File No. 10429
City of Cambridge
Request for Qualifications
Construction Management at Risk Services
Cambridge Fire Department Headquarters Project

General Information:

**Awarding Authority:** City of Cambridge

**Project Title:** Cambridge Fire Department Headquarters Project

**Submission Deadline:** July 28, 2022 no later than 11:00 a.m.

Submit 1 original, 6 complete copies and one electronic copy (Physical Electronic Media) of the Statement of Qualifications (“SOQ”) with all required forms, attachments, supporting documentation and information to:

**Submit Statement of Qualifications to:**
Elizabeth Unger
Purchasing Agent
City of Cambridge
City Hall 3rd Floor
795 Massachusetts Avenue
Cambridge, MA 02139

Package(s) shall be labeled on the outside with the following information: “RFQ for Construction Management at Risk Services,” Cambridge Fire Department Headquarters with CM at Risk firm’s name, business address, contact name, telephone number, and email address.

The CITY OF CAMBRIDGE’s RFQ Informational Meeting will be held on **July 14, 2022**, 10:00 a.m. at Fire Department Headquarters, 491 Broadway. Meet along Broadway main entrance.

**Conceptual Estimated Construction Cost:** $38-42 Million

**Estimated Construction Duration:** Phased project, total Duration 3-4 years
CM AT RISK RFQ INTEREST FORM

Instructions: If your firm is interested in responding to this RFQ for Prequalification of CM at Risk firms for this Project then you shall fill out this CM at Risk RFQ Interest Form and submit it to the City of Cambridge by e-mail to purchasing@cambridgema.gov as soon as possible and BEFORE you submit your response to the RFQ. However, the Statement of Qualifications (“SOQ”) with all required forms, attachments, supporting documentation and information submitted in response to this RFQ, cannot be emailed. Your firm’s SOQ shall be either hand delivered or mailed to the City and be received by the Purchasing Agent by the time and date set forth in the RFQ.

Awarding Authority: City of Cambridge

Project Title: Cambridge Fire Department Headquarters Project
E-mail this CM at Risk RFQ Interest Form to purchasing@cambridgema.gov.

By submitting this CM at Risk RFQ Interest Form the below identified firm is expressing its interest in the above-referenced public building project and is requesting that it be added to the list of firms that will receive any addenda to the RFQ on the Project. Addendum will be emailed to everyone who filled out this form and will be posted on the City’s website: www.cambridgema.gov, Online Services, Purchasing Bid List, Construction, File 10429

Firm Name: ________________________________
Address: __________________________________
                        ________________________________
Telephone: __________________________________
Fax number: ________________________________
Email address: _______________________________

By: _______________________________________
    (Signature of Authorized Representative)

    ________________________________
    (Print Name/Title)

Date: ________________________________
SECTION I: SCOPE OF SERVICES

1. Overview

Firms interested in providing Public Construction Manager at Risk Services (CM at Risk) for the Project are invited to submit a Statement of Qualifications (SOQ) to the City of Cambridge (City) Purchasing Department. This CM at Risk services procurement is conducted pursuant to M.G.L. Chapter 149A, contained in Chapter 193 of the Acts of 2004. This Request for Qualifications (RFQ) is the first phase of a two-phase procurement process as set forth in MGL Chapter 149A. The City is prequalifying firms interested in providing public CM at Risk services for the project through this RFQ process. The City will evaluate submitted SOQs based upon the identified evaluation criteria and will select those respondents it deems qualified. Only those respondents deemed qualified will be invited to submit a Proposal in response to a detailed Request for Proposals (RFP) which will be issued in the second phase of the procurement process. The project delivery method for construction will be public CM at Risk with a Guaranteed Maximum Price (GMP) under M.G.L. Chapter 149A.

2. Existing Building(s) and Project Description:

This project involves the renovation of the Cambridge Fire Department Headquarters (Fire HQ) building, which is one of eight firehouses serving the City of Cambridge. Located at 491 Broadway, it was completed in 1933 and is listed as historically significant requiring Cambridge Historical Commission review and Massachusetts Historical Commission approval for this project. It is 30,389 square feet and supports both Fire Headquarters Administration and Operations functions, as well as serves as a hub for the City’s fiber optic communications network, and a backup Emergency Communications Center.

489 Broadway is the former site of Emergency Communications and is attached to 491 Broadway, providing the accessible entrance to the upper floors of 491 Broadway, and will become programmed space for Fire HQ.

A preliminary site assessment of Fire HQ was conducted in 2016 by the Department of Public Works (DPW), followed by a feasibility study completed in August 2020, which revealed the complexity and challenges of renovating this historic public safety building on a small urban site, while meeting the City’s ambitious sustainability goals and requirements.

The project scope includes a net zero emissions (all electric), LEED Gold renovation including, but not limited to, interior, envelope, site, utility, communications, and fueling station upgrades, lowering of the apparatus bay slab to accommodate modern firefighting apparatus, as well as provide a solar photovoltaic array, ground source heat pumps, and electric vehicle supply equipment.

Fire Headquarters is a 24/7/365 facility and houses Engine 1, Ladder 1 and Rescue 1, Cambridge Fire Prevention and Permitting Office, a satellite Technical Services Office, and hosts the backup citywide emergency radio and 911 communications. Careful coordination of this project will be necessary to ensure the transition of existing communications to a more resilient space in this facility, and allow for future expansion.
Prior to alterations to this building, construction or assembly of an offsite temporary facility for Fire Operations will be required under this contract, as well as relocation of Fire Administration and Permitting to a leased space. Modular construction expertise is a key component for the Construction Management team.

