

**Bid 2021-03**  
**TOWN OF TOWNSEND, MASSACHUSETTS**  
**CONTRACT DOCUMENTS FOR: Winter Shared Streets and Spaces Project**  
**March 2021**  
**Town of Townsend, 272 Main Street, Townsend, MA 01469**

**TABLE OF CONTENTS**

	<b><u>Section Number</u></b>
<b><u>Bidding and Contract Requirements</u></b>	
Invitation to Bid	00020
Instructions to Bidders	00100
Form of General Bid	00300
Form of Agreement	00500
Form of Construction Performance Bond	00610
Form of Construction Payment Bond	00620
General Conditions	00700
Supplemental General Conditions	00800
Excerpts from Applicable State Law	00850
Special Provisions	00900
<b><u>Appendices</u></b>	
W-9 & Prevailing Wage Rates	A
Project Details and Specifications	B

## 00020-1 SECTION 00020

### INVITATION TO BID

The Town of Townsend, acting through its Chief Procurement Officer, will receive sealed bids for the *Reimagine Streets- Walkability and Bikeability Project*. Creating/Striping bike-lanes, bike/pedestrian amenities, restriping crosswalks, wayfinding signage, ADA compliant crosswalk (curb-cut, ramp and RRFB) until 12:00 P.M., June 11, 2021 at the Town Hall, 272 Main Street, Townsend, MA 01469 at which time and place they will be publicly opened and read aloud.

All bids shall be submitted in a sealed envelope addressed to the Chief Procurement Officer and labeled: Winter Shared Streets and Spaces: Reimagine Streets-Walkability and Bikeability Project. BID # 2021-03.

If the building is closed to the public due to COVID-19 restrictions, a drop box will be placed outside the rear entrance for the bid packages to be accepted safely and securely.

Bids shall be accompanied by a bid security in the form of a bid bond, or a certified check, cash, a treasurer's or cashier's check issued by a responsible bank or trust company, payable to the Town of Townsend. A bid bond shall be (a) in a form satisfactory to the Awarding Authority, (b) with a surety company qualified to do business in the Commonwealth and satisfactory to the Awarding Authority and (c) conditioned upon the faithful performance by the principal of the agreements contained in the bid. The amount of the bid security shall be at least equal to 5% of the amount of the bid.

Complete sets of electronic contract documents are available at no charge via email to the project coordinator, Emy Hoff, Recreation Director at [ehoff@townsendma.gov](mailto:ehoff@townsendma.gov) beginning 12:00 p.m. on May 11, 2021.

All bids for this project are subject to applicable public bidding laws of Massachusetts, including, but not limited to, MGL 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 MGL c. 149, §26 through 27D inclusive.

No bid may be withdrawn within thirty (30) days (Saturdays, Sundays and legal holidays excluded) after the date of opening thereof. The Town of Townsend reserves the right to waive any informality, to accept or reject, in whole or in part any or all bids received, and to award the contract to any of the contractors bidding on the work or take whatever other action may be deemed to be in the best interest of the Town. The Town of Townsend is an affirmative action/equal opportunity owner/purchaser.

This advertisement may also be viewed at [www.townsendma.gov](http://www.townsendma.gov)

James M. Kreidler, Jr., Chief Procurement Officer

**00100-1 SECTION 00100**

**INSTRUCTIONS TO BIDDERS**

**REIMAGINE STREETS- WALKABILITY AND BIKEABILITY PROJECT**

1. Receipt and Opening of Bids

The Town of Townsend, Massachusetts, herein called the Owner, acting by and through its Town Administrator, will receive sealed Bids for the project known as the

**Reimagine Streets- Walkability and Bikeability project-Bid #2021-03**

General bids shall be addressed to the Office of the Town Administrator at 272 Main Street, Townsend, MA 01469. Bids shall be submitted in a sealed envelope addressed to the Town Administrator and labeled- Reimagine Streets Project. Bids will be received at the Office of the Town Administrator until 12:00 P.M. on June 11, 2021 at which time and place they will be publicly opened and read aloud.

Any bid may be withdrawn prior to the 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 shall agree that his bid will be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.

2. General Specifications-

The work under this contract includes, but is not limited to: Creating/Striping bike-lanes, installing bike/pedestrian amenities, restriping crosswalks, wayfinding signage, ADA compliant crosswalk (curb-cut, ramp and RRFB.) See APPENDIX B.

Additional drawings showing details in accordance with which the work is to be done may be furnished by addendum from time to time during the bidding period by the Owner or its Engineer and shall then become a part of the Contract Documents.

Except where explicitly excluded in this IFB as add alternate 1, the Contractor shall furnish all labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies, and all other incidental items necessary to perform all work required for the completion of each item of the Work and as shown on the contract drawings and 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.

Unless otherwise specified herein or on the plans, all items of work shall conform to latest revisions of the MassDOT Standard Specifications, Supplemental Specifications and Interim Supplemental Specifications, and Standard Construction Details as amended.

The Owner reserves the right to order corrective measures for any defects in work uncovered during prosecution of the contract. The Contractor shall repair any and all defects in work at no additional cost to the Owner.

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. Properly executed bid security shall be placed in a sealed envelope and shall be attached to the outside of the envelope containing the bid. All addenda will be posted via the Town website at <https://www.townsendma.gov>.

The deadline for addenda to be posted is 2:00 P.M. on May 25, 2021. All bidders shall include with their bids the written acknowledgment form provided in Section 00300, FORM OF GENERAL BID. Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his 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.

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. Bids shall be filed at the place and before the time specified in Receipt and Opening of Bids, above. Bid signatures will be checked. MassDOT prequalification is mandatory for the bids to be accepted and opened. The total dollar amount of each bid will be read, and the three apparent lowest bids will be selected for further consideration. These three apparent low bids will be read aloud for the benefit of the other bidders and the bid opening procedure will be closed. All those present at the bid opening may examine all bids after the bid opening and after the reading of the three apparent low bids.

5. Modification-

Any bidder may modify his bid by written communication at any time prior to the scheduled closing time for receipt of bids. Any telegraphic communication must be received by the Owner prior to the closing time, and, provided further, the Owner must be satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time. The communication shall not reveal the bid price but shall provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two days from the closing time, no consideration will be given to a telegraphic communication.

