

SHERWOOD FOREST ROAD MAINTENANCE DISTRICT

CONTRACT FOR PUBLIC WORKS MAINTENANCE SERVICES

All Season *ROAD MAINTENANCE SERVICES – 2 YEAR CONTRACT*  
July 2015-July 2017

INVITATION TO BID

Sherwood Forest Road Maintenance District  
2 Wells Road  
Becket, MA 01223  
413-770-1281

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**SHERWOOD FOREST ROAD MAINTENANCE DISTRICT**

**ROAD MAINTENANCE SERVICE CONTRACT**

**SECTION 00020- INVITATION FOR BIDS**

Sealed bids for furnishing the following item will be received at Sherwood Forest Road Maintenance District, c/o Town of Becket, Becket Town Hall, 557 Main Street, Becket, MA 01223 until the time specified below at which time the bids will be publicly opened and read:

ITEM

BID OPENING

Bid: ROAD MAINTENANCE SERVICES  
2 YEAR CONTRACT

Bid documents may be obtained at the Sherwood Forest Road Maintenance District (the “awarding authority” or “District”), by Web SFRMD.com

Bid Deadline April 24, 2015 - 12 PM

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

Bids will be opened at **Becket Town Hall, 557 Main Street, Becket, MA 01223 on May 2, 2015 - 10:30 AM**, at which time the bids will be opened publicly.

**Bid Bond Required.** Each Bid must be accompanied by a bid deposit in the form of a bid bond, or cash, or a certified check on, or a treasurer’s or cashier’s check issued by, a responsible bank or trust company in the amount of 5 percent of the bid price.

**Payment Bond Required.** A labor and materials payment bond is required in an amount no less than 50 percent of the total amount of the bid with a surety company qualified to do business in the Commonwealth of Massachusetts.

**Prevailing Wages Apply.** Attention is directed to the minimum wage rates to be paid as determined by the Massachusetts Division of Occupational Safety under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27D inclusive, for all services other than snow plowing/sanding. Copies of the applicable prevailing wage rate sheets are included in the bid documents.

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, if at all, to the bidder deemed by the awarding authority to be the **lowest responsible and eligible bidder**, as per G.L. c.30, §39M. The successful bidder must sign a contract in the form included with the bid documents.

Each bidder agrees, by virtue of submitting a bid, that its bid shall be good and may not be withdrawn, and shall be available for acceptance, for a period of 30 business days (Saturdays, Sundays and legal holidays excluded) after the opening of the bids.

The District 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 District.

**END OF SECTION**

**SHERWOOD FOREST ROAD MAINTENANCE DISTRICT**

**ROAD MAINTENANCE SERVICE CONTRACT**

**SECTION 00100- INSTRUCTIONS TO BIDDERS**

ARTICLE 1- GENERAL INFORMATION

- 1.1 It is the intent of the District as a result of this bid to award a contract for Road Maintenance services to be performed on an as needed basis during the contract term. (See Section 00200 of these bid documents for a description of the services included in Road Maintenance Services.)
- 1.2 The term of any contract awarded pursuant to this bid shall be for a period of two years from the date of contract execution.
- 1.3 During the term of this Agreement, Contractor shall render, in accordance with the highest industry standards the following services:
  - A. Contractor hereby states that during the term of this contract it is ready, willing and able to provide to the District the machinery, labor and material, (if not supplied by the District) as required to perform the services outlined below for the summer and winter maintenance of all the roads in the District, a sub-division located in Becket, Massachusetts.
  - B. A written signed work order will be supplied by the Road Superintendent by e-mail, facsimile or otherwise for all work pertaining to maintenance of the roads. No invoice will be paid without a properly authorized work order, except as otherwise provided below.
  - C. Request for snow plowing will initiate without a work order on accumulation of three (3) or more inches of snow. If more than three (3) inches of snow is forecast, the Contractor must plow/open the roads so vehicles can safely travel the roads. When the snow stops, Contractor shall clear all roads to ditch line and completely clear all intersections.
  - D. For winter sanding, Contractor will use sand-salt (4 to 1 mix).
  - E. Spring and fall grading is at the discretion of Road Superintendent. All roads graded will consist of six (6) inch center, then taper to the ditch. Make sure the ditch is opened around culverts.
  - F. When tree trimming, brush cutting or tree removal is requested, Contractor is responsible for the removal of all debris.
  - G. Contractor will install culverts as follows: Remove old culvert, install new culvert and cover with  $\frac{3}{4}$  dense grade or processed. Taper edges to contour of the road. Recreate ditching to culvert. Dispose of old culvert and any excess material.
  - H. It is the Contractor's sole responsibility to repair or replace any damage that has been caused by the Contractor.
  - I. 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 herein specified.
  - J. 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.