The City’s architect is The Galante Architecture Studio (TGAS). TGAS has consultants working and reporting directly to them. The City also has contracts directly with consultants for the Licensed Site Professional, Geotechnical Engineer, and Commissioning Agent.

A Feasibility Study and Schematic design has been prepared by TGAS. Phase 2 is an occupied renovation project. The Phase 2 Feasibility Study recommends areas requiring renovation with construction phasing logic to minimize occupant’s disruption. The selected CMaR firm shall work closely with the City and TGAS during the Design Development Phase of the project to verify the scope of work required to accommodate these modifications including the phasing logic in order to minimize the disruption of the occupants. This initial task performed by the CMaR will be to review the options proposed by TGAS and offer the City and TGAS comments as to constructability, building material selection and providing a cost estimate for review and reconciled in conjunction with the designer’s estimate included in the Schematic Design.

The project phases are anticipated to include hazardous building materials abatement and possible soil disposal. The full extent of these scopes has not yet been determined, this scope of work shall be identified during the phased design effort performed by TGAS, the CMaR and City consultants.

The City of Cambridge has staff employed as an Owners Project Manager (OPM) who will be the direct contact for the CMaR firm after execution of the contract. The City’s OPM and staff shall be interfacing between the architect and CMaR firm during pre-construction services and shall be on site monitoring abatement, selective demolition and construction from the start through final project completion of each phase.

The construction will comply with a minimum LEED Gold standard, is required by the City of Cambridge. NET ZERO EMISSIONS is also a goal of the City, how this is accomplished as a project component shall be determined during pre-construction services for each phase.

3. **Sustainability and Environmental Elements**

On its major construction projects, the City of Cambridge seeks to lead by example in reducing and minimizing greenhouse gas emissions and other environmental impacts of its facilities. The City has set a municipal standard of achieving at a minimum a LEED Gold rating for all major municipal building projects. Therefore, the CM at Risk selected firm shall include staff members who are experts with managing, tracking and submitting all LEED documentation. It should be noted that the Commonwealth’s Stretch Energy Code is in effect in Cambridge. The City has required a NET ZERO EMISSION design goal to be included in the basis of design for this project.

4. **Project Schedule:**

- Construction Manager at Risk RFQ available **June 30th 2022**
- RFQ Informational site walk through **July 14, 2022 10:00 am**, Cambridge Fire Department Headquarters
- Questions from CM@R firms due by **July 18th 12:00pm**
- RFQ submissions due **July 28th 11:00am**
- Review and short list Construction Manager at Risk RFQ, **August 2022**
- Issue Request for Proposal to prequalified Construction Manager at Risk firms **August 2022**
Interview prequalified Construction Manager at Risk firms that submitted proposals **Week of September 12\(^{th}\) 2022**
- Select Construction Manager at Risk firm **September 2022**
- City and CM at Risk Firm enter into a Pre-construction Services Contract **September 2022**
- Preparation of Construction Documents **July 2022 – September 2023**
- early construction packages, (temp facility, hazmat, sitework, geothermal) **TBD**
- Trade Bids, **TBD**
- **Establish GMP – September 2023**
- Temp facility Construction period **December 2022-July 2023**
- Construction period **December 2022 – December 2025**
- Substantial Completion – **January 2026**

5. **Construction Manager at Risk Two-Part Selection Process**


**Part 1 of the Selection Process** is the Request for Qualifications (RFQ) phase, when each interested firm’s qualifications submission is reviewed against a pre-set group of criteria. Only firms selected during the prequalifying RFQ phase will be permitted to participate in RFP phase.

For the RFQ, interested firms shall submit a Statement of Qualifications (SOQ) by the deadline set for submission. The Selection Committee appointed by the City Manager will review and evaluate each SOQ. The City anticipates concluding the RFQ evaluation process within 30 days from the SOQ deadline.

**Construction Manager at Risk Prequalification Committee:**
- David Kale, Assistant City Manager Finance & Public Investments – Chair
- Elizabeth Unger – Purchasing Agent
- Owen O’Riordan – DPW Commissioner or Designee
- Brendon Roy - Owners Project Manager
- Gerard Mahoney - Fire Chief
- Ted Galante, Principal – TGAS

Only firms determined to be qualified by the Prequalification Committee will be invited and permitted to submit a response to a Request for Proposal (RFP). Firms that are not selected as qualified will not be asked to submit a response to the RFP. Only firms who respond to the RFQ will be eligible to be considered for the RFP.

After the SOQ deadline, the City shall make available a list of the names of the firms submitting SOQs. The Selection Committee will review and evaluate the SOQs, information obtained from references, information obtained from other governmental agencies and entities, and such other information as may be obtained. The City, at its sole discretion, may request additional information to clarify or supplement the information obtained.

The Prequalification Committee shall rate the respondents based on the composite ratings. The Prequalification Committee shall endeavor to identify at least three CM at Risk firms which it deems qualified. The City reserves its rights to select up to five firms to qualify. If the Prequalification Committee does not rate at least three CM’s as qualified, it will either repeat the RFQ process or procure the project under the provisions of M.G.L. c. 149, §44A-44J. The City shall complete the Phase 1 process by written notice to all firm’s advising them as to whether they were prequalified or not, and those CM at Risk firms deemed qualified will be invited to participate in Phase 2, starting with the Request for Proposal (RFP).

