

**CITY OF EVERETT
MASSACHUSETTS**

CONTRACT DOCUMENTS
FOR

MAIN STREET MEADOW – 66 MAIN STREET - 25-25



Purchasing Department
Allison Jenkins
Chief Procurement Officer
Everett City Hall
484 Broadway, Room 14
Everett, MA 02149

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INVITATION TO BID

Sealed bids for furnishing the following project will be received at the Purchasing Department, Room 14, City Hall, 484 Broadway, Everett, MA 02149, until the time specified below at which time the bids will be publicly opened and read:

ITEM

BID OPENING

Bid: Main Street Meadow – 66 Main Street

October 5, 2023 at 1 p.m.

The Scope of Work shall include installation of sidewalk, stairway, ecological space, and other park elements at 66 Main Street in Everett, MA. Project limits are included on the title sheet of the plans.

The work consists of the installation of sidewalk, stairway, crosswalk, lighting, gazebo, arbor, landscape irrigation, soil remediation and other park elements as labeled on the design plans.

All work under this Contract shall be done in conformance with the 2021 Standard Specifications for Highways and Bridges, the Supplemental Specifications contained in this book, the 2017 Construction Standard Details, the Traffic Management Plans and Detail Drawings, MassDOT Work Zone Safety Temporary Traffic Control, the 1990 Standard Drawings for Signs and Supports; the 2009 Manual on Uniform Traffic Control Devices (MUTCD) with Massachusetts Amendments; The American Standard for Nursery Stock; the Plans and these Special Provisions.

All work shall be performed within, and accessed by, existing State, Town, or City roadway layouts, or property. No rights to enter upon, or occupy, private properties have been acquired for this project.

Bid documents can be located at [Purchasing - Everett, MA - Official Website \(cityofeverett.com\)](http://cityofeverett.com)

Bids will be opened in the Office of the Purchasing Agent, City Hall, 484 Broadway, Everett, MA 02149 on **October 5, 2023 @ 1 p.m.** local time.

Each Bid must be accompanied by a bid security consisting of a BID BOND, CASH, or, CERTIFIED CHECK issued by a responsible bank or trust company in the amount of 5% of the bid price.

All bids for this project are subject to applicable public bidding laws of Massachusetts, including G.L. c.30, § 39M, as amended.

Attention is directed to the minimum wage rates to be paid as determined by the Commissioner of Labor and Workforce Development and the weekly payroll record submittal requirements under the provisions of Massachusetts General Laws, Chapter 149, Section 26 through 27D inclusive.

The successful bidder must furnish a 100% Performance Bond and a 100% Payment Bond in the contract sum with a corporate surety approved by the City.

Selection of the Contractor will be based upon bidder qualifications, including evidence of past performance in similar projects, and bid price. The contract will be awarded to the bidder deemed by the awarding authority to be the lowest responsible and eligible bidder.

The bidder agrees that its bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays, and legal holidays excluded, after the opening of the bids.

The City may find a bidder's consistent failure to provide legally required certified payroll records as grounds for finding that bidder not responsible.

The City reserves the right to waive any informalities, to accept or reject, in whole or in part any or all bids, or take whatever other action may be deemed to be in the best interest of the City.

1. SCOPE OF WORK

The Scope of Work shall include installation of sidewalk, stairway, ecological space, and other park elements at 66 Main Street in Everett, MA. Project limits are included on the title sheet of the plans.

The work consists of the installation of sidewalk, stairway, crosswalk, lighting, gazebo, arbor, landscape irrigation, soil remediation and other park elements as labeled on the design plans. All work under this Contract shall be done in conformance with the 2021 Standard Specifications for Highways and Bridges, the Supplemental Specifications contained in this book, the 2017 Construction Standard Details, the Traffic Management Plans and Detail Drawings, MassDOT Work Zone Safety Temporary Traffic Control, the 1990 Standard Drawings for Signs and Supports; the 2009 Manual on Uniform Traffic Control Devices (MUTCD) with Massachusetts Amendments; The American Standard for Nursery Stock; the Plans and these Special Provisions.

All work shall be performed within, and accessed by, existing State, Town, or City roadway layouts, or property. No Rights to enter upon, or occupy, private properties have been acquired for this project.

2. DEFINITIONS USED IN THESE SPECIAL PROVISIONS

The "Municipality" and the "City" shall mean the City of Everett, the municipality in which the Contract work is to be performed.

"MassDOT", shall mean the Massachusetts Department of Transportation.

"Engineer" shall mean the authorized representative of the City of Everett.

3. PERMITS

The Contractor's attention is directed to the fact that the Scope of Work may be adjusted because of the MassDOT Access Permit. The permit is in process but not approved yet as of the date of this document. The contractor shall be responsible for coordinating all necessary updates with the Engineer and City in relation to the scope of work and this permit.

4. NOTICE TO OWNERS OF UTILITIES

Written notice shall be given by the Contractor to all public service corporations or officials owning or having charge of publicly or privately owned utilities of the Contractor's intention to commence operations affecting such utilities at least one (1) week in advance of the commencement of such operations in accordance with Chapter 82, Section 40 of the General Laws, as amended, and the Contractor shall at that time file a copy of such notice with the Engineer.

The Plans indicate the approximate location of known utilities in the vicinity of the work. The accuracy and completeness of the information is not guaranteed. Any damage to these utilities caused by negligence of the Contractor shall be repaired by the Contractor at their own expense and to the satisfaction of the Engineer. It is the intent of these Special Provisions that the Contractor having been given due notice hereof will safeguard the utilities during construction and shall assume liability for damage, relieving the City from any liability.

Utility structures not correctly adjusted to proper grade prior to paving or sidewalk installation or buried during construction shall be uncovered, repaired if necessary and reset to grade at Contractor's expense.

5. PROTECTION OF UNDERGROUND FACILITIES

The Contractor's attention is directed to the necessity of making his own investigation in order to ensure that no damage to existing structures, drainage lines, etcetera, will occur.

The Contractor shall notify Massachusetts DIG SAFE and procure a Dig Safe Number for each location prior to disturbing existing ground in any way. The telephone number of the Dig Safe Call Center is 811 or 1-888-344-7233.

6. DISPOSAL OF SURPLUS MATERIALS

All existing and other materials not required or needed for use on the project, and not required to be removed and stacked, shall become the property of the Contractor and shall be removed from the site during the construction period and disposed of legally. No separate payment will be made for this work, but all costs in connection therewith shall be included in the prices bid for various Contract items.

7. ARCHITECTURAL ACCESS BOARD TOLERANCES

The Contractor is hereby notified that they are ultimately responsible for constructing all project elements in strict compliance with the current AAB/ADA rules, regulations, and standards.

All construction elements in this project associated with sidewalks, walkways, wheelchair ramps and curb cuts are controlled by 521CMR - Rules and Regulations of the Architectural Access Board (AAB)

The AAB Rules and Regulations specify maximum slopes and minimum dimensions required for construction acceptance. There is no tolerance allowed for slopes greater than the maximum slope nor for dimensions less than the minimum dimensions.

Contractors shall establish grade elevations at all wheelchair ramp locations and shall set transition lengths according to the appropriate table in the Construction Standards (or to the details shown on the plans).

All wheelchair ramp joints and transition sections which define grade changes shall be formed, staked and checked prior to placing cement concrete. All grade changes are to be made at joints.

SOLAR POWERED LIGHTS AND LUMINARIES EACH

DESCRIPTION: This work shall consist of furnishing and installing Solar Powered Street Lights and luminaries in accordance with this specification and as shown on the plans and/or as directed by the Engineer.

MATERIALS: Solar Powered Street Lights and Luminaries shall be type similar to style identified in attached image.

Solar Powered Street Lights shall be equipped with an external electrical outlet. Light poles shall have attachment for banners to be attached to the poles. LED lighting shall be used.

SUBMITTALS: The contractor shall submit product type to the City for approval prior to purchase and installation.

CONSTRUCTION METHODS: The Solar Powered Street Lights and Luminaries shall be constructed as shown on the plans and in accordance with the manufacturer's directions. All wiring and electrical connections shall be made by the Contractor. Contractor shall confirm location of proposed lights with City prior to installation.

METHOD OF MEASUREMENT: This item of work shall be measured and paid at the contract unit price bid per each which price and payment shall constitute full compensation for furnishing and installing all materials including light poles, luminaries, excavation, and placement of concrete light pole foundations including anchor bolts and all other materials, labor, equipment tools, appurtenances, and incidentals necessary to satisfactorily complete this item of work complete, in place, and accepted.

GAZEBO EACH DESCRIPTION: This work shall consist of furnishing and installing a Gazebo in accordance with this specification and as shown on the plans and/or as directed by the Engineer.

MATERIALS: Contractor shall comply with Contract Drawings and the following criteria:

- a) Shall be of type and material as specified in the attached design drawing.
- b) Shall be 16 feet Cedar Octagon Double Roof Gazebo.
- c) Gazebo to be placed on cement concrete pad which is one foot beyond the footings and is flush with the cement concrete sidewalk and pathway at the entrances.
- d) Shall be ADA accessible.
- e) Shall be sheathed in white vinyl.
- f) Shall include straight fascia.
- g) Shall include 1 x 3 standard railings, and two entrances.
- h) Shall include Goose Weathervane (23" Copper & Brass).
- i) Shall be constructed of Standard 4x4 Straight Posts.
- j) Shall include Cupola.
- k) Shall include hidden wiring w/ 1 Receptacle & Switch.
- l) Shall include three built-in bench sections within Gazebo which are ADA accessible.

CONSTRUCTION METHODS: The Gazebo shall be constructed as shown on the plans and in accordance with these directions. All wiring and electrical connections shall be made by the Contractor.

ARBOR EACH

DESCRIPTION: This work shall consist of furnishing and installing an Arbor in accordance with this specification and as shown on the plans and/or as directed by the Engineer.

MATERIALS: The contractor shall comply with Contract Drawings and the following criteria. Arbor shall be of type and materials as identified in the attached specification drawing. Arbor shall be constructed of cedar and located over the sidewalk at north end of main street meadow for the purpose of supporting flowering and fruiting vines.

CONSTRUCTION METHODS: The Arbor shall be constructed in accordance with these specs.

IRRIGATION PLAN AND INSTALLATION EACH DESCRIPTION: This item addresses preparation and implementation of an irrigation system.

This work shall be conducted in accordance with this specification and as shown on the plans and/or as directed by the Engineer.

MATERIALS: Contractor shall comply with Contract Drawings and the following criteria.

- a) Irrigation shall be connected to municipal water supply.
- b) A water meter shall be installed on the south side of the site in accordance with City Standards.
- c) Irrigation shall be drip style, buried in the newly installed growing beds.
- d) Irrigation main lines shall be 3/4" black poly tubing,
- e) Branch lines shall be 1/2" black poly tubing when running between growing beds then narrowing to 1/4" diameter drip tubing at the site of watering.
- f) All plantings shall have supply of water via irrigation tubing and drip emitters.
- g) Several lockable water spigots shall be installed onsite for surface watering needs. One at the south end of the site, and one at the center of the site near the gazebo.
- h) All irrigation lines shall be installed by a professional insured irrigation installer.

CONSTRUCTION METHODS: The contractor shall install the irrigation system in accordance with these specs and the attached plan.

METHOD OF MEASUREMENT: This item is to be measured and paid at a Lump Sum bid price for materials and labor to complete the installation.

SOIL REMEDIATION

DESCRIPTION: This work shall consist of amending the soil on site in order to create a healthier soil biome for the effective and safe cultivation of native and edible plant species. The process of remediation will be in accordance with the specifications detailed in the Comprehensive Soil Plan provided by the Contractor.

MATERIALS: The Contractor shall be responsible for the planning and implementation of soil remediation. The contractor shall comply with the following criteria.

- a) Dig topsoil 6" Deep: This will break up near surface compaction, remove unwanted weed species and their seed bank.
- b) Use a 3' drill bit to drill holes across the site. Deep drilled holes permit aeration and allow new soil amendments to penetrate more easily.
- c) Lay down 3" sheet of carbon (wood chips/cardboard): Starting with carbon heavy material is ideal for promoting fungal communities. It also creates a soil texture with better water infiltration and aeration to avoid anaerobic pathogens.
- d) Treat carbon layer with Biocomplete Liquid Amendment: The carbon layer is the food and the liquid amendment delivers the desired populations to their food.
- e) Cover carbon layer with 3" of soil mixed with a fungal dominant compost blend: Soil and compost are mixed to become the medium for planting seeds, starts, and saplings. This layer also protects the nascent fungal communities.
- f) Seed with fast growing short cover crop and early successional plants.

- g) Mulch with straw.
- h) Apply final soil drench of Biocomplete Liquid Amendment.

CONSTRUCTION METHODS: Soil Remediation shall be implemented as described in the comprehensive soil report and in accordance with best practices.

TRASH RECEPTACLE (BIGBELLY)

DESCRIPTION: This item of work shall consist of furnishing and installing one Bigbelly's waste bin in accordance with this specification and as shown on the plans and/or as directed by the Engineer.

MATERIALS: Trash Receptacles shall be produced by BigBelly, be fully enclosed, and 50-gallon capacity.

CONSTRUCTION METHODS: The trash receptacle shall be fabricated and installed as shown on the plans and in accordance with manufacturer's directions.

METHOD OF MEASUREMENT: This item shall be paid for at the contract unit price bid per each, which price shall constitute full and complete compensation for all labor, materials, and equipment and for all other incidentals required to finish the work, complete and accepted by the Engineer.

1 INCH WATER SERVICE CONNECTION

DESCRIPTION: The Contractor shall furnish and install 1" polyethylene tubing water services from city service to a proposed curb stop as indicated on the drawings and herein specified. The installation shall include the curb stop and box, polyethylene tubing, a water meter to monitor water usage on site, and all other components to complete the service connection.

MATERIALS: Service pipe shall be polyethylene tubing, cold flared, no unions, or couplings conforming to ASTM D2447-93. The name and trademark of the manufacturer shall be stamped along the pipe.

All pipe fittings and accessories shall conform to the requirements of the following standard specifications:

1. ANSI/AWWA Underground Service Line, Valves and Fittings (C800)
 2. ASTM D2447-93 - Standard Specification for Polyethylene (PE) Plastic Pipe
- Service boxes shall be cast iron or polyethylene. The boxes shall have housings of sufficient size to completely cover the service stop and shall be complete with identifying covers.

CONSTRUCTION METHODS:

Care shall be exercised in the placing and laying of polyethylene tubing to be sure that the pipe does not have kinks or sharp bends and to assure against it being in contact with sharp stones or ledge which would cause damage to the pipe. At least 6" of selected fill shall be placed adjacent to and above the pipe and no stone shall be placed over the pipe until the depth of backfill above the latter is in excess of 12".

Services shall be flushed before activating to avoid meter clogging.

INSTRUCTIONS TO BIDDERS

1. Receipt and Opening of Bids

The City of Everett, Massachusetts, herein called the City, acting by and through the Planning Department will receive sealed Bids for the project known as **MAIN STREET MEADOW – 66 MAIN STREET-**.

General bids shall be enclosed in a sealed envelope and addressed to:
City Hall, 484 Broadway, Room 14, Everett, MA, 02149 and on the outside of the envelope, “**MAIN STREET MEADOW – 66 MAIN STREET-**”. If the bid envelope will be mailed, the envelope must be enclosed within a second sealed envelope for delivery. Bids will be received at the Purchasing Department until **1:00 p.m. Eastern Standard Time, on October 5, 2023** at which time and place said bids will be publicly opened and read aloud.

Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered. The bidder agrees that its bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays, and legal holidays excluded, after the bid opening.

2. Location and Work to be Done

SCOPE OF WORK AND LOCATION OF PROJECT

The street location of the work is identified as 66 Main Street.

Drawings, specifications, or other requirements, or responses to written questions of bidders submitted during the bidding period may be furnished by written addendum to the bid and contract documents from time to time during the bidding period by the City or its Engineer and shall then become a part of the Contract Documents.

The Contractor shall furnish all labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies, and all other things necessary to do all work required for the completion of each item of the work and as specified herein.