## ARTICLE 2 - BID FORMAT, QUANTITIES AND CONTRACT AWARD

- 2.1 Quantities shown/estimated on the bid form and/or elsewhere in the bid documents are estimates only of the amount of work potentially required during the contract term and are not guaranteed by the District. The total bid price, which is calculated based on the quantities included herein, shall be used for purposes of bid comparison only. During the term of the contract, the contractor shall perform only that work as specifically authorized by the District in accordance with the provisions contained in the bid documents, for which the contractor shall be paid at the unit prices stated in its bid.
- 2.2 The District will award the contract to the lowest responsible and eligible Bidder within thirty (30) business days (Saturdays, Sundays, and legal holidays excluded) after the opening of bids.
- 2.3 As used herein, the term "lowest responsible and eligible Bidder" shall mean the Bidder (1) whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary for the faithful performance of the work; (2) who shall certify, that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (3) who shall certify 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; (4) who, where the provisions of section 8B of chapter 29 apply, shall have been determined to be qualified thereunder; and (5) who obtains within 10 days of the notification of contract award the security by bond required under section 29 of chapter 149; provided that for the purposes of said section 29 the term "security by bond" shall mean the bond of a surety company qualified to do business under the laws of the commonwealth and satisfactory to the District.
- 2.4 The District reserves the right to waive any informalities in or to reject any or all Bids if it be in the public interest to do so.
- 2.5 Bidders MUST sign the bid form.

## ARTICLE 3 - BIDDER'S REPRESENTATION

- 3.1 Each General Bidder (hereinafter called the "Bidder") by making a bid (hereinafter called "bid") represents that:
  1. The Bidder has read and understands the Bid documents and the bid is made in accordance therewith.
  2. The Bidder is familiar with the local conditions under which the Work has to be performed.
- 3.2 Failure to so examine the Bid documents or become familiar with local conditions will not relieve any Bidder from any obligation under the bid as submitted.

## ARTICLE 4 - REQUEST FOR INTERPRETATION

- 4.1 Bidders shall promptly notify the District of any ambiguity, inconsistency, or error which they may discover upon examination of the Bid documents, the site, and local conditions.
- 4.2 Bidders requiring clarification or interpretation of the Bid documents must make a written request to the District. The District will answer such requests, if and as the District deems appropriate, if (and only if) the requests are received seven (7) calendar days before the date for receipt of the bids.
- 4.3 Interpretation, correction, or change in the Bid documents will be made, if at all, by written Addendum, which will become part of the Bid documents. The District will not be held accountable for any oral instruction no matter by or to whom given.
- 4.4 Addenda, if any, will be mailed First Class postage by the USPS, to every individual or firm on record as having taken a set of Bid documents, and copies of Addenda will be kept where Bid documents are on file.

- 4.6 In the event that the District receives low bids in identical amounts from two or more responsible and eligible Bidders, the District shall select the successful Bidder by a blind selection process such as flipping a coin or drawing names from a hat. The low Bidders who are under consideration will be invited to attend and observe the selection process.

#### ARTICLE 5 - PREPARATION AND SUBMISSION OF BIDS

- 5.1 Bids shall be submitted on the "Bid Form" as appropriate, furnished by the District. The District may reject any bid that contains information not called for or is otherwise obscure.
- 5.2 All entries on the Bid Form shall be made by typewriter or in ink.
- 5.3 Where so indicated on the Bid Form, sums shall be expressed in both words and figures. Where there is a discrepancy between the bid sum expressed in words and the bid sum expressed in figures, the words shall control.
- 5.4 Bid Deposits shall be submitted in the amount specified in the Invitation for Bids. They shall be made payable to the Sherwood Forest Road Maintenance District and shall be either in the form of cash, certified check, treasurer's or cashier's check issued by a responsible bank or trust company, or a bid bond issued by a surety licensed to do business in the Commonwealth of Massachusetts; and shall be conditioned upon the faithful performance by the principal of the agreements contained in the bid and bid documents. Bid deposits of the three (3) lowest responsible and eligible Bidders shall be retained until the execution and delivery of the Owner/Contractor agreement.
- 5.5 The Bid, including the bid deposit shall be enclosed in a sealed envelope with the following plainly marked on the outside:

