use to UB in accordance with this Agreement or as permitted at other times by written agreement with local baseball leagues. Any written agreement with local baseball league(s) shall provide for appropriate supervision of play by the league(s), as well as for indemnification of the City and UB and appropriate insurance coverage.

(d.) Capital Reserve Account means a jointly-owned bank account established for the deposit of funds to be used for repair and maintenance expenses in excess of \$5,000 that are not covered by insurance. No expenditure shall be made out of the Capital Reserve Account without the expressed written consent of both Parties.

(e.) The Capital Reserve Account Contribution(s) means the initial contribution of \$ 5,000 by each party in the Capital Reserve Account, to be deposited into the joint bank account for the first five (5) years during the Term up to a maximum of \$ 50,000, after which the Parties shall make equal annual contributions to maintain the account at such funding levels. At the termination and/or expiration of this Agreement the Parties shall evenly split the funds remaining in the Capital Reserve Account.

5. Scheduling. In order to facilitate and coordinate scheduling events at the Diamond #1, the parties agree to meet in August or September of each year during the Term. UB shall have priority during the Season and City may schedule events during other times of the year when UB is not using Diamond #1.

6. Liability and Insurance. (a.) UB shall be responsible for any and all claims arising during its use of Diamond #1 and shall indemnify and hold the City harmless from any such claims. (b.) City shall be responsible for any and all claims arising out of or relating to Diamond #1 except when UB is using the facility and shall indemnify and hold the UB harmless from any such claims. (c.) Both parties shall arrange reasonable insurance coverage or shall provide evidence of self-insurance and shall name the other party as an additional insured by certificate and policy endorsement to the extent of their obligations under this Agreement and provide proof thereof.

7. Disputes. All disputes, if they cannot be resolved amicably at a staff level, shall be resolved by a meeting, called by a party on fifteen (15) days prior written notice, among the City's Mayor, the Chairman of the Board of Parks Commissioners, and the President of UB, or their respective designees. If the parties cannot come to agreement within thirty (30) days after such meeting is called, whether or not the meeting is held, any controversy or claim arising out of or

relating to this agreement, or the breach thereof, shall be resolved in a court of competent jurisdiction over the parties located in Fairfield County.

8. Termination. Either party may terminate this Agreement without cause upon a minimum of 365 days written notice to the other party, provided that if the City elects to terminate the Agreement without cause during the Term it shall first reimburse UB for the unamortized portion of UB expenditures paid pursuant to this Agreement based upon the unexpired portion of the Term as of the Termination Date.

9. Notice. Any notice desired or required to be given hereunder shall be given in writing and shall be either hand-delivered, delivered by overnight courier service, or shall be mailed in a post-paid envelope addressed to the other party and deposited in a mailbox operated by the United States Postal Service to the following addresses:

If to the City:

At the address first set forth above, Attention: Mayor.

With a copy to:

City Attorney  
Margaret E. Morton Government Center  
999 Broad Street, 2<sup>nd</sup> Floor  
Bridgeport, CT 06604

If to UB:

At the address first set forth above, Attention: University President.

With a copy to:

Carolyn Linsey, General Counsel, at the address set forth above.

10. Non-discrimination.

(a.) UB shall not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, sexual orientation, marital status, national origin, sex, mental retardation or physical disability, including, but not limited to blindness, in the use of Diamond #1 or any improvements to be erected thereon, and shall not effect or execute any agreement, lease, conveyance, or other instrument whereby Diamond #1 or any part thereof is restricted on the basis of race, color, religious creed, age, sexual orientation, marital status, national origin, sex, mental retardation or physical disability, including, but not limited to blindness, in the use thereof. UB shall comply with all state, and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, color, religious

creed, age, sexual orientation, marital status, national origin, sex, mental retardation or physical disability, including, but not limited to, blindness, in the use of Diamond #1.

11. No Third-Party Beneficiaries. Nothing in this Agreement, expressed or implied, is intended to confer upon any Person, other than the parties hereto or their respective successors, any rights, remedies, obligations or liabilities under or by reason of this Agreement

This Agreement requires the approval of the Board of Parks Commissioners and the Bridgeport City Council and shall become effective upon delivery of a fully-executed original to UB.

IN WITNESS WHEREOF, the parties have set forth their hands and seals on this \_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF BRIDGEPORT

By: \_\_\_\_\_  
Name: Joseph P. Ganim  
Title: Mayor

UNIVERSITY OF BRIDGEPORT

By: \_\_\_\_\_  
Name:  
Title:

BOARD OF PARKS COMMISSIONERS

By: \_\_\_\_\_  
Name: Banjed Labrador  
Title: Acting President



## **Exhibit 1**

### **Description of Diamond and Improvements**

1. TOPOGRAPHIC INFORMATION IS BASED UPON FIELD SURVEY CONDUCTED BY: MCDONALD & MCDONALD INC. DISTRICT TOPOGRAPHIC SURVEY, UNIVERSITY OF BRIDGEMOUNT, BRIDGEMOUNT FIELD IN SOUTHERN ALASKA, SCALE OF 1:250,000, DATUM NAD 83, 1983.

