

## INVITATION TO QUOTE

### *Wilbraham-Ludlow Cottage Avenue/Miller Street Bridge Repair 2023*

The Board of Selectmen will receive quotes for the project entitled “**Wilbraham-Ludlow Cottage Avenue/Miller Street Bridge Repair 2023**” until Wednesday, May 31, 2023 at 3:00 PM. No quote will be accepted after the due date and time. All quotes shall be emailed to Tonya Capparello, PE, Director of Public Works/Town Engineer at [tcapparello@wilbraham-ma.gov](mailto:tcapparello@wilbraham-ma.gov).

DCAMM and the Town of Wilbraham and Ludlow have waived the procurement and advertising requirements under M.G.L. c 149 §44A(4) and M.G.L. c149 §44J(6) to make emergency repairs on the bridge owned by the Wilbraham and Ludlow.

Prevailing State Minimum Wage Rates must be complied with as per MGL Ch 149 section 26-27d. These wage rates are contained within the contract documents. Quoters must obtain a prequalification certificate of approval from the Massachusetts Department of Transportation.

Quotes shall be accompanied by a bid deposit in the amount of 5% of the bid price. The bid deposit must be in the form of a Bid Bond, a Certified Check, or a Treasurer's or Cashier's Check issued by a responsible Bank or Trust Company having office in the Commonwealth of Massachusetts. The Bid Deposit shall be made payable to the Town of Wilbraham.

Contractors **must** provide with their quotes the signed "Contractors Certification" found in the Quote Proposal, which certifies Labor and Harmony, OSHA Training, Non-Collusion and Non-Discrimination.

The Town reserves the right to reject any or all quotes, to waive informalities, to advertise for new proposals, as deemed in the best interest of the Town.

Tonya L. Capparello, P.E.  
*Director of Public Works*  
*Town Engineer*

## ***Wilbraham-Ludlow Cottage Avenue/Miller Street Bridge Repair 2023***

### **SCOPE OF WORK:**

Complete bridge repairs in accordance with to the plans entitled:

“Towns of Wilbraham and Ludlow  
Bridge Repairs for  
Cottage Ave/Miller St Bridge Over Chicopee River  
(Bridge NO. L-16-003=W-35-001(0M6))”

Dated: May 10, 2023

Prepared by: Benesch

**Traffic control set up must be completed by June 12, 2023.**

**Project must be completed by October 1, 2023 unless otherwise approved by the Town**

### **INFORMATION FOR QUOTERS**

#### **RECEIPT OF QUOTES**

Quotes will be received by the Engineering Department on behalf of the Board of Selectmen (herein known as the "Owner") at the time and place given in the Invitation to Quote.

Each Quote shall be submitted in a sealed envelope or via email at [tcapparello@wilbraham-ma.gov](mailto:tcapparello@wilbraham-ma.gov) entitled "**WILBRAHAM-LUDLOW COTTAGE AVENUE/MILLER STREET BRIDGE REPAIR 2023**", addressed to the Town of Wilbraham Board of Selectmen, and received at the Engineering Department, 240 Springfield Street, Wilbraham, MA 01095. If the proposal is mailed the Quoter will be responsible for ensuring the packet is clearly labeled to prevent premature opening.

#### **QUOTE FORM**

Quotes shall be made on the form included in these specifications, be completely filled out in ink or by typewriter, and be accompanied by a Quote bond or certified check issued by a responsible bank or trust company. Discrepancies between numbers and words will be resolved in favor of words.

Quotes by corporations shall be executed in the corporate name by a person who has authority to sign on behalf of the corporation. The title of such person together with the corporate address and state of incorporation shall be shown below the signature.

Quotes by partnerships shall be executed in the partnership name and signed by a partner, whose title shall appear under the signature. The official address of the partnership shall be shown below the signature.

The Quote shall contain an acknowledgment of receipt of all addenda (the numbers of which shall be filled in on the Quote Form).

**\*\*\*Quoters must provide with their Quotes the signed "Contractors Certification" found in the Quote Proposal, which certifies Labor and Harmony, OSHA Training, Non-Collusion and Non-Discrimination.**

#### EXAMINATION OF CONTRACT DOCUMENTS AND SITE

Prior to submitting a Quote, each Quoter shall (a) examine the Contract Documents thoroughly, (b) visit the site to familiarize himself with local conditions that may in any manner affect cost, progress, or performance of the work, (c) familiarize himself with Federal, State, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress or performance of the work; and (d) study and carefully correlate Quoter's observations with the requirements of the Contract Documents. Failure to visit the site will in no way relieve the successful Quoter from his responsibility to complete all work in accordance with drawings and specifications without additional cost to the Owner.

The Contract documents contain the provisions required for the construction of the project. Information obtained from an officer, agent, or employee of the Owner or any other person shall not affect the risks or obligations assumed by the Contractor or relieve him from fulfilling any of the conditions of the contract.

#### PERFORMANCE BOND

A 100% Performance Bond is required.

#### PAYMENT BOND

A Payment Bond in the amount of fifty percent (50%) of the contract price, with a corporate surety licensed to issue bonds in the Commonwealth of Massachusetts and approved by the Owner, will be required for the faithful performance of the contract.

#### POWER OF ATTORNEY

Attorneys-in-fact who sign Quote Bonds, Performance Bonds, or Payment Bonds shall file with each bond a certified and effective dated copy of their power of attorney.

#### AWARD OF CONTRACT

The awarding authority is the Wilbraham Board of Selectmen. Within 45 days after the opening of Quotes, award of the contract will be made to the lowest, responsive, responsible, eligible Quoter, on the form entitled "Notice of Award". The lowest Quoter will be based on the Total Quote Price indicated on the Quote Form.

In order to be considered responsive, a Quoter must:

- 1.Conform in all aspects to the conditions in these specifications and the Invitation to Quote.
- 2.Conform in all aspects to all other requirements in the Contract Documents.

In order to be considered responsible, a Quoter must establish to the complete satisfaction of the Owner that he has: adequate financial resources, the necessary equipment, and the necessary technical experience for the type of work called for in this contract.

**The Owner reserves the right to reject any or all Quotes and to waive informalities.**

## EXECUTION OF AGREEMENT

The party to whom the contract is awarded will be required to execute the Agreement and obtain the Payment Bond, and return to the owner (within 10 calendar days from the date when the Notice of Award is received). The Notice of Award will be accompanied by the Agreement, signed by the Owner.

## NOTICE TO PROCEED

The Notice to Proceed will be issued within 20 days of the execution of the Agreement by the successful Quoter. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between the Owner and the Contractor. If the Notice to Proceed has not been issued within the 20 day period or within the period mutually agreed upon, the Contractor may terminate the Agreement without further liability on the part of either party.

## STATE WAGE RATES

Attention is called to the fact that Massachusetts Prevailing Wage Rates are established for the project as set forth in the Contract Documents.