6. Ability and Experience of Bidder-

No award will be made to any bidder who cannot satisfy the Owner that he has sufficient ability and experience in this class of work and sufficient capital and plant to enable him to prosecute and complete the work successfully within the time named. The Owner's decision or judgment on these matters will be final, conclusive, and binding. The Owner may make such investigations as he deems

necessary, and the bidder shall furnish to the Owner, under oath if so required, all such information and data for this purpose as the Owner may request.

7. Conditions of Work-

Each bidder must familiarize himself fully with the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.

8. Addenda and Interpretations-

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally. All information given to bidders other than by means of the plans, specifications, or by addenda, as described below, is given informally and shall not be used as the basis of a claim against the Owner. Every request for such interpretation should be in writing addressed to Emy Hoff, 272 main Street, Townsend, MA 0169 or email at [ehoff@townsendma.gov](mailto:ehoff@townsendma.gov) .

Consideration and questions must be received by 12:00 P.M. on May 25, 2021. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the plans and/or specifications which, when issued, will be posted via the Town website at <https://www.Townsendma.gov> . All addenda will be posted by 2:00 P.M. on June 1, 2021. All bidders shall include with their bids the written acknowledgment form provided in Section 00300, FORM OF GENERAL BID. 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 so issued shall become part of the Contract Documents.

9. Security for Faithful Performance-

Simultaneously with his 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 as specified in Section 00700, GENERAL CONDITIONS and Section 0800, SUPPLEMENTAL GENERAL CONDITIONS included herein. 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 Owner. The bonds shall remain in force for one year after final acceptance of the work by the Owner, unless the Owner, in writing, releases the Contractor from the obligation sooner.

10. Power of Attorney-

Attorneys-in-fact who sign Contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

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. Attention is directed to Section 00850 and to other applicable sections of the Contract Documents.

12. Liquidated Damages for Failure to Enter into Contract-

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within 5 days after presentation thereof by the Owner, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his/her bid, but the amount forfeited shall not exceed the difference between his/her bid price and the bid price of the next lowest responsible and eligible bidder. In case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other similar unforeseen circumstances affecting the bidder, his/her bid deposit will be returned.

13. Obligation of Bidder-

At the time of the opening of bids each bidder will be presumed to have inspected the site and to have 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.

14. Information Not Guaranteed-

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 bidders 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.

If 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 Owner or the Architect, 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.

15. Bid Security-

Each bid must be accompanied by bid security in the form of a certified check, a bid bond, cash, a treasurer's or cashier's check, payable to the Owner, in the amount of five (5) percent of the value of the bid. Such security 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 Owner 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.

Bid security of sub-bidders, except that of the sub-bidders named in the general bids of the three lowest responsible and eligible general bidders and those of the three lowest responsible and eligible sub-bidders for each sub-trade, shall be returned within five (5) days, Saturdays, Sundays and legal holidays excluded. After the opening of general bids, the bid security of the sub-bidders not returned as aforesaid, shall be returned within five (5) days, Saturdays, Sundays and legal holidays excluded, after the execution of the General Contract.

16. Right to Reject Bid-

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

17. 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 in Section 00300, FORM OF GENERAL BID. Notice to proceed for construction to begin shall be as soon as possible after award of contract. Final Completion shall be no later than December 30, 2021.

18. Quantities-

The Owner has provided estimated quantities for services over the course of the contract duration. Any quantities indicated on the bid form or elsewhere in the bid package are estimates only, are not guaranteed, and are provided solely as a basis for comparison of bids. The contractor shall have no claim for additional compensation, or refuse to provide the services called for by reason of the actual quantities involved being lesser or greater by any amount than those called for in the bid.

19. 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 lump sum or unit prices written in words and figures, the prices written in words will govern.

20. Award of Contract-

The Contract will be awarded to "the lowest responsible and eligible bidder" pursuant to 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.

21. 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 Owner may reject every such bid.

22. 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 contractor, before bid opening, to request any additional information on Prevailing Wage Rates for those trades' people who may be employed for the proposed work under this contract. State schedules of Prevailing wage rates are included in the Supplemental General Conditions section of the contract documents.

23. Contractor Records-

The selected Contractor shall comply with the provisions of Massachusetts General Laws, Chapter 30, Section 39R concerning Contractor records.

24. Insurance-

The selected Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified in the Supplemental General Conditions and in such form as shall protect him performing work covered by this Contract, or the Town of Townsend, and its employees, agents and officials, from all claims and liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. The Town shall be named as an additional insured. The Contractor covenants and agrees to hold the Town 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 operations under this Contract.



SECTION 00300

FORM OF GENERAL BID

Reimagine Streets- Walkability and Bikeability Project-Bid #2021-03

Bid of \_\_\_\_\_ (hereinafter called "Bidder")<sup>1</sup>

(\_\_\_\_) a corporation, organized and existing under the laws of the state of \_\_\_\_\_

(\_\_\_\_) a partnership

(\_\_\_\_) a joint venture

(\_\_\_\_) an individual doing business as \_\_\_\_\_

To the Town of Townsend, Massachusetts (hereinafter called "Owner")

- A) The undersigned Bidder, in compliance with your invitation for bids for the project known as **Reimagine Streets- Walkability and Bikeability project-Bid #2021-03**, having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents and the plans and specifications within the time set forth below, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this bid is a part.

The Bidder hereby agrees to commence work on or before the date to be specified in written "Notice to Proceed" of the Owner, and to fully complete the project by December 30, 2021.

The Bidder further agrees to pay directly or to the Owner as liquidated damages the sum of the amount of all required inspections, police details and other such oversight requirements that take place after the completion date, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contract shall be in default after the time stipulated in the Contract for completing the work.

- B) Bidder acknowledges receipt of and this bid includes the following addenda:

No. \_\_\_\_\_ Dated: \_\_\_\_\_

---

<sup>1</sup> Insert corporation, partnership or individual as applicable.

**C)** The Bidder agrees to perform the base bid work described in the specifications and shown on the plans for the following contract price: \$\_\_\_\_\_.

The Bidder agrees to perform the base bid plus the Add Alternate #1 bid work described in the specifications and shown on the plans for the following contract price: \$\_\_\_\_\_.

Respectfully submitted:

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

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

(Signature)

\_\_\_\_\_  
(Type Name of Bidder)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(City and State)

\_\_\_\_\_  
(Telephone Number)

**FOR DETAILED SCOPE OF WORK SEE APPENDIX B**

The unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

The Bidder understands that all bids for this project are subject to the applicable bidding laws of the Commonwealth of Massachusetts, including General Laws Chapter 30, Section 39M, as amended.

The Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this 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 bids.