**Part 2 of the Selection Process** is the Request for Proposal phase, only the 3-5 firms who qualified in the RFQ phase will be asked to submit a response to the RFP.

A Selection Committee will evaluate the proposals on the evaluation criteria listed in the RFP, rank the proposals based on the composite ratings, and finally negotiate with the highest ranked CM at Risk firm.
In the event negotiations with the highest ranked firm will not result in a contract acceptable to the City, negotiations will be terminated, and negotiations will commence with the next highest ranked firm. The process will continue until the City is able to reach an acceptable contract with one of the prequalified CM at Risk firms.

The initial award of Contract to the selected CM at Risk firm will be for Pre-Construction Services. While it is the goal of this procurement process to work with the selected CM at Risk firm through the Pre-Construction phase, to establish a Guaranteed Maximum Price (GMP), and commence construction with the selected CM, the City is not obligated to establish a GMP with the selected CM. The City has the right to terminate the Contract for Pre-Construction Services, and either award another Pre-Construction Services contract to another CM firm from the RFP phase, or opt to bid the construction contract using M.G.L. Chapter 149.

The demolition and removal of the hazardous material and the GMP for each Phase will be contract Amendments to the contract for Pre-Construction Services.

Also, the City reserves the right at any time to cease the CM at Risk procurement process and revert to a traditional general public bid process under M. G. L. Chapter 149.

6. **Treatment of Information submitted to City of Cambridge**

The City shall have no obligation to treat any information submitted in or in connection with a SOQ as proprietary or confidential, with the *exception* of the audited financial statement which is deemed confidential. The City’s obligation with respect to protection and disclosure of such information shall at all times be subject to applicable laws, including the Massachusetts Public Records law. The audited financial statement shall remain confidential and shall not be a public record to the fullest extent permissible under the law. The City shall have the right to use all or portions of the SOQ and accompanying information, as it considers necessary or desirable in connection with the Project.

7. **Communication between City of Cambridge and Respondents**

Unauthorized communications or contact between CM firms, their employees, agents or other related entities interested in submitting SOQs and the City of Cambridge, the architect TGAS and their consultants, or any other person or entity participating on the Selection Committee with regard to this project are prohibited except for inquiries made in writing (via email) to the City of Cambridge Purchasing Agent Elizabeth Unger; Purchasing@cambridgema.gov. All addendums, questions and inquiries shall be made through the City of Cambridge Purchasing Department.

Any issues brought to the City’s attention at the RFQ Informational Meeting which the City determines require additional clarification will be addressed by issuing a written addendum. Oral and other clarifications will be without legal effect. **All such addenda will be considered part of this RFQ, and the respondent shall be required to acknowledge receipt of all addenda on the RFQ Proposal.** Addenda are emailed to all respondents who requested the RFQ and also posted on the City’s Website: www.cambridgema.gov, Online Services, Purchasing Bid List, Construction, File 10429. It shall be the sole responsibility of the Respondent to ascertain the existence of any and all addenda issued by City. It is the responsibility of each respondent to communicate all necessary email addresses. Failure to acknowledge all addenda and failure to sign all required forms will invalidate a submitted SOQ.

8. **Status of Request for Qualifications**

This Request for Qualifications is solely a request for information. It does not represent an offer, nor does it confer any rights on any respondent. The City shall not be responsible under any circumstances for any costs incurred by any respondents to this RFQ. The City reserves its right to modify, suspend or cancel this procurement at any time at its sole discretion.

9. **Scope of Services for Construction Management**
The Construction Manager shall be responsible for complete construction management services for all phases of the project for a guaranteed maximum price. A detailed scope of services will be included in the Request for Proposals (RFP). The following is an outline of services anticipated;

**Pre-Construction Phase**

The Construction Manager shall be responsible for complete construction management services for all phases of the project until a GMP is attained. Prior to the start of each phase the City at its sole discretion will determine whether it will proceed to the next phase or terminate Construction Manager at Risk services on the project. Trade Contractor scopes shall be solicited under MGL c 149A. A detailed scope of services will be included in the Request for Proposals (RFP). The following is an outline of services anticipated.

- Review and recommend revisions, if appropriate, to the project master schedule, construction budget and permitting plan developed by the City.
- Attend and, if requested by the City, schedule and lead periodic project meetings and special meetings for the exchange of information concerning the project, and review of design progress, permits and approvals.
- Review the construction documents to make recommendations to the City with respect to value engineering, constructability, price, availability of materials and equipment, scheduling, methods and sequence of construction. Review documents with regard to coordinating abatement and demolition scope within the requirements of the trade contractor cost limits.
- The CM at Risk shall assign a professional project scheduler or in-house scheduler capable of developing critical path method (CPM) schedule that identifies all design activities, permits requirements and all other activities required to produce a preliminary construction schedule.
- Develop, in coordination with the City, a system for tracking project costs and cash flow.
- In consultation with the City and the Architect develop a construction phasing plan. Identify temporary construction and mitigation measures necessary to implement the phasing plan. The phasing plan shall indicate sequence of operations which impact the public way; the means of debris disposal, truck access to and from the site; loading and storage of materials on site; traffic impacts, noise and dust control, and other site-specific items identified by the City and the Architect.