It is the responsibility of the Quoter, before the Quote opening, to request, if necessary, any additional information on Massachusetts Prevailing Wage Rates for those tradespeople who are not covered by the Applicable Wage Decision, but who may be employed for the proposed work under this contract.

## STATEMENT OF QUOTER'S QUALIFICATIONS

If requested, the Quoter will supply to the Owner a listing of recently completed projects with the project name, owner, type of work, gross contract amount, and owner contact individual with phone number, a listing of equipment available for use on this project, a listing of similar completed projects, and a listing of any defaulted or incomplete projects.

## QUALIFICATIONS OF QUOTERS

The Owner may make such investigations as he deems necessary to determine the ability of the Quoter to perform the work and the Quoter shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Quote if the evidence submitted by, or investigation of, such Quoter fails to satisfy the Owner that such Quoter is properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein.

## CONDITIONAL OR QUALIFIED PROPOSALS

Conditional or Qualified proposals will not be accepted.

## LAWS AND REGULATIONS

All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout.

## EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION

This project is subject to the Equal Employment Opportunity Requirements of Presidential Executive Order 11246 as amended by Executive Order 11375.

#### LIMITATIONS OF DATA PRESENTED

Drawings, surveys, measurements, dimensions, calculations, estimates, borings, and statements as to the condition under which the work is to be performed are believed to be correct.

Wherever existing conditions or construction not required as part of the work of the contract are shown on the drawings, they are so shown as a source of information to the Quoter. The Owner, believing such information to be substantially correct, assumes no responsibility therefor.

The Quoter shall examine the Contract Documents and site as stated in the Information for Quoters. For the purposes of comparing the several proposals, Quotes shall be based on the data presented and the Quoter's examination of the site.

Proposal shall be based upon the project drawings included with the Specifications as issued to all Quoters, which drawings may be modified by addenda issued by the Owner during the Quote period, and later will, as modified by the addenda, become the contract drawings.

The locations of all utilities are obtained from the best available sources, and are to be considered as approximate insofar as size, location, and elevation are concerned. Furthermore, it is expressly understood that there may be utilities in existence other than those shown on the drawings.

#### ADDENDA AND INTERPRETATIONS

Each Quoter shall be responsible for determining that they have received all addenda issued. Information regarding addenda will be distributed to each prospective Quoter.

#### SAFETY AND HEALTH REGULATIONS

This project is subject to all of the safety and health regulations (see 29 CFR part 1926 and all subsequent amendments) as promulgated by the United States Department of Labor on July 24, 1974. Contractors are must comply with the requirements of these regulations. Contractor is required to submit all OSHA cards with first certified payroll. The Contractor must comply with all State, Local and Federal Regulations.

#### ACCESS TO WORK

The Contractor shall provide at all times proper facilities for access and inspection by representatives of any Federal, State, or local agencies having jurisdiction over the work of this project.

#### TIME FOR COMPLETION

Substantial completion shall be completed by October 1, 2023 unless the Owner and Contractor mutually agree upon some other completion time. If the Contractor fails to complete the project by the completion deadline, the contractor shall pay liquidated damages of \$1,000 per day unless the Owner agrees to a lesser amount.

# MASSACHUSETTS GENERAL CONDITIONS

## GENERAL CONDITIONS

### ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The Contractor may be furnished additional instructions and detail drawings, by the Engineer, as necessary to carry out the work required by the Contract Documents.

The additional instructions and detail drawings thus supplied will become a part of the Contract Documents. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

### SCHEDULES, REPORTS AND RECORDS

Within ten (10) days after the work has commenced, the Contractor shall submit to the Owner, for approval, a progress schedule in satisfactory form, showing in detail his proposed progress for the construction of the various parts of the work and the proposed times for receiving the various materials required. He shall, at the end of each month or more often, if required, furnish the Owner two copies of a chart showing actual progress of the various parts of the work in comparison with the originally proposed progress schedule as approved.

The Contractor shall also submit a schedule of payments that he anticipates he will earn during the course of the work.

The work is to commence on or before the date specified in the Notice to Proceed, unless otherwise ordered in writing by the Owner. Work shall continue with dispatch to completion and no suspension of work will be allowed without approval of the Engineer.

No Saturday, Sunday, holiday or work days longer than eight hours requiring the presence of the Engineer, an inspector or observer will be permitted, without prior arrangements with the Engineer, except in the case of an emergency, and then to the extent that is absolutely necessary, and, if practical, with the written permission of the Engineer. If Saturday, Sunday, holiday or work days longer than eight hours are contemplated, the Contractor shall notify the Resident Representative not later than Friday of the previous week to allow arrangements to be made for inspection. If the Contractor must work beyond the regular work week in order to complete the project within the contract time, all expenses of the Engineer and his personnel required for inspection or observation will be paid by the Contractor. For all inspection beyond the regular work week the Contractor shall pay the individual inspector at a rate equal to 1.5 times his normal hourly rate.

Prior to commencing any work at the site requiring the presence of the Engineer or his representative, the Contractor shall notify the Engineer in writing at least 24 hours in advance of the exact date and time on which he intends to start the work.

In the event that the Contractor fails to meet this schedule, the Engineer's on-site time will be assessed to the Contractor and will be deducted from any sums due or which will become due the Contractor.

### DRAWINGS AND SPECIFICATIONS

The intent of the Drawings and Specifications is that the Contractor shall furnish all labor, materials, tools, equipment and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy, or operation by the Owner

It is agreed that the Contract Documents and the interpretations heretofore issued are a part of this Contract. Any work shown on the drawings, though not mentioned in the Contract or Specifications, and any work mentioned in the Contract or Specifications, though not shown on the drawings, is to be executed by the Contractor as part of this Contract.

In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings.

Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk. The Contractor shall have made himself familiar with all conditions affecting the nature and manner of performing the work and shall not be entitled to any extra compensation for any work or expense arising from or caused by his neglect to have verified all existing conditions and requirements.

When equipment and lines of piping are shown diagrammatically, the Contractor shall be responsible for the coordination and orderly arrangement of the various lines of exposed or embedded piping and conduit included in the work of his contract. He shall coordinate the work of the several subcontractors and prevent all interference between the equipment, lines of piping, or structural and architectural features, and avoid any unsightly arrangements in exposed work.

## MATERIALS, SERVICES AND FACILITIES

It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, compete, and deliver the work within the specified time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.

Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned, as directed by the manufacturer.

Materials, supplies and equipment shall be in accordance with samples submitted by the Contractor and accepted by the Engineer.