The Work to be done and paid for under any item shall not be limited to the exact extent mentioned or described but shall include all incidental work necessary or customarily done for the completion of that item. The Contractor shall be fully acquainted with the methods of measurement and basis for payment for all items in the contract.

3. Preparation of Bid

Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures.

Failure to complete the bid document adequately including the “Non-Collusion Affidavit”, the “Certificate of Compliance with State Tax Laws and with Unemployment Compensation Contribution Requirements”, and the “Certificate of Vote” may result in the disqualification of the bidder.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his/her address, and endorsed with the name of the project as specified in Receipt and Opening of Bids, above. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in Receipt and Opening of Bids, above.

All bids shall be accompanied by a bid deposit in the form of a Bid Bond, duly executed and acknowledged by the bidder, as Principal, and by a surety company qualified to do business in the Commonwealth of Massachusetts, or cash, or a certified check, treasurer’s or cashier’s check issued by a responsible bank or trust company to the City of Everett. The amount of such bid deposit shall be 5% of the value of the bid total.

Each such Bid Bond, cash or check may be held by the City as security for the fulfillment of the bidder’s agreements as herein above set forth and as set forth in the bid. Should the bidder fail to fulfill such agreements in his bid, the check or cash shall become the property of the City, or if a Bid Bond was furnished, the Bid Bond shall become payable to the City as liquidated damages, otherwise, the bid security shall be returned to the Bidder.

Where applicable, all bid prices shall include the cost of mobilization of equipment. No extra payment will be made for mobilization to the project.

4. Bid Opening Procedure

The following list of requirements shall apply to each filed bid. Bids not meeting all the requirements for timeliness and security will be rejected; bids not meeting signature and addenda requirements will be rejected prior to checking of bid amounts. The foregoing notwithstanding, the City reserves the right, to the extent permitted by law, to waive any informality.

All addenda will be posted to the City of Everett’s webpage [Bid Opportunities - Everett, MA - Official Website \(cityofeverett.com\)](http://cityofeverett.com).

5. Modification

Any bidder may modify his/her bid by written communication at any time prior to the scheduled closing time for receipt of bids. Any written or electronic communication must be received by the city prior to the closing time.

6. Ability and Experience of Bidder

No award will be made to any bidder who cannot satisfy the City that he has sufficient ability and experience in this class of work.

The City may make such investigations as it deems necessary, and the bidder shall furnish to the City, under oath if so required, all such information and data for this purpose as the City may request.

7. Conditions of Work

Each bidder must familiarize him/her self fully with the conditions relating to the project. Failure to do so will not relieve a successful bidder of his/her obligation to furnish all material and labor necessary to carry out the provisions of this contract.

8. Addenda and Interpretations

All bidders are cautioned to verify the number of Addenda that have been issued and to secure any needed copies from the City before submitting a bid. It is solely each bidder's responsibility to contact the city prior to submitting a bid to ensure that is has received all addenda.

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be emailed to Allison Jenkins at Allison.jenkins@ci.everett.ma.us at least seven days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda shall become part of the Contract Documents.

9. Security for Faithful Performance

Simultaneously with the delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor and materials under this contract in the amount equal to 100 percent of the bid price. The surety on such bond or bonds shall be a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the City. The bonds shall remain in force for one year after final acceptance of the work by the City, unless the City, in writing, releases the Contractor from the obligation sooner.

10. RESERVED

11. Laws and Regulations

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances or bylaws, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the Contract the same as though written out in full.

12. Goals for Construction:

Minority-owned Business Enterprise (MBE), Women-owned Business Enterprise (WBE) and Equal Opportunity policies of the Massachusetts EEOC are applicable to this Contract. The CONTRACTOR shall comply with all applicable laws and regulations pertaining to nondiscrimination, equal opportunity and affirmative action, including without limitation executive orders and rules and regulations of federal and state agencies of competent jurisdiction.

13. Project Inspection:

The Contractor shall make the project site and all project records available to the City for review during the course of the project. The city will periodically monitor the progress of work for its own benefit, and not for the benefit of the Contractor, to ensure that the project is proceeding substantially as defined in the Scope of Work and Project Schedule. This monitoring is not intended to relieve, and under no circumstances shall it relieve, the contractor of his/her responsibility to perform its work in accordance with the Contract Documents and applicable federal, state, and local law and regulations. Refusal by the contractor to allow the City, or its designee, access to the project site and work completed shall result in termination of this contract.

14. Project Audit Provisions:

The City of Everett, the City Engineer or his representative, and the contractor shall maintain books, records, documents, and other evidence directly related to the performance on all work. The City of Everett, the City Engineer or his representative, and the Contractor shall also maintain the financial information and data used by the City Engineer or his representative, and the Contractor in the preparation or support of project invoices and associated progress reports. The City of Everett has the right to request copies of all journals and diaries as well as any financial information, weigh slips, invoices from suppliers, and any other included cost related to this contract.

15. RESERVED

16. Failure to Enter into Contract

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within 10 days after presentation thereof by the City, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his/her bid.

17. Contracts with the City that are Underway

Work to be done under this contract shall be completed within the 2024 construction season. Work to be done under this contract shall be completed concurrently. Any bidder currently engaged in a contract with the City of Everett shall not neglect work in one contract in favor of another.

The successful Bidder shall be fully able to staff both this contract and any ongoing contracts with the City of Everett with the appropriate amount of superintendence and working staff needed to complete all work expeditiously and within the stipulated contract periods. At the signing of the Agreement the Contractor shall provide the City with a roster of the superintendents and the working staff that will be assigned to this contract.

18. Obligation of Bidder

At the time of the opening of bids, each bidder will be presumed to have inspected and read and to be thoroughly familiar with the Contract Documents (including all addenda). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect of his bid.

19. Information Not Guaranteed

It is agreed and understood that the City does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

It is further agreed and understood that no bidder or Contractor shall use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the City arising from or by reason of any variance which may exist between the information made available and the actual subsurface or other structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents or G.L. c. 30, § 39N.

20. Bid Security

Each bid and sub-bid must be accompanied by bid security in the form of a certified check, a bid bond, cash, or a treasurer's or cashier's check, payable to the City of Everett, in the amount of five (5) percent of the value of the bid. Such check of general bidders will be returned to all except the three lowest responsible and eligible bidders within five days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids, and the remaining securities will be returned promptly after the City and the accepted bidder have executed the Contract, or if no notice of intent to award has been presented to the selected contractor within 30 days, Saturdays, Sundays and holidays excluded, after the date of the opening of bids, upon demand of the bidder at any time thereafter.

21. Right to Reject Bid

The City reserves the right to waive any informality in bids and to reject any and all bids, should the City deem it to be in the public interest to do so.

The city may also reject bids which in its sole judgment are incomplete, conditional, obscure or not responsive or which contain additions not called for, erasures not properly initialed, alterations, or similar irregularities.

22. Time for Completion

The successful general bidder must agree to commence work within ten (10) days of the date of the Notice to Proceed and to fully complete the project within the time limit stated.

23. Comparison of Bids

Bids will be compared on the basis of prices set forth in the bid forms.

In the event that there is a discrepancy between the prices written in words and figures, the written in words will govern.

24. Award of Contract

The Contract will be awarded to "the lowest responsible and eligible bidder" pursuant to Massachusetts General Laws Chapter 30, Section 39M as amended. Such a bidder shall possess the skill, ability and integrity necessary for the faithful performance of the work, shall be able to furnish labor that can work in harmony with all other elements of labor employed, or to be employed, in the work, and shall otherwise comply with all applicable provisions of law. Contract award shall be subject to availability of an appropriation for funding.

A Performance and Payment Bond in the amount of One Hundred (100%) percent of the annual contract price will be required for the faithful performance of the Contract. The Contractor shall obtain and submit the bonds within ten (10) days after notification of the bid award. The successful bidder's Bid Bond shall not be released until such time the Performance and Payment Bonds have been posted. Within seven (7) working days of receipt of acceptable Payment Bond and Agreement signed by the party to whom the Agreement was awarded, the City shall sign the Agreement and return to such party an executed duplicate of the Agreement.

25. Statutes Regulating Competitive Bidding

Any bid which does not comply with the provisions of Massachusetts General Laws Chapter 30 Section 39M, as amended, need not be accepted and the City may reject every such bid.

26. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of Department of Labor and Workforce Development under the provision of the Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the bidder, before bid opening, to request any additional information on Prevailing Wage Rates for those tradespeople who may be employed for the proposed work under this contract.

27. Contractor Records

The Contractor shall, in addition to any other requirements in the Contract Documents concerning the keeping of records, comply with the provisions of Massachusetts General Laws, Chapter 30, Section 39R concerning Contractor records. (Refer to paragraph 14 of this section).

28. Insurance

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified in the General Conditions and in such form as shall protect him performing work covered by this Contract, and the City of Everett and its employees, agents, officials, and engineering consultant, from all claims of liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. **The City of Everett shall be named as an additional insured on all insurance policies required.** The Contractor covenants and agrees to hold the City and its employees, agents and officials harmless from loss or damage due to claims for bodily injury or death and/or property damage arising from, or in connection with, the contractors' operations under this Contract.

29. Project Manager

A contact person must be designated by the Contractor upon award of the Contract who will be accessible to the City on a twenty-four hour per day basis for the duration of the construction period. The Contractor shall also prepare a contact list of all superintendents and personnel, including sub-contractors, who shall be working on the project and submit to The City a copy of their appropriate licenses along with a phone number where they can be reached in case of emergency.

30. Payroll

Payroll Records, Labor, Maximum Hours of Employment:

No laborer, workman, mechanic, foreman or inspector working within this Commonwealth, in the employee of the Contractor, Sub-contractor or other persons doing or contracting to do the whole or a part of the work contemplated by this Contract, shall be required or permitted to work no more than eight (8) hours in any one day or no more than 48 hours in any one week, or no more than six (6) days in any one week, except in cases of emergency, or in case any City subject to Section 149 of the General

Laws is a party to such a Contract, more than eight (8) hours in any one day, except as aforesaid. The City or the Contractor or any Subcontractor may employ laborers, workmen, mechanics, foreman and inspectors for more than eight (8) hours in any one day in the work to be done or under Contract when in the opinion of the Commissioner of Labor and Industries, public necessity so require. (Chapter 149, Section 34 of the General Laws, as amended).

Attention of Bidders is called to Section 148 of Chapter 149 of the General Laws and amendments thereof requiring the weekly payment of employees.

Contractor shall furnish certified copies of any or all payrolls for the Contract, showing the name, address, and occupational classification of each employee on said works, and the hours worked by, and the wages paid each such employee in accordance with the Massachusetts Department of Labor and Industries. Such payroll shall also include the rates paid for rented trucks or rental equipment of any kind used on the work. Such records shall be kept in such manner as the Commissioner of Labor and Industries shall prescribe and shall be open to inspection by the City Engineer or any authorized representative of the Department of Labor and Industries at any reasonable time and as often as may be necessary.

31. Buy American

The Contractor agrees that preference will be given to domestic construction material by the Contractor, Subcontractor, material, and suppliers in the performance of this Contract.

32. Compliance with Laws

The Contractor shall keep himself fully informed of all existing and future Federal, State and Local Laws, ordinances, rules and regulations affecting those engaged or employed on the Work, the materials and equipment used in the Work or the conduct of the Work, and of all orders, decrees and other requirements of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or other Contract Documents in relation to any such law, ordinance, rule, regulation, order, decree or other requirement, the Contractor shall forthwith report to the City in writing before it submits its bid to the City, failing which the consequences of any such discrepancy or inconsistency shall be borne solely by the bidder if it is selected as the successful bidder. The Contractor shall at all times observe and comply with, and cause all his agents, servants and employees to observe and comply with all such existing and future laws, ordinances, rules, regulations, orders, decrees and other requirements and he shall protect, indemnify and save harmless the City, its officers, agents, servants, employees and the Department of Public Works from and against any and all claims, demands, suits, liabilities, judgments, penalties, losses, damages, costs and expenses, including attorney's fee, arising from or based upon any violation or claimed violation of any such law, ordinance, rule regulation, order, decree or other requirements, whether committed by the Contractor or any of his agents, servants or employees.

Applicable provisions of Massachusetts General Laws and Regulations and/or the United

States Code and Code of Federal Regulations govern this contract and any provision in violation of the foregoing shall be deemed null, void and of no effect. Where conflict between Code of Federal Regulations and State Laws and Regulations exist, the more stringent requirement shall apply.

This project is subject to the Safety and Health Regulations of the U.S. Department of Labor set forth in Title 29 CFR, Part 1926 and to all subsequent amendments, and to the Massachusetts Department of Labor and Industries, Division of Industrial Safety "Rules and Regulations for the Prevention of Accidents in Construction Operations" (Chapter 454 CMR 10.00 et seq.). Contractors shall be familiar with the requirements of these regulations.

33. Massachusetts Sales and Use Tax

Materials and supplies to be used in the work of this contract are exempt from the Sales Tax of the Commonwealth of Massachusetts.

34. Method of Payment to Contractor

The City, so long as the Contractor continues to carry on the Work, shall make **monthly payments** therefore as follows: Each month prior to the completion of the work done to date of the estimate and thereupon the City shall deduct such estimate five percent (5%) thereof, and shall pay the balance of such estimate to the Contractor. Thirty (30) days after the satisfactory completion of the Work as determined by the City Engineer or his designee, the City shall pay the Contractor the final amount due and remaining to be paid under this Contract, deducting from said amount and keeping for its own, any expense incurred by the City on account of defects, omissions, or mistakes of the Contractor in his Work. Provided, however, that no final payment shall be made until all liens and claims against the City and its officers, due to the work, are satisfied.

35. Patented Devices, Materials and Processes

It is mutually understood and agreed that, without exception, contract prices are to include all royalties and costs arising from patents, trademarks and copyrights in any way involved in the work. It is the intent that whenever the Contractor is required or desires to use any design, device, material, or process covered by letters patent or copyright, the rights for such use shall be provided for by suitable legal agreement with the patentee or City's.

36. Utility Company Coordination

Written notice shall be given by the Contractor to all public service corporations or officials owning or having charge of publicly or privately owned utilities of his/her intention to commence operations affecting such utilities at least one (1) month in advance of the commencement of such operations that may affect their utilities and the Contractor shall at the same time file a copy of such notice with the City Engineer, or his designee.

37. Contractor Parking

The Project Areas are predominantly residential with minimal parking available. Therefore, the Contractor and his employees, subcontractors, and their employees, shall not park personal vehicles within the Project Areas.

38. Dig Safe

The Contractor shall notify "Mass. Dig Safe" and procure a DIG SAFE number for each location at least 72 hours in advance of starting any construction.

"DIG SAFE" Call Center: Telephone (811) or 1-888-344-7233.

REQUIRED FORMS

**FORM OF GENERAL BID
CONTRACT NO. 24-25**

To - The City of Everett, acting by the mayor, as Awarding Authority.

- A. The undersigned proposes to furnish all labor, materials and equipment to do all necessary work under this contract for the City of Everett, Massachusetts acting by its mayor and in accordance with the accompanying specifications provided by the **Planning Department**, Everett, Massachusetts for the sum specified below, subject to additions and deductions according to the contract document and in all respects according to the terms thereof.

- B. The undersigned declares that no person in the employ of said City has any pecuniary interest in this proposal or in the contract for the work he proposes to do and that he understands and agrees that the City, its agents and employees, are not to be in any manner held responsible for the accuracy of, or bound by, any estimates or plans relating to the work and that if any have been given or made they are to be considered solely as a base for filling out and comparing the several proposals.

- C. The undersigned agrees that he will within seven (7) days, Sundays and holidays excluded, after receipt of a notice of award by the Planning Department, execute the contract in triplicate, and furnish the required insurance certificates and performance bond, plus a labor and materials bond, as required by the contract documents, the premiums for which are to be paid by the contractor and are included in the contract price.

- D. The undersigned agrees that the time for completion for all work required by this contract shall be December 31, 2024, weather permitting, commencing within seven (7) days after executed contract is delivered to the Contractor.