**Estimating & Bidding Phase**

Perform detailed cost estimates and value engineering analyses at Schematic Design, Design Development, and the Construction Documents phases of the project. The CM shall work with the Architect to reconcile any differences. The CM shall summarize in writing the results of the cost estimate reconciliation meetings which shall include at a minimum:

- Areas where cost estimates varied due to insufficient or contradictory information in the design documents
- Quantities which varied and reasons for the variance between the CMaR and the Architects cost estimates
- Material substitutions or recommendations which would either reduce costs, improve the durability or operability of the building
- Recommendations on systems or system elements that might be altered to improve the building and/or reduce construction or operating costs

The City may require additional cost estimates to confirm budget due to modifications made as a result of design changes made as a result of meetings with the City and the Architect.
Develop subcontractor interest in the project and furnish to the City and Architect for their information a list of possible subcontractors and suppliers from who bids will be requested for major portions of the work. All such solicitations shall be documented.

Develop the scope of work and prepare bid packages in concert with the Architect for each trade to bid and participate in the prequalification and qualification of each of the Trade Contractors as defined by law. Review these packages carefully and thoroughly with the City.

**Construction Phase**

- Obtain and pay for all required construction related permits.
- Furnish bonds and insurance as required by the contract documents.
- Provide and maintain construction site offices for CM at Risk and City on site staff Provide all site management and administration.
- Manage and coordinate all Trade Contractors and subcontractors and others engaged in the performance of the work.
- Meet the Women Business Enterprise, Minority Business Enterprise participation goals, and City of Cambridge residency requirements for the Project.
- Implement procedures and standards for reviewing and processing requests for information, clarifications and interpretations of the contract documents; shop drawings, samples, and all other submittals, contract schedule adjustments, change order proposals, proposals for substitutions, payment applications, as-built drawings, and maintenance of logs, etc.
- Continuously supervise, document, and observe all work in progress so as to ensure that the work is proceeding in accordance with the construction contract documents.
- Attend and, if requested by City, schedule and lead regular project and construction progress meetings, and conduct regular meetings at the site with each subcontractor. All meetings shall be held at a location and time convenient to the City’s Owner’s Project Manager.
- Develop, submit and implement a change order control system, and demonstrate how it works effectively.
- Establish, submit and implement a Quality Control program including monitoring the quality programs of all subcontractors.
- Develop, submit and implement a project wide safety program, including monitoring and enforcement of the program for Trade and subcontractors.
- Monitor closely the progress of construction of each subcontractor, prepare a construction schedule report at least monthly and, if and as necessary, prepare and submit recovery schedules.
- Provide a project-dedicated scheduler to develop, maintain and update the detailed CPM schedule.
- Furnish monthly reports concerning the progress of the work which address: construction schedule update, status of the construction contingency budget, status of subcontractor buy-outs, status of testing and inspection activities, status of shop drawings and submittals, status of change orders, status of MBE/WBE participation, other matters relating to the progress of work as directed by City
- Determine when each subcontractor’s work is substantially complete and prepare a list of incomplete work and work which does not conform to the requirements of the construction documents.
- Maintain complete and accurate records, including; correspondence, meeting notes and minutes, shop drawings and submittals, construction documents including change orders, clarifications and interpretations of the construction documents issued by the project designer, progress reports including observations of testing performed, as-built drawings, and all other project related documents including but not limited to those utilizing a PMAS/Prolog (or equivalent) system.

**Post-Construction Phase**

In accordance with the project specifications, develop and implement procedures for orderly completion of punch list items, operational start up, testing and commissioning of systems and equipment. Prepare and deliver warranties, O&M manuals, as built drawings, and administer closeout of the project. Ensure performance of all warranty obligations, resolution of all claims, and other post-construction requirements.
SECTION II: GENERAL TERMS AND CONDITIONS

The contract for this project will be between the City of Cambridge and the CM at Risk firm, the project is administered by the City Manager's Office. The City has an Owners Project Manager in place for this project. This person shall be the immediate point of contact for the CM at Risk firm after the contract for CM at Risk services is executed.

A proposal will remain in effect for a period of 90 calendar days from the deadline for submission of the proposals or until it is formally withdrawn, a contract is executed or this RFQ is canceled, whichever occurs first. The City reserves the right to reject any and all proposals in whole or in part.

The City will have the option to cancel the contract provided that written notice is given 30 days prior to the effective termination date.

Any changes or additions to CM at Risk key personnel named in the application must be submitted in writing and approved by the City. The City will consider any change to staffing submitted in the RFQ or the RFP as a reason not to enter into contract with the CM at Risk. The CM at Risk shall be diligent with the staffing proposed so as not to impact the project at any point in time after the contract is executed.

The City encourages minority firms to apply, and if subcontractors are used, encourages the use of minority subcontractors. The City’s Office of Equity and Inclusion can provide assistance to firms wishing to identify minority subcontractors.

Attached to this Request for Qualifications is a sample City contract that must be executed by the successful offeror. The City will not accept an offeror’s Terms and Conditions.

SECTION III: RFQ SUBMISSION REQUIREMENTS

1. General Requirements

The respondent shall submit all of the information and documentation listed below. Selection of the respondents for Phase One, the prequalification process will be based on the submitted information and materials, information on prior project performance, information obtained from references, including the City, information obtained from governmental agencies and entities, and such other information as may be available.