Materials, supplies or equipment to be incorporated into the work shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

All materials are to be the best and of finest quality of their several kinds. The Contractor shall provide facilities and handle all materials, as required, for the inspection by the Engineer. Materials which have been disapproved by the Engineer shall be removed from the site of the work which shall include all surplus earth and materials which, if in the opinion of the Engineer, are unsuitable, or not in conformity with the Contract or Specifications. Disposal of materials shall be without expense to the Owner. The Contractor shall promptly replace any materials rejected or condemned, and shall not be allowed extra time for completion of the work by reason of such rejection.

## INSPECTION AND TESTING

All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing, in accordance with generally accepted standards.

If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, require any work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor will give the Engineer timely notice of readiness. The Contractor will then furnish the Engineer the required certificates of inspection, testing or approval.

Inspections, tests or acceptances by the Engineer, or others, shall not relieve the Contractor from his obligations to perform the work in accordance with the requirements of the Contract Documents.

Should inspections or test reveal defective work, the defective work shall be made good and unsuitable materials shall be rejected, notwithstanding that such work and materials have been previously overlooked and accepted, or estimated for payment. If the work, or any part thereof, shall be found defective at any time before the final acceptance of the whole work, the Contractor shall, forthwith, make good such defect in a manner satisfactory to the Engineer. Nothing in this contract shall be construed as vesting in the Contractor any right or property in the materials used after they have been



attached or affixed to the work or the soil, but all such materials shall, upon being so attached or affixed, become the property of the owner.

All portions of the work condemned by the Engineer as failing to conform to the Contract Plans or Specifications shall be dismantled and removed, and the Contractor shall promptly replace and re-execute the same, in accordance therewith, and without expense to the Owner, and bear the expense of making good all work or property of other contractors or of the Owner destroyed or damaged by such removal or replacement.

The Engineer, Owner, and their representatives will, at all times, have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency or the Owner shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work, and also for any inspection or testing thereof.

If any work is covered contrary to the written instructions of the Engineer, it must, if requested by the Representative, be uncovered for his observation and replaced at the Contractor's expense.

If the Engineer considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the Engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing, as the Engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection, and testing, and of satisfactory reconstruction. If, however, such work is not found to be defective, the Contractor will be allowed an increase in the Contract Price, or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction, and an appropriate Change Order shall be issued.

## SUBSTITUTIONS

Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements, and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number and if, in the opinion of the Engineer, such material, article, or piece of equipment is of equal substance and function to that specified, the Engineer may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order.

The Contractor warrants that, if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

Whenever it is written that an equipment manufacturer must have a specified period of experience with his product, equipment which does not meet the experience period can be considered, if the equipment supplier or manufacturer is willing to provide a bond or cash deposit for the duration of the specified time period, which will guarantee replacement of that equipment, in the event of failure.

The Contractor shall not be entitled to additional compensation for cost of extra work resulting from any substitutions requested by him. If the cost of the material substituted is less than the cost of the material specified, such savings in cost shall be credited to the Owner and deducted from the contract price

## SURVEYS, PERMITS, REGULATIONS

The Owner shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the work together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents. From the information provided by the Owner, unless otherwise specified in the Contract Documents, the Contractor shall develop and make all detail surveys needed for construction, such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.

The Contractor shall employ, at his expense, a competent surveyor, registered in the state wherein the work is to be done to perform such duties.

The contractor shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

Permits and licenses of temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor, unless otherwise stated in the Contract Documents. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work, as drawn and specified. If the Contractor observes that the Contract Documents are at variation therewith, he shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted, as provided in the Paragraph entitled "Changes in Contract Price".

## PROTECTION OF WORK, PROPERTY AND PERSONS

The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury, or loss to all employees on the work, and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site. These precautions and protections shall include other properties at the site, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor shall be responsible for and pay for all loss or damage to materials and property, whether such are to be incorporated in the work, or are adjacent thereto. The Contractor shall also replace or restore to original condition every public or private way, conduit, catch basin, tree, fence, or other thing injured or interfered with by the Contractor in carrying out the Contract.

The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. He will erect and maintain, as required by the conditions and progress of the work, all necessary safeguard for safety and protection. He will notify owners of adjacent utilities when prosecution of the work may affect them. The Contractor will remedy all damage, injury, or loss

to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the Owner or the Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or Owner, shall act to prevent threatened damage, injury or loss. He will give the Engineer prompt written notice of any significant changes in the work or deviations from the contract Documents caused thereby, and a Change Order shall thereupon be issued, covering the changes and deviations involved.

The General Contractor shall be wholly responsible for patrolling and protecting the work under construction and the materials stored on the site and the existing work. The General Contractor shall have full responsibility for the security of the property and the Owner's materials stored or otherwise located upon the site, and shall reimburse the Owner for any loss, damage, or injury to such materials, except as may be directly caused by the Owner, its agents, or its employees.

## SUPERVISION BY CONTRACTOR

The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain been designated in writing to the Engineer by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordinate of the work.

The Contractor shall employ only competent persons to do the work and, whenever the Engineer shall notify the Contractor, in writing, that any person on the work is, in his opinion, incompetent, unfaithful, disorderly or otherwise unsatisfactory or not employed in accordance with the provisions of this contract, such persons shall be discharged from the work and shall not again be employed on it, except with the consent of the Engineer.

In performance of the contract and insofar as his employees are concerned, the Contractor shall be responsible in addition to items specified elsewhere in the contract, for the following:

- a. Safety of his own tools and equipment whether inside or outside of the construction area.
- b. Protection of the construction site and all adjoining premises or property from all damage until the work has been accepted by the Owner, and making good at his own expense all damage thereto arising out of any contract operations.
- c. Strictly prohibiting and taking all necessary measures to prevent the committing of nuisances on the land of the Owner and adjacent properties.

The Contractor shall coordinate his work with that of any Subcontractors working on the project and allow them all necessary access to the construction areas, so as to facilitate the progress of the work. The Contractor shall coordinate the work of all trades to complete the work within the time required. Each trade shall afford all other trades every reasonable opportunity for installation of their work and for storage of materials.

All workmanship necessary to complete the work required by these specifications shall be of the highest quality. The Contractor shall, at all times, employ workmen in sufficient number and of the various degrees of skill and experience required to perform satisfactorily the work of these specifications in accordance with the best modern standard practice. The Contractor shall bear the entire expense and no separate or direct payment shall be made as a result of extra work which may be necessary because of inferior workmanship, or for specific items of work which are normally considered a part of good workmanship in completing any particular phase of the work.

## CHANGES IN CONTRACT PRICE

The Contract Price may be changed only by a Change Order and the approval of the owner or his/her authorized designee. The value of any work covered by a Change Order, or of any claim for increase or decrease in the Contract Price, shall be as follows:

Payment of Change Order. Payment of all change orders shall be in accordance with the relevant provisions of Massachusetts General Laws, Chapter 30, Section 39G as most recently amended.