Within 10 days of receipt of the written notice of acceptance of this bid, the Bidder will execute the formal Agreement attached in Section 00500 FORM OF AGREEMENT.

Bid security is attached in the sum of five percent (5%) of the total bid in accordance with the conditions of Section 00100 INSTRUCTIONS TO BIDDERS. The bid security may become the property of the Owner in the event the contract and bond are not executed within the time set forth above.

The selected Contractor shall furnish a performance bond in an amount equal to 100% and a payment bond in an amount at least equal to 50% of the contract prices in accordance with Section 00610 PERFORMANCE BOND, Section 00620 PAYMENT BOND.

The undersigned offers the following information as evidence of his qualifications to perform the work as bid upon according to all the requirements of the plans and specifications.

1. Have been in business under present name for \_\_\_\_\_ years.

2. The names and addresses of all persons interested in the bid (if made by a partnership or corporation) as Principals, are as follows:

---

---

---

---

---

\_\_\_\_\_ (attach supplementary list if necessary)

3. The bidder is requested to state below what work of a similar character to that included in the proposed contract he has done, and give references that will enable the Owner to judge his experience, skill and business standing (add supplementary page if necessary).

	COMPLETION DATE	PROJECT NAME	CONTRACT AMOUNT	DESIGN ENGINEER	REFERENCE NAME	TELEPHONE NUMBER
1						
2						
3						
4						
5						
6						
7						

Bank reference

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Bank)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone No.)

Pursuant to M.G.L. CH. 62C, Sec. 49A, I certify hereby in writing, under penalties of perjury, that I have complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

The undersigned hereby certifies under penalties of perjury, as follows: (1) that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (2) that all employees to be employed 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.

The undersigned certifies under 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 paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

The undersigned bidder hereby certifies, under pains and penalties of perjury, that the foregoing bid is based upon the payment to laborers to be employed on the project of wages in an amount no less than the applicable prevailing wage rates established for the project by the Massachusetts Division of Occupational Safety. The undersigned bidder agrees to indemnify the awarding authority for, from and against any loss, expense, damages, actions or claims, including any expense incurred in connection with any delay or stoppage of the project work arising out of or as a result of (1) the failure of the said bid to be based upon the payment of the said applicable prevailing wage rates or (2) the failure of the bidder, if selected as the contractor, to pay laborers employed on the project the said applicable prevailing wage rates.

**SECTION 00500 FORM OF AGREEMENT**

**Winter Shared Streets and Spaces: Reimagine Streets-Walkability and Bikeability Project.  
BID # 2021-03.**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of Townsend, acting by and through its Board of Selectmen, hereinafter referred to as "OWNER," and , having a regular business address of , doing business as a corporation in the Commonwealth of Massachusetts, hereinafter referred to as "CONTRACTOR."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the project entitled Winter Shared Streets and Spaces: Reimagine Streets-Walkability and Bikeability Project. BID # 2021-03, hereinafter referred to as the "PROJECT," and all extra work in connection therewith, under the terms as stated in the Contract Documents; and at his own proper cost and expense to furnish all the materials, supplies, machinery equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the MassDOT Standard Contract Form and all conditions and prices stated in Section 00300 FORM OF GENERAL BID, Section 00700 GENERAL CONDITIONS, Section 00800 SUPPLEMENTAL GENERAL CONDITIONS, the plans, which include all maps, plates, blue prints, and the specifications and Contract Documents as prepared by the Owner.

The CONTRACTOR hereby agrees to commence work under this Contract on or before a date to be specified in written "Notice to Proceed" of the OWNER.

The CONTRACTOR further agrees to fully complete the project no later than the final completion date of **December 30, 2021.**

The CONTRACTOR further agrees to pay directly or to the Owner as liquidated damages the sum of the amount of all required inspections, police details and other such oversight requirements that take place after the completion date, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contract shall be in default 00500-2 after the time stipulated in the Contract for completing the work.

The CONTRACTOR agrees not to discriminate against or exclude any person from participation herein on grounds of race, religion, color, sex, age or national origin; and that it shall take affirmative action's to insure that applicants are employed, and that employees are treated during their employment, without regard to race, religion, color, sex, age, handicapped status, or national origin.

The CONTRACTOR agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Section 2 of Chapter 151E of the Massachusetts General Laws.

The OWNER agrees to pay the CONTRACTOR in current funds the sum of:  
\_\_\_\_\_ for the performance of the contract.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in two (2) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

CONTRACTOR:

OWNER: Town of Townsend by its

Board of Selectmen

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**Town Accountant's Certification:**

In accordance with the provisions of M.G.L. c.44, §31C, this is to certify that an appropriation in the amount of this contract is available therefore and that the entity signing this contract on behalf of the Town has been authorized to execute the contract and approve all requisitions and change orders.

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

Townsend Town Accountant

Account Number: \_\_\_\_\_

**CERTIFICATE OF VOTE (to be filed if Contractor is a Corporation)**

I, \_\_\_\_\_, hereby certify that I am the duly qualified (Secretary of the Corporation) and acting Secretary of \_\_\_\_\_ and I further certify that a meeting (Name of Corporation) of the Directors of said Company, duly called and held on \_\_\_\_\_, at (Date of Meeting) which all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower:

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

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

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

(Secretary of Corporation)

A True Copy: Attest: \_\_\_\_\_ (Notary Public)

My Commission Expires: \_\_\_\_\_ (Date)



**SECTION 00610**

**FORM OF PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: That we \_\_\_\_\_ (Name of Contractor)  
a \_\_\_\_\_ (Corporation, Partnership, Joint Venture or Individual) hereinafter called "Principal" and \_\_\_\_\_ (Surety) of \_\_\_\_\_, State of \_\_\_\_\_ (City & State) hereinafter called the "Surety" and licensed by the State Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the Town of Townsend, Massachusetts, hereinafter called "Owner", in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the "Construction Contract"), for the construction described as follows:

**Winter Shared Streets and Spaces: Reimagine Streets-Walkability and Bikeability Project.**

**BID # 2021-03.**

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of the Construction Contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under the Construction Contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the Surety's obligation under this Bond shall arise after (1) the Owner has declared the Principal in default of the Construction Contract or (2) has declared that the Principal has failed, or is otherwise unable or unwilling, to execute the work consistent with, and in conformance to, the Construction Contract (collectively referred to as a "Contractor Default"). The determination of a Contractor Default shall be made solely by the Owner.