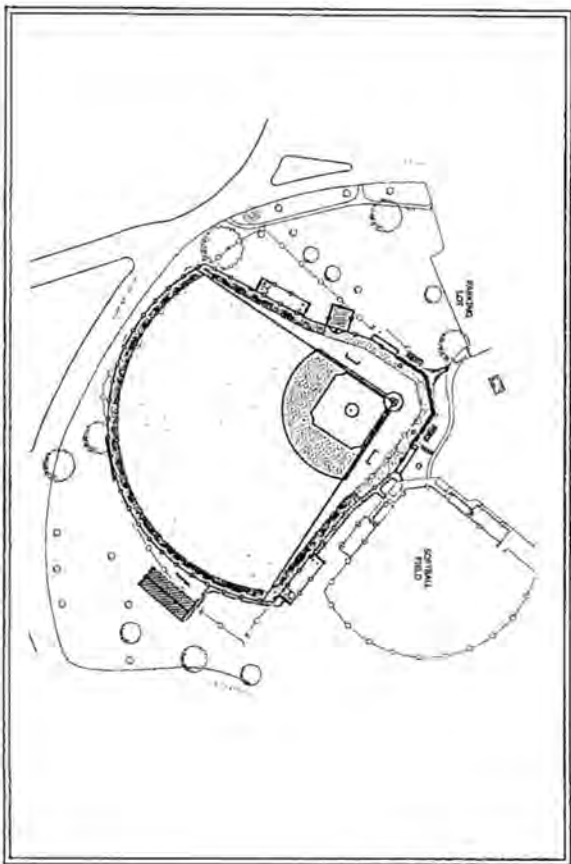
- [illegible]

1. PRIOR TO COMMENCEMENT OF WORK A RECONSTRUCTION MEETING SHALL BE HELD WITH CITY STAFF AND REPRESENTATIVES OF THE INSURER, CONTRACTOR AND OWNER. AT THIS MEETING ONE PERSON WILL BE PLACED IN CHARGE OF ISOLATION AND PROXIMITY CONTROL FOR THE ENTIRE SITE.

- [illegible]


1. SEWAGE AND RAINWATER CONTROLS SHALL BE INSPECTED AT LEAST ONCE A WEEK AND WITHIN 24 HOURS OF THE END OF A STORM WITH A RAINFALL AMOUNT OF 0.5 INCH OR GREATER.
2. THE SEWAGE AND RAINWATER CONTROL PLAN SHALL BE MONITORED BY THE CONTRACTOR AT THE DIRECTION OF THE DISTRICT AND THE CITY'S DESIGNATED REPRESENTATIVE AS NECESSITATED BY CHANGING SITE CONDITIONS.

- [illegible]