Payment of change orders shall be made in accordance with one of the following three methods:

- a. Existing unit prices as set forth in the contract; or
- b. Agreed upon lump sum or unit prices; or
- c. Time and materials

Payment for Work Where There Is A Unit Price In The Contract. Where the contract contains a unit price for work and the Owner orders a change for work of the same kind as other work contained in the contract and is performed under similar physical conditions, the Contractor may accept full and final payment at the contract unit price (s) for the acceptable quantities.

Payment for Work Or For Which No Price Is Contained In The Contract. If directed, the Contractor shall submit promptly in writing to the Owner an offer to do the required work on a lump sum or unit price basis, as specified by the Owner. The stated price, either lump sum or unit price, shall be divided so as to show that it is the sum of:

- (1)The estimated cost of Labor, plus
- (2)Direct Labor Costs, plus
- (3)Material and Freight Cost, plus
- (4)Equipment cost, plus
- (5) An amount not to exceed 20 percent of the sum of Items (1) through (4) for overhead and profit, plus (if applicable),
- (6) In the case of work done by a subcontractor, an amount not to exceed 7 1/2 percent, for the general contractor of the sum of Items (1) through (4) for his overhead and profit, less, if applicable,
- (7)Credits for work deleted from the contract.

Payment For Work On A Time And Material Basis. Unless an agreed lump sum and/or unit price is obtained from above and is so stated in the change price, the Contractor, or any subcontractor, shall accept as full payment an amount equal to:

- (1)The estimated cost of Labor, plus

- (2)The Direct Labor Costs, plus
- (3)Equipment Costs, plus
- (4)Material and Freight Costs, plus
- (5) An amount not to exceed 20 percent of the sum of Items (1) through (4) for overhead and profit, plus, if applicable.
- (6) In the case of work done by a subcontractor, an amount not to exceed 7 1/2 percent, for the general contractor of the sum of Items (1) through (4) for his overhead and profit, less, if applicable,
- (7)Credit for work deleted from the Contract.

Explanation of Items (1) through (7) As Defined Above.

- (1) Labor - Only those workers employed on the project who are doing the extra work, including the foreman in charge, are allowable. General foremen, superintendents, or other supervisory personnel are considered to be included in the overhead mark-up as provided in Items (5) and/or (6). Hourly labor rates in excess of those as listed in the contract wage rates (Federal or State, whichever applies) require documentation. As a minimum, an explanation and the appropriate copy of the certified payroll are required.
- (2) Direct Labor Costs - These costs are limited to those, which are required in the contract document. Coverage in excess of the contract provisions, secured by the Contractor/subcontractor(s) at his option, will not be included for payment. The following is a list of typical direct labor charges.
  - a. Workmen's Compensation
  - b. Federal/State, Social Security Tax and Unemployment Tax; Health, Welfare and Pension Benefits; (this cost is included in the wage rates appearing in the Mass. Wage Rates of the contract specifications.)
  - c. Liability Insurance:
    - Bodily Injury;
    - Excess Umbrella;
    - Property Damage;
    - Public

Blasters Insurance: If applied to any required direct labor

Builders Risk Insurance: "

Experienced Modification Insurance: "

Surcharges: "

Following award and prior to execution of a construction contract, the Contractor and filed sub-bidders (where applicable) shall submit for review by the Owner, documentation to establish the mark-up percentage(s).

The documented direct labor mark-up for this contract may be adjusted on an annual basis as measured from the date the contract is executed. The contract agreement will provide for the establishment of the Direct Labor Cost percentage.

- (3) Material and Freight - Only those materials required as a result of the change order and reasonable freight charges for delivery of same are allowable.
- (4) Equipment - Only the equipment required as a result of the change order is allowable. Equipment rental rates shall be governed by the current Neilson/Dataquest Rental Rate Bluebook for Construction Equipment (the "Bluebook"). In determining the rental rate, the following shall apply.
  - a. For equipment already on the project - the monthly prorated rental rate by the hourly use shall be applicable;
  - b. For Equipment not on the project the daily rate, the weekly rate, or monthly rate will prevail, whichever will prove to be most cost effective. Small tools and manual equipment are examples of costs not allowable under this item. These costs are considered to be included in the overhead mark-up as provided in Items (5) and/or (6).

(1 month {normal use} = 176 hours)

(5) & (6) Overhead and Profit - all other costs not previously mentioned are considered to be included in this item, be it for the General Contractor or subcontractor (s).

(7) Credits - Work deleted, material and equipment removed from the contract, stored and/or returned shall be credited to the cost of the change order, less costs.

Itemized Statements And Access to Accounts. The Contractor shall furnish itemized statements of the cost of the work ordered and shall give the Owner access to all accounts, bills and vouchers relating thereto; and unless the Contractor shall furnish such itemized statements, and access to all accounts, bills and vouchers, he shall not be entitled to payment for any items of extra work for which such information is sought by the Owner.

#### TIME FOR COMPLETION AND LIQUIDATION DAMAGES

The date of beginning and the time of completion of the work are essential conditions of the Contract Documents and the work embraced shall be commenced on a date specified in the Notice to Proceed. The total time allocated for completion of the project is specified in the construction agreement.

The Contractor will proceed with the work at such a rate of progress to insure full completion within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the Owner that the Contract Time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

If the Contractor shall fail to complete the work within the Contract Time, or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for liquidated damages, as specified

in the Bid for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.

The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of work is due to the following, and the Contractor has promptly given written notice of such delay to the Owner or Engineer.

Due to any preference, priority or allocation order duly issued by the Owner.

To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantined restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather.

To any delays of Subcontractors occasioned by any of the causes specified in the preceding paragraphs.

#### CORRECTION OF WORK

The Contractor shall promptly remove from the premises all work rejected by the Engineer for failure to comply with the Contract Documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the work in accordance with the Contract Documents, and without expense to the Owner, and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice, the Owner may remove such work and store the materials at the expense of the Contractor.

#### PAYMENTS TO CONTRACTOR

At least ten (10) days before each progress payment falls due, (but not more often than once a month), the Contractor will submit to the Owner a partial payment estimated filled out and signed by the Contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the Owner may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work, but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the Owner, as will establish the Owner's title to the material and equipment and protect his interest therein, including applicable insurance. Payments to the Contractor are governed by Massachusetts General Law Chapter 30, Section 39G. The Owner shall withhold from each payment due the Contractor an amount equal to 5% of the invoice pending acceptance of the project by the Owner.

The request for payment may also include an allowance for the cost of such major materials and equipment, which are suitably stored either at or near the site.

Prior to Substantial Completion, the Owner, with the approval of the Engineer and with the concurrence of the Contractor, may use any completed or substantially completed portions of the work. Such use shall not constitute any acceptance of such portions of the work.

The Owner shall have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility of the care and protection of the work, or the restoration of any damaged work, except such as may be caused by agents or employees of the Owner.