Do not include superfluous material. Respondents shall include the CM at Risk Statement of Qualifications Response Form attached below and signed by an authorized representative, and all of the forms and materials required for Schedules A through M. Respondents shall give complete and accurate answers to all questions and provide all of the information requested. Respondents shall not alter the text of the forms or schedules in any way: any such alteration will be grounds for disqualification. Making a materially false statement in this submission is grounds for rejecting a Statement of Qualifications submission and may subject the respondent to other civil or criminal penalties.

A. Qualifications Application: Respondent shall complete the CM at Risk Qualifications Application Schedule “A” below to the SOQ. Joint ventures shall provide information about each of the joint venture partners.

B. Executive Summary: Respondent shall attach Schedule “B” below to the SOQ, a cover letter or executive summary detailing the key elements and factors that differentiate the respondent firm from other firms. Joint ventures shall provide information about the nature of the joint venture including the approximate percentage participation by each joint venture partner and division of responsibility among the joint venture partners. This letter/executive summary should not exceed 6 pages. In addition to differentiating the respondent from its competitors, the Executive Summary should describe your experience with the following questions:

- Construction experience in Cambridge
- Working in / on congested urban sites
- Projects of similar size, scope, and/or complexity
- Construction Manager at Risk procurement process used
- Chapter 149 and/or Chapter 149A
- Describe your worksite safety plan, and in particular, how you will protect residents and abutters from construction hazards.
- Briefly describe your construction mitigation plan, and in particular, how you will mitigate construction impacts on the surrounding neighborhood. Include any Cambridge projects your firm has been responsible to erect.
- Briefly describe how you manage design or scope changes during construction. In particular, how you will insure the City gets adequate and timely cost and schedule information to make informed choices about possible changes.
- This construction project will be designed to meet the City’s LEED requirements, and currently is being designed to meet LEED Gold standards. State your experience with sustainable design criteria such as LEED for projects similar in scope. Point out specific strategies you have employed in the past to ensure that sustainable design goals, as measured by the points score sheet associated with these programs, are achieved in the finished project?
- Demonstrate your experience satisfying the City of Cambridge residency, MBE/WBE requirements or other Massachusetts cities or towns, and document your success.

C. Management Personnel and Project Organizational Chart: Respondent shall complete Schedule “C” below to the SOQ and shall attach both: i) an organizational chart and ii) a resume for each person who will have any management responsibility, direct or indirect, for the Project, including but not limited to project executives, project managers, field superintendents and field engineers. Joint ventures shall identify the company that employs each individual listed.

D. Similar Project Experience: Respondent shall complete Schedule “D” below to the SOQ, listing similar projects for the last ten (10) years. The first part of Schedule D requests information for similar projects that used the construction manager at risk delivery method and the second part of Schedule D requests information on similar projects in general. For each project, respondent shall include the name of the project, location, description of project, description of respondent firm’s scope of work, original contract sum, final contract sum (with explanation), date completed and the name, organization, address and telephone contact information for the owner and project architect for each such project. For the purpose of this RFQ, “similar projects” shall mean projects where the construction cost for the project was for an amount similar to the estimated construction cost of this Project ($30-45 million); the project was one of similar complexity; the project was of a similar type or scope; and the project was the approximate size of this Project or larger. Joint ventures shall complete a Schedule D for each Individual joint venture partner.

E. Terminiations and Legal Proceedings: Respondent shall complete Schedule “E” below to the SOQ. Schedule E requires two separate listings: the first part requires a complete listing of each and every project on which the respondent firm was terminated or failed to complete the work within the past seven (7) years; and the second part requires a complete listing of any conviction or fines incurred by the respondent firm or any of its principals for violations of any state or federal law within the past seven (7) years and a complete list of any and all legal proceeding, administrative proceeding and arbitrations whether currently pending or concluded within the past seven (7) years that involved a construction project or a construction contract in which the respondent firm was a named party. Joint ventures shall complete a Schedule E for each individual joint venture partner.

F. Safety Record: Respondent shall provide with Schedule “F” below to the SOQ their insurance carrier Workers’ Compensation Experience Modifier for the past three years. Joint ventures shall also complete a Schedule F.

G. MBE/WBE and EEO Workforce Compliance Record: Respondent shall complete Schedule “G” below to the SOQ providing information on the firm’s compliance record with respect to Minority Business Enterprise and Women’s Business Enterprise participation goals and workforce inclusion goals for each and every project completed within the past five (5) years that had contractual MBE/WBE participation goals or minority and women workforce goals. In addition, respondent shall attach documentation provided by the project owner or independent project manager supporting the actual participation and inclusion amounts it reports on Schedule G. Joint ventures shall also complete a Schedule G.

H. Audited Financial Statement: Respondent shall attach to Schedule “H” below to the SOQ a completed copy of its
audited financial statement for the 2 most recent fiscal years. Joint ventures shall also complete a Schedule H.

I. **Letter from Surety Company Evidencing Bonding:** Respondent shall attach **Schedule “J”** below to the SOQ a letter from a surety company that is licensed to do business in the Commonwealth and whose name appears on United States Treasury Department Circular 570 on the surety company’s letterhead (or a letter from a surety agent with attorney in fact authority and an original power of attorney accompanying the letter) confirming that it will provide respondent firm with payment and performance bonds on the Project in an amount equal to or greater than 100 per cent of the estimated construction cost of the Project. This letter can either reference the joint venture’s bonding or submit separate letters for each individual joint venture partner.