BID DOCUMENTS  
AUGUST 30, 2017

**PROJECT SITE VICINITY MAP:**

**PREPARED BY:**



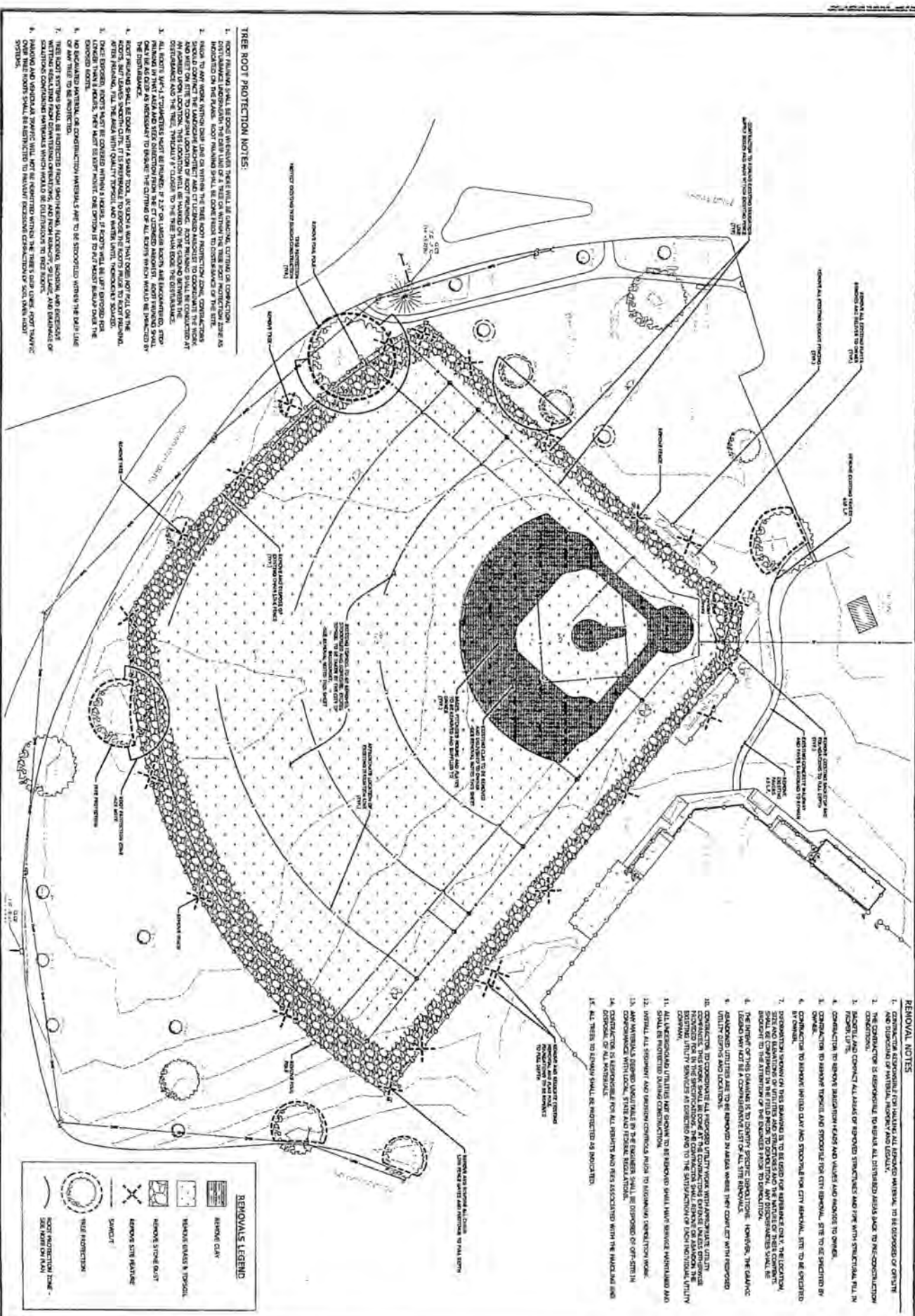
MILONE & MACBROOM<sup>®</sup>

**PREPARED FOR:**  
UNIVERSITY OF BRIDGEPORT  
1261 PARK AVENUE  
BRIDGEPORT, CT 06604

LOCATION MAP  
ENCLOSURE 10000[illegible]

NAME	TITLE
EX	EXISTING CONDITIONS
RI	REMOVAL PLAN
LA	LEAK PLAN, LAPOUT
OP	OPERATION, UTILITIES AND EMISSION CONTROLS
DC-1	DESIGN AND EMISSION CONTROL DETAILS AND INTERPRETATIONS
DC-1047	NOTE DETAILS





**TREE ROOT PROTECTION NOTES:**

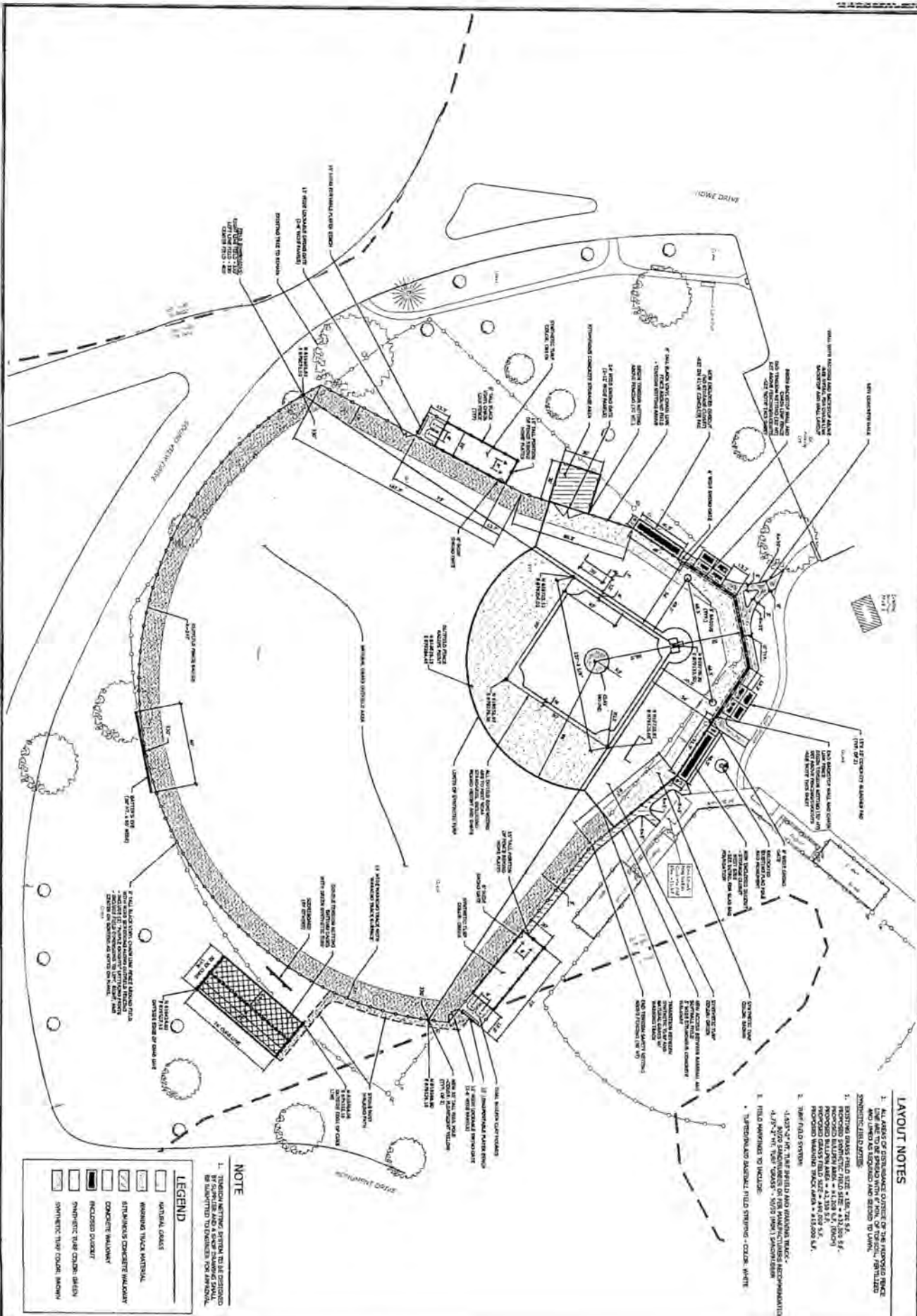
1. ROOT PROTECTION SHALL BE DONE IN ADVANCE OF ANY CONSTRUCTION, CUTTING OR REMOVAL OF EXISTING STRUCTURES, UTILITIES OR LANDSCAPING. THE ROOT PROTECTION SHALL BE DONE IN ADVANCE OF ANY CONSTRUCTION, CUTTING OR REMOVAL OF EXISTING STRUCTURES, UTILITIES OR LANDSCAPING.
2. ROOT PROTECTION SHALL BE DONE IN ADVANCE OF ANY CONSTRUCTION, CUTTING OR REMOVAL OF EXISTING STRUCTURES, UTILITIES OR LANDSCAPING. THE ROOT PROTECTION SHALL BE DONE IN ADVANCE OF ANY CONSTRUCTION, CUTTING OR REMOVAL OF EXISTING STRUCTURES, UTILITIES OR LANDSCAPING.
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**REMOVALS NOTES:**