This Bid Includes Addenda Through No. _____:

The Bidder agrees to perform the work described in the specifications and shown on the plans for the following contract Bid price:

In Figures:

\$ _____

In Words:

This Form of General Bid must be signed by an authorized person. A bid must be signed as follows: 1) if the bidder is an individual, by her/him personally; 2) if the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed and a Certificates as To Corporate Bidder.

The undersigned Bidder hereby certifies under penalties of perjury, as follows: (1) that he/she 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 at 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 bid 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.

Name of Firm: _____

By: _____
(Signed Name) (Date)

(Printed Name) (Title)

Business Address: _____

City, State, Zip Code: _____

Tel. No.: _____; Fed. ID No.: _____

Email Address: _____

**CITY OF EVERETT
QUALIFICATIONS AND REFERENCES FORM**

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the City for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

1. FIRM NAME: _____

2. WHEN ORGANIZED: _____

3 INCORPORATED? _____ NO _____ YES, IF YES STATE OF INCORPORATION: _____

4. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OF COMPLETION:

6. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU?
_____ YES _____ NO
IF YES, WHERE AND WHY?

7. HAVE YOU EVER DEFAULTED ON A CONTRACT? _____ YES _____ NO
IF YES, PROVIDE DETAILS.

8. LIST YOUR VEHICLES/EQUIPMENT AVAILABLE FOR THIS CONTRACT, if applicable:

9. IN THE SPACES FOLLOWING, PROVIDE INFORMATION REGARDING CONTRACTS COMPLETED BY YOUR FIRM SIMILAR IN NATURE TO THE PROJECT BEING BID. A MINIMUM OF FOUR (4) CONTRACTS SHALL BE LISTED. PUBLICLY BID CONTRACTS ARE PREFERRED, BUT NOT MANDATORY.

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: \$ _____ DATE COMPLETED: _____
PUBLICLY BID? _____ YES _____ NO
TYPE OF WORK? _____
CONTACT PERSON: _____ TELEPHONE #:(_____)
CONTACT PERSON'S RELATION TO PROJECT? _____
(i.e., contract manager, purchasing agent, etc.)

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: \$ _____ DATE COMPLETED: _____
PUBLICLY BID? _____ YES _____ NO
TYPE OF WORK? _____
CONTACT PERSON: _____ TELEPHONE #:(_____)
CONTACT PERSON'S RELATION TO PROJECT? _____
(i.e., contract manager, purchasing agent, etc.)

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: \$ _____ DATE COMPLETED: _____
PUBLICLY BID? _____ YES _____ NO
TYPE OF WORK? _____
CONTACT PERSON: _____ TELEPHONE #:(_____)
CONTACT PERSON'S RELATION TO PROJECT? _____
(i.e., contract manager, purchasing agent, etc.)

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: \$ _____ DATE COMPLETED: _____
PUBLICLY BID? _____ YES _____ NO
TYPE OF WORK? _____
CONTACT PERSON: _____ TELEPHONE #:(_____)
CONTACT PERSON'S RELATION TO PROJECT? _____
(i.e., contract manager, purchasing agent, etc.)

10. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Town in verification of the recitals comprising this statement of Bidder's qualifications and experience.

DATE: _____ BIDDER: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

**CERTIFICATIONS REQUIRED BY LAW
FOR PUBLIC CONSTRUCTION CONTRACTS**

You must COMPLETE and SIGN the following certifications.

TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I, the undersigned, authorized signatory for the below named contractor, do hereby certify under the pains and penalties of perjury that said contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

NON-COLLUSION

The undersigned certifies under the penalties of perjury that this bid is in all respects 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 or legal entity.

PUBLIC CONTRACTOR DEBARMENT

The undersigned certifies under penalty of perjury that the below named contractor is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Authorized Person's Signature

Date

Print Name & Title of Signatory

Company Name

**SAMPLE CONTRACT
DO NOT RETURN**

Sample – Do Not Return

CITY OF EVERETT

CONTRACT No. 24-25 Main Street Meadow – 66 Main Street

CONTRACT AGREEMENT BETWEEN CITY AND CONTRACTOR

This Contract Agreement made this _____ day of _____ by and between the City Of Everett, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, acting by its Mayor (hereinafter referred to as the “City”, the “Owner”, or the “Awarding Authority”), without personal liability for the members thereof, and _____, a _____, with a usual place of business at _____ (hereinafter called "the Contractor").

Terms used in this Contract Agreement that are defined in the General Conditions of the Contract shall have the meanings designated therein.

The City and the Contractor agree as follows:

ARTICLE I – INCORPORATION OF STATUORY REQUIREMENTS

In all respects, this Contract Agreement shall be governed by and performed consistently with all laws of the Commonwealth of Massachusetts including, but not limited to, all Massachusetts General Laws and regulations regarding public construction and procurement and all Municipal Ordinances and by-laws pertaining to the Project and/or the award of this Contract, each as most recently amended (collectively “Laws”). Such Laws shall be deemed to be included in this Contract Agreement the same as though written out in full and the Contractor warrants that he is familiar with and agrees to abide by all such Laws.

ARTICLE II - DEFINITION

The term "CITY" shall also mean the City Of Everett Director of Public Works (Director), or his designated representative, when used in the context of administering or directing this contract and/or the work specified.

ARTICLE III - SCOPE OF WORK

A. The Contractor shall furnish all labor, tools, materials and equipment and shall perform all work necessary for the complete and satisfactory performance of the **XXX (contract name) XXX** within the City Of Everett, Massachusetts, as called for in the Specifications (Section VI), and shall do everything required by this Contract Agreement. The following constitute the Contract Documents:

- a. This Contract Agreement;
- b. Form of General Bid, signed by Contractor;
- c. Specification;
- d. Wage Rates;
- e. Invitation to Bid, with General Instructions for Bidders

- f. General Conditions and
- g. Required Forms

These documents form the entire Agreement between the parties and there are no other agreements between the parties. Any amendment to this agreement must be in writing and signed by an official with authority to bind the City.

ARTICLE IV – TIME FOR COMPLETION

A. The time for completion for all work required by this contract shall be **XXX (contract duration) XXX** consecutive days, commencing within seven (7) days after executed contract is delivered to the Contractor.

B. It is hereby understood and mutually agreed by and between the Contractor and the City that the Contractor shall receive no less than one (1) calendar week's advance notice to begin the construction project, and that once accepted by the Contractor, the agreed upon starting date(s) for such work become ESSENTIAL CONDITIONS of this contract.

C. The Contractor agrees that said work shall be executed regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time agreed to by the Contractor and the Owner. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described therein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality. The Contractor hereby agrees that it has taken these factors into account and the Contractor shall have no entitlement to an increase in the Contract Sum or any other additional costs, expenses or damages of whatsoever nature as they may relate to or otherwise arise from any delay, impact, or acceleration, except as and to the extent expressly provided under M.G.L. c. 30, § 39O. The Contractor acknowledges that the Contractor's sole remedy for any such delay and/or suspension will be an extension of time provided the Contractor complies with notice requirements contained in the Contract Documents.

ARTICLE V - QUANTITY

The work under this contract shall be performed "As Required" by the City, within the limits of this Article V, and Article VIII below. **THE QUANTITIES SPECIFIED IN THE FORM OF GENERAL BID ARE ESTIMATES OF REQUIREMENTS FOR USE IN COMPARING BIDS: THE CITY OF EVERETT DOES NOT GUARANTEE THESE QUANTITIES WILL ULTIMATELY BE REQUIRED.**

ARTICLE VI - HOURS OF WORK

A. It is intended that the Contractor will accomplish the work of this contract between the hours of 7:00 A.M. and 4:30 P.M. Upon mutual agreement between the City, and the Contractor, night work may also be considered.

B. No laborer, worker, mechanic, foremen or inspector working within the Commonwealth of Massachusetts in the employ of the Contractor, subcontractors or other persons doing or

contracting to do the whole or part of the work contemplated by this contract, shall be required or permitted to work more than 8 hours in any one calendar day; or more than 48 hours in one week, or more than 6 days in any one week in full compliance with the provisions of M.G.L. c. 149, § 34, except in cases of emergencies.

ARTICLE VII - PAYMENTS TO CONTRACTOR.

A. Payment to the Contractor shall be made by the City in accordance with Massachusetts General Laws Chapter 30, Section 39G, which is incorporated by reference herein. The payment shall be in full less 5% retainage for furnishing all materials, supplies, labor, services, supervision, tools and equipment and use thereof. Acceptance of periodic payments by the Contractor shall constitute a waiver of claims known or knowable at the time by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of periodic payment. All payments shall be submitted on the standard AIA Document G702.

B. Payments to Subcontractors. The Contractor shall make payment to subcontractors in accordance with M.G.L. c. 30, § 39F, which is quoted in this section below. For purposes of this Contract Agreement, the word “forthwith” appearing in paragraph (1)(a) of the quoted provision shall be deemed to mean “within five (5) business days.” The Contractor shall, at the City’s request, furnish satisfactory evidence that all such obligations have been paid, discharged, or waived. M.G.L. c. 30, § 39F provides:

“(1) (a) Forthwith after the general contractor receives payment on account of a periodic estimate, the general Contractor shall pay to each subcontractor the amount paid for the labor performed and the materials furnished by that subcontractor, less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general contractor.

(b) Not later than the sixty-fifth day after each subcontractor substantially completes his work in accordance with the Plans and Specifications, the entire balance due under the subcontract less amounts retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work, shall be due the subcontractor; and the awarding authority shall pay that amount to the general contractor. The general contractor shall forthwith pay to the subcontractor the full amount received from the awarding authority less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general contractor.

(c) Each payment made by the awarding authority to the general contractor pursuant to subparagraphs (a) and (b) of this paragraph for the labor performed and the materials furnished by a subcontractor shall be made to the general contractor for the account of that subcontractor; and the awarding authority shall take reasonable steps to compel the general contractor to make each such payment to each such subcontractor. If the awarding authority has received a demand for direct payment from a subcontractor for any amount which has already been included in a payment to the general contractor or which is to be included in a payment to the general contractor for payment to the subcontractor as provided in subparagraphs (1) and (2) the awarding authority shall act upon the demand as provided in this section.

(d) If, within seventy days after the subcontractor has substantially completed the subcontract work, the subcontractor has not received from the general contractor the balance due under the subcontract including any amount due for extra labor and materials furnished to the general contractor, less any amount retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work, the subcontractor may demand direct payment of that balance from the awarding authority. The demand shall be by a sworn statement delivered to or sent by certified mail to the awarding authority, and a copy shall be delivered to or sent by certified mail to the general contractor at the same time. The reply shall contain a detailed breakdown of the balance due under the subcontract and also a statement of the status of completion of the subcontract work. Any demand made after substantial completion of the subcontract work shall be valid even if delivered or mailed prior to the seventieth day after the subcontractor has substantially completed the subcontract work. Within ten days after the subcontractor has delivered or so mailed the demand to the awarding authority and delivered or so mailed a copy to the general contractor, the general contractor may reply to the demand. The reply shall be by a sworn statement to or sent by certified mail to the awarding authority and a copy shall be delivered to or sent by certified mail to the subcontractor at the same time. The reply shall contain a detailed breakdown of the balance due under the subcontract including any amount due for extra labor and materials furnished to the general contractor and of the amount due for each claim made by the general contractor against the subcontractor.

(e) Within fifteen days after receipt of the demand by the awarding authority, but in no event prior to the seventieth day after substantial completion of the subcontract work, the awarding authority shall make direct payment to the subcontractor of the balance due under the subcontract including any amount due for extra labor and materials furnished to the general contractor, less any amount (i) retained by the awarding authority as the estimated cost of completing the incomplete or unsatisfactory items of work, (ii) specified in any court proceedings barring such payment, or (iii) disputed by the general contractor in the sworn reply; provided that the awarding authority shall not deduct from a direct payment any amount as provided in part (iii) if the reply is not sworn to, or for which the sworn reply does not contain the detailed breakdown required by subparagraph (d). The awarding authority shall make further direct payments to the subcontractor forthwith after the removal of the basis for deduction from direct payments made as provided in parts (i) and (ii) of this subparagraph.

(f) The awarding authority shall forthwith deposit the amount deducted from a direct payment as provided in part (iii) of subparagraph (5) in an interest-bearing joint account in the names of the general contractor and the subcontractor in a bank in Massachusetts selected by the awarding authority or agreed upon by the general contractor and the subcontractor and shall notify the general contractor and the subcontractor of the date of the deposit and the bank receiving the deposit. The bank shall pay the amount in the account, including accrued interest, as provided in an agreement between the general contractor and the subcontractor or as determined by decree of a court of competent jurisdiction.

(g) All direct payments and all deductions from demand for direct payments deposited in an interest-bearing account or accounts in a bank pursuant to subparagraph (6) shall be made out of amounts payable to the general contractor at the time of receipt of a demand for

direct payment from a subcontractor and out of amounts which later become payable to the General contractor and in the order of receipt of such demands from subcontractors. All direct payments shall discharge the obligation of the awarding authority to the general contractor to the extent of such payment.

(h) The awarding authority shall deduct from payments to a General contractor amounts which, together with the deposits in interest bearing accounts pursuant to subparagraph (6) are sufficient to satisfy all unpaid balances of demands for direct payment received from subcontractors. All such amounts shall be earmarked for such direct payments, and the subcontractors shall have a right in such deductions prior to any claims against such amounts by creditors of the general contractor.

(i) If the subcontractor does not receive payment as provided in subparagraph (1) or if the general contractor does not submit a periodic estimate for the value of the labor or materials performed or furnished by the subcontractor and the subcontractor does not receive payment for same when due less the deductions provided for in subparagraph (1), the subcontractor may demand direct payment by following the procedure in subparagraph (4) and the general contractor may file a sworn reply as provided in that same subparagraph. A demand made after the first day of the month following that for which the subcontractor performed or furnished the labor and materials for which the subcontractor seeks payment shall be valid even if delivered or mailed prior to the time payment was due on a periodic estimate from the general contractor. Thereafter the awarding authority shall proceed as provided in subparagraph (e), (f), (g) and (h).

(2) Any assignment by a subcontractor of the rights under this section to a surety company furnishing a bond under the provisions of section twenty-nine of chapter one hundred forty-nine shall be invalid. The assignment and subrogation rights of the surety to amounts included in a demand for direct payment which are in the possession of the awarding authority or which are on deposit pursuant to subparagraph (6) shall be subordinate to the rights of all subcontractors who are entitled to be paid under this section and who have not been paid in full.

(3) “subcontractor” as used in this section (I) for contracts awarded as provided in sections forty-four A to forty-four L, inclusive, of chapter one hundred forty-nine shall mean a person who files a sub-bid and received a subcontract as a result of that filed sub-bid or who is approved by the awarding authority in writing as a person performing labor or both performing labor and furnishing materials pursuant to a contract with the general contractor, (ii) for contracts awarded as provided in paragraph (1) of section thirty-nine M of chapter thirty shall mean a person approved by the awarding authority in writing as a person performing labor or both performing labor and furnishing materials pursuant to a contract with the general contractor, and (iii) for contracts with the commonwealth not awarded as provided in sections forty-four A to forty-four L, inclusive, of chapter one hundred forty-nine shall also mean a person contracting with the general contractor to supply materials used or employed in a public works project for a price in excess of five thousand dollars.