The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material, men, and furnishes of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged or waived.

Payments to subcontractors are governed by Massachusetts General Laws, Chapter 30, Section 39F.

#### ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. Any payment however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bonds.

#### INSURANCE

The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the contractor's execution of the work, whether such execution be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Workmen's Compensation and other benefits as required under Chapter 152 of the Laws, as amended, and Section 34A of Chapter 149 of the General Laws.
- (2) Employer's Liability with a limit of at least \$300,000 each accident
- (3) Comprehensive Public Liability including Contractor's Liability as applicable to the Contractor's obligations; Elevators (if any on the work): Completed Operations and Products Liability: all on the occurrence basis with Personal Injury coverage and Broad Form Property Damage. Remove the XCU exclusions relating to Explosion, Collapse, and Underground Property Damage. Completed Operations Liability shall be kept in force for at least two years after the date of final completion. Insurance shall name the Owner as an Additional Insured.

#### Personal Injury and Accidental Death - General Liability

Each person/aggregate	\$1,000,000/\$1,000,000
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#### Property Damage - General Liability

Each Occurrence/aggregate	\$1,000,000/\$5,000,000
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Personal Injury - Automobile Liability

Each person/aggregate                      \$250,000/\$500,000

Property Damage - Automobile Liability

Each Occurrence/aggregate                \$50,000/\$50,000

CONTRACT SECURITY

The Contractor shall within ten (10) days after the receipt of the Notice of Award furnish the Owner with a Performance Bond and a Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the work provided by the Contract Documents. Such Bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the state in which the work is to be performed. The expense of these Bonds shall be borne by the Contractor. If, at any time a Surety on any such Bond is declared a bankrupt or loses its right to do business in the state in which the work is to be performed, Contractor shall within ten (10) days after notice from the Owner do so, substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such Bond shall be paid by the Contractor. No further payments shall be deemed due, nor shall be made until the new surety or sureties shall have furnished an acceptable Bond to the Owner.

## ASSIGNMENTS

Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his right, title, or interest therein, or his obligation thereunder, without written consent of the other party.

## INDEMNIFICATION

The Contractor will indemnify, defend, and hold harmless the Owner and the Engineer and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the work, provided that any such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; and is caused, in whole or in part, by any negligent or willful act or omission of the Contractor's and Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

In any and all claims against the Owner or the Engineer, or any of their agents or employees, by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's compensation acts, disability benefit acts, or other employee benefits acts.

The obligation of the Contractor under this paragraph shall not extend to the liability of the Engineer, his agents or employees arising out of the preparation or approval of any or all maps, drawings, opinions, reports, surveys, change orders, designs or specifications.

## SEPARATE CONTRACTS

The Owner reserves the right to let other contracts in connection with this Project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and execution of their work, and shall properly connect and coordinate his work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other contractors, the Contractor shall inspect and promptly report to the Engineer any defect in such work that render it unsuitable for such proper execution and results.

The Owner may perform additional work related to the Project by himself, or he may let other contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such Contracts (or the Owner, if he is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate his work with theirs.

If the performance of additional work by other Contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional work by the Owner or others, involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefor as provided in these General Conditions.

## SUBCONTRACTING

The Contractor may utilize the services of specialty Subcontractors on those parts of the work, which, under normal contracting practices, are performed by specialty Subcontractors.

The Contractor shall not award work to Subcontractor (s) in excess of fifty (50%) percent of the Contract Price, without prior written approval of the Owner.

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

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the Contract Documents, insofar as applicable to the work of Subcontractors, and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor and under any provision of the Contract Documents. Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner.

## ENGINEER'S AUTHORITY

The Engineer shall act as the Owner's representative during the construction period. He shall decide questions which may arise as to quality and acceptability of materials furnished and work performed. He shall interpret the intent of the Contract Documents in a fair and unbiased manner. The Representative will make visits to the site and determine if the work is proceeding in accordance with the Contract Documents.

The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship and execution of the work. Inspections may be made at the factory or fabrications plant of the source of material supply.

The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.

The Engineer shall promptly make decisions relative to interpretation of the Contract Documents.

## LAND AND RIGHTS-OF-WAY

Prior to issuance of Notice to Proceed, the Owner shall obtain all land and right-of-way necessary for carrying out and for the completion of the work to be performed pursuant to the Contract Documents, unless otherwise mutually agreed.

The Owner shall provide to the Contractor information which delineates and describes the lands owned and right-of-way acquired.

The Contractor shall provide at his own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.

## GUARANTEE

The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of Substantial Completion. The Contractor warrants and guarantees, for a period of one (1) year from the date of Substantial Completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects, including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

## SITE REGULATIONS

Removal of Rubbish and Temporary Facilities. On or before the completion of the work, the Contractor shall, without charge therefor, dismantle and remove all trailers, buildings and other temporary structures built by him, remove surplus material and rubbish of all kinds from any grounds which he has occupied and leave the work, grounds and surroundings in clean and neat condition. Periodic cleaning during construction will also be required as requested by the Engineer. Owner will report any unacceptable non-compliance in writing to the contractor and fourteen days thereafter, the Owner may hire an independent service to clean up the grounds and surroundings, the cost for which will be deducted from payment requests of the Contractor.

Tobacco, Liquor, and Drug Restrictions. The Contractor shall neither permit nor suffer smoking where it creates a hazard nor the introduction or use of spirituous or intoxicating liquors, or drugs that inhibit the ability to perform work, upon or about the works embraced in this contract or upon any of the ground occupied by him.

Posters. The Contractor shall not permit or suffer any placards, posters or advertisements to be displayed on or about the premises unless approved by the Owner.

## GENERAL STATUTORY REQUIREMENTS

The Contractor shall keep himself informed of all existing and future State and National Laws and municipal ordinances and regulations in any manner affecting those engaged or employed in the work, or the materials used or employees in the work, or in any way affecting the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and of all provisions required by law to be made a part of this contract, all of which provisions are hereby incorporated by reference and made a part thereof. If any discrepancy or inconsistency is discovered in the drawings or specifications or contract for this work in relation to any such law, ordinance, regulations, order of decree, he shall forthwith report the same to the Engineer in writing. He shall at all times himself observe and comply with, and shall cause all his agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and the Engineer and all of its and their officers, agents, and servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by himself or his employees or subcontractors. All materials furnished and work done are to comply with all State and Federal laws and regulations.

## LIENS

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens arising out this contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts including all labor and materials for which a lien could be filed have been paid; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner, to indemnify him against any lien. If any lien remains unsatisfied, after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

## CHANGES IN THE WORK

The Owner may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents or in the time required for performance of the work, an equitable adjustment shall be authorized by Change Order.