1. CONSTRUCTION RESPONSIBLE FOR REMOVAL OF ALL EXISTING MATERIALS TO BE DISPOSED OF OFF-SITE AND NOT REUSED OR RECYCLED.
2. THE CONTRACTOR IS RESPONSIBLE TO REPAIR ALL DISTURBED AREAS BACK TO PRE-CONSTRUCTION CONDITIONS.
3. REMOVAL AND CONSTRUCTION SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BRIDGEPORT, CONNECTICUT, ZONING ORDINANCE.
4. CONSTRUCTION TO REMOVE EXISTING BASEBALL FIELD AND UTILITIES SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BRIDGEPORT, CONNECTICUT, ZONING ORDINANCE.
5. CONSTRUCTION TO REMOVE EXISTING BASEBALL FIELD AND UTILITIES SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BRIDGEPORT, CONNECTICUT, ZONING ORDINANCE.
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10. CONSTRUCTION TO REMOVE EXISTING BASEBALL FIELD AND UTILITIES SHALL BE DONE IN ACCORDANCE WITH THE CITY OF BRIDGEPORT, CONNECTICUT, ZONING ORDINANCE.
11. ALL EXISTING UTILITIES NOT SHOWN TO BE REMOVED SHALL HAVE SERVICE MAINTAINED AND SHALL BE PROTECTED DURING CONSTRUCTION.
12. ALL EXISTING UTILITIES NOT SHOWN TO BE REMOVED SHALL HAVE SERVICE MAINTAINED AND SHALL BE PROTECTED DURING CONSTRUCTION.
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20. ALL EXISTING UTILITIES NOT SHOWN TO BE REMOVED SHALL HAVE SERVICE MAINTAINED AND SHALL BE PROTECTED DURING CONSTRUCTION.

**REMOVALS LEGEND:**

	REMOVE EXISTING BASEBALL FIELD
	REMOVE EXISTING BASEBALL FENCE
	REMOVE EXISTING BASEBALL LIGHTS
	REMOVE EXISTING BASEBALL CONCESSIONS
	REMOVE EXISTING BASEBALL RESTROOMS
	REMOVE EXISTING BASEBALL OFFICES
	REMOVE EXISTING BASEBALL STORAGE
	REMOVE EXISTING BASEBALL EQUIPMENT
	REMOVE EXISTING BASEBALL FURNITURE
	REMOVE EXISTING BASEBALL SIGNAGE
	REMOVE EXISTING BASEBALL UTILITIES
	REMOVE EXISTING BASEBALL LANDSCAPING
	REMOVE EXISTING BASEBALL TREES
	REMOVE EXISTING BASEBALL SHRUBS
	REMOVE EXISTING BASEBALL GRASS
	REMOVE EXISTING BASEBALL SOIL
	REMOVE EXISTING BASEBALL ROCKS
	REMOVE EXISTING BASEBALL DEBRIS
	REMOVE EXISTING BASEBALL WASTE
	REMOVE EXISTING BASEBALL HAZARDOUS MATERIALS
	REMOVE EXISTING BASEBALL CONTAMINANTS
	REMOVE EXISTING BASEBALL POLLUTANTS
	REMOVE EXISTING BASEBALL TOXINS
	REMOVE EXISTING BASEBALL PATHOGENS
	REMOVE EXISTING BASEBALL ALLERGENS
	REMOVE EXISTING BASEBALL IRRITANTS
	REMOVE EXISTING BASEBALL CORROSIVES
	REMOVE EXISTING BASEBALL FLAMMABLES
	REMOVE EXISTING BASEBALL EXPLOSIVES
	REMOVE EXISTING BASEBALL RADIOACTIVE MATERIALS
	REMOVE EXISTING BASEBALL OTHER HAZARDOUS MATERIALS



# LAYOUT NOTES

1. ALL AREAS OF EXISTENCE OFFICE OF THE UNIVERSITY OF BRIDGEPORT ARE TO BE MAINTAINED AND NOT TO BE REMOVED OR MODIFIED.
2. EXISTING BASEBALL FIELD (100' x 60').
3. PROPOSED BLEACHERS (100' x 60').
4. PROPOSED DUGOUTS (10' x 10').
5. PROPOSED PARKING LOT (100' x 60').
6. PROPOSED WALKWAYS AND LANDSCAPING.
7. PROPOSED BASEBALL FIELD IMPROVEMENTS - EXIST. WHITE.