(4) A general contractor or a subcontractor shall enforce a claim to any portion of the amount of a demand for direct payment deposit as provided in subparagraph (6) by a

petition in equity in the superior court against the other and the bank shall not be a necessary party. A subcontractor shall enforce a claim for direct payment or a right to require a deposit as provided in subparagraph (6) by a petition in equity in the superior court against the awarding authority and the general contractor shall not be a necessary party. Upon motion of any party the court shall advance for speedy trial any petition filed as provided in this paragraph. Sections fifty-nine and fifty-nine B of chapter two hundred thirty-one shall apply to such petitions. The court shall enter an interlocutory decree upon which execution shall issue for any part of a claim found due pursuant to sections fifty-nine and fifty-nine B and, upon motion of any party, shall advance for speedy trial the petition to collect the remainder of the claim. Any party aggrieved by such interlocutory decree shall have the right to appeal therefrom as from a final decree. The court shall not consolidate for trial the petition of any subcontractor with the petition of one or more subcontractors or the same general Contract unless the court finds that a substantial portion of the evidence of the same events during the course of construction (other than the fact that the claims sought to be consolidated arise under the same general contract) is applicable to the petitions sought to be consolidated and that such consolidation will prevent unnecessary duplication of evidence. A decree in any such proceeding shall not include interest on the disputed amount deposited in excess of the interest earned for the period of any such deposit. No person except a subcontractor filing a demand for direct payment for which no funds due the general contractor are available for direct payment shall have a right to file a petition in court of equity against the awarding authority claiming a demand for direct payment is premature and such subcontractor must file the petition before the awarding authority has made a direct payment to the subcontractor and has made a deposit of the disputed portion as provided in part (iii) of subparagraph (5) and in subparagraph (6).

(5) In any petition to collect any claim for which a subcontractor has filed a demand for direct payment the court shall, upon motion of the general contractor, reduce by the amount of any deposit of a disputed amount by the awarding authority as provided in part (iii) of subparagraph (5) and in subparagraph (6) any amount held under a trustee writ or pursuant to a restraining order or injunction.”

ARTICLE VIII - CONTRACT SUM

The total amount billed under this contract shall not exceed \$ _____. The Contractor shall keep and maintain all records necessary to ensure this total billing limit is not exceeded.

ARTICLE IX - BONDS

The Contractor shall furnish a performance bond for the full amount of the Contract, and also a labor and materials payment bond for the full amount of the Contract, the form of which bonds are set forth in the Contract Documents, each of a surety company qualified to do business under state laws and satisfactory to the Owner, the premiums for which are to be included in the Contract Price and paid by the Contractor. These bonds shall (a) guarantee the faithful performance by the Contractor of all its obligations under this contract and (b) constitute the security required by Massachusetts General Laws Chapter 149, Section 29 and Chapter 30, Section 39A, as amended, for payment by the Contractor or its subcontractors used or employed in connection with the contract. Each bond shall incorporate by reference the terms of this contract. These bonds shall remain in effect for the entire guarantee period for each phase of the

work, which shall commence on the date of Substantial Completion, as defined in the General Conditions. The Surety Company providing the bonds shall have a rating of A or better within the Best Key Rating Guide and be licensed by the Massachusetts Division of Insurance. The Contractor shall pay the premiums for such Bonds.

ARTICLE X - INSPECTION AND CORRECTION OF WORK

The Contractor shall keep the City informed of the progress of his work. No work shall be closed or covered until it has been duly inspected and approved. Should uninspected work be covered, the Contractor shall, at his own expense, uncover all such work so that it can be properly inspected and after such inspection, he shall properly repair and replace all work interfered with. All work, all materials (whether incorporated in the work or not) and all processes for performing the work shall be at all times and places subject to the inspection, examination and testing by the City, which shall be the final judge of the quality and suitability of the work, materials and processes for the purpose for which they are used. The City shall have the right to reject defective material and workmanship or require its correction. Rejected material shall immediately be removed from the site. If, in the opinion of the City, it is undesirable to replace any defective or damaged materials or to correct any portion of the work not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Director shall be equitable. If the Contractor fails to proceed at once with the replacement of rejected material and/or the correction of defective workmanship, the City may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost to the Contractor, or may terminate the right of the Contractor to proceed, the Contractor and Surety being liable for any damage to the same extent as provided.

ARTICLE XI - GENERAL GUARANTY

If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any work is found to be defective, Contractor shall promptly, without cost to City and in accordance with City's written instructions: (i) correct such defective work, or, if it has been rejected by Owner, remove it from the site and replace it with work that is not defective, and (ii) satisfactorily correct or remove and replace any damage to other work or the work of others therefrom. If Contractor does not begin the repairs within five (5) days of receipt of written notification and promptly comply with the terms of City's written instructions, or in an emergency where delay would cause serious risk, loss or damage, the City may have the defective work corrected or the rejected work removed and replaced, and all claims, costs, losses and damages caused by or resulting from such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

ARTICLE XII - INSURANCE AND WORKMEN'S COMPENSATION

A. The Contractor shall purchase and maintain insurance of the type and limits listed in this Article with respect to the operations as well as the completed operations of this Contract. This insurance shall be provided at the Contractor's expense and shall be in full force and effect for the

full term of the Contract or for such longer period as this Article requires. All policies shall be written on an occurrence basis and be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth with a financial strength rating of A- or better as assigned by AM Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the Owner, or otherwise acceptable to the City. The Contractor shall file a certificate of insurance one certified complete copy of all policies and endorsements with the City prior to execution of this Agreement. If the City is damaged by the Contractor's failure to maintain such insurance and to comply with the terms of this Article, then the Contractor shall be responsible for all costs and damages to the Owner attributable thereto. Termination, cancellation, or material modification of any insurance required by this Agreement, whether by the insurer or the insured, shall not be valid unless written notice thereof is given to the City at least thirty (30) days prior to the effective date thereof, which shall be expressed in said notice. The Contractor is responsible for the payment of any and all deductibles under all of the insurance required below. The City shall not in any instance be responsible for the payment of deductibles, self-insured retentions, or any portion thereof. The Contractor shall obtain and maintain the following types of insurance in the amounts provided below:

- a. **Broad Form Commercial General Liability** written on a “per occurrence basis” in the amount of at least \$1,000,000 for Each Occurrence, Personal & Adv Injury, Products-Comp/OP AGG and a General Aggregate Limit of a minimum \$3,000,000. Products and Completed Operations should be maintained for up to 3 years after the completion of the project, and the Contractor shall continue to provide evidence of such coverage to City on an annual basis during the aforementioned period. Property Damage Liability shall include coverage for X-C-U hazard of explosion, collapse, and damage to underground property. The City shall be named as an "Additional Insured".
 - b. **Automobile Liability** covering owned, non-owned, and hired or borrowed vehicles in an amount of at least \$1,000,000 for Combined Single Limit. The City should be named as an "Additional Insured". The City shall be named as an “Additional Insured.”
 - c. **Umbrella Liability** coverage following form of underlying General, Automobile and Employers’ Liability Coverage: Minimum of \$5,000,000 C.S.L. over primary insurance. No more than \$10,000 Retention. The City shall be named as an “Additional Insured.”
 - d. **Workers' Compensation Insurance** and employer’s liability as required by Massachusetts law under Chapter 152 of the General Laws, as amended, and Section 34A of Chapter 149 of the General Laws.
- B. The above insurance policies shall also be subject to the following requirements:
- a. Whenever applicable, including, but not limited to Contractor’s Broad Form General Liability Insurance, all insurance coverage shall be on an “occurrence basis” and not a “claims-made basis”.

- b. The CITY (including its officials, employees, agents and representatives) shall be named as additional insured on Contractor's General Liability, Automobile Liability and Umbrella or Excess Liability Insurance Policies.
- c. Neither the City's authority to review certificates and policies of insurance, nor its decision to raise or not to raise any objections about those certificates and policies, shall in any way give rise to any duty or responsibility on the part of the City to exercise this authority for the benefit of the Contractor, any Subcontractor, Sub-subcontractor, or Supplier, or any other party.
- d. The Contractor's liability insurance shall remain in effect until the end of the Correction period as defined in the Contract Documents, and at all times after that when the Contractor may be correcting, removing or replacing defective Work. The Completed Operations insurance shall be maintained for three (3) years after Final Payment.
- e. Insufficient insurance shall not release the Contractor from any liability for breach of its obligations under this Contract.
- f. The Contractor shall be responsible for procuring at its sole cost property insurance covering portions of the Work stored off the site or in transit.

ARTICLE XIII - PERSONAL LIABILITY OF PUBLIC OFFICIALS

No official of the City Of Everett or its agents or employees shall be held personally responsible for any liability arising under the contract.

ARTICLE XIV - INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City and any of its officers, directors, employees, agents, affiliates, subsidiaries and partners from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall apply to any such claims, damages, losses and expenses which arise and/or are incurred by any person or entity either during the performance of the Work and/or after completion of construction. Nothing in this paragraph shall be construed to negate, abridge, or reduce other rights or obligations of indemnity or contribution which would otherwise exist as to a party or person indemnified hereunder. Contractor hereby assumes the responsibility and liability for injury to or death of any and all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from, or arising out of any act, omission or neglect on the part of the Contractor, or of any Subcontractor or of anyone directly or indirectly employed by any of them or of anyone for whose acts, any of them may be liable. The Contractor hereby

acknowledges its obligation under the foregoing paragraph to indemnify the City against judgments suffered because of the contractor's work and to assume the cost of defending the City against claims as described in the foregoing paragraph.

ARTICLE XV - ASSIGNMENT

The Contractor shall not assign this contract wholly or in part, or sublet (subcontract) it or any part thereof, nor shall the Contractor assign any moneys due or to become due to him under this contract, without previous written consent of the City.

ARTICLE XVI - REPORTS, RECORDS, AND DATA

The Contractor shall submit to the City such schedule of payrolls, records, and other data as the City may require concerning work performed or to be performed under this contract.

ARTICLE XVII - PREVAILING WAGE

Attention is called to the fact that minimum wage rates are established by the Commonwealth of Massachusetts Commissioner of Labor and Industry for the work under this contractual agreement. These wage rates are set forth in Attachment B to this Contract Agreement.

ARTICLE XIII – NON-DISCRIMINATION

The Contractor agrees that in the performance of this contract, discrimination shall not be permitted by or against any person because of race, color, religious creed, age, sex, marital status, national origin, ancestry or physical disability, in any manner prohibited by the laws of the United States, the Commonwealth of Massachusetts or the By-laws of the City Of Everett.

ARTICLE XIX - TERMINATION

A. Lack of Appropriation. The obligations of the City hereunder shall be subject to appropriation on a fiscal year basis. In the absence of appropriation, this agreement shall be terminated immediately without liability of the City for damages, lost profits, penalties, or other charges arising from early termination.

B. Termination for Convenience. The City may terminate this contract at any time without cause upon thirty (30) days prior notice.

C. Termination for Cause. If the Contractor shall be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency or if he should persistently or repeatedly refuse, or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials or equipment, or if he should fail to make prompt payments to subcontractors, or for material or labor or persistently disregard laws, ordinances or the instructions of the Director or otherwise be guilty of substantial violation of any provision of the contract, then the City without prejudice to any other right or remedy and after giving the Contractor seven (7) days' notice may terminate the employment of the Contractor to continue work and may take possession of the premises, and all the materials, tools, equipment and appliances thereon, and

finish the work by whatever method the City deems expedient. The City shall be entitled to collect from the Contractor all direct, indirect, consequential damages suffered by the City of behalf of the Contractor's defaults, including without limitations additional services and expenses of the Architect and Project Manager and the Architect's consultants made necessary thereby. The City shall be entitled to hold all amounts due to Contractor at the date of termination until all of the City's damages have been established, and to apply such amounts to such damages.

D. In the event of termination, the Contractor shall promptly deliver to the City all materials, including all documents, work papers, studies, calculations, computer programs, data, drawings, plans, specifications and other tangible work product or materials pertaining to the Work performed under this Agreement to the time of termination, and thereupon the City shall pay to the Contractor any unpaid and undisputed balance owing for Work performed prior to the date of termination. Any termination of this Contract shall not affect or impair the right of the City to recover damages occasioned by any default of the Contractor or to set off such damages against amounts otherwise owed to the Contractor.

ARTICLE XXI - TAX STATUS

The City Of Everett is an exempt purchaser under Massachusetts Laws. Exemption Certificate Number is 04-600-1277. The Contractor shall not pay, and the City shall not reimburse or pay the Contractor or any other party either directly or indirectly for any tax for which an exemption is provided under law.

In WITNESS WHEREOF the parties have hereunto set their hands and seals, the City Of Everett by its Mayor, who however incur no personal liability by reason of the execution thereof or of anything herein contained, and the contractor both in triplicate, as of the day and year above stated.

VENDOR:

Date Signed

CITY OF EVERETT:

Date Signed

Allison Jenkins
Chief Procurement Officer

Date Signed

Eric Demas
Chief Financial Officer/City Auditor
Account Number: _____

Date Signed

Colleen Mejia, Esq.
City Solicitor

Date Signed

Carlo DeMaria
Mayor

Date Signed

VOTE REQUIRED IF CONTRACTOR IS A CORPORATION

At a meeting of the Board of Directors of

_____ duly called and held

on _____ at which a quorum was present and acting throughout, the following
vote was duly adopted:

VOTED: That the action of _____,

the _____ of the Corporation, in affixing the Corporate Seal,

signing and delivering in the name and behalf of the Corporation a contract with the City of

Everett for _____

_____ and also in sealing and executing as above

surety company bonds to secure the performance of said contract be and hereby are ratified,

confirmed and adopted.

A true copy:

Attest:

(Corporate Seal)

Clerk of the Corporation

GENERAL CONDITIONS

GENERAL CONDITIONS

The following general conditions are part, article by article, of the contract.

ARTICLE 1 - DEFINITION OF TERMS

Wherever in these specifications or other contractual documents the following terms, or pronouns in place of them, are used, the intent and meaning shall be interpreted as follows:

A.A.S.H.T.O.	The American Association of State Highway and Transportation Officials.
ALTERATION	Change in the form or character of any of the work done or to be done.
A.S.T.M.	The American Society For Testing Materials.
BIDDER	Any individual, firm or corporation submitting a proposal for the work contemplated, acting directly or through a duly authorized representative.
CONTRACT	The Written agreement executed between the City and the Contractor setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor, and materials, and the basis of payment. The Contract includes the Invitation to Bid, Instructions for Bidders, Bid, Contract Agreement, General Conditions, Qualification Statement, Wage Rates, Specifications, Special Provisions, Performance Bonds, General and Detailed plans, any extra work orders and agreements that are required to complete the Construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.
DEPARTMENT	The Department of Public Works of the City Of Everett, Massachusetts, acting for the City.
DIRECTOR	The Director of the Department of Public Works acting directly or through an authorized representative, such representative acting within the scope of the particular duties entrusted to him.
ENGINEER	The City Engineer of the City Of Everett, Massachusetts, or authorized agent or officer.
EXTRA WORK	Work that: <ol style="list-style-type: none">was not originally anticipated and/or contained in the contract; and thereforeis determined by the Director to be necessary for the proper completion of the project; andbears a reasonable subsidiary relation to the full execution of the work originally described in the contract.

LAYOUT	See Right-of-Way.
LOCATION	See Right-of-Way.
MATERIAL	Any substance proposed to be used in connection with the construction of any integral part and/or any appurtenant part and/or any incidental part of the proposed project.
OWNER	The City Of Everett, Massachusetts, acting for and through its Department of Public Works.
PLANS	The contract drawings, City Standards, Detail sheets, or exact reproductions thereof, which show the location, character, dimension and details of the work including any alterations thereof permissible under the contract and authorized by duly approved written orders.
PREMISES	City property and anything left on it.
PROPOSAL	The written offer of the Bidder submitted in approved form to perform the work contemplated.
REFERENCE	Where reference is made in the Contractual documents, Publications and Standards issued by associations or Societies, the intent shall be to specify the current edition of such Publications or Standards (including tentative revisions) in effect on the date of the contract advertisement, notwithstanding any reference to a particular date.
RIGHT-OF-WAY	That area which has been laid out or acquired for the purposes of the proposed contractual project.
SHALL	" <i>Shall</i> " is mandatory; " <i>may</i> " is permissive.
SPECIAL PROVISIONS	The special directions, provisions and requirements prepared to cover proposed work not satisfactorily provided for by the specifications. These special provisions shall be included within the general term "Specifications" and shall be made a part of the contract with the express purpose that they shall prevail over all other specifications.
SPECIFICATION	The directions, provisions and requirements contained herein, together with all written agreements made or to be made pertaining to the method and manner of performing the work, or the quantities and quantities of materials to be furnished under the contract.
THE WORDS	" <i>As directed</i> ", " <i>as permitted</i> ", " <i>as required</i> " or words of like effect shall mean that the direction, permission or requirement of the Director is intended, and similarly the words " <i>approved</i> ", " <i>acceptable</i> ", " <i>satisfactory</i> ", or words of like import shall mean approved by or acceptable or satisfactory to the Director, unless otherwise provided

herein. The words "*necessary*", "*suitable*", "*equal*" or words of like import shall mean necessary, suitable or equal in the opinion of the Director.