GENERAL BID FOR ROAD MAINTENANCE SERVICES.  
BIDDER'S NAME, BUSINESS ADDRESS, AND PHONE NUMBER

- 5.6 Date and time for receipt of bids is set forth in the Invitation for Bids.
- 5.7 Timely delivery of a bid at the location designated shall be the full responsibility of the Bidder. Any bid received after the date and time set forth for receiving bids will be returned to the bidder unopened.
- 5.8 **EACH BIDDER MUST PROVIDE WITH ITS BID THE NAME, BUSINESS ADDRESS AND PHONE NUMBER FOR EACH PERSON, FIRM OR ORGANIZATION FOR WHOM BIDDER HAS PROVIDED SIMILAR SERVICES FOR THE PAST FIVE YEARS. A FORM IS INCLUDED FOR THIS PURPOSE.**

#### ARTICLE 7 - WITHDRAWAL OF BIDS

- 7.1 Any bid may be withdrawn prior to the time designated for receipt of bids on written request. Facsimile transmittal of a written request is acceptable.
- 7.2 Withdrawn bids may be resubmitted up to the time designated for the receipt of bids.
- 7.3 No bids shall be withdrawn within thirty (30) business days (Saturdays, Sundays and legal holidays excluded) after the opening of the bids.

#### ARTICLE 8 - TAXES

- 8.1 The Bidder shall not include in this bid any tax imposed upon the sale or rental of tangible personal property in this Commonwealth, such as any and all building materials, supplies, services and equipment required to complete the work.
- 8.2 The District is exempt from payment of the Massachusetts Sales Tax, and the Bidder shall not include any sales tax on its bid.

**END OF SECTION**

**SHERWOOD FOREST ROAD MAINTENANCE DISTRICT**

**ROAD MAINTENANCE SERVICE CONTRACT**

**SECTION 00200- SPECIAL INSTRUCTIONS**

1. The services which may be authorized by the District under this contract are as follows:
  - a. Tree Trimming and Removal
  - b. Road Grading and Rolling
  - c. Culvert Construction and Installation
  - d. Snow Plowing and Road Sanding
2. Bidders must submit unit prices on all of the items listed on the bid form included in these bid documents.
3. An award will be made to the lowest eligible and responsible bidder based on the total bid for all services. It is specifically contemplated that only one contract may be awarded from this bid.
4. Prices bid for any item must include any applicable disposal costs.

**END OF SECTION**

**SHERWOOD FOREST ROAD MAINTENANCE DISTRICT**

**ROAD MAINTENANCE SERVICE CONTRACT**

**SECTION 00300 -  
BID FORM**

- A. The undersigned proposes to furnish all labor and materials required in accordance with the Bid documents supplied by the District entitled: **ROAD MAINTENANCE SERVICE CONTRACT- 2 YEAR CONTRACT**
- B. For each Unit below, insert a Unit Price, and, to arrive at the Subtotal for each Unit, multiply the Estimated Quantity by the Unit Price.
- C. **Certifications.** By signing below, the undersigned certifies under penalties of perjury that (1) this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals; (2) that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (3) 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 (4) 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.
- D. **NOTE: EACH BIDDER MUST PROVIDE WITH ITS BID THE NAME, BUSINESS ADDRESS AND PHONE NUMBER FOR EACH PERSON, FIRM OR ORGANIZATION FOR WHOM BIDDER HAS PROVIDED SIMILAR SERVICES FOR THE PAST FIVE YEARS. A FROM IS INCLUDED IN THE BID DOCUMENTS FOR THIS PURPOSE.**