The Engineer, also may at any time, by issuing a Field Order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the Engineer unless the Contractor believes that such Field Order entitles him to change in contract price or time, or both, in which event he shall give the Engineer written notice thereof within seven (7) days after receipt of the ordered change. Thereafter the Contractor shall document the basis for the ordered change. Thereafter the Contractor shall document the basis for the change in contract price or time within thirty (30) days. The Contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the Owner.

## SUSPENSION OF WORK, TERMINATION AND DELAY

The Owner may suspend the work or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the Engineer which notice shall fix the date on which work shall be resumed. The Contractor will resume that work on the date so fixed. The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension.

If the Contractor is adjudged bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to subcontractors or for labor, materials or equipment, or if he disregards laws, ordinances, rules, regulations, or orders of any public body having jurisdiction of the work, or if he disregards the authority of the Engineer, or if he otherwise violates any provision of the contract documents, then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and his surety a minimum of ten days from delivery of a written notice, terminate the services of the Contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price

exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owners. Such costs incurred by the Owner will be determined by the Engineer and incorporated in a Change Order.

Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents.

After ten (10) days from delivery of a written notice to the Contractor and the Engineer, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the Contract. In such case, the Contractor shall be paid for all work executed and any expense sustained plus reasonable profit.

If, through no act or fault of the Contractor, the work is suspended for a period of more than ninety (90) days by the Owner or under an order of court or other public authority, or the Engineer fails to act on any request for payment within thirty (30) days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Engineer or awarded by arbitrators with thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to the Owner and the Engineer, terminate the Contract and recover from the Owner payment for all work executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the Engineer has failed to act on a request for payment or if the Owner has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to the Owner and the Engineer stop the work until he has been paid all amounts then due, in which event and upon resumption of the work, change orders shall be issued for adjusting the contract price or extending the contract time or both to compensate for the costs and delays attributable to the stoppage of the work.

If the performance of all or any portion of the work is suspended, delayed, or interrupted as a result of a failure of the Owner or Engineer to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time an adjustment in the contract price or an extension of the contract time, or both, shall be made by change order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner or Engineer.

#### PRE-CLAIMS COUNSELING, LITIGATION AND ARBITRATION

All claims, disputes and other matters in question between the Contractor and the Owner arising out of, or relating to, the Contract Documents or the breach thereof, except with respect to the Engineer's decisions on matter relating to artistic effect, and except for claims which have been waived by the making or acceptance of final payment shall first be presented for pre-claims counseling and dispute resolution activities. If agreement cannot be reached by this method, all claims, disputes and other matters in question shall be decided by means of an action or actions brought by either party in a court of law having competent jurisdiction and shall not be submitted to arbitration unless:

- A. Both parties mutually consent to arbitration with respect to a particular claim, dispute, or other matter in question (consent to arbitration with respect to a particular claim, dispute or other matter in question not being deemed consent to arbitration for all or any claims, disputes or other matters in question), or;

B. The laws or regulations of a state, municipality or other governmental authority having jurisdiction mandate that such claims, disputes and other matters in question be submitted to arbitration.

If arbitration is used to resolve a particular claim, dispute or other matter in question, it shall be in accordance with the construction arbitration rules of the American Arbitration Association when obtaining unless the parties mutually agree otherwise. Nor arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, the Engineer, his employees or consultants except by written consent containing a specific reference to the Owner-Contractor Agreement and signed by the Engineer, the Owner, the Contractor and any other person sought to be joined, no arbitration shall include by consolidation, joinder or in any other manner, parties other than the Owner, the Contractor and any other persons substantially involved in a common question of fact or law, whose presence is required if complete relief is to be accorded in the arbitration. No person other than the Owner or Contractor shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Any consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein or with any person not named or described therein. The forgoing agreement to arbitrate and any other agreement to arbitrate with an additional person or persons duly consented to by the parties to the Owner-Contractor Agreement shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon in accordance with applicable law in any court having jurisdiction thereof.

Notice of the demand for arbitration shall be filed in writing with the other party to the Owner-Contractor Agreement and with the American Arbitration Association and a copy shall be filed with the Engineer. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable Statute of Limitations.

The Contractor and the Owner agree that the Contractor shall carry on the work and maintain its progress during the period when and action in a court of competent jurisdiction is pending or any arbitration proceeding, as the case may be, and the Owner shall continue to make payments to the Contractor in accordance with the Contract Documents.

## MASSACHUSETTS SUPPLEMENTAL CONDITIONS

### SUPPLEMENTAL CONDITIONS

#### APPLICATION

The Special Conditions under these Specifications are applicable to all work contemplated under this contract.

#### SPECIFICATIONS AND DRAWINGS

All Work shall conform to these Specifications entitled:

#### **Wilbraham-Ludlow Cottage Avenue/Miller Street Bridge Repair 2023"**

any changes, drawings, plans, and directions that may be furnished from time to time by the Engineer.

#### HOURS OF WORK

All work is to be performed between the hours of 7:00 AM and 6:00 PM, Monday through Friday (legal holidays and weekends excluded) unless otherwise directed by the owner.

#### RECORD DRAWINGS

The Contractor shall keep at the site a record set of prints on which he shall clearly and accurately record all approved changes and/or additions to the contract work made to meet field conditions. The set of drawing shall be used for this purpose only and are to be delivered to the Owner in good condition at the completion of the work before the final payment shall be due and payable, as an accurate record of the work executed.

#### UTILITY PROTECTION AND RESTORATION

Written notice shall be given by the Contractor to all public service corporations or officials owning or having charge of public or private utilities of his intention to commence operations affecting such utilities at least 48 hours exclusive of Saturdays, Sundays, and legal holidays in advance of the start of such operations in accordance with Chapter 82, Section 40, of the General Laws, as amended and the Contractor shall at the time file a copy of said notice with the Engineer.

When necessary, the Contractor shall cooperate with representatives of public service companies in order to avoid damage to their structures by furnishing and erecting suitable supports, props, shoring, or other means of protection. Fire hydrants adjacent to the work at all times shall be readily accessible to fire apparatus and no material or other obstructions shall be place within a radius of 10 feet of a fire hydrant.

Although the drawings may indicate the approximate location of existing subsurface utilities in the vicinity of the work, the accuracy and completeness of the information is not guaranteed by the Owner. Before commencing any work, or operations which may endanger or damage any subsurface structures, the Contractor shall carefully locate all such structures and conduct his operations in such a manner as to



avoid damage thereto. Prior to any construction activity, Contractor to contact DigSafe Center (1-800-322-4844). He shall not interrupt live services until new services have been provided. All abandoned services shall be plugged or otherwise made secure.

If the Contractor wishes to have any utilities temporarily relocated for his convenience, other than those specified by the Owner, he shall make the necessary arrangements with the Owners and make reimbursement for the cost thereof at his own expense.