CITY

The City Of Everett, Massachusetts.

WORK

All performance, including the furnishing of materials, labor, tools, equipment and incidentals, required of the Contractor under the terms of the contract.

The words "*complete in place*" shall mean the inclusion of all work, including incidentals, mentioned or implied in the Specifications and on the plans, or work that may reasonably be inferred as necessary to the proper execution of the item, unless payment for any portion of the work is otherwise specifically provided for.

ARTICLE 2 - INSPECTION AND TESTING

- 2.1 The Director and his agents will keep close watch over the progress of the work. They shall have access to the work, and be allowed to inspect it.
- 2.2 The Director and his agents reserves the right to inspect or check any of the work, and the Contractor shall not claim added compensation for any delay occasioned by the Director exercising this right, nor for any corrective work which the Director orders as the result of the Contractor's errors. The Contractor shall be responsible for preserving the control points provided by the Engineer throughout the life of the project, and shall accurately replace any such point, which is damaged or moved at his own expense.
- 2.3 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. The Owner will pay for all laboratory inspection service direct, and not as part of the contract, unless otherwise expressly provided for in the General Conditions or in the Special Provisions.
- 2.4 Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish for uses intended.

ARTICLE 3 - PROTECTION OF ABUTTING PROPERTIES

- 3.1 The Contractor shall be responsible for protecting his own work and all nearby abutting properties from damage resulting from his performance of the contract. He shall pay particular attention to trees, shrubs, lawns, steps, walks, etc. abutting the work and shall save them from damage and harm. If the contractor damages such trees, shrubs, etc., and the Contractor shall, at its own expense, restore such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or replacing it, or otherwise making good such damage or destruction in an acceptable manner. If the Contractor shall fail to promptly restore such property, an amount equal to the damage done shall be deducted from his payment. Such reduction shall be determined by the Director and shall be final and binding. Where the damage or loss presents an immediate danger to the public, the Owner, in its sole discretion and at the Contractor's expense, may promptly remedy such damage or loss without prior notice to the Contractor.
- 3.2 The contractor is responsible to see that his equipment, tools, materials, and men shall not be placed on or allowed to overrun onto abutting private properties.

ARTICLE 4 - PERMITS

- 4.1 Unless specifically excluded from the contract documents, the Contractor shall obtain all required permits, licenses, certificates and inspections, both permanent and temporary, and shall make all necessary arrangements with Utility Companies to properly prosecute the work, and shall send all notices to Utilities as are required by the General Laws of

Massachusetts. Any permit fees required by the City Of Everett related to this Contract may be waived.

- 4.2 The Contractor shall keep itself fully informed of and comply with all existing and future federal, state and municipal laws and regulations and all orders and decrees of any governmental bodies or tribunals (hereinafter also referred to as ‘laws’) having jurisdiction in any manner which affect this contract or construction, including but not limited to such laws affecting those engaged or employed in the work, the materials used in the work or in any way affecting the conduct of the work. If any clause in this contract does not conform to such law, then such clause shall be void and the law operative shall be inserted in lieu thereof. If any discrepancy or inconsistency is discovered in the specifications, drawings, or contract documents in violation of the law, the Contractor shall forthwith report the same in writing to the Owner. The Contractor shall cause its employees, agents and subcontractors to also observe and comply with all such laws. It shall protect and indemnify the Owner and its officials, board members, employees and duly appointed agents against any claim or liability arising from or based on any violation, whether by the Contractor or its officials, employees or subcontractors, of any such law.
- 4.3 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work which it knows or should know it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall be responsible for such Work and shall bear the costs attributable to correction along with any other damages incurred by the Owner.

ARTICLE 5 - CHANGES IN THE WORK

- 5.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The City, without invalidating the contract, may order extra work or make changes by altering, adding to, or deducting from the work and the contract sum and contract time will be adjusted accordingly. Such changes shall be made by Change Order, Construction Change Directive or order for a minor change in Work, subject to the limitations stated herein and elsewhere in the Contract Documents.
- 5.2 In giving instruction, the Director shall have authority to make minor changes in the work not involving extra cost and not inconsistent with the purposes of the work, but otherwise no extra work or change shall be made unless in pursuance of written order signed by the Director and no claim for an addition to the contract sum shall be valid unless so ordered.
- 5.3 Adjustments in contract sum and contract time resulting from a Modification shall be determined by mutual agreement of the parties, or in the case of a Construction Change Directive signed only by the City, by the Contractor’s cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining cost or credit.

- 5.4 Where the value of work performed directly by the Contractor under a Change Order or a Construction Change Directive is determined either by a lump sum proposal or by actual cost of work as it progresses, the Contractor will be allowed an additional amount of ten percent (10%) of the total cost of work plus an additional amount of two percent (2%) for the cost of bonds and insurance associated with the added work. Where such work is performed by a Subcontractor, the Contractor will be allowed an additional amount of five percent (5%) to the total payment made to the Subcontractor, plus an additional amount of two percent (2%) for the cost of bonds and insurance associated with the added work. The cost of work shall include the cost at the minimum wage rates established for this contract pursuant to M.G.L. c. 149, §§ 26-27H for direct labor, material and use of equipment, plus the cost of workmen's compensation insurance, liability insurance, federal social security and Massachusetts unemployment compensation. The cost of work may include the cost of added mobilization, engineering, layout, transit staging/scaffolding, lifting, hoisting, dumpster, handling, cleanup, street sweeping, safety protection, temporary weather protection, temporary heat and utilities, shipping/receiving, construction fences, police barricades and signs; provided, however, that such added costs may be included only to the extent that they are directly attributable to the added work and are properly substantiated as determined by the Owner and Architect, in their discretion. Mark-up for overhead, superintendence and profit shall include (and no additional payment shall be made for) general conditions, management, supervision coordination, record drawings, small tools/computers, "tools of the trade", administration, accounting, punch list, O&M manuals, estimator time, schedule updating, and certified payrolls. Contractor and Subcontractor mark-up of such rates for payroll costs associated FUI, SUI, MUI, worker's compensation insurance and other direct payroll costs, shall only be calculated on the direct labor rate as computed above and shall not exceed 30%, except that a higher rate may be allowed for subcontractors only to the extent such higher rate is based on actual payroll costs of the subcontractor for which substantiating documentation of how such higher cost is calculated provided, and no other labor cost mark-ups other than those specified above will be allowed.
- 5.5 If deductions are ordered, the credit shall be computed as net cost.
- 5.6 The Contractor shall not sublet any work under a Change Order or a Construction Change Directive unless work under the basic Agreement of a similar type was previously subcontracted; and Subcontractors will not be allowed to further sublet any work under a Change Order unless the work under the basic Agreement of a similar type was previously sublet by them, without the written approval and acceptance of the City.
- 5.7 All changes in the Work shall be in accordance with provisions of the M.G.L. c. 30, § 39I.
- 5.8 Timely Decision by Owner (M.G.L. c. 30, § 39P). Every contract subject to section thirty-nine M of this chapter or section forty-four A of chapter one hundred forty-nine which requires the awarding authority, any official, its architect or engineer to make a decision on interpretation of the specifications, approval of equipment, material or any other approval, or progress of the work, shall require that the decision be made promptly and, in any event, no later than thirty days after the written submission for decision; but if such decision requires extended investigation and study, the awarding authority, the official, architect or

engineer shall, within thirty days after the receipt of the submission, give the party making the submission written notice of the reasons why the decision cannot be made within the thirty day period and the date by which the decision will be made.

ARTICLE 6 - CORRECTION OF WORK AFTER FINAL PAYMENTS

- 6.1 Neither the final certificate, nor payments, nor any provision in the contract shall relieve the Contractor of responsibility for faulty materials or workmanship, any defects, omissions or mistake of the Contractor or his employees, and he shall remedy any defects due thereto, and pay for any damage to any work resulting therefrom, which shall appear within a period of one (1) year from the date of successful completion.
- 6.2 If, within one year after the date of Final Completion, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so. If the Contractor fails to correct nonconforming Work within a reasonable time after receipt of notice from the Owner, the Owner may correct it. However, if the correction or repair of this Work is required to avoid impacts to the maintenance, operation or safety of the Owner's facilities, the Owner reserves the right to undertake the repairs, at the Contractor's expense prior to notifying the contractor or without waiting for the Contractor to respond, without waiving the Owner's rights under the warranties and Owner's right to correct Work. The Contractor shall advise the Owner in writing, 60 days prior to the end of the one-year period for correction of work, that sixty (60) days remain in the applicable warranty period.

ARTICLE 7 - MATERIAL HANDLING, STORAGE AND CLEANUP

- 7.1 The Contractor shall, at his own expense, handle and haul all materials furnished by him and shall remove any of his surplus materials at the completion of the work. The Contractor shall provide suitable and adequate storage for equipment and materials furnished by him that are liable to injury and shall be responsible for any loss of or damage to any equipment or materials by theft, breakage, or otherwise. The Contractor shall be responsible for all damage to the work under construction during its progress and until final completion and acceptance even though partial payments have been made under the Contract. Unless permission to close the street is received in writing from proper authority, all excavated material shall be placed so that vehicular and pedestrian traffic may be maintained at all times.
- 7.2 The Contractor expressly undertakes at his own expense:
- .1 to take every precaution against injuries to persons or damage to property;
 - .2 to store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other contractors;

- .3 to place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;
- .4 to clean up frequently all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- .5 before final payment to remove all surplus material, falsework, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition; and
- .6 to effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Engineer, not to cut or otherwise alter the work of any other Contractor.

7.3 The Contractor shall at all times keep the adjacent properties free from an accumulation of waste material or rubbish caused by his employees or work, and at the completion of the work he shall remove all rubbish, tools, equipment and materials from the adjacent properties and highways and shall leave his work "Broom Clean".

ARTICLE 8 - RESIDENT ENGINEER

8.1 The Contractor shall designate an employee to act as resident engineer at the site of the work and shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Engineer and shall be one who can continue in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

ARTICLE 9 - EMPLOYED

9.1 The use of police officers must be approved by the Director. The City will provide police officers only when said use is specifically approved by the Director. Payment of police details will be paid directly by the City to the Police Department. The Contractor shall be required to notify the Everett Police Department of any cancellation in scheduled police details resulting from changes or cancellation of intended work. Such notification shall occur a minimum of one (1) hour before the scheduled time of the detail officer. The Contractor shall be responsible for all costs associated with the lack of notification or late notification of detail cancellations at NO additional cost to the owner.

ARTICLE 10 - SURVEY INFORMATION

10.1 The Engineer will furnish basic information pertaining to layouts, bench marks, etc. sufficient for controlling the location and grades of the work. The Owner makes no warranties as to the accuracy or completeness of information furnished by the Engineer. The Contractor shall exercise proper precautions relating to the safe performance of the Work. The Contractor shall, at his own expense, furnish all necessary equipment, personnel, stakes, etc. and shall lay out the work in detail, as required, including lines and grades as necessary in each instance. All reference marks shall be verified by an

instrument at frequent intervals and the Contractor shall be responsible for the accuracy of all lines and grades relative to the project.

- 10.2 The Contractor shall be responsible for the correct location and elevation of all components of the project as shown on the Contract Drawings.

ARTICLE 11 - USE OF EXPLOSIVES

- 11.1 When the use of explosives is necessary for the execution of the work, the Contractor shall observe the utmost care not to endanger life and property, and whenever directed, the number and size of the charges shall be reduced. All explosives shall be stored in a secure manner and all such storage places shall be clearly marked "DANGEROUS EXPLOSIVES" and shall be in the care of competent watchmen at all times.
- 11.2 The use of explosives will be limited to between the hours of 9:00 A.M. to 3:30 P.M. unless express permission in writing is received from the Engineer. The method of storage, use, and handling explosives and highly inflammable materials shall conform with all State Laws and regulations pertaining thereto. The Contractor shall obtain all necessary permits relating to the storage and uses of explosives.
- 11.3 The Contractor shall bear all losses resulting from the use or storage of explosives and highly inflammable materials and shall indemnify, defend and save harmless the Owner and all of its officers, board members, agents, and employees from all suits, damages, claims, liabilities or judgments for bodily injuries or death to any person and for property damage or damage destruction arising out of the use or storage of explosives and highly inflammable materials.

ARTICLE 12 - BARRICADES, WARNING SIGNS AND TRAFFIC CONTROL

- 12.1 All roadways on which work is being performed shall be kept open to local traffic at all times except when specified detours are authorized, in writing, by the Director. **It shall be the contractor's responsibility to provide detour signs, as directed by the Engineer and/or Police Department, that are clearly readable and permanent insofar as the duration of the work on each street is concerned.**
- 12.2 The Contractor shall leave the site accessible from either end as to allow access for fire department vehicles and residents. He shall also notify the police and fire departments at the close of each working day as to his location and area conditions. The Contractor shall, at all times, provide, place and erect all necessary barricades and warning signs and furnish and keep lighted all lights necessary to protect the work from traffic, pedestrians and animals. He shall also furnish at his own expense a sufficient number of watchmen at all times to protect the work. All open excavations shall be adequately safeguarded by providing the necessary temporary barricades, caution signs, lights and other means to prevent accidents to persons, and damage to property. The Contractor shall, at his own expense, provide suitable and safe means for completely covering all open excavations and for accommodating travel when work is not in progress. Bridges provided for access to private property during construction shall be removed when no longer required. The

length of open trench will be controlled by the particular surrounding conditions but shall always be confined to the limits prescribed by the Engineer. If the excavation becomes a hazard, or if it excessively restricts traffic at any point, special construction procedures such as limiting the length of open trench, prohibiting stacking excavated material in the street, backfilling, and or restricting working hours shall be taken as specified by the Engineer. The Contractor shall fully comply with the Dig Safe Laws.

- 12.3 The Contractor shall be responsible for all damage to the work due to any failure of signs and barricades to protect the work properly from traffic, pedestrians, animals or other causes and shall, at its own expense, restore any such damage to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or replacing it, or otherwise making good such damage or destruction in an acceptable manner. If the Contractor shall fail to promptly repair the damage, an amount equal to the damage done shall be deducted from his payment. Such reduction shall be determined by the Director and shall be final and binding. Where the damage or loss presents an immediate danger to the public, the Owner, in its sole discretion and at the Contractor's expense, may promptly remedy such damage or loss without prior notice to the Contractor.

ARTICLE 13 - AUTHORITY AND DUTIES OF DIRECTOR'S ASSISTANTS

- 13.1 The Director may appoint such assistants and representatives as he deems necessary and they shall be authorized to inspect work and materials, to give directions pertaining to the work or the safety and convenience of the public, to approve or reject materials and workmanship, to make measurements of quantities and to perform such other duties as may be designated by the Director.
- 13.2 In case of any dispute arising between the Contractor and the Director's assistants, as to materials furnished or the manner of performing the work, the Director's assistants shall have the authority to reject the materials or to suspend the work until the question at issue can be referred to and decided by the Director.
- 13.3 The Director's assistants are not authorized to revoke, alter, enlarge, relax, or release any requirements of the contract and specifications, nor to issue any instructions contrary to the plans and specifications. They shall in no case act as foreman for or perform other duties for the Contractor.

ARTICLE 14 - SUBLETTING OR ASSIGNMENT OF CONTRACT

- 14.1 The Contractor shall give his personal attention constantly to the faithful execution of the work, shall keep the same under his personal control, and shall not assign by power of attorney or otherwise or sublet the work or any part thereof without the previous written consent of the Department of Public Works and shall not either legally or equitably assign any of the moneys payable under this agreement, or his claim thereto, unless by and with the written consent of the Department of Public Works. He shall be responsible for the acts and omissions of his subcontractors, if any, and of all persons directly or indirectly employed by him or them in connection with the work. The Contractor shall notify the Director, as soon as practicable after the execution of the contract, the name

and address of each subcontractor, his duties, and such other information the Director may require in order to ascertain whether the subcontractor is reliable and able to perform the work.