J. **Examples of Project Management Reports and Operating Philosophy:** Respondent shall attach **Schedule “J”** below to the SOQ specific examples (no more than 3) of Project Management Reports that were prepared by respondent on one or more of the Construction Manager projects listed on Schedule D, Part A. In addition, respondent **may**, at its option, include a brief statement of its operating philosophy. If information on respondents operating philosophy is contained in its Executive Summary attached at Schedule B the information should not be repeated at Schedule J, but can be referenced.

K. **Examples of Prior Experience on Sustainable Construction and Green Communities Criteria:** Respondent shall complete **Schedule “K”** below to the SOQ listing prior project experience involving sustainable construction and LEED project experience. Joint ventures shall complete a Schedule K.

L. **Certificate of Eligibility and Update Statement:** Respondent shall attach **Schedule “L”** below to the SOQ both: i) a current Certificate of Eligibility (issued by DCAMM, showing respondent is certified in General Building Construction with appropriate single project limits and aggregate limits as set forth above, and ii) a completed Update Statement. Joint ventures which are not yet DCAMM certified as a joint venture shall submit a Certificate of Eligibility and Update Statement.

M. **Lists of Projects in Progress, Completed Projects and Certification Page from Most Recent DCAMM Application for Certification:** Respondent shall attach **Schedule “M”** below to the SOQ with a copy of those portions of Respondent’s most recent application for DCAMM certification that contains the listings of Respondents Projects in Progress and its Completed Projects. Specifically, Respondent shall submit copies of 1) **Schedule F; Projects in Progress**; 2) **Schedule G; Completed Projects**; and, 3) a copy of the signed and dated final page, **Schedule J; Certification**, showing the date the application for certification was submitted to DCAMM all copied from their most recent Application for Prime/General Contractor Certificate of Eligibility submitted to DCAMM Certification Office.

2. **Evaluation Criteria for Selection**

The respondent shall submit all of the information and documentation listed in this RFQ. Selection of the respondent for Phase One, the prequalification process will be based **solely** on the submitted information and materials, information on prior project performance, information obtained from references, information obtained from governmental agencies and entities, and such other information as may be obtained. Respondents shall include the CM at Risk Statement of Qualifications Response Form and all of the materials required for Schedules A through K. Respondents shall give complete and accurate answers to all questions and provide all of the information requested. Altering the text of the forms or schedules in any way or making a materially false statement in this submission is grounds for rejecting a Statement of Qualifications submission and may subject the respondent to other civil or criminal penalties.

A. **Minimum Requirements, Certification, Bonding and Capacity**

   • **Required Construction Manager at Risk Experience**

   To be considered responsive, within the past 5 years the Submitter shall have successfully completed three to five complicated phased occupied renovation projects in the range of **$30-45 million**, that are either Chapter 149, Chapter 149A, Massachusetts School Building Authority, Massachusetts State College Building Authority or public safety facility of a similar scope and complexity.
• **Bonding Capacity**

The respondent shall provide evidence of bonding capability in an amount equal to or greater than 100 percent of the estimated construction cost for this Project (as set forth in the General Information section above). The evidence of bonding capability shall be in the form of a letter from the surety company (or a surety agent with attorney in fact authority and an original power of attorney accompanying the letter). The surety company shall be a surety licensed to do business in the Commonwealth of Massachusetts and whose name appears on the United States Treasury Department Circular 570.

• **DCAMM Certification - Copy Form CQ7**

The respondent shall provide a copy of a current Certificate of Eligibility (Form CQ7) issued by DCAMM showing respondent is DCAMM certified in General Building Construction with a single project limit in an amount equal to, or greater than, the estimated construction cost for this Project (as set forth in the General Information section above).

To submit a proposal in response to this RFQ, a Respondent, whether an individual firm or a joint venture, shall be certified in General Building Construction by DCAMM for a single project limit in the amount of the Estimated Construction Cost set forth above for the Project or greater and shall also be within the aggregate limits of its DCAMM Certificate of Eligibility (Form CQ7), and a copy of the Respondent’s current DCAMM Certificate of Eligibility shall be included in the SOQ.

A joint venture team shall be certified in General Building Construction by DCAMM for a single project limit in the amount of the Project Estimated Construction Cost or greater and shall also be within the aggregate limits of its DCAMM Certificate of Eligibility, a copy of which shall be included in the SOQ at the time it submits its RFQ.

If a respondent to the RFQ is a proposed joint venture (“JV”) that is newly formed or is not currently certified, then:

- each party to the proposed joint venture shall be individually certified by DCAMM and shall submit a copy of its DCAMM Certificate of Eligibility with its SOQ;
- the JV respondent shall state in the SOQ that it will seek Certification from DCAMM as a joint venture in the category of General Building Construction for the required limits, and state that it understands and agrees that if JV respondent is selected to participate in the RFP phase it will be required to submit a DCAMM Certificate of Eligibility for the joint venture with its response to the RFP;
- at least one of the parties to the joint venture shall be certified by DCAMM in the category of General Building Construction for a single project limit of in the amount of the Estimated Construction Cost for the Project and shall be within the aggregate limits of its Certificate of Eligibility at the time the SOQ is submitted; and
- the JV respondent shall provide evidence satisfactory to DCAMM of bonding capacity, in the form set forth above and satisfactory to DCAMM, for the proposed joint venture in the amount of the Estimated Construction Cost for the Project.