## NOTE

1. EXISTING BASEBALL FIELD (100' x 60').

## LEGEND

- EXISTING TRACK MATERIAL
- EXISTING CONCRETE WALKWAY
- CONCRETE WALKWAY
- EXISTING DUGOUT
- EXISTING DUGOUT (NEW)
- EXISTING TRACK (NEW)

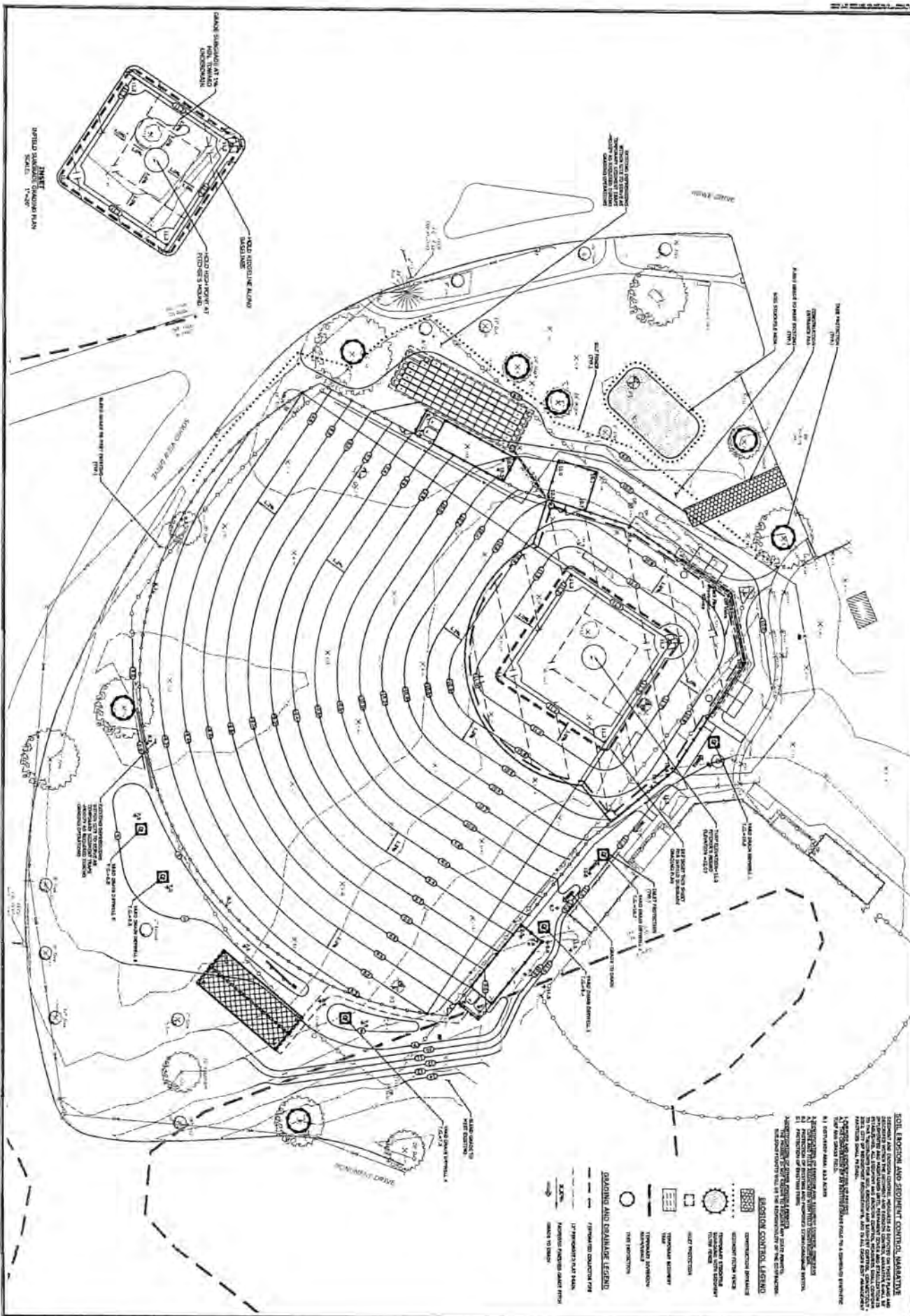
DESCRIPTION	DATE	BY

**MILONE & MACBROOM**  
 60 Sandy Drive  
 Danbury, Connecticut 06810  
 (203) 271-1773 Fax (203) 272-9733  
 www.milone-macbroom.com

**SITE PLAN - LAYOUT**  
**UNIVERSITY OF BRIDGEPORT**  
**BASEBALL FIELD IMPROVEMENTS**  
 SOUND VIEW DRIVE  
 BRIDGEPORT, CONNECTICUT