<u>WORK ITEM</u>	<u>EST. QUANTITY</u>	<u>UNIT PRICE PER HOUR</u>	<u>SUBTOTAL</u>
1. AWD Road grader w/operator	350 hours	_____	_____
2. Tractor w/road rake and operator	200 hours	_____	_____
3. Road Roller w/ operator	200 hours	_____	_____
4. Loader/backhoe and operator	480 hours	_____	_____
5. 1-ton dump w/operator	500 hours	_____	_____
6. Tri-axle dump w/operator	250 hours	_____	_____
7. 1-ton dump w/ sander/plow/operator	1,100 hours	_____	_____

**BID FORM CONTINUES ON NEXT PAGE.**

**SECTION 00300 -  
BID FORM**



**Your bid price is the sum of the subtotals for all items of work listed above.**

**TOTAL BID PRICE** (sum of subtotals for all work items): \$\_\_\_\_\_ (figure)

(in words)\_\_\_\_\_

**Print Name and Address of Bidder:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Signature**

**Date Signed:** \_\_\_\_\_

\_\_\_\_\_

**Print Name of Person Signing for Bidder**

\_\_\_\_\_

**Print Title of Person Signing for Bidder.**

**END OF SECTION**

**SHERWOOD FOREST ROAD MAINTENANCE DISTRICT**

**ROAD MAINTENANCE SERVICE CONTRACT**

**SECTION 00400- BIDDER REFERENCE FORM**

EACH BIDDER MUST INDICATE BELOW THE NAME, BUSINESS ADDRESS AND PHONE NUMBER FOR EACH PERSON, FIRM OR ORGANIZATION FOR WHOM BIDDER HAS PROVIDED SIMILAR SERVICES FOR THE PAST FIVE YEARS. (Attach separate sheets if necessary.)

Project Name:	_____	Project Name:	_____
Date Work Performed:	_____	Date Work Performed:	_____
Owner Name/Address:	_____	Owner Name/Address:	_____
Name of Contact:	_____	Name of Contact:	_____
Telephone No.:	_____	Telephone No.:	_____

Project Name:	_____	Project Name:	_____
Date Work Performed:	_____	Date Work Performed:	_____
Owner Name/Address:	_____	Owner Name/Address:	_____
Name of Contact:	_____	Name of Contact:	_____
Telephone No.:	_____	Telephone No.:	_____

Project Name:	_____	Project Name:	_____
Date Work Performed:	_____	Date Work Performed:	_____
Owner Name/Address:	_____	Owner Name/Address:	_____
Name of Contact:	_____	Name of Contact:	_____
Telephone No.:	_____	Telephone No.:	_____

Project Name:	_____	Project Name:	_____
Date Work Performed:	_____	Date Work Performed:	_____
Owner Name/Address:	_____	Owner Name/Address:	_____
Name of Contact:	_____	Name of Contact:	_____
Telephone No.:	_____	Telephone No.:	_____

Project Name:	_____	Project Name:	_____
Date Work Performed:	_____	Date Work Performed:	_____
Owner Name/Address:	_____	Owner Name/Address:	_____
Name of Contact:	_____	Name of Contact:	_____
Telephone No.:	_____	Telephone No.:	_____

**END OF SECTION**

**SHERWOOD FOREST ROAD MAINTENANCE DISTRICT**

**ROAD MAINTENANCE SERVICE CONTRACT**

**SECTION 0500-AGREEMENT**

**OWNER-CONTRACTOR AGREEMENT  
FOR PUBLIC WORKS CONSTRUCTION**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ in the year Two Thousand and Fifteen, between \_\_\_\_\_, with a usual place of business at \_\_\_\_\_, hereinafter called the CONTRACTOR, and the Sherwood Forest Road Maintenance District, acting by its Prudential Committee, with a usual place of business at 2 Wells Road, Becket, Massachusetts, hereinafter called the OWNER.

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment and insurance to perform all work required for the project known as Road Maintenance Services, in strict accordance with the Contract Documents, as defined below. The Contract Documents are hereby incorporated in, and made a part of, this Agreement by reference.

2. Contract Price/Term

The Owner shall pay the Contractor for the performance of this Agreement at the unit prices stated in Contractor's Bid Form, and subject to additions and deductions provided herein, in current funds, the sum of \_\_\_\_\_ (\$ ).

The term of this contract is two years commencing on the date of this Agreement.

3. Progress of Work

Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly.

4. Performance of the Work

A. Direction of the Work: The Contractor shall supervise and direct the Work, using his best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the

Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.