Land monuments and property markers shall be carefully protected, and if necessary, to remove the same, he shall do so only at the Engineer direction and after an authorized agent has witnessed or otherwise referenced their location.

The Contractor shall not injure or remove trees or shrubs without proper authority. Insofar as possible the Contractor shall confine his movements and operations to the area within the limits of the location and the area outside the scope of work shall not be disturbed.

The Contractor will receive no extra compensation for protection and restoration of property unless less said compensation is authorized in writing by the Owner, as specified on the printed form of contract.

#### CLEAN UP AND RESTORATION

After all construction operations are completed, the Contractor shall clean his area of operation of all boulders, stumps, and debris and shall leave the area in clean and orderly condition. Any areas within or outside the limits of work, whether regarded or not, which have become scarred, rutted or eroded, due to conditions arising from work performed under this contract, shall be restored to their natural condition by filling and/or top soiling, including fertilizing, seeding and mulching as directed by the Engineer.

The Contractor is hereby noted that blowing litter, debris, paper and styrofoam materials will be considered a nuisance under his control. Contractor will provide and periodically empty receptacles for litter and garbage collection and periodically patrol the site and adjacent properties and remove all loose blowing litter from the site work or workers.

#### DUST CONTROL

The Contractor is placed on notice that blowing dust from unstabilized earth areas of the work will be considered a nuisance under his control. He shall, by spraying with water or by other approved means, dampen the soil to hold down the dust. During working hours and before leaving the work for the evening, for weekends, or for more extended periods, he shall assess the moisture content of the soil and dampen it to the extent necessary to hold down the dust. While work is suspended he shall return to work, if so directed by the Engineer to maintain the dust control.

#### VEHICLE WEIGHT LIMITS

The Contractor's attention is directed to Chapter 90, Section 19A of the General Laws as amended concerning the weight limits for construction type motor vehicles.

No materials supplied for the project shall be accepted in vehicles whose gross weight exceeds the legal load limits as determined by the regulatory agencies of the Commonwealth and Federal Government.

Weight slips that indicate the loads exceeding the legal load limit shall not be countersigned by the Engineer.

#### JOB MEETINGS

The Contractor shall conduct regular job meetings once every week during the construction period and more often as required, at such time as is mutually acceptable by the Owner and Contractor. Major subcontractors and other trades or subcontractors may be called to a particular job meeting as the progress of the work requires.

## DETOURS AND TRAFFIC INTERFERENCE

The Contractor shall contact the controlling Police Department, in order to obtain the necessary permission and determine the requirements of said authority with respect to traffic control, etc. The Contractor's attention is directed to the fact that the work on this Project may be performed on streets and in areas which are utilized by pedestrians as well as by vehicles. The Contractor shall be responsible for the installation of adequate precautions and other safety measures and controls deemed necessary by the Owner or Engineer for their own personnel. Trenches shall not be opened in traveled ways until all materials and equipment required for the work are at the site and available for immediate use. When work is not in progress, trenches in areas subject to public travel shall be covered. The work at each trench shall be such that the placing of pipe or structure, backfilling, and patching of the surface closely follows each preceding operation.

## REMOVAL OF WATER AND PROTECTION FROM FLOODING

The Contractor shall provide and maintain all pumps, piping, drains, well points, or any other facility for the control and collection of groundwater or surface water. The dewatering operations shall be such that all excavations may be kept at all times free from water so that all construction work may be performed in the dry. The pumping and dewatering operations shall be carried out in such a manner that no loss of ground or disturbance to the bearing soil will result from these operations. Precautions shall be taken to protect new and existing work from flooding during storms and other causes. Pumping shall be continuous where/as required to protect the work and to maintain satisfactory progress. All pipelines and structures not stable must be thoroughly braced or otherwise protected. Discharge water shall be piped to an area approved by the Engineer. The Contractor shall be responsible for maintenance of flow in all water courses, water pipes, drains and other pipes in the flow way of the proposed work or for any conveyance of the flow to a suitable point of discharge in such a manner that there will be no flow upon or hindrance to other work or cause a nuisance of any kind.

Any pumping or temporary piping necessary to maintain flows at the site shall be included in the bid prices. During the performance of all work under this contract, the Contractor shall adopt such precautions in the conduct of his operators as may be necessary to avoid contaminating water in any brook, river, pond and/or lake. All earthwork, grading, moving of equipment, water control and other operations likely to create situations, shall be so planned and conducted as to minimize pollution in all water bodies. Turbidity is not to exceed background levels plus 10 NTU as a consequence of construction activities in the project area. Water used for any purpose whatsoever by the Contractor, which has become contaminated with soil, bituminous, salt, concrete or other pollutants shall not be discharged into any water body. Under no circumstances shall the contractor discharge pollutants into any water body. Note: The Contractor shall not store fuel nor permit any refueling of construction equipment while such equipment is in a water body or within 50 feet of its bank.

## BARRICADES

Barricades, signs, fences and similar safety and warning devices shall be provided both day and night as required in order to insure the protection of the public as well as employees and others concerned with their duties and presence on the premises at the project site.

## EXCAVATION, BRACING, SHORING AND SHEETING

A. General. The Contractor is solely responsible for designing and constructing stable, temporary excavation and should shore, slope, or bench the sides of the excavations as required to maintain stability of both the excavation sides and bottom. All excavations should comply with applicable local, state, and federal safety regulations including the current OSHA Excavations and Trench Safety Standards. Construction site safety generally is the sole responsibility of the Contractor, who shall also be solely responsible for the means, methods, and sequencing of construction operations. The Town of Wilbraham is providing this information solely as a service to the successful bidder. Under no circumstances should the information provided below be interpreted to mean that The Town of Wilbraham is assuming responsibility for construction site safety or the Contractor's activities; such responsibility is not being implied and should not be inferred.

B. Excavations and Slopes. In no case should slope height, slope inclinations, or excavation depth, including utility trench excavation depth, exceed those specified in local, state, and federal safety regulations. Specifically, the Current OSHA Health and Safety Standards for Excavations, 29 CFR Part 1926 should be followed. It is our understanding that these regulations are being strictly enforced and if they are not closely followed, the Owner and the Contractor could be liable for substantial penalties.

The Contractor's "responsible person", as defined in 20 CFR Part 126, should evaluate the soil exposed in the excavations are part of the contractor's safety procedures. If an excavation, including a trench, is extended to a depth of more than twenty (20) feet, it will be necessary to have the side slopes designed by a professional engineer registered in the state where construction is occurring.

The Contractor's "responsible person" should establish a minimum lateral distance from the crest of the slope for all vehicles and spoil piles. Likewise, the Contractor's "responsible person" should establish protective measures for exposed slope faces.

C. Temporary Shoring. As an alternative to temporary construction slopes, vertical excavations for these excavations can be temporarily shored. The Contractor or the Contractor's specialty subcontractor will be responsible for the design of the temporary shoring.