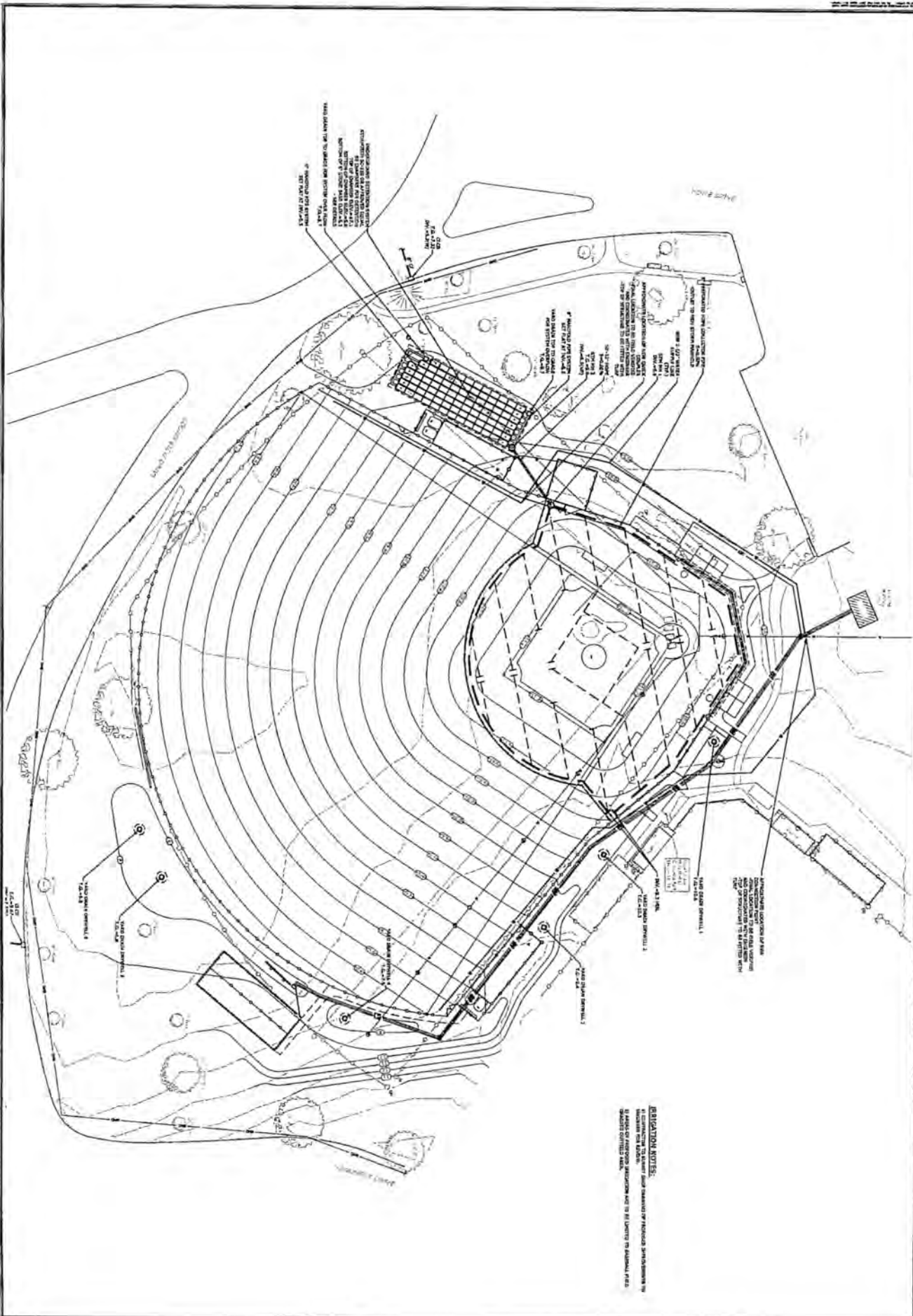
**LA**  
 2003-02  
 2003-02





<b>SITE PLAN - GRADING AND SEDIMENT AND EROSION CONTROLS</b> <b>UNIVERSITY OF BRIDGEPORT</b> <b>BASEBALL FIELD IMPROVEMENTS</b> <b>SOUND VIEW DRIVE</b> <b>BRIDGEPORT, CONNECTICUT</b>		<b>DESCRIPTION</b> _____ <b>DATE</b> _____ <b>BY</b> _____	<b>MILONE &amp; MACBROOM</b> 39 Eddy Drive Canton, Connecticut 06413 (203) 271-1775 Fax (203) 271-9733 www.milone-macbroom.com	
<b>GR</b>	<b>CIN</b> N/A <b>MAN</b> N/A <b>CHK</b> N/A <b>DATE</b> 10/20/17 <b>PROJECT NO.</b> 2017-01 <b>DATE</b> 10/20/17			





**REVISION NOTES:**  
1. ALL UTILITIES SHALL BE DEPTHS TO THE BOTTOM OF THE UTILITY. 2. ALL UTILITIES SHALL BE DEPTHS TO THE BOTTOM OF THE UTILITY. 3. ALL UTILITIES SHALL BE DEPTHS TO THE BOTTOM OF THE UTILITY.

<div style="text-align: center; font-size: 2em; font-weight: bold;">UT</div>	<b>SITE PLAN - UTILITIES</b> UNIVERSITY OF BRIDGEPORT BASEBALL FIELD IMPROVEMENTS SOUND VIEW DRIVE BRIDGEPORT, CONNECTICUT		DESCRIPTION DATE BY	<b>MILONE &amp; MACBROOM</b> 99 Ledy Drive Shelton, Connecticut 06484 (203) 271-1173 Fax (203) 272-9733 <a href="http://www.miloneandmacbroom.com">www.miloneandmacbroom.com</a>		
	CDR JAH DAK	1"=50' AUGUST 10, 2017 2015-03				

[illegible]







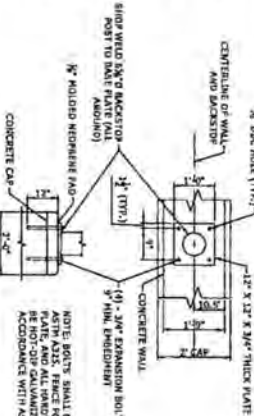
# GENERAL NOTES AND SPECIFICATIONS

IF ANY CONSTRUCTION SHALL BE REQUIRED FOR THE CONSTRUCTION OF THE WALL, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE WALL. THE WORK IN THE PROJECT SHALL BE DONE AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE WALL.

## CONCRETE AND REINFORCING NOTES

ALL CONCRETE SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI AND SHALL BE ADMIXED WITH AIR ENTRAINMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE WALL. THE WORK IN THE PROJECT SHALL BE DONE AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE WALL.