When the Surety's obligation under this Bond arises, the Surety, at its sole expense and at the consent and election of the Owner, shall immediately take one of the following steps: (1) arrange for the Principal to perform and complete the work of the Construction Contract; (2) arrange for a contractor other than the Principal to perform and complete the work of the Construction Contract; (3) reimburse

the Owner, in a manner and at such time as the Owner shall decide, for all costs and expenses incurred by the Owner in performing and completing the work of the Construction Contract.

If the Surety does not as provided in this Bond with due diligence and all deliberate speed, the Surety shall be deemed to be in default of this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. After the Surety's obligation under this Bond arises, the Surety is obligated, to the limit of the amounts of this Bond, for (1) the correction of defective work and completion of the Construction 00610-2 Contract; (2) additional design, professional services, and legal costs, including attorneys' fees, resulting from the Contractor Default or from the default of the Surety under this Bond; (3) any additional work beyond the Construction Contract made necessary by the Contractor Default or default of the Surety under this Bond; and (4) liquidated damages as provided in the Construction Contract, or if none are so specified, actual and foreseeable consequential damages resulting from the Contractor Default or default of the Surety under this Bond.

Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction in the Commonwealth of Massachusetts.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Construction Contract or to the work to be performed there under or the specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_ ( ) counterparts, each one of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST: \_\_\_\_\_ (Principal)

By \_\_\_\_\_

\_\_\_\_\_  
(Address-Zip Code)

\_\_\_\_\_  
(Principal Secretary)

\_\_\_\_\_  
(SEAL) Witness as to Principal

ATTEST: \_\_\_\_\_ (Surety)

By \_\_\_\_\_ (Attorney in Fact)

\_\_\_\_\_  
(Address-Zip Code)

\_\_\_\_\_  
(SEAL) Witness as to Surety

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond

**SECTION 00620 FORM OF PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: That we \_\_\_\_\_  
\_\_\_\_\_ a \_\_\_\_\_  
\_\_\_\_\_ (Name of Contractor) (Corporation, Partnership, Joint  
Venture or Individual) hereinafter called "Principal" and \_\_\_\_\_ of  
\_\_\_\_\_, (Surety) State of \_\_\_\_\_ hereinafter called the "Surety" and  
licensed by the State (City and State) Division of Insurance to do business under the laws of the  
Commonwealth of Massachusetts, are held and firmly bound to the Town of \_\_\_\_\_,  
Massachusetts, hereinafter called "Owner", in the penal sum of  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful  
money of the United States, for the payment of which sum well and truly to be made, we bind  
ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these  
presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract  
with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2021, for the construction  
described as follows: Winter Shared Streets and Spaces: Reimagine Streets-Walkability and Bikeability  
Project. BID # 2021-03.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors,  
and corporations furnishing materials for or performing labor in the prosecution of the work provided  
for in such contract, and any authorized extension or modification thereof, including all amounts due for  
materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed  
or used in connection with the construction of such work, and all insurance premiums on said work, and  
for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall  
be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no  
change, extension of time, alteration or addition to the terms of the contract or to the work to be  
performed there under or the specifications accompanying the same shall in any way affect its  
obligation on this bond, and it does hereby waive notice of any such change, extension of time,  
alteration or addition to the terms of this contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the  
right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ ( ) counterparts, each one of which shall be  
deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST: _____	(Surety)
By _____	(by Attorney in fact)
_____	(Address-Zip Code)
_____	(Principal Secretary)
_____	(SEAL) Witness as to Sure

**Section 00700**

**GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

To be provided.

## **SECTION 00800**

### **SUPPLEMENTAL GENERAL CONDITIONS**

1. Introduction
2. Labor Classifications and Prevailing Wage Rates
3. Insurance Requirements

#### **Attachment A - Wage Rates and Certificate of Compliance**

1. INTRODUCTION The following supplements modify, change, delete from or add to Section 00700 GENERAL CONDITIONS. Where any Subsection of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these Supplemental General Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

2. In accordance with General Laws Chapter 149, Section 26 through 27D, the Contractor is obligated to comply with the prevailing wage rates established by the Commissioner of the Department of Labor and Workforce Development for mechanics, apprentices, chauffeurs, teamsters and laborers employed on the Project. The schedule of applicable prevailing wage rates for the Project, together with a Certificate of Compliance therewith, are set forth in Attachment A herein.

3. The Insurance provisions of Article 11 of The General Conditions are amended by adding the following requirements: The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified below and in such form as shall protect him performing work covered by this Contract, and the Owner and its employees, agents and officials, from all claims an liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. The Contractor covenants and agrees to hold the Owner and its employees, agents and officials harmless from loss or damage due to claims for personal injury and/or property damage arising from, or in connection with operations under this Contract. Except as otherwise stated, the amounts of such insurance shall be for each policy, not less than:

(A) For liability for bodily injury, including accidental death, \$1,000,000 for any one person and \$1,000,000 on account of one occurrence and \$1,000,000 Aggregate Limit.

(B) For liability for property damage \$1,000,000 on account of any one occurrence and \$1,000,000 Aggregate Limit. Extra-territorial clause shall be included.

1.) Workers' Compensation insurance as required by the General Laws of the Commonwealth of Massachusetts.

2.) Bodily Injury Premise-Operations, Contractor's Protective and Completed Operations Public Liability Insurance in the amounts required in (A) above.

3.) Property Damage Premises-Operations, Contractor's Protective and Completed Operations Public Liability Insurance in the amounts required in (B) above.

4.) Bodily Injury Liability Insurance covering the operation of all motor vehicles owned by the Contractor and vehicles not owned by the Contractor, while such vehicles are being operated in connection with the prosecution of the work under this Contract, in the amounts required in (A) above.

5.) Property Damage Liability Insurance covering the operation of all motor vehicles owned by the Contractor and vehicles not owned by the Contractor while such vehicles are being operated in connection with prosecution of the work under this Contract, in the amounts required in (B) above.

6.) Contractual Liability Insurance covering the liability assumed by the Contractor in the amounts required under (A) and (B) above.

7.) Owner's Protective Insurance secured by the Contractor in behalf of the Owner which will directly protect the Owner and/or its employees, agents and officers from liability for bodily injuries, including accident death, in the amounts required in (A) above, and for property damage in the amounts required in (B) above.

8.) Builder's Risk Property Insurance in an amount equal to the full value of the Work.

9.) The Contractor shall also provide umbrella coverage in an amount not less than \$2,000,000.