- 14.2 The Department of Public Works will make a periodic pay estimate for the Contractor only, regardless of the fact that the Contractor employs one or more subcontractors. It shall be the Contractor's responsibility to determine the amount of work that is payable to his subcontractors.

ARTICLE 15 - TEMPORARY SUSPENSION OF WORK

- 15.1 The Director shall have the authority to suspend the work wholly or any part thereof, for such period as he may deem necessary, because of unsuitable weather conditions, for the safety and convenience of the public, or for such other causes as are considered unfavorable for the satisfactory completion of the work, or for such time as he may deem necessary due to the failure of the contractor to carry out orders given or to perform any provision of the contract. The work shall be resumed when conditions so warrant or deficiencies have been corrected and the conditions of the contract satisfied as ordered or approved by the Director.
- 15.2 In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials have been damaged or injured by reason of failure on the part of the Contractor or his Subcontractors to protect his or their work, such materials shall be removed and replaced at the expense of the Contractor.

ARTICLE 16 - MEASUREMENT OF QUANTITIES

- 16.1 The quantities of the various items of work performed shall be determined by the Director.
- 16.2 Upon the completion of the work and before final payment is made the Director will make final measurement to determine the quantities of the various items of work performed, as the basis for final settlement. All measurements shall be made according to the United States Standard units of measurement.

ARTICLE 17 - WORK WEEK

- 17.1 The Contractor shall work the regular eight (8) hour day, five (5) day work week, Saturdays, Sundays and Holidays excluded. If the Contractor wishes to work more than an eight (8) hour day, five (5) days week and on Saturday, Sundays and Holidays, he shall first receive permission in writing from the Director. If the Contractor so elects and the necessary permission is secured from the Director, the cost of inspection of the work shall be borne by the Contractor and payment for same shall be deducted from his contract payments at the rate as paid by the City, the Director will assign inspectors to the project as are in his opinion necessary for the proper supervision of the work.

ARTICLE 18 - PROTECTION OF AND REPAIR TO UTILITIES

- 18.1 The Contractor shall exercise extreme care during excavation of trenches so that utilities, underground or overhead, shall not be damaged. Utilities shall include wires, pipes, poles, manholes, catch basins, conduits and allied items. When any utility is clearly shown on the plan or clearly identified in the field, the Contractor shall assume full responsibility for the damages and shall pay for or repair all damages thereto however made to the satisfaction of the agency having jurisdiction. If the Contractor shall fail to promptly pay for or repair such utilities, an amount equal to the damage done shall be deducted from his payment. Such reduction shall be determined by the Director and shall be final and binding. Where the damage or loss presents an immediate danger to the public, the Owner, in its sole discretion and at the Contractor's expense, may promptly remedy such damage or loss without prior notice to the Contractor.
- 18.2 In the case of accidental damage to surface and sub-surface utilities, the company whose utility was damaged will be responsible for the repairs. The contractor will be responsible for contacting the utility company as soon as possible so that the repair can be made. Only upon receiving written permission from the owners of the utility, will the contractor be allowed to make the repairs themselves. The payment for the repair will be made after an investigation into why the utility was damaged. The cost for the repair will be borne by the party found at fault for the damage. No additional payments will be made for loss of time due to "down time" created by the damaged utility.

ARTICLE 19 - CONSTRUCTION MACHINERY

- 19.1 Construction machinery used shall be of such kind and used in such a manner and in such locations as not to unnecessarily injure road surfaces, fences, poles, trees, shrubs, buildings, walks, pipes, conduits, cables, wires, catch basins, manholes, etc.
- 19.2 The Contractor shall use a small type construction machinery where the physical aspects of the site do not provide sufficient room for maneuvering a larger machine in a normal manner without damage to abutting properties.

ARTICLE 20 - DAMAGE SUITS AND CLAIMS

- 20.1 The Contractor shall compensate the Owner for all damages to its property of any nature arising out of the Contractor's work; and the Contractor shall indemnify, defend and hold harmless the Owner and the Engineer and their agents and employees against all suits, claims or liability of every name and nature and from all claims for things which the Contractor is required to furnish under this contract and for or on account of any injuries to persons or damage to property or nuisances or trespasses, and specifically including death and consequential damages, arising out of or in consequence of the acts of the Contractor in the performance of the work covered by the Contract or failure to comply with the terms and conditions of the Contract, whether by the Contractor or his agents, employees, or subcontractors, and whether or not such claims, demands, suits, or proceedings are just, unjust, groundless, false or fraudulent; and the Contractor shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits

and proceedings. This section shall apply to "Extra Work" and all other operations by the Contractor in connection with this Contract.

ARTICLE 21 - WEATHER CONDITIONS

21.1 The Contractor shall install weather protection and furnish adequate heat in the protected area from November 1 to March 31 as required by M.G.L. c. 149, § 44F.

ARTICLE 22 - REJECTED MATERIALS AND DEFECTIVE WORK

22.1 Materials furnished by the Contractor and condemned by the Engineer as unsuitable or not in conformity with the specifications shall be forthwith removed from the work by the Contractor, and shall not be made use of elsewhere in the work. Any errors, defects or omissions in the execution of the work or in the materials furnished by the Contractor, even though they may have been passed or overlooked or have appeared after the completion of the work, discovered at any time before the final payment is made hereunder, shall be forthwith rectified and made good by and at the expense of the Contractor and in a manner satisfactory to the Engineer. The Contractor shall reimburse the Owner for any expense, losses or damages incurred in consequence of any defect, error, omission or act of the Contractor or his employees, as determined by the Engineer, occurring previous to the final payment. If the Contractor shall fail to promptly reimburse the Owner for any such expense, loss or damage, an amount equal to the expense, loss or damage shall be deducted from his payment. Such reduction shall be determined by the Director and shall be final and binding.

ARTICLE 23 - SANITARY REGULATIONS

23.1 Sanitary conveniences for the use of all persons employed on the work, properly screened from public observation, shall be provided in sufficient numbers in such manner and at such locations as may be approved. The contents shall be removed and disposed of in a satisfactory manner as the occasion requires. The Contractor shall rigorously prohibit the committance of nuisances within, on or about the work. Any employees found violating these provisions shall be discharged and not again employed on the work without the written consent of the Engineer. The sanitary conveniences specified above shall be the obligation and responsibility of the Contractor.

ARTICLE 24 - MAINTENANCE OF DRAINAGE FACILITIES

24.1 All existing drainage facilities including, but not limited to, brooks, streams, canals, channels, ditches, culverts, catch basins and drainage piping shall be adequately safeguarded so as not to impede drainage in any manner whatsoever. The Contractor will ensure that no obstruction to, siltation of, or discharge of wastewater into existing drainage facilities occurs. If the Contractor damages or impairs through circumstances beyond his control any of the aforesaid drainage facilities, he shall repair the same within the same day. If the Contractor shall fail to repair any such damage to a drainage facility, the Owner, in its sole discretion and at the Contractor's expense, may promptly remedy such damage without prior notice to the Contractor.

ARTICLE 25 - IMPLICATION OF THE WORDS "APPROVED EQUAL" OR "APPROVED SUBSTITUTE"

25.1 The use of the words "Approved Equal" or "Approved Substitute" following the name of any manufacturer, vendor or proprietary product shall be understood to mean that articles or materials may be substituted which, in the opinion of the Director, are equal in quality, durability, appearance, strength, design and performance to the articles or materials named or described and will perform adequately in providing a first-class facility. If articles or materials are accepted as equal to those on which dimensions on the drawings are based, any dimensional variance from those shown and/or specified shall be shown on the shop drawings prepared by the Contractor, illustrating the manner in which conformity to dimensions and design is to be obtained. All such drawings shall be subject to the approval of the Director and the installation of the article shall not proceed without first obtaining said approval.

ARTICLE 26 - WATER FOR CONSTRUCTION PURPOSES

26.1 In locations where water is in sufficient supply, the Contractor may be allowed to use water for construction purposes. The express approval of the Owner shall be obtained before water is used. Waste of water by the Contractor shall be sufficient cause for withdrawing the privilege of unrestricted use. The use of City water shall be in accordance with Section 2.0 SPECIAL PROVISIONS of the Specifications.

ARTICLE 27 - PROTECTION OF LIVES AND HEALTH

27.1 In order to protect the lives and health of his employees under this contract, the Contractor shall comply with the requirements of the Occupational Safety and Health Act and the Construction Safety Act of 1969, which are incorporated herein by reference, and all standards and regulations promulgated by the governmental and regulatory bodies responsible for administration thereof. The Contractor shall be responsible for compliance with such Acts, standards and regulations by its officers, agents, employees, Subcontractors, Sub-subcontractors, suppliers and material. The Contractor shall indemnify and hold harmless the Owner and the Engineer from any and all fines, costs and expenses, including but not limited to reasonable attorney's fees, incurred by Owner and Engineer due to violation of such Acts, standards and/or regulations.

ARTICLE 28 - SUSPENSION OF WORK

28.1 Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to set forth in writing.

28.2 The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Owner or the Engineer on account of any delay in the commencement of

the work and/or any hindrance, delay or suspension of any portion of the Work, whether such delay is caused by the Owner, the Engineer, or otherwise. The Contractor acknowledges that the Contractor's sole remedy for any such delay and/or suspension will be an extension of time, and such remedy shall be available only if the Contractor complies with notice requirements contained in this Agreement.

- 28.3 No extension of time shall be granted because of seasonal, normal or abnormal variations in temperature, humidity, or precipitation, which conditions shall be wholly at the risk of the Contractor, whether occurring within the time originally scheduled for completion or within the period of any extension granted. Any additional cost of operations or conditions resulting therefrom shall be the responsibility of the Contractor.

ARTICLE 29 - SUBSURFACE CONDITIONS FOUND DIFFERENT

- 29.1 If, during the progress of the work, the contractor or the awarding authority discovers that the actual subsurface or latent physical conditions encountered at the Site differ substantially or materially from those shown on the plans or indicated in the contract documents either the contractor or the contracting authority may request an equitable adjustment in the contract price of the contract applying to work affected by the differing Site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible after such conditions are discovered. Upon receipt of such a claim from a contractor, or upon its own initiative, the contracting authority shall make an investigation of such physical conditions, and, if they differ substantially or materially from those shown on the plans or indicated in the contract documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and contract documents and are of such a nature as to cause an increase or decrease in the cost of performance of the work or a change in the construction methods required for the performance of the work which results in an increase or decrease in the cost of the work, the contracting authority shall make an equitable adjustment in the contract price and the contract shall be modified in writing accordingly.

ARTICLE 30 - EXTENSION OF TIME

- 30.1 When extra work is ordered at any time during the progress of the work which requires in the opinion of the Engineer an unavoidable increase of time for the completion of the contract, a corresponding extension of the time of completion will be allowed, subject to prior approval of the Owner.

ARTICLE 31 - ABANDONMENT OF WORK

- 31.1 If the work to be done under this contract shall be abandoned, or if this contract or any part thereof shall be abandoned, or if this contract or any part thereof shall be sublet without the previous written consent of the Owner, or if the contract or any claim thereunder shall be assigned by the Contract otherwise than as herein specified, or if at any time the Engineer shall be of the opinion, and shall so certify in writing, that the conditions herein specified as to the rate of progress are not fulfilled, or that the work or

any part thereof is unnecessarily or unreasonably delayed, or that the Contractor has violated any of the provisions of this contract, the Owner may notify the Contractor by a written order with a copy mailed to the home office of the Surety to discontinue all work, or any part thereof; and thereupon the Contractor shall discontinue such work or such part thereof as the Owner may designate, and the Owner may thereupon: by contract or otherwise, as it may determine, complete the work, or such part thereof, and charge the entire expense of so completing the work or part thereof to the Contractor; and for such completion the Owner for itself or its contractors may take possession of and use or cause to be used in the completion of the work or part thereof, any of such materials, equipment, machinery, implements, and tools of every description as may be found at the location of said work. The right is reserved to the Owner, at all times, to call upon Contractor's Surety to complete such work.

- 31.2 All expenses charged under this article shall be deducted and paid by the Owner out of any moneys then due or to become due the Contractor under this contract, or any part thereof; and in such accounting the Owner shall not be held to obtain the lowest figures for the work of completing the contract or any part thereof or for insuring its proper completion but all sums actually paid therefor shall be charged to the Contractor, In case the expenses so charged are less than the sum which would have been payable under this contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference; and in case such expenses shall exceed the said sum, the Contractor shall pay the amount of the excess to the Owner.

ARTICLE 32 - ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

- 32.1 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 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. No payment, however, final or otherwise, shall operate to release the Contractor or his Sureties from any obligations under this contract or the Performance and Payment Bond.
- 32.2 The Final Estimate shall be certified by the Engineer as to its conformity with all provisions of the contract, and shall be certified by the Contractor to the effect that all just and lawful bills against the Contractor for labor, materials, and expendable equipment covered by the estimate have been paid in full, and that the amount stated as due the Contractor for payment is full compensation for all work done under the terms of the contract, including change and Extra Work Orders and for all damages, losses and expense incurred by the Contractor in doing the work, and that the Contractor waives all rights to claim or receive any further compensation in addition to that provided in the Final Estimate.

ARTICLE 33 - RETAIN FOR REPAIRS

- 33.1 The Owner may, after the final completion of the work, retain out of the moneys due the Contractor under this contract such sum of money as may, in the judgment of the Engineer, be required to cover the cost of any repairs as set forth above, and may expend the same in the manner provided therefor in making such repairs.

- 33.2 It is agreed, however, that the Owner may apply the sum so retained to payment of other claims arising and made payable by the Contractor under the provisions of the Contract but remaining unsatisfied.

ARTICLE 34 - CLAIMS FOR EXTRA COST

- 34.1 No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order of the Engineer approved by the Owner, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. The Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to amounts relating thereto.
- 34.2 The Contractor hereby acknowledges that the Owner has the contractual right to delay the Work. Such right may not be exercised unreasonably. In addition, Contractor shall not be entitled to additional compensation as a result of delay, even if caused by the Owner or those for whom the Owner is responsible. The Contractor's sole remedy for any delay is an extension of time, notwithstanding the above. If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property.

ARTICLE 35 - SEPARATE CONTRACT

- 35.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site.
- 35.2 The Contractor shall coordinate his operations with those of other Contractors. Cooperation may be required in the arrangement for storage of materials and in the detailed execution of the work. The Contractor, including his subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other Contractors.
- 35.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner that are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor.

ARTICLE 36 - CONFLICTING CONDITIONS

- 36.1 In the event of conflict in or between the Contract Documents, the Contractor shall be held to the highest standard contained in either of them. Where compliance with two or more industry standards or set of requirements is specified, and overlapping of those different standards or requirements established different or conflicting minimums or level of quality, the most stringent requirements are intended.

- 36.2 In the event of a conflict between any provision or language of these General Conditions and any provision or language of the Contract Documents, the provision or language of these General Conditions shall control. In the event of any conflict or inconsistency between these General Conditions, the Contract Documents and any applicable state law, the applicable statutory provisions shall prevail.

ARTICLE 37 - DISCREPANCIES, ERRORS AND OMISSIONS

- 37.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become thoroughly familiar with all the existing conditions at the site, has taken all such conditions into consideration as they may affect the Work under its Contract, and correlated personal observations with requirements of the Contract Documents. No allowance will be made in the Contract or the Work under the Contract for failure of the Contractor to visit the site.
- 37.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to these General Conditions, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Engineer, in writing, any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Engineer may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. Before starting the work and at frequent intervals during the progress thereof, the Contractor shall carefully study and compare the contract documents with each other and with the information furnished by the Owner pursuant to this Article and shall at once report to the Engineer any error, inconsistency or omission the Contractor may discover. Any necessary change will be ordered as provided in Article 5, subject to the requirements of other provisions of the Contract Documents. If the Contractor proceeds with the Work without such notice, the Engineer, having discovered such errors, inconsistencies or omissions, or if by reasonable study of the Contract Documents it could be discovered such, the Contractor shall bear all cost arising therefrom.
- 37.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Engineer and Owner, in writing any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Engineer and Owner may require.
- 37.4 Should any omissions, error or conflict be found in the Contract Documents, during the bidding period and prior to the times set forth in the Instructions to Bidders for receipt of

such inquiries, the bidders shall request in writing that such conditions be explained by the Engineer in the method described therein.