# 3" DIA. HOLE (TYP.)

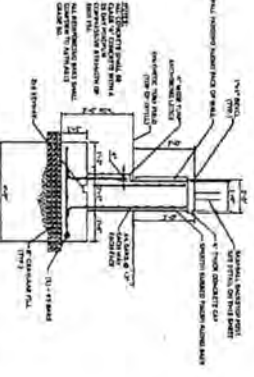


## BACKSTOP POST ANCHORAGE

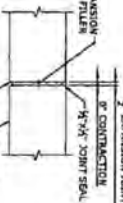
SCALE: 3/8" = 1'-0"

## TYPICAL SECTION - RAISED WALL W/ BACKSTOP

SCALE: 3/8" = 1'-0"



# EXPANSION JOINTS ONLY

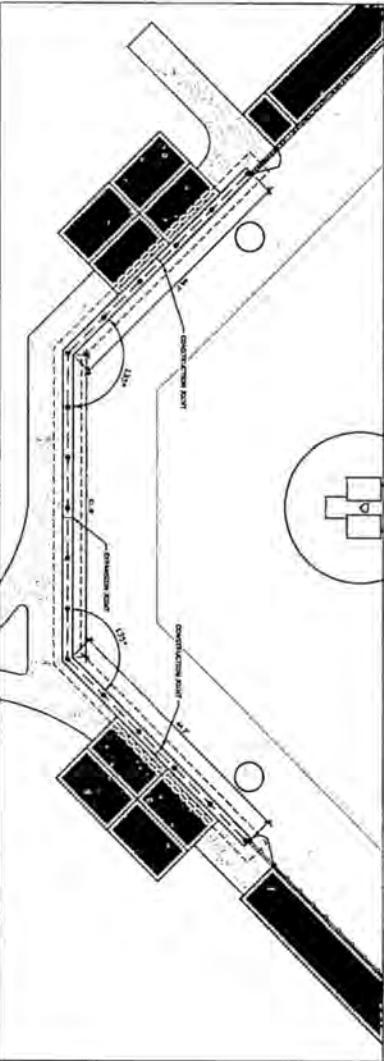


## NOTES

1. JOINTS TO BE LOCATED AT TOP OF WALL.
2. NO REINFORCING SHALL PASS THROUGH EXPANSION JOINTS.
3. EXPANSION JOINTS SHALL BE CONSTRUCTED IN ACCORDANCE WITH ASTM A113.

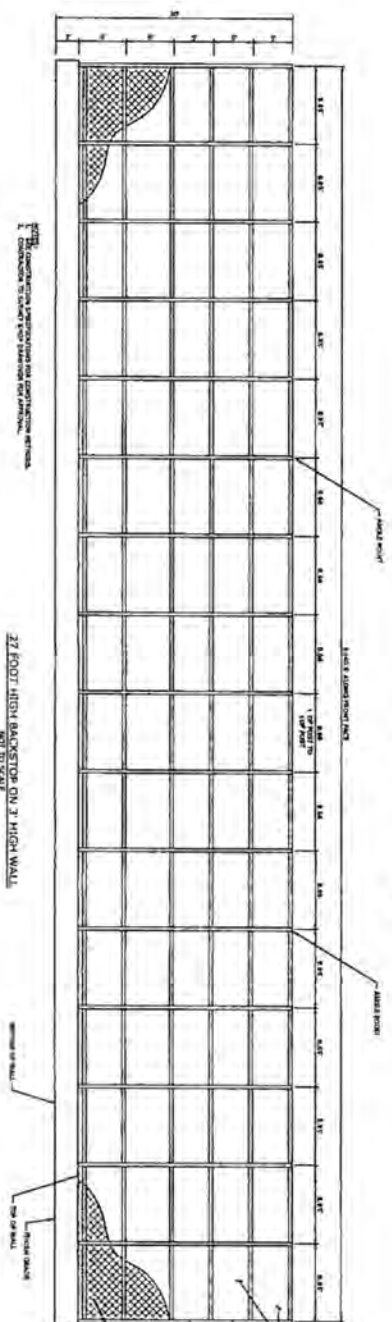
## EXPANSION AND CONTRACTION JOINT DETAIL

NOT TO SCALE



PLAN - WALL AT BASEBALL FIELD WITH CHAIN LINK BACKSTOP

SCALE: 1" = 10'



27 FOOT HIGH BACKSTOP ON 3' HIGH WALL

NOT TO SCALE

SITE DETAILS  
UNIVERSITY OF BRIDGEPORT  
BASEBALL FIELD IMPROVEMENTS  
SOUND VIEW DRIVE  
BRIDGEPORT, CONNECTICUT

SD4

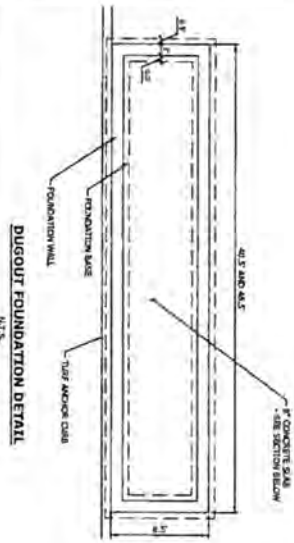
MILONE & MACBROOM  
300 Main Street  
Bridgeport, Connecticut 06610  
(203) 271-1111 Fax (203) 273-0111  
www.milone-macbroom.com





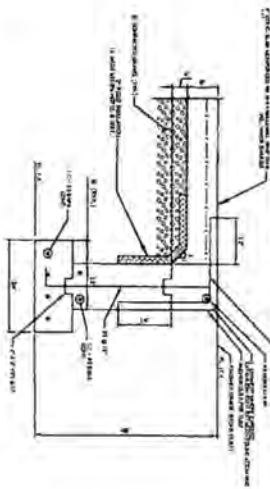
**30' FLAGPOLE FOUNDATION**  
N.T.S.