All policies shall be so written that the Owner will be notified of cancellation or restrictive amendment at least fifteen (15) days prior to the effective date of such cancellation or amendment. A certificate from the Contractor's Insurance Carrier showing at least the coverage and limits of liability specified above and expiration date shall be filed with the Owner before operations are begun.

Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Contract and shall state that such insurance is required by this Contract. The Contractor shall make no claims against the Owner or its officers for any injury to any of his officers or employees or for damage to his trucks or equipment arising out of work contemplated by this Contract.

## **SECTION 00850**

### **Excerpts from Chapter 149 and Chapter 30 of the Massachusetts General Laws**

Certain provisions of the Massachusetts General Laws are applicable to Construction contracts. Attention is directed to the following Sections of Chapter 149 as amended:

Section 25. "Every employee in public work shall lodge, board, and trade where and with whom he elects; and no person or his agents or employees under contract with the commonwealth, a county, city or town, or with a department, board, commission or officer acting therefore, for the doing of public work shall directly or indirectly require, as a condition of employment therein, that the employee shall lodge, board or trade at a particular place or with a particular person. This section shall be made a part of the contract for such employment."

Section 26. "In the employment of mechanics and apprentices, teamsters, chauffeurs and laborers in the construction of public works by the commonwealth, or by a county, town or district, or by persons contracting or subcontracting for such works, preference shall first be given to citizens of the commonwealth who have been residents of the commonwealth for at least six months at the commencement of their employment who are male veterans as defined in clause Forty-third of section seven of chapter four, and who are qualified to perform the work to which the employment relates; and secondly, to citizens of the commonwealth generally who have been residents of the commonwealth for at least six months at the commencement of their employment, and if they cannot be obtained in sufficient numbers, then to citizens of the United States, and every contract for such work shall contain a provisions to this effect..."

Section 27B. Records and Reports to be Kept and Furnished by Public Works Contractors. Every contractor, subcontractor or public body engaged in said public works to which sections twenty-seven and twenty-seven A apply shall keep a true and accurate record of all mechanics and apprentices, teamsters, chauffeurs and laborers employed thereon, showing the name, address and occupational classification of each such employee on said works, and the hours worked by, and the wages paid to, each such employee, and shall furnish to the commissioner, upon his request, a copy of said record, signed by the employer or his authorized agent under the penalties of perjury. Such records shall be open to inspection by any authorized representative of the department at any reasonable time, and as often as may be necessary. Every contractor and subcontractor required to keep such a record shall submit a copy of said record to the awarding authority on a weekly basis.

Each such contractor, subcontractor or public body shall preserve its payroll records for a period of three years from the date of completion of the contract. Each such contractor, subcontractor or public body shall furnish to the commissioner of labor and industries within fifteen days after completion of its portion of the work a statement, executed by the contractor, subcontractor or public body who supervises the payment of wages, in the following form:

## STATEMENT OF COMPLIANCE

\_\_\_\_\_, 2021

I, \_\_\_\_\_ (Name of signatory party), \_\_\_\_\_ (Title) do hereby state: That I pay or supervise the payment of the persons employed by \_\_\_\_\_ (Contractor, subcontractor or public body) on the project and that all mechanics and apprentices, teamsters, chauffeurs and laborers employed on said project have been paid in accordance with wages determined under the provisions of sections twenty-six and twenty-seven of chapter one hundred and forty-nine of the General Laws.

Signature \_\_\_\_\_

Title \_\_\_\_\_

The above-mentioned copies of payroll records and statements of compliance shall be available for inspection by any interested party filing a written request to the commissioner for such inspection.

Section 34. "Every contract, except for the purchase of material or supplies, involving the employment of laborers workmen, mechanics, foremen or inspectors, to which the commonwealth or any county or any town, subject to section thirty, is a party, shall contain a stipulation that no laborer, workman, mechanic, foreman or inspector working within the commonwealth, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract, shall be required or permitted to work more than eight hours in any one-day or more than forty-eight hours in any one week, or more than six-days in any one week, except in cases of emergency, or in case any town subject to section thirty-one is a party to such a contract, more than eight hours in any one-day except as aforesaid..."

Section 34A. "Every contract for the construction, alteration, maintenance, repair or demolition of or addition to, any public building or other public works for the commonwealth or any political subdivision thereof shall contain stipulations requiring that the contractor shall, before commencing performance of such contract, provide by insurance for the payment of compensation and the furnishing of other benefits under chapter one hundred and fifty-two to all persons to be employed under the contract, and that the contractor shall continue such insurance in full force and effect during the term of the contract. No officer or agent contracting in behalf of the commonwealth or any political subdivision thereof shall award such a contract until he has been furnished with sufficient proof of compliance with the aforesaid stipulations. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of the contract and shall operate as an immediate termination thereof. No cancellation of such insurance, whether by the insurer or by the insured, shall be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the officer or agent who awarded the contract at least fifteen-days prior to the intended effective date thereof, which date shall be expressed in said notice. Notice of cancellation sent by the party proposing cancellation by registered mail, postage prepaid, with a return receipt of the addressee requested, shall be a sufficient notice..."



Section 34B. "Every contract for the construction, alteration, maintenance, repair or demolition of, or addition to, any public works for the commonwealth or any political subdivision thereof shall contain stipulations requiring that the contractor shall pay to any reserve police officer employed by him in any city or town the prevailing rate of wage paid to regular police officers employed by him in such city or town."

Section 44D. (1)(a) Every bid or offer submitted for a contract subject to section fortyfour A shall be accompanied by a copy of a certificate of eligibility issued by the commissioner showing that the bidder or offeror has the classification and capacity rating to perform the work required. The bid or offer shall also be accompanied by an update statement in such form as the commissioner shall prescribe. A blank copy of such form shall be furnished by the awarding authority to every person or business entity requesting a copy. The update form shall provide space for information regarding all projects completed by the bidder or offeror since the date of certification of eligibility, all projects which the bidder or offeror currently has under contract including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's or offeror's, financial position or business organization since the date of certification of eligibility, and such other relevant information as the commissioner shall prescribe. Any bid or offer submitted without the appropriate certificate and update statement shall be invalid.

(b) The applicant shall certify under penalties of perjury at the conclusion of the application to bid that there have been no substantial changes in his/her financial position or business organization other than those changes noted within the application since the applicant's most recent prequalification statement and that the bid to be made will be in all respects bona fide, fair and made without collusion or fraud with any other person. "Person" here means any natural person, joint venture, partnership, corporation or other business or legal entity which sells materials, equipment or supplies used in or for, or engages in the performance of, the same or similar construction, reconstruction, installation, demolition, maintenance or repair work or any part thereof.