- 37.5 Should the work proceed, after the discovery of errors, conflict, or omissions by the Engineer and clarification has not been received from the Engineer, the Contractor will be held fully responsible for replacement or correction of the affected area, as directed by the Engineer, at the Contractor's expense.

ARTICLE 38 - DISTURBANCE TO PROPERTY MARKERS AND BOUNDS

- 38.1 Any property markers or street bounds shall not be removed or disturbed. If it becomes necessary to **remove and reset** any property markers or street bounds then the contractor shall hire a Registered Professional Land Surveyor to perform this work. It shall be the responsibility of this Land Surveyor to submit to the City, a statement in writing and a plan containing his/her stamp and signature showing that said work has been performed.

ARTICLE 39 – MISCELLANEOUS

- 39.1 Subject to Appropriation. The obligations of the City hereunder shall be subject to appropriation on a fiscal year basis. In the absence of appropriation, this agreement shall be terminated immediately without liability of the City for damages, lost profits, penalties, or other charges arising from early termination.

39.2 Conflict of Interest. Both the City and the Contractor stipulate to the applicability of the State Conflict of Interest Law (M.G.L. c. 268A), and this contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated its applicability to the performance of this contract; and by executing the contract documents the Contractor certifies to the City that neither it nor its agents, employees or subcontractors are thereby in violation of M.G.L. c. 268A.

.1 The Contractor warrants that it has complied with all provisions of law regarding the award of this contract and that it, or its employees, agents, officers, directors or trustees have not offered or attempted to offer anything of any value to any official or employee of the City in connection with this Contract.

.2 The Contractor further warrants that no official or employee of the City including unpaid members of City boards and commissions, serves as an officer, director, trustee or employee of the Contractor, and that no official or employee of the City has or will have a direct or indirect financial interest in this Contract.

.3 The Contractor shall not during the term of this Contract hire or employ on either a full-time or part-time basis any person or persons employed by the City.

.4 Violation of this Article shall be a material breach of this contract and shall be grounds for immediate termination of this contract by the City without regard to any enforcement activities undertaken or contemplated by any enforcement agency. Termination of this contract

pursuant to this Article shall not waive any claims for damages the City may have against the Contractor resulting from the Contractor's violation of the terms of this Article.

39.3 Record Keeping and Management Controls. The Contractor shall comply with M.G.L. c. 30, § 39R.

39.4 Non-Discrimination. The Contractor shall not discriminate on grounds of race, color, religious creed, national origin, age or sex in employment practices, in the selection or retention of sub-contractors, the procurement of material and rental of equipment, employment decisions or in any aspect of the performance of this contract. The Contractor shall also comply with all applicable laws and regulations pertaining to non-discrimination. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, each potential subcontractor shall be notified by the Contractor of the Contractor's obligations under this contract relative to non-discrimination and it shall be a term of each contract with a subcontractor in connection with the performance of this work under this Agreement, that the subcontractor be bound to non-discrimination and equal opportunity requirements equivalent to the obligations of the Contractor hereunder.

39.5 Independent Contractor. The Contractor is not an employee or agent of the City, but is an independent contractor.

39.6 Certification of Non-Debarment or Suspension (MG.L. c. 29, § 29F). By execution of this Contract, the Contractor, pursuant to Section 29F of Chapter 29 of the Massachusetts General Laws, certifies under the penalties of perjury that it is not presently debarred or suspended from doing public construction work in the Commonwealth of Massachusetts pursuant to said section, or any applicable debarment or suspension provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

39.7 Claims and Disputes. Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by the Superior Court of Massachusetts in Middlesex County, if jurisdiction exists, and if jurisdiction does not exist in the Superior Court, said action shall be brought in the Woburn District Court of Massachusetts. A claim, dispute or other matter may be submitted to mediation, in accordance with the provisions of the American Arbitration Association, at the sole discretion of the Owner. Notwithstanding any provision contained in the Contract Documents, the Owner reserves the right to demand arbitration against the Contractor in connection with the Claims and disputes between the Owner and the Contractor, which right may be exercised by the Owner unilaterally and in the Owner's discretion.

39.8 Severability. If any provision of this Contract is held invalid by any court or body of competent jurisdiction, the remainder of this Contract shall remain in full force and effect.

PREVAILING WAGE RATES
APPLY TO THIS PROJECT

The prevailing wage rates for this project Wage Request Number 20230914-053 are posted to the City of Everett's web page with the bid documents.

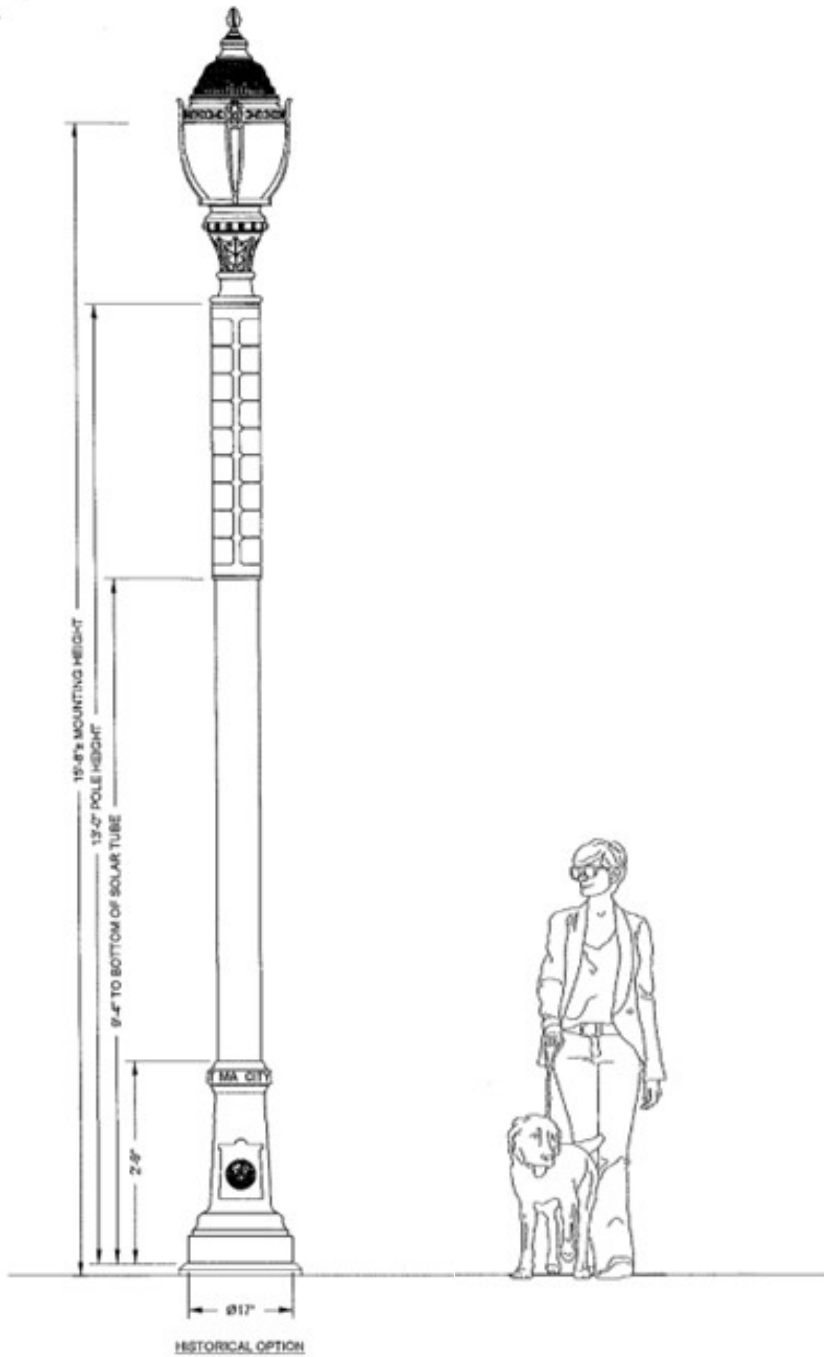
If your firm is the winning bidder, you must pay prevailing wage rates for this project.

The WEEKLY STATEMENT OF COMPLIANCE for can be found here: [download \(mass.gov\)](#)

A sample Certified Payroll Report Form can be found here [Copy of certified payroll report form \(mass.gov\)](#)

SOLAR POWERED LIGHTS AND LUMINARIES (continued)

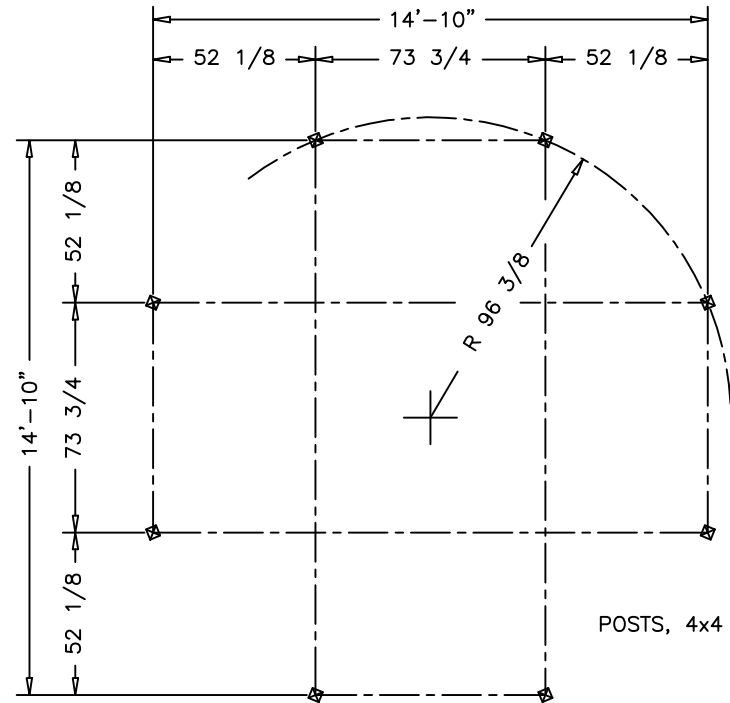
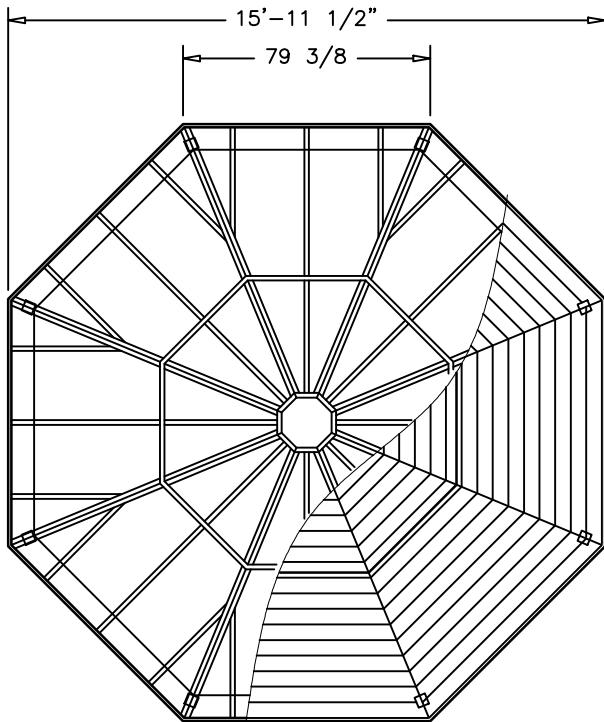
Solar Light Pole Assemblies



Project:
Location:

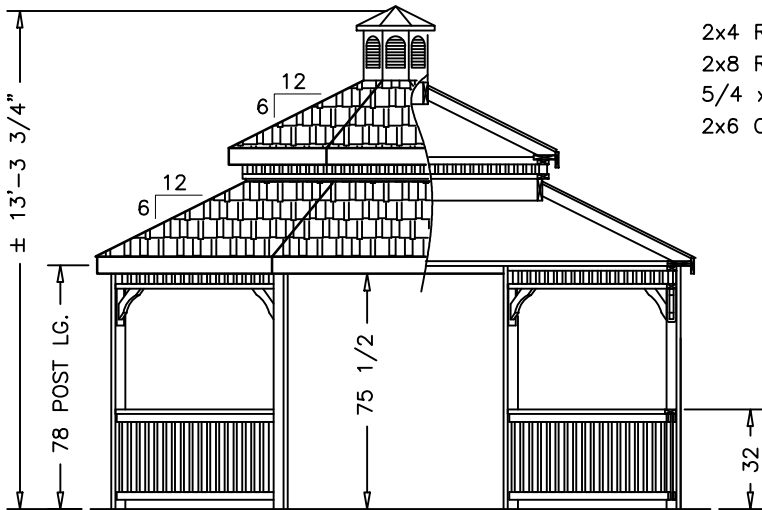
Project No.:
Drawing No.: SK1
Version: 1
Design By: Patrick

Sheet: 1 of 1
Scale: N.T.S.
Format: PDF, Size A
Date: 12JAN2023



ROOF FRAMING

- 2x4 RAFTERS, 24" MAX C-C, DOUBLED AT HIPS
- 2x8 RAFTER PLATE
- 5/4 x 6" FASCIA BOARDS
- 2x6 COMPRESSION BOXES
- 1x6 T&G ROOF DECKING
- BUILDING PAPER
- ASPHALT SHINGLES



FOOTINGS, FLOOR BY OTHERS

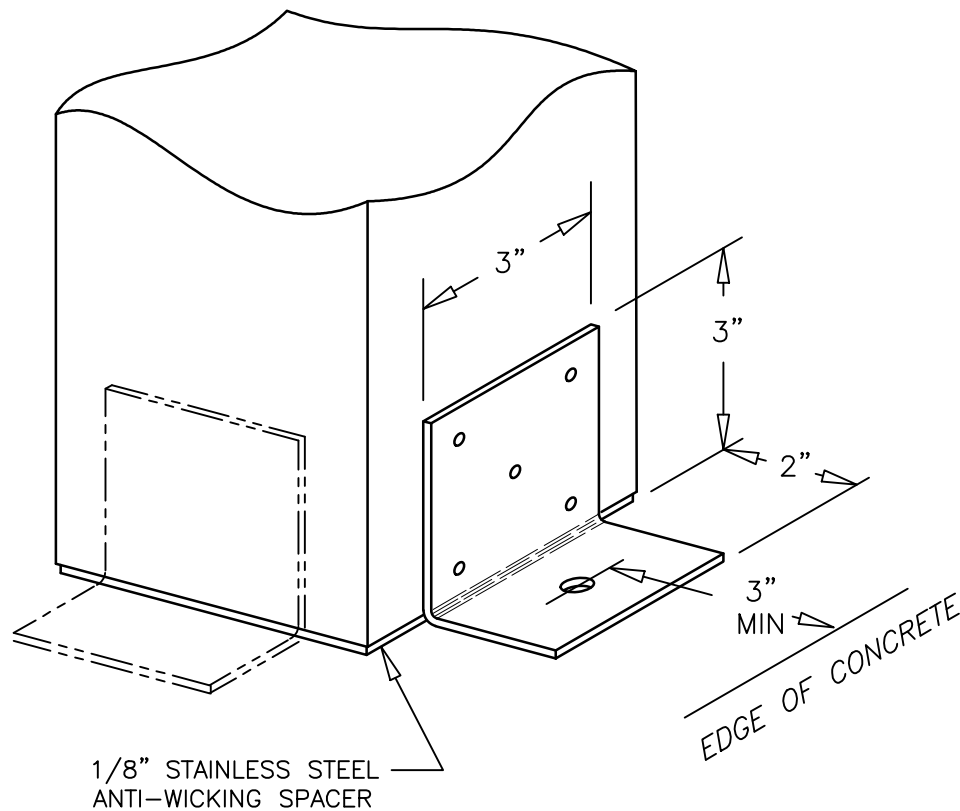
L BRACKETS ARE 1/8" MIN STEEL, POWDERCOATED OR STAINLESS STEEL IF SPECIFIED ON ORDER

NUMBER AND ARRANGEMENT OF L BRACKETS MAY VARY DEPENDING ON SITE CONDITIONS
TYPICAL IS 2 BRACKET MINIMUM SET 90° APART

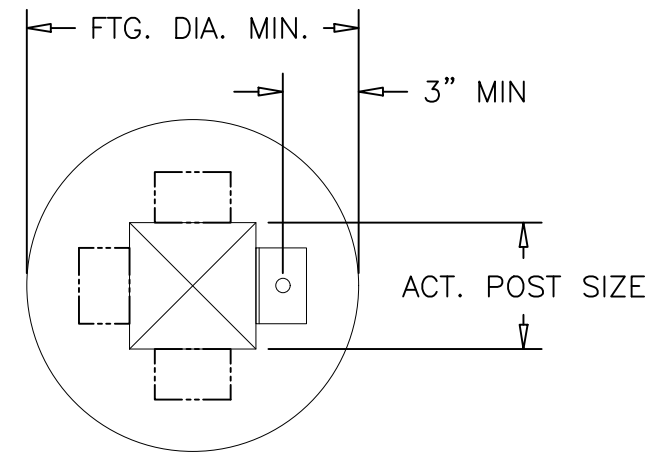
USE 1/2" WEDGE BOLTS OR SIMPSON TITEN SCREW ANCHORS WITH 3-1/2" MIN. EFFECTIVE EMBEDMENT INTO SOLID CONCRETE REFER TO MANUFACTURERS ENG. SHEET FOR MORE INFORMATION ON EFFECTIVE EMBEDMENT TERMINOLOGY IF NOT FAMILIAR

USE (5X) #8 SCREWS X L* PER BRACKET. GALV. OR S.S. WHEN SPECIFIED

*L= 2 1/2" OR (POST THICKNESS X .45)
STAGGERING BRACKETS APPROX. 1/4" OFF ϕ WILL HELP PREVENT SCREW SELF-INTERFERENCE.