- 1. 30' CONCRETE SHAFT
- 2. 1'-0" CONCRETE BASE
- 3. 8 #1 BARS @ 12" O.C.
- 4. 8 #4 BARS @ 12" O.C.
- 5. 1'-0" CONCRETE BASE
- 6. 1'-0" CONCRETE BASE
- 7. 1'-0" CONCRETE BASE
- 8. 1'-0" CONCRETE BASE
- 9. 1'-0" CONCRETE BASE
- 10. 1'-0" CONCRETE BASE

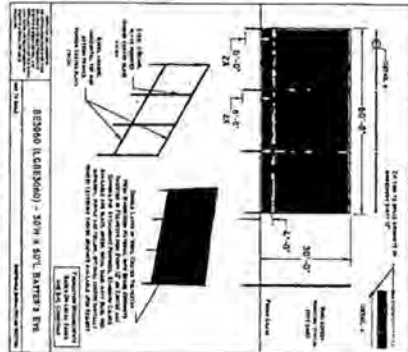


**DUGOUT FOUNDATION DETAIL**  
N.T.S.

**FOUNDATION CONSTRUCTION NOTES**  
1. ALL CONCRETE SHALL BE 4000 PSI STRENGTH.  
2. ALL CONCRETE SHALL BE PLACED IN LAYERS NOT EXCEEDING 4" IN THICKNESS.  
3. ALL CONCRETE SHALL BE VIBRO-COMPACTED.  
4. ALL CONCRETE SHALL BE CURVED PROPERLY.  
5. ALL CONCRETE SHALL BE PROTECTED FROM WEATHER.  
6. ALL CONCRETE SHALL BE PROTECTED FROM DAMAGE.  
7. ALL CONCRETE SHALL BE PROTECTED FROM DAMAGE.  
8. ALL CONCRETE SHALL BE PROTECTED FROM DAMAGE.  
9. ALL CONCRETE SHALL BE PROTECTED FROM DAMAGE.  
10. ALL CONCRETE SHALL BE PROTECTED FROM DAMAGE.



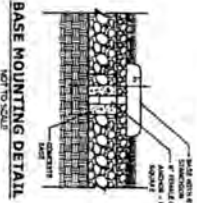
**DUGOUT FOUNDATION SECTION**  
N.T.S.



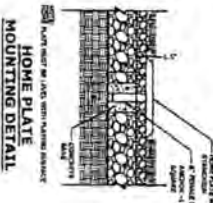
**BATTER'S EYE SCREENING**  
N.T.S.



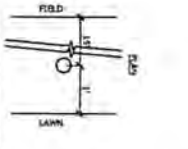
**PITCHING RUBBER**  
NOT TO SCALE



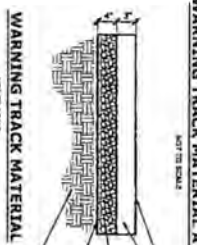
**BASE MOUNTING DETAIL**  
NOT TO SCALE



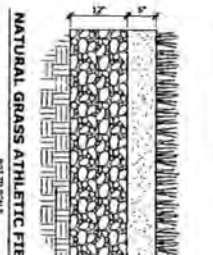
**HOME PLATE MOUNTING DETAIL**  
NOT TO SCALE



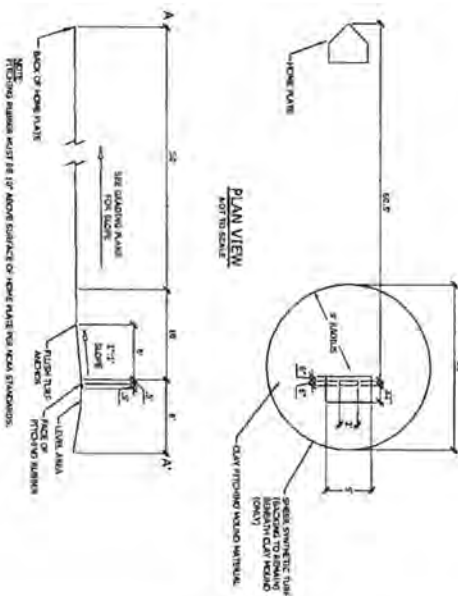
**WARNING TRACK MATERIAL AT FENCE LINE**  
NOT TO SCALE



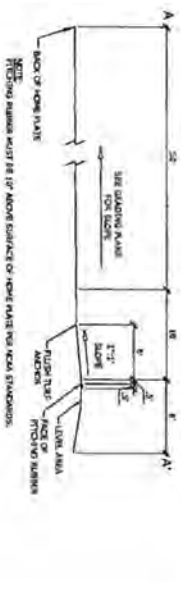
**WARNING TRACK MATERIAL**  
NOT TO SCALE



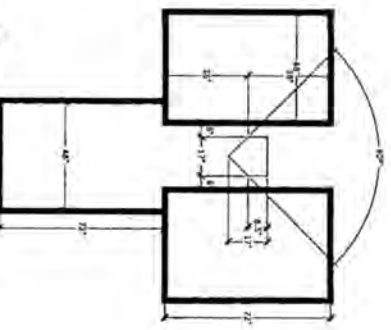
**NATURAL GRASS ATHLETIC FIELD SECTION**  
NOT TO SCALE



**PLAN VIEW**  
NOT TO SCALE



**CROSS SECTION**  
NOT TO SCALE



**BATTER'S BOXES DETAIL**  
NOT TO SCALE