In the second phase of the selection process, the RFP phase, a JV respondent that has been selected in the RFQ process will be required to have obtained a DCAMM Certificate of Eligibility for the joint venture and shall submit its Certificate of Eligibility for the joint venture meeting the above requirements with its proposal in response to the RFP.

• **DCAMM Update Statement – Use Form CQ3**

A complete and signed update statement shall be submitted as part of the SOQ. For the City’s analysis of the Aggregate Work Limit for this RFQ. The Estimated Construction Cost for the project as set forth above will be used with a construction duration for the Project as set forth above. The City will compare the above numbers with the respondent’s current annualized value of all incomplete work. The firm’s ability to meet the City’s schedule based
on existing workload will be an evaluation criterion.

- **DCAMM Certification – Copy Form CQ7**

The respondent shall provide a copy of a current Certificate of Eligibility (Form CQ7) issued by DCAMM showing respondent is DCAMM certified in General Building Construction with a single project limit in an amount equal to, or greater than, the estimated construction cost for this Project (as set forth in the General Information section above).

- **Firms meeting the minimum experience criteria set forth above, submitting a completed RFQ with Schedules, required attachments, and letter evidencing bonding capacity will be evaluated on the following criteria:**
  
  - Prior Similar Project Experience:
  - Management Team and Organization for the Project:
  - Financial Status:
  - Litigation and Performance/Termination History:
  - Safety Record:
  - History of Compliance with local hiring, MBE/WBE participation, and workforce goals:
  - Quality of References:
  - Experience with sustainable construction and demonstrated knowledge of LEED building standards:

The City will solicit proposals from all prequalified firms. As provided by law, the City’s decision on prequalification shall be final and binding and shall not be subject to appeal except on grounds of fraud or collusion.

**STATEMENT OF QUALIFICATIONS SUBMISSION CHECKLIST**

*for Prequalification of CM at Risk Firms*

**PLEASE NOTE THAT INCOMPLETE OR LATE STATEMENTS OF QUALIFICATION FOR CM at RISK PREQUALIFICATION WILL NOT BE CONSIDERED. THEREFORE, BEFORE SUBMITTING YOUR FIRM’S RESPONSE TO THIS RFQ PLEASE REVIEW THE FOLLOWING:**

- [ ] Respondent completed the SOQ Form and all schedules and attachments in their entirety.
- [ ] Respondent has completed *Schedules A through M* and attached required documentation (i.e., resumes of all management personnel, organizational chart, commitment letter from bonding company, letter evidencing workers comp. experience modifier, letter from owner documenting prior project MBE/WBE participation; sample firm project management reports, etc.).
- [ ] Respondent has submitted Audited Financial Statement for 2 most recent years. Please only include one (1) copy in a sealed envelope.
- [ ] Respondent submission package includes one original, eight (8) copies and one electronic copy (Physical Electronic Media) of its SOQ application stapled **NO BINDER OF ANY SORT**
- [ ] Respondent has provided current contact information for its firm and all of its project contacts/references.
- [ ] Respondent addressed the SOQ envelope correctly (i.e. to reference the Project and other
required information set forth herein).
CM at Risk Statement of Qualifications Form (SOQ)

Firm Name: 

Mailing Address: 

Telephone Number: 

Contact Person: 

Title: 

Email: 

Firm acknowledges Addenda numbered __________________________. (list all)

A. **Qualifications Application:** Respondent shall complete the CM at Risk Qualifications Application Schedule “A” below to the SOQ. Joint ventures shall provide information about each of the joint venture partners.

B. **Executive Summary:** Respondent shall attach as Schedule “B” a cover letter or executive summary detailing the key elements and factors that differentiate the respondent firm from other firms. This letter/executive summary should not exceed 6 pages. Joint ventures shall provide information about the nature of the joint venture including the approximate percentage participation by each joint venture partner and the division of responsibility among the joint venture partners.

C. **Management Personnel and Project Organizational Chart:** Respondent shall complete Schedule “C” below to the SOQ and shall attach both: i) an organizational chart and ii) a resume for each person who will have any management responsibility, direct or indirect, for the Project, including but not limited to project executives, project managers, field superintendents and field engineers. Joint ventures shall identify the company that employs each individual listed.

D. **Similar Project Experience:** Respondent shall complete Schedule “D” below to the SOQ, listing similar projects for the last ten (10) years. The first part of Schedule D requests information for similar projects that used the construction manager at risk delivery method and the second part of Schedule D requests information on similar projects in general. For each project, respondent shall include the name of the project, location, description of project, description of respondent firm’s scope of work, original contract sum, final contract sum (with explanation), date completed and the name, organization, address and telephone contact information for the owner and project architect for each such project. For the purpose of this RFQ, “similar projects” shall mean projects where the construction cost for the project was for an amount similar to the estimated construction cost of this Project ($26-27 million); the project was one of similar complexity; the project was of a similar type or scope; and the project was the approximate size of this Project or larger. Joint ventures shall complete a Schedule D for each individual joint venture partner.