**Attention is directed to the following sections of Chapter 30 of the General Laws of Massachusetts as amended to date:**

Section 39F. "(1) Every contract awarded pursuant to sections forty-four A to L inclusive, of chapter one hundred and forty-nine shall contain the following subparagraphs (a) through (i) and every contract awarded pursuant to section thirty-nine M of chapter thirty shall contain the following subparagraphs (a) through (h) and in each case those subparagraphs shall be binding between the general contractor and each subcontractor."

"(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 (a) and (b), 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 or sent by certified mail to the general contractor at the same time. The demand 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 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 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 deductions 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 (e) in an interestbearing 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 demands for direct payments deposited in an interest-bearing account or accounts in a bank pursuant to subparagraph (f) 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 (f), are sufficient to satisfy all unpaid balances 00850-6 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 (a) 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 (a), the subcontractor may demand direct payment by following the procedure in subparagraph (d) and the general contractor may file a sworn replay 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)."

Section 39K. "Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building by the commonwealth, or by any county, city, town, district, board, commission or other public body, when the amount is more than five thousand dollars in the case of the commonwealth and more than two thousand dollars in the case of any county, city, town, district, board, commission or public body, shall contain the following paragraph: Within fifteen-days (twenty-four-days in the case of the commonwealth) after receipt from the contractor, at the place designated by the awarding authority if such a place is so designated, of a periodic estimate requesting payment of the amount due for the preceding month, the awarding authority will make a periodic payment to the contractor for the work performed during the preceding month and for the materials not incorporated in the work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the contractor has title or to which a subcontractor has title and has authorized the contractor to transfer title to the awarding authority, less (1) a retention based on its estimate of the fair value of its claims against the contractor and less (2) a retention for direct payments to subcontractors based on demands for same in accordance with the provisions of section thirty-nine F, and less (3) a retention not

exceeding five percent of the approved amount of the periodic payment. After the receipt of a periodic estimate requesting final payment and within sixty-five-days after (a) the contractor fully completes the work or substantially completes the work so that the value of the work remaining to be done is, in the estimate of the awarding authority, less than one percent of the original contract price, or (b) the contractor substantially completes the work and the awarding authority takes possession for occupancy, whichever occurs first, the awarding authority shall pay the contractor the entire balance due on the contract less, (1) a retention based on its estimate of the fair value of its claims against the contractor and of the cost of completing the incomplete and unsatisfactory items of work less (2) a retention for direct payments to subcontractors based on demand for same in accordance with the provisions of section thirty-nine F, or based on the record of payments by the contractor to the subcontractors under this contract if such record of payment indicates that the contractor has not paid subcontractors as provided in section thirty-nine F. If the awarding authority fails to make payment as herein provided, there shall be added to each such payment daily interest at the rate of three percentage points above the rediscount rate then charged by the Federal Reserve Bank of Boston commencing on the first-day after said payment is due 00850-7 and continuing until the payment is delivered or mailed to the contractor; provided, that no interest shall be due, in any event, on the amount due on a periodic estimate for final payment until fifteen-days (twenty-four-days in the case of the commonwealth) after receipt of such a periodic estimate from the contractor, at the place designated by the awarding authority if such a place is so designated. The contractor agrees to pay to each subcontractor a portion of any such interest paid in accordance with the amount due each subcontractor.

"The awarding authority may make changes in any periodic estimate submitted by the contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, but such changes or any requirement for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided, that the awarding authority may, within seven-days after receipt, return to the contractor for correction, any periodic estimate which is not in the required form or which contains computations not arithmetically corrected and, in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form with arithmetically correct computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter. The provisions of section thirty-nine G shall not apply to any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building to which this section applies.

"All periodic estimates shall be submitted to the awarding authority, or to its designee as set forth in writing to the contractor, and the date of receipt by the awarding authority or its designee shall be marked on the estimate. All periodic estimates shall contain a separate item for each filed sub trade and each sub trade listed in sub-bid form as required by specifications and a column listing the amount paid to each filed subcontractor and Sub-subcontractor as of the date the periodic estimate is filed. The person making payment for the awarding authority shall add the daily interest provided for herein to each payment for each day beyond the due date based on the date of receipt marked on the estimate. "A certificate of the architect to the effect that the contractor has fully or substantially completed the work shall, subject to the provisions of section thirty-nine J, be conclusive for the purposes of this section."

“Notwithstanding the provisions of this section, at any time after the value of the work remaining to be done is, in the estimation of the awarding authority, less than 1 per cent of the adjusted contract price, or the awarding authority has determined that the contractor has substantially completed the work and the awarding authority has taken possession for occupancy, the awarding authority may send to the general contractor by certified mail, return receipt requested, a complete and final list of all incomplete and unsatisfactory work items, including, for each item on the list, a good faith estimate of the fair and reasonable cost of completing such item. The general contractor shall then complete all such work items within 30 days of receipt of such list or before the contract completion date, whichever is later. If the general contractor fails to complete all incomplete and unsatisfactory work items within 45 days after receipt of such items furnished by the awarding authority or before the contract completion date, whichever is later, subsequent to an additional 14 days’ written notice to the general contractor by certified mail, return receipt requested, the awarding authority may terminate the contract and complete the incomplete and unsatisfactory work items and charge the cost of same to the general contractor and such termination shall be without prejudice to any other rights or remedies the awarding authority may have under the contract. The awarding authority shall note any such termination in the evaluation form to be filed by the awarding authority pursuant to the provisions of section 44D of chapter 149.”

Section 39L. "Public Construction work by foreign corporations; restrictions and reports." The Commonwealth and every county, city, town, district, board, commission or other public body which, as the awarding authority, request proposals, bids or sub-bids for any work in the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or other public works (1) shall not enter into a contract for such work with, and shall not approve as a subcontractor furnishing labor and materials for a part of any such work, a foreign corporation which has not filed with such awarding authority a certificate of the state secretary stating that such corporation has complied with sections three and five of chapter one hundred and eighty-one and the date of such compliance, and (2) shall report to the state secretary and to the department of corporations and taxation any foreign corporation performing work under such contract or subcontract, and any person, other than a corporation, performing work under such contract or subcontract, and residing or having a principal place of business outside the commonwealth.