1/8" STAINLESS STEEL ANTI-WICKING SPACER



ACTUAL POST SIZE	FOOTING DIA. MIN.
3-1/2"	12"
5"	13"
5-1/2"	14"
7"	15"
7-1/2"	16"
8"	17"

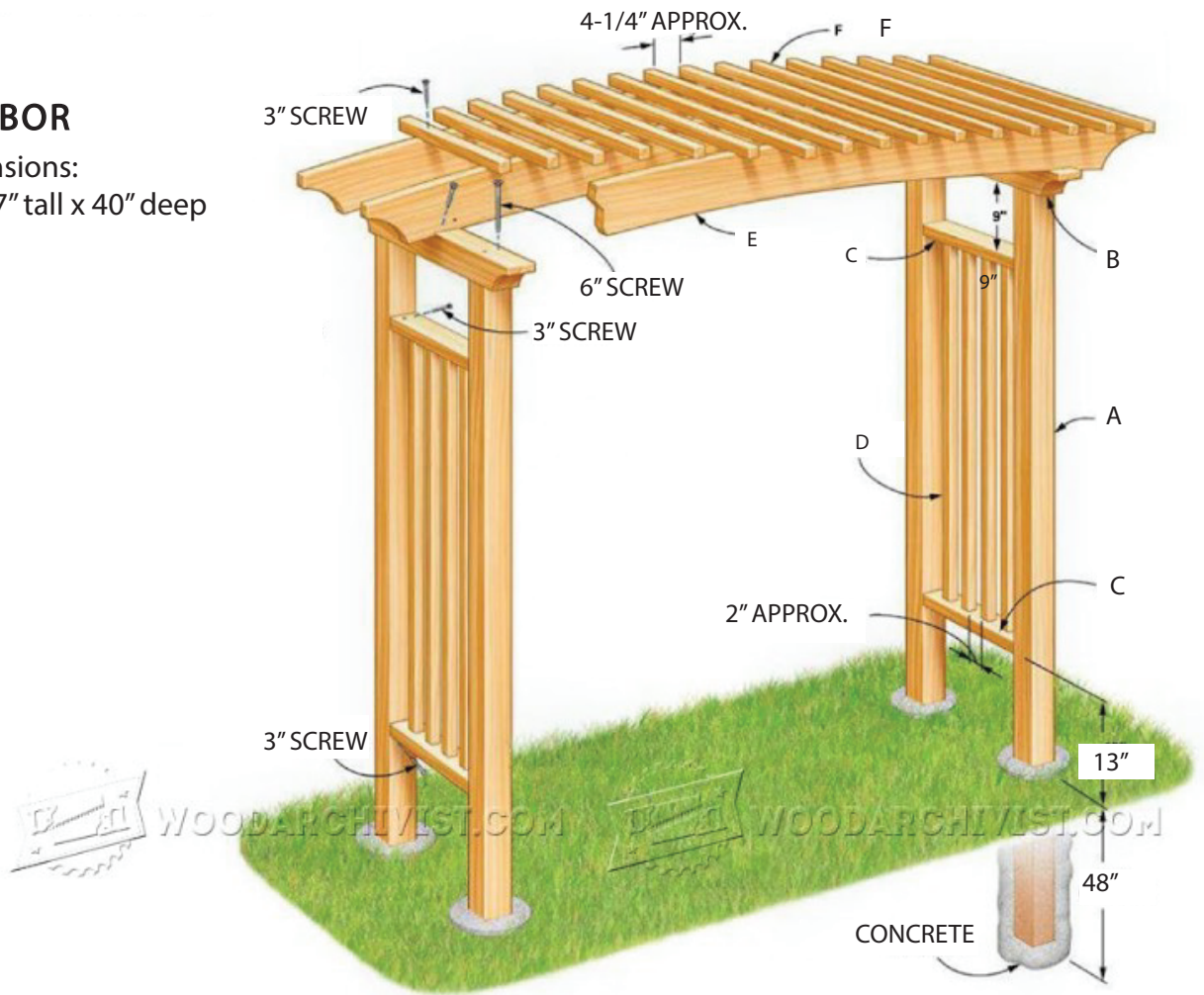
1) EXISTING FOUNDATIONS/SUPPORTS MUST BE DESIGNED TO WITHSTAND RESULTANT FORCES TRANSMITTED BY THE STRUCTURE. CONSULT A REGISTERED PROFESSIONAL ARCHITECT OR ENGINEER LICENSED IN THE STATE WHERE STRUCTURE IS LOCATED.

2) FIFTHROOM.COM ASSUMES NO RESPONSIBILITY FOR THE DESIGN, CONSTRUCTION, OR STRUCTURAL INTEGRITY OF ANY EXISTING STRUCTURE OR MATERIALS SUPPLIED BY OTHERS.

3) FIFTHROOM.COM IS NOT RESPONSIBLE FOR IMPROPER USE OF THIS PRODUCT.

CEDAR ARBOR

Overall dimensions:
107" wide x 87" tall x 40" deep



Cutting List

KEY	QTY	SIZE & DESCRIPTION
A	4	3-1/2" x 3-1/2" x 8' posts
B	2	3-1/2" x 3-1/2" x 36" beams
C	4	1-1/2" x 3-1/2" x 18" rungs
D	8	1-3/8" x 1-3/8" x 47" side slats
E	3	1-1/2" x 10" x 107" arches
F	19	1-3/8" x 1-3/8" x 40"

Materials List

ITEM	QTY
4 x 4 x 8'	5
2 x 4 x 8'	1
2 x 2 x 8'	14
2 x 12 x 10'	3
2 x 4 x 10' (for bracing)	3
Concrete Mix (80 lb bags)	4
Eight 6" screws, 2 lbs of 3" screws, two 4" screw hooks, exterior stain	



- NOTES:
- 1) EXISTING CONDITIONS SHOWN ON THIS PLAN ARE APPROXIMATE. INFORMATION IS BASED ON PREVIOUSLY OBTAINED SURVEY, AERIAL IMAGES, SITE OBSERVATIONS AND MEASUREMENTS.
 - 2) THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE APPROXIMATE AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT OCCUR BY THE CONTRACTOR'S FAILURE TO LOCATE EXACTLY AND TO PRESERVE ANY AND ALL UNDERGROUND UTILITIES. CALL "DIG-SAFE" 1-888-DIGSAFE (344-7233) AT LEAST 72 HOURS BEFORE COMMENCING CONSTRUCTION.
 - 3) WHERE AN EXISTING UNDERGROUND UTILITY IS FOUND TO CONFLICT WITH THE PROPOSED WORK, THE LOCATION, ELEVATION AND SIZE OF THE UTILITY SHALL BE ACCURATELY DETERMINED WITHOUT DELAY BY THE CONTRACTOR, AND THE INFORMATION FURNISHED TO THE ENGINEER FOR RESOLUTION OF THE CONFLICT.
 - 4) AREAS OUTSIDE THE LIMITS OF PROPOSED WORK DISTURBED BY THE CONTRACTOR'S OPERATIONS SHALL BE RESTORED BY THE CONTRACTOR TO THEIR ORIGINAL CONDITION AT THE CONTRACTOR'S EXPENSE.
 - 5) ALL DISTURBED AREAS NOT DESIGNATED TO BE PAVED SHALL HAVE LOAM BORROW PLACED AND SEEDED. THE LOAM BORROW SHALL HAVE A MINIMUM DEPTH OF 4 INCHES AND SHALL BE PLACED FLUSH WITH THE TOP OF THE ADJACENT CURB, OR SIDEWALK.

DRAFT
NOT FOR CONSTRUCTION

REV: DESCRIPTION: BY: DATE:

neighborwaysdesign

DIGGERS
COOPERATIVE

SPEAKEASY GARDENS

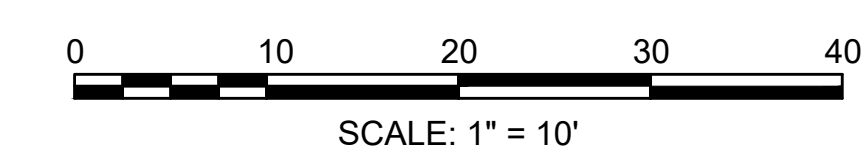
MOYER
Transportation Engineering

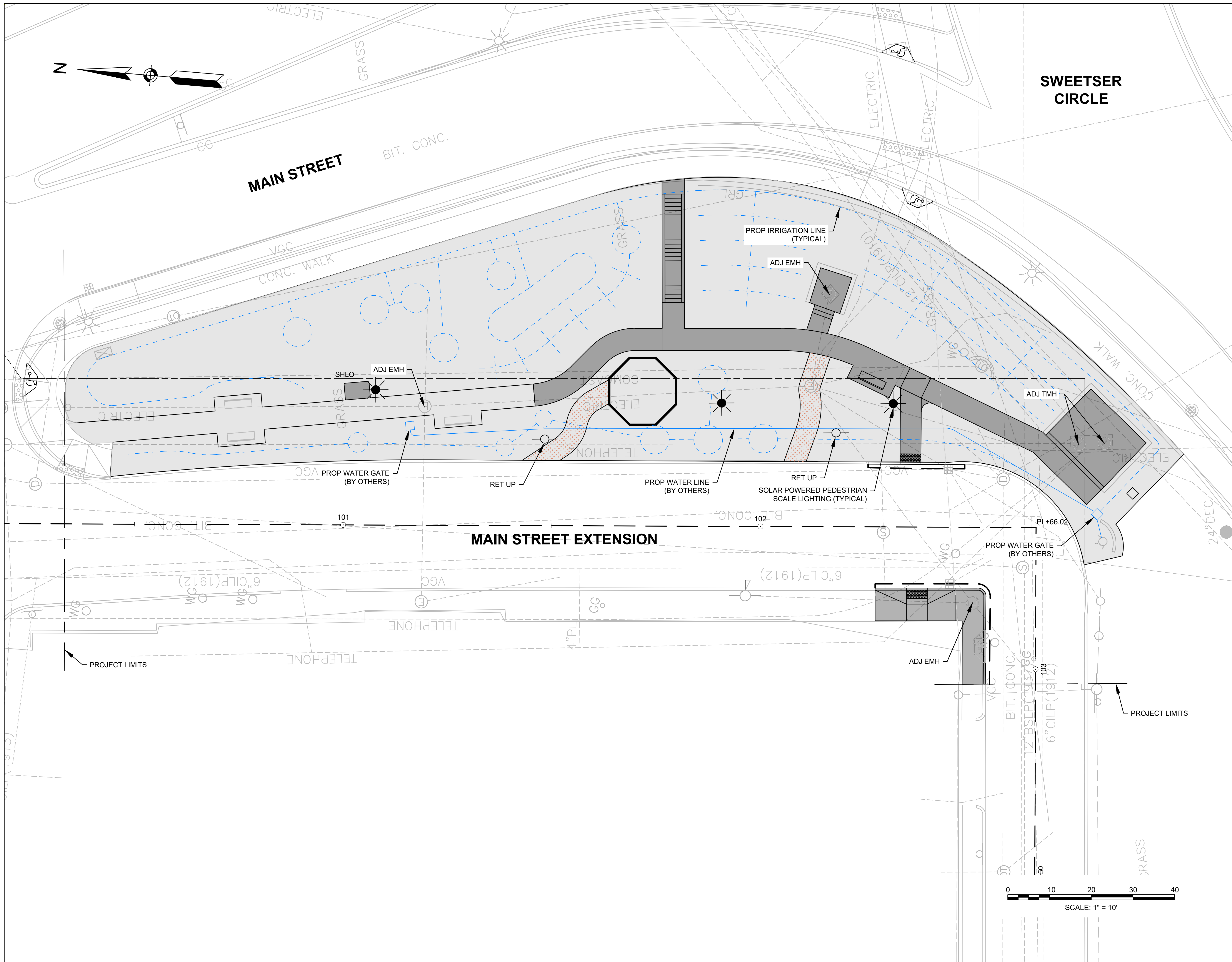
CLIENT: CITY OF EVERETT

SITE: 66 MAIN STREET
EVERETT, MA 02149

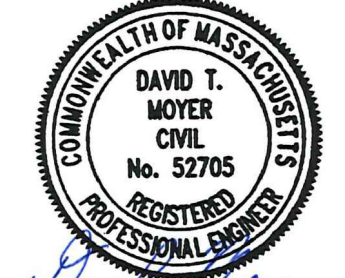
TITLE: LANDSCAPING PLAN

SCALE: AS NOTED	DATE: 2/15/23	DRAWN: -	CHECKED: -
PROJECT NO: -	DRAWING NO: 1 OF 1	REVISION: -	





- NOTES:
- 1) EXISTING CONDITIONS SHOWN ON THIS PLAN ARE APPROXIMATE. INFORMATION IS BASED ON PREVIOUSLY OBTAINED SURVEY, AERIAL IMAGES, SITE OBSERVATIONS AND MEASUREMENTS.
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 - 6) ALL CASTINGS SHALL BE SET FLUSH WITH FINISHED GRADE.
 - 7) THE PROPOSED IRRIGATION LINE LOCATION IS APPROXIMATE. CONTRACTOR SHALL BE RESPONSIBLE FOR DESIGN OF THE IRRIGATION SYSTEM.
 - 8) THE PROPOSED LOCATION OF THE PEDESTRIAN LIGHTING IS APPROXIMATE. CONTRACTOR SHALL CONFIRM TYPE AND LOCATION OF PROPOSED LIGHTING WITH CITY PRIOR TO INSTALLATION.



REV.	DESCRIPTION:	BY:	DATE:

neighborwaysdesign



CLIENT: CITY OF EVERETT

SITE: 66 MAIN STREET
EVERETT, MA 02149

TITLE: UTILITY PLAN

SCALE:	DATE:	DRAWN:	CHECKED:
AS NOTED	8/18/23	DM	DM
PROJECT NO:	DRAWING NO:	REVISION:	
-	4 OF 7	-	