B. Responsibility for the Work:

(1) The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.

(2) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.

C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.

D. Notices, Compliance With Laws:

(1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.

(2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.

(3) If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

(4) In the performance of the Work, the Contractor shall comply with all applicable federal, state and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the work which violate said laws

and regulations and shall take prompt action to correct and eliminate any such violations.

- E. **Project Superintendent:** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.
- F. **Protection of the Work and Owner's Property:** The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.
- G. **Quality of the Work:** The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.
- I. **Warranty:** The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. Compliance With All Laws and Regulations

The Contractor is directed to comply with all applicable State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.

6. Site Information Not Guaranteed; Contractor's Investigation

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.

It is agreed and understood that the Owner 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.

Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as he deems necessary for the performance of the work at the Contract Price and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.

Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.

It is further agreed and understood that the Contractor shall not 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 Owner, arising from or by reason of any variance which may exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

7. Road District Superintendent

Contractor shall direct all communications, questions and comments on the work and the performance thereof to the District's Superintendent, David Bonney (the "Superintendent"). Except as otherwise provided, the Superintendent shall have all the authority of the Owner set forth in the Contract Documents. In general, the Superintendent shall have the authority to review the performance of the work, reject

work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Wage Rates

Prevailing Wage Rates as determined by the Massachusetts Division of Occupational Safety under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the District with certified payrolls and to comply with all requirements of the above-cited statutes.

The schedules of prevailing wage rates are included in the Contract Documents.

9. Payments to the Contractor

- A. The Owner shall make payment to the Contractor in accordance with the provisions of Sections 39F and 39G of Chapter 30 of the General Laws of the Commonwealth of Massachusetts. The Contractor shall submit requisitions for payment as required by said provisions and the directions of the Owner.
- B. The Contractor's applications for payment shall be subject to approval by the Owner.
- C. Changes in the Work/Extra Work: No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by use of the unit prices in the Contractor's bid, incorporated herein. If there is no applicable unit price for work that is the subject of the charge or credit, payment shall be determined by using one or more, or a combination of the following methods:
  - (a) Unit prices agreed to by the parties.
  - (b) An agreed lump sum.
  - (c) The actual cost of the labor and materials directly employed to perform the extra work together with a reasonable fixed fee, not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bonds, profit and any other general expenses.
- D. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall

be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by a written, signed Change Order.

10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

11. Contract Documents

The Contract Documents consist of the following, together with this Agreement:

Invitation to Bid  
Instructions to Bidders  
Special Instructions/Specifications  
Bidder Reference Form  
This Contract Form  
Bid Form  
Labor & Materials Payment Bond  
Contractor's Certificate of Corporate Vote  
Addenda to bid documents, if any  
Schedule of Prevailing Wages

12. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein, including, but not limited to, federal, state and local laws and regulations.

13. Indemnification

The Contractor shall indemnify and hold harmless the Owner from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or his employees, agents, subcontractors or representatives.

14. Insurance

The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

1. claims under workers' or workmens' compensation, disability benefit and other applicable employee benefit acts;



2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and
- .7 claims involving contractual liability applicable to the Contractor's obligations under Article 13.

The limits of liability for coverage required under the preceding paragraph shall be as required by the Owner.

Except for Workmen's Compensation, all liability coverage shall name the Owner as an additional insured and shall provide for 30 days prior written notice to the District of any modification or termination of coverage provided thereby. The Contractor shall provide the Owner with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

15. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

16. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.

- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. **Royalties and Patents:** The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.
- B. **Assignment:** The Contractor shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the Owner.
- C. **Governing Law:** This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.
- D. **Tax Compliance:** By its signature hereon, the Contractor certifies that it has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, the Owner by its authorized representatives who, however, incur no personal liability by reason of the execution hereof or of anything herein contained, as of the day and year first above written.

CONTRACTOR:

By

\_\_\_\_\_

Name:

Title:

OWNER:

By its Prudential Committee

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In accordance with M.G.L. C.44, Section 31C, this is to certify that an appropriation in the amount of this contract is available therefor and that the Prudential Committee has been authorized to execute the contract and approve all requisitions and change orders.

By \_\_\_\_\_  
(District Accountant)

Approval as to Form.

\_\_\_\_\_  
District Counsel