Section 39M(b). "Specifications for such contracts, and specifications for contracts awarded pursuant to the provisions of said sections forty-four A to forty-four L of said chapter one hundred and forty-nine, shall be written to provide for full competition for each item of material to be furnished under the contract; except, however, that said specifications may be otherwise written for sound reasons in the public interest stated in writing in the public records of the awarding authority or promptly given in writing by the awarding authority to anyone making a written request therefore, in either instance such writing to be prepared after reasonable investigation. Every such contract shall provide that an item equal to that named or described in the said specifications may be furnished; and an item shall be considered equal to the item so named or described if (1) it is at least equal in quality, durability, appearance, strength and design, (2) it will perform at least equally the function imposed by the general design for or the public work being contracted for or the material being purchased, and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the said specifications.

"For each item of material the specifications shall provide for either a minimum of three named brands of material or a description of material which can be met by a minimum of three manufacturers or producers, and for the equal of any one of said named or described materials."

Section 39N. "Every contract subject to section forty-four A of Chapter one hundred and forty-nine or subject to section thirty-nine M of chapter thirty shall contain the following paragraph in its entirety and an awarding authority may adopt reasonable rules or regulations in conformity with that paragraph concerning the filing, investigation and settlement of such claims:

"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."

Section 39O. "Every contract subject to the provisions of section thirty-nine M of this chapter or subject to section forty-four A of chapter one hundred forty-nine shall contain the following provisions (a) and (b) in their entirety.... "

- (a) The awarding authority may order the general contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the awarding authority; provided however, that if there is a suspension, delay or interruption for fifteen-days or more due to a failure of the awarding authority to act within the time specified in this contract, the awarding authority shall make an adjustment in the contract price for any increase in the cost of performance of this contract but shall not include any profit to the general contractor on such increase; and provided further, that the awarding authority shall not make any adjustment in the contract price under this provision for any suspension, delay, interruption or failure to act to the extent that such is due to any cause for which this contract provides for an equitable adjustment of the contract price under any other contract provisions.
- (b) The general contractor must submit the amount of a claim under provision (a) to the awarding authority in writing as soon as practicable after the end of the suspension, delay, interruption or failure to act and, in any event, not later than the date of final payment under this contract and, except for costs due to a suspension order, the awarding authority shall not approve any costs in the claim incurred more than twenty-days before the general contractor notified the awarding authority in writing of the act or failure to act involved in the claim.

Section 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, or 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."

#### Section 39R

(a). "The words defined herein shall have the meaning stated below whenever they appear in this section:

(1) "Contractor" means any person, corporation, partnership, joint venture, sole proprietorship, or other entity awarded a contract pursuant to section thirty-nine M of chapter thirty, sections forty-four A through H, inclusive, of chapter one hundred and forty-nine and sections thirty B through thirty P, inclusive, of chapter seven.

(2) "Contract" means any contract awarded or executed pursuant to sections thirty B through thirty P, inclusive, of chapter seven and any contract awarded or executed pursuant to section thirty-nine M of chapter thirty, or sections forty-four A through H, inclusive, of chapter one hundred and forty-nine, which is for an amount or estimated amount greater than one hundred thousand dollars

(3) "Records" means books of original entry, accounts, checks, bank statements and all other banking documents, correspondence, memoranda, invoices, computer printouts, tapes, discs, papers and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

(4) "Independent Certified Public Accountant" means a person duly registered in good standing and entitled to practice as a certified public accountant under the laws of the place of his/her residence or principal office and who is in fact independent. In determining whether an accountant is independent with respect to a particular person, appropriate consideration should be given to all relationships between the accountant and that person or any affiliate thereof. Determination of an accountant's independence shall not be confined to the relationships existing in connection with the filing of reports with the awarding authority.

(5) "Audit," when used in regard to financial statements, means an examination of records by an independent certified public accountant in accordance with generally accepted accounting principles and auditing standards for the purpose of expressing a certified opinion thereon, or, in the alternative, a qualified opinion or a declination to express an opinion for stated reasons.

(6) "Accountant's Report," when used in regard to financial statements, means a document in which an independent certified public accountant indicates the scope of the audit which he/she has made and sets forth his/her opinion regarding the financial statements taken as a whole with a listing of noted exceptions and qualifications, or an assertion to the effect that an overall opinion cannot be expressed. When an overall opinion cannot be expressed the reason therefore shall be stated. An accountant's

report shall include as a part thereof a signed statement by the responsible corporate officer attesting that management has fully disclosed all material facts to the independent certified public accountant, 00850-11 and that the audited financial statement is a true and complete statement of the financial condition of the contractor.

(7) "Management," when used herein, means the chief executive officer, partners, principals or other person or persons primarily responsible for the financial and operational policies and practices of the contractor.

(8) Accounting terms, unless otherwise defined herein, shall have a meaning in accordance with generally accepted accounting principles and auditing standards.

(b) Subsection (a)(2) hereof notwithstanding, every agreement or contract awarded or executed pursuant to sections thirty B through thirty P, inclusive, of chapter seven, and pursuant to section thirty-nine M of chapter thirty or to section forth-five A through H, inclusive, of chapter one hundred and forty-nine, shall provide that:

(1) The contractor shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the contractor, and

(2) Until the expiration of six years after final payment, the awarding authority, office of inspector general, and the deputy commissioner of Capital Asset Management shall have the right to examine any books, documents, papers or records of the contractor or of his/her subcontractors that directly pertain to, and involve transactions relating to, the contractor or his/her subcontractors, and

(3) If the agreement is a contract as defined herein, the contractor shall describe any change in the method of maintaining records or recording transactions which materially affect any statements filed with the awarding authority, including in his/her description the date of the change and reasons therefore, and shall accompany said descriptions with a letter from the contractor's independent certified public accountant approving or otherwise commenting on the changes, and

(4) If the agreement is a contract as defined herein, the contractor has filed a statement of management on internal accounting controls as set forth in paragraph (c) below prior to the execution of the contract, and

(5) If the agreement is a contract as defined herein, the contractor has filed prior to the execution of the contracts and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in paragraph (d) below.

(c) Every contractor awarded a contract shall file with the awarding authority a statement of management as to whether the system of internal accounting controls of the contractor and subsidiaries reasonably assures that:

(1) Transactions are executed in accordance with management's general and specific authorization;



(2) Transactions are recorded as necessary: 00850-12 i. To permit preparation of financial statements in conformity with generally accepted accounting principles, and ii. To maintain accountability for assets;

(3) Access to assets is permitted only in accordance with management's general or specific authorization; and

(4) The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any difference.