The Contractor shall provide all bracing, shoring and sheeting as required for safety and for the proper execution of work. Unless otherwise ordered by the Engineer, all bracing, shoring and sheeting shall be removed when work is completed.

## GUARD LIGHTS

The Contractor shall at all times provide and maintain guard lights at all barricades and obstructions in roads, driveways, sidewalks and other pedestrian or traffic pathways and all trenches and pits adjacent to roads.

## WEATHER PROTECTION

The Contractor shall at all times provide protection against rain, wind, storm, frost, or heat so as to maintain all work, materials, apparatus, and fixtures free from injury or damage. At the end of the day's work, all new work likely to be damaged shall be covered.

## ELECTRICITY

The Contractor shall arrange for and furnish and maintain all electricity for proper pumping, lighting, and the use of power tools up to the time of final acceptance.

## SHELTER AND PROTECTION OF MATERIALS

The Contractor shall be responsible for providing adequate storage facilities for all materials required for the work. The facilities shall be enclosed, heated, and provided with moisture control, as required, to provide adequate protection and shall be satisfactory to the engineer.

## ACCESS TO WORK SITE

The Contractor shall construct at his own expense such temporary access roads as may be necessary for his equipment, men, and materials to reach the sites of the work and to carry out the terms of the contract. Upon completion of the work, all temporary access roads shall be removed and the areas graded, seeded, and mulched; and otherwise restored to their original condition satisfactory to the Engineer. Particular attention shall be paid to prevention of erosion and siltation to any water bodies caused by wheel track and ruts.

## MAINTENANCE AND PROTECTION OF TRAFFIC

The Contractor shall keep the roadway under construction open to traffic for the full length of the project and shall provide a sufficient number of travel lanes and pedestrian pass ways to conduct the traffic ordinarily using the roadway.

When a scheme for maintenance of traffic which may include detours is proposed by the Contractor, this proposal showing detours and sign placements (locations, size, type, etc.) must be submitted to the Engineer for approval with sufficient notice to allow publications in the local newspapers and this proposal offered by the Contractor shall be at no additional cost to the Town and must be included in this item.

All signs, barricades, and devices shall be furnished by the Contractor at an included in the lump sum price. All signs and barricades furnished by the Contractor for the protection of the public shall be illuminated by lanterns, flashers, flares, or other means acceptable to the Engineer during the hours of darkness or low visibility.

All signage is considered incidental and is the contractor's full responsibility to ensure adequate signage and provide a safe work zone. Where uniformed officers are required, the contractor will contact the Police Department and schedule the detail officer. The Contractor is responsible for canceling detail officer within the timeframe set by the Police Department. The Town will not pay for a detail officers that are not canceled in time due to inclement weather or not needed. The Town will only pay for detail officers provided slips are signed by both parties: the contractor and the detail officer. Signed slips will be provided to the Town on a weekly basis. The Town will only pay for officers that slips have been provided to the Town. Any slips not provided or unsigned by contractor and officer will be the contractors sole responsibility for payment.

The Town will pay for the Police Officers directly to the controlling Police Department.

## TAXES

The Owner is an exempt purchaser under the Sales Act, Chapter 14 of the Acts of 1966 to the extent that materials and supplies are used or incorporated in the performance of the Contract. The Contractor shall obtain from the Owner an exemption certificate number to be used in lieu of paying the tax on exempted items.

#### MASSACHUSETTS DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS

The Standard Specifications for Highways and Bridges of the Massachusetts Department of Transportation, as amended; as added to and /or further amended elsewhere in this Project Manual shall, insofar as technical requirements are involved, govern on the execution of this project. Such Standard Specifications are made a part of these Specifications by this reference and will not be repeated herein. It is the responsibility of prospective bidders to familiarize themselves with these Standard Specifications, copies of which may be examined at the office of the Engineer and may be obtained, upon payment of the cost thereof, from the Massachusetts Department of Transportation. If a conflict arises between the Standard Specifications and those bound within this booklet, those bound herein shall govern.

QUOTE PROPOSAL

Proposal of \_\_\_\_\_(hereinafter called "Quoter") organized and existing under the laws of the State of

\_\_\_\_\_Massachusetts\_\_\_\_\_ doing business as\_\_\_\_\_ to the Board of Selectmen,

Town of Wilbraham, Massachusetts (hereinafter called the "Owner"). In compliance with your Invitation to Quote, Quoter hereby proposed to perform all work for the contract entitled " **Wilbraham-Ludlow Cottage Avenue/Miller Street Bridge Repair 2023**", within the time set forth therein and at the price stated below.

By submission of this Quote each Quoter certifies, and in the case of a joint Quote, each party thereto certifies as to his own organization that this Quote has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Quote with any other Quoter or with any competitor.

Quoter hereby agrees to commence work under this contract on or before the date to be specified in the Notice to Proceed and to fully complete the project within the window set forth in the section of the Specifications entitled "Time for Completion".

Quoter acknowledges receipt of the following addendum:

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

The undersigned further certifies under the penalties of perjury that this Quote is in all respect bona fide, fair, and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation, or other business of legal entity.

Certifications required with Quote submittal:

**CERTIFICATION OF LABOR AND HARMONY AND OSHA TRAINING**

Prior to the start of construction the contractor must provide CERTIFICATION OF LABOR HARMONY AND OSHA TRAINING M.G.L. c. 30 § 39 S (a), requires any person submitting a Quote for, or signing a contract to work on, the construction, reconstruction, alteration, remodeling or repair of any building or public works project undertaken by a public awarding authority in Massachusetts that is estimated to cost more than \$10,000 to clarify on the Quote or contract, under penalties of perjury: (1) that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the

work; (2) that all employees to be employed to the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and (3) that all employees to be employed in the work subject to this Quote have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

**CERTIFICATION OF NON- COLLUSION**

The undersigned further certifies under the penalties of perjury that this Quote is in all respects bonafide, fair, and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation, or other business of legal entity.

**CERTIFICATION OF NON- DISCRIMINATION** The undersigned hereby certifies that it will not discriminate against any employee or applicant for employment on the basis of race, color, creed, national origin, age, sex, or disability.

Contractors **must** provide with their sewer Quotes the "Contractors Certification" located below.

A. Contractor's Certification

\_\_\_\_\_  
(Signature of authorized representative of Contractor)

Respectfully submitted:

Business Name \_\_\_\_\_

Address \_\_\_\_\_

Signature of Quoter \_\_\_\_\_

Title \_\_\_\_\_

Print name of Quoter \_\_\_\_\_

Date \_\_\_\_\_ Attest \_\_\_\_\_

Lump Sum Amount: \$ \_\_\_\_\_

Lump Sum Amount in written words: \_\_\_\_\_



## **PREVAILING WAGES**