Every contractor awarded a contract shall also file with the awarding authority a statement prepared and signed by an independent certified public accountant, stating that he/she has examined the statement of management on internal accounting controls, and expressing an opinion as to:

(1) Whether the representations of management in response to this paragraph, and paragraph (b) above are consistent with the result of management's evaluation of the system of internal accounting controls; and

(2) Whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the applicant's financial statements.

(d) Every contractor awarded a contract by the commonwealth or by any political subdivision thereof shall annually file with the awarding authority and the deputy commissioner of Capital Asset Management during the term of the contract a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by an accountant's report. Such statements shall be made available to the awarding authority upon request.

(e) The office of inspector general, the deputy commissioner for Capital Asset Management and any other awarding authority shall enforce the provisions of this section. The deputy commissioner of Capital Asset Management may after providing an opportunity for the inspector general and other interested parties to comment, promulgate pursuant to the provisions of chapter thirty A such rules, regulations and guidelines as are necessary to effectuate the purposes of this section. Such rules, regulations and guidelines may be applicable to all awarding authorities. A contractor's failure to satisfy any of the requirements of this section may be grounds for debarment pursuant to section forty-four C of chapter one hundred and forty-nine."

(f) Records and statements required to be made, kept or filed under the provisions of this section shall not be public records as defined in section seven of chapter four and shall not be open to public inspection; provided, however, that such records and statements shall be made available pursuant to the provisions of clause (2) of paragraph (b).

Section 40. "Bonds given to the commonwealth, any county, city, town or political subdivision to secure the performance of contracts for the construction or repair of public buildings or other public works may be discharged or released by the awarding authority, upon such terms as it deems expedient, after the expiration of one year from the time of completion, subject to section thirty-nine K, of the work contracted to be done; provided that no claim filed under said bond is pending, and provided further,

that no such bonds shall be discharged or released prior to the expiration of all special guarantees provided for in the contract unless new bonds in substitution therefore specifically relating to the unexpired guarantees shall be taken.

**SECTION 00900**

**SPECIAL PROVISIONS TOWNSEND**

Winter Shared Streets and Spaces: Reimagine Streets-Walkability and Bikeability Project. BID # 2021-03.

## COVID 19 GUIDELINES AND PROCEDURES

Commonwealth of Massachusetts COVID-19 GUIDELINES AND PROCEDURES FOR ALL CONSTRUCTION SITES AND WORKERS AT ALL PUBLIC WORK dated March 2020 as amended shall be adhered to. It is the Contractor's responsibility to stay current with any changes or addendums issued to these guidelines. For copies of the guidelines go to:

<https://www.mass.gov/covid-19-guidelines-and-procedures-for-all-construction-sites-and-workers-at-all-public-work>

These Guidelines and Procedures will remain in effect until further notice. At the start of the Work the Contractor is required to submit a letter to the Engineer certifying that the Contractor is in compliance with CDC, OSHA and the Commonwealth's COVID-19 guidelines. The certification applies to the general contractor as well as all subcontractors engaged with the Work covered under this contract. No Work will be allowed to begin until the letter is submitted and approved by the Engineer. In addition, on a daily basis, the Contractor is required to submit a copy of the MassDOT Contractor COVID-19 Guidelines Compliance Checklist to the Engineer. If the Contractor fails to submit the daily checklist no work will be allowed until one is submitted. Any items checked with a NO will require immediate corrective action by the Contractor before any Work can begin.

Per Subsection 5.09 – Inspection of the Work - the Contractor is required to provide assistance to the Engineer to make a complete and detailed inspection of the work. That assistance includes furnishing equipment to perform the inspection, therefore the Contractor will be required to provide CDC compliant Personal Protective Equipment (PPE) to Department personnel field staff. The CDC compliant PPE shall consist of face masks, gloves and eye protection. All costs associated with compliance with this provision are considered to be incidental to the contract cost and therefore the contractor will not be entitled to any additional compensation.

### **NOTICE TO OWNERS OF UTILITIES (Supplementing Subsection 7.13)**

Written notice shall be given by the Contractor to all public service corporations or municipal and State officials owning or having charge of publicly or privately owned utilities of his intention to commence operations affecting such utilities at least one week in advance of the commencement of such operations. The Contractor shall, at the same time, file a copy of such notice with the Resident Engineer. Before commencing work on service connections, the Contractor shall be responsible for contacting the Electric Company servicing the area to obtain construction requirements, standards, and to give adequate notice of commencement of work. The Contractor's attention is further directed to the requirements of work in the immediate vicinity of certain underground structures and poles herein included in these Special Provisions.00900-3 A list of public and private utilities can be found on the MassDOT website at: <http://www.massdot.state.ma.us/>

Select Quick Links Select

Doing Business with the Highway Division

Select Design/Engineering

Select Utility Contacts

Select District 3 on top of the webpage, select the City/Town (TOWNSEND), and then locate the utility.

The Contractor shall inform the following officials in each area that he assigned to work:

Superintendent, Highway Department, Superintendent, Water Department, Police and Fire Department.

Town officials are shown at website <http://www.townsendma.gov>

The following are the names of owners and representatives of the principal utilities affected, but completeness of this list is not guaranteed by the Department:

#### 00900-4 NOTICE TO OWNERS OF UTILITIES

Until

Verizon

Comcast

## **BASE BID**

### **ADD ALTERNATE #1**

In the main bid, the Townsend Highway Department is responsible for the removal and/or installation and maintenance of all signs proposed in this project, with the exception of the RRFB, and the Contractor is solely required to purchase and deliver all signage and appurtenances to the Townsend Highway Department.

This ADD ALTERNATE requires the Contractor to submit a lump-sum price for the removal and/or installation of all signage detailed in the scope of work.

If this ADD ALTERNATE is accepted, the Contractor will be responsible for the removal and/or installation of all signage detailed in the Scope of Work and will follow all rules and regulations for installation as defined in Chapter 21 of the Manual on Uniform Traffic Control Devices.

### **COMPENSATION**

The ADD ALTERNATE labor for removing and/or installing all signage detailed in the scope of work shall be paid for in a Lump Sum. This price shall exclude the cost of the signage and appurtenances, but shall include all labor, materials, equipment, and incidental costs required to complete the work.

## **APPENDIX A: PREVAILING RATES**

BID SPECIFIC LIST REQUESTED TO BE ATTACHED HERE

## **APPENDIX B: DETAILED SCOPE OF WORK**