E. **Terminations and Legal Proceedings:** Respondent shall complete Schedule “E” below to the SOQ. Schedule E requires two separate listings: the first part requires a complete listing of each and every project on which the respondent firm was terminated or failed to complete the work within the past seven (7) years; and the second part requires a complete listing of any conviction or fines incurred by the respondent firm or any of its principals for violations of any state or federal law within the past seven (7) years and a complete list of any and all legal proceeding, administrative proceeding and arbitrations whether currently pending or concluded within the past seven (7) years that involved a construction project or a construction contract in which the respondent firm was a named party. Joint ventures shall complete a Schedule E for each individual joint venture partner.
F. **Safety Record**: Respondent shall provide with **Schedule “F”** below to the SOQ their insurance carrier’s Workers’ Compensation Experience Modifier for the past three years. Joint ventures shall also complete a Schedule F.

<table>
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<tr>
<th>Year</th>
<th>Workers Comp. Experience Modifier</th>
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<tbody>
<tr>
<td>2019</td>
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<tr>
<td>2020</td>
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<td>2021</td>
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G. **MBE/WBE and EEO Workforce Compliance Record**: Respondent shall complete **Schedule “G”** below to the SOQ providing information on the firm’s compliance record with respect to Minority Business Enterprise and Women’s Business Enterprise participation goals and workforce inclusion goals for each and every project completed within the past five (5) years that had contractual MBE/WBE participation goals or minority and women workforce goals. In addition, respondent shall attach documentation provided by the project owner or independent project manager supporting the actual participation and inclusion amounts it reports on Schedule G. Joint ventures shall also complete a Schedule G.

H. **Audited Financial Statement**: Respondent shall attach to **Schedule “H”** below to the SOQ a completed copy of its audited financial statement for the 2 most recent fiscal years. Joint ventures shall also complete a Schedule H.

N. **Letter from Surety Company Evidencing Bonding**: Respondent shall attach **Schedule “I”** below to the SOQ a letter from a surety company that is licensed to do business in the Commonwealth and whose name appears on United States Treasury Department Circular 570 on the surety company’s letterhead (or a letter from a surety agent with attorney in fact authority and an original power of attorney accompanying the letter) confirming that it will provide respondent firm with payment and performance bonds on the Project in an amount equal to or greater than 100 per cent of the estimated construction cost of the Project. This letter can either reference the joint venture’s bonding or submit separate letters for each individual joint venture partner.

O. **Examples of Project Management Reports and Operating Philosophy**: Respondent shall attach **Schedule “J”** below to the SOQ specific examples (no more than 3) of Project Management Reports that were prepared by respondent on one or more of the Construction Manager projects listed on Schedule D, Part A. In addition, respondent may, at its option, include a brief statement of its operating philosophy. If information on respondents operating philosophy is contained in its Executive Summary attached at Schedule B the information should not be repeated at Schedule J, but can be referenced.

P. **Examples of Prior Experience on Sustainable construction and Green Communities criteria**: Respondent shall complete **Schedule “K”** below to the SOQ listing prior project experience involving sustainable construction and LEED project experience. Joint ventures shall complete a Schedule K.

Q. **Certificate of Eligibility and Update Statement**: Respondent shall attach **Schedule “L”** below to the SOQ both: i) a current Certificate of Eligibility (issued by DCAMM, showing respondent is certified in General Building Construction with appropriate single project limits and aggregate limits as set forth above, and ii) a completed Update Statement. Joint ventures which are not yet DCAMM certified as a joint venture shall submit a Certificate of Eligibility and Update Statement.

R. **Lists of Projects in Progress, Completed Projects and Certification Page from Most Recent DCAMM Application for Certification**: Respondent shall attach **Schedule “M”** below to the SOQ with a copy of those portions of Respondent’s most recent application for DCAMM certification that contains the listings of Respondent’s Projects in Progress and its Completed Projects. Specifically, Respondent shall submit copies of 1) **Schedule F; Projects in Progress**; 2) **Schedule G; Completed Projects**; and, 3) a copy of the signed and dated final page, **Schedule J; Certification**, showing the date the application for certification was submitted to DCAMM all copied from their most recent Application for Prime/General Contractor Certificate of Eligibility submitted to DCAMM Certification Office.
Failure to accurately and completely provide the information requested may result in the disqualification of a respondent.

This form shall be signed by an officer of the firm or an individual so authorized by an officer of the firm who has personal knowledge regarding the information contained herein and submitted with the SOQ.

To the City of Cambridge:

The undersigned declares that he or she has carefully examined all the documents contained in the Construction Manager at Risk Request for Qualifications (RFQ) solicitation for the City of Cambridge Project Number 10429, Fire Department Headquarters Project, and certifies to the best of his/her knowledge, that this Statement of Qualifications fully complies with all of the requirements of the RFQ and all addenda and clarifications issued in regard to the RFQ. The undersigned further certifies that he or she (or, if he or she is the authorized representative of a company, the company) is the only person interested in this Statement of Qualifications and any subsequent proposal; that it is made without any connection with any other person making any submission for the same work; that no person acting for, or employed by, the Commonwealth of Massachusetts is directly or indirectly interested in this Statement of Qualifications or any subsequent proposal, or in any contract which may be made under it, or in expected profits to arise therefrom; that the undersigned Respondent has not influenced or attempted to influence any other person or corporation to file a Statement of Qualifications or subsequent proposal or to refrain from doing so or to influence the terms of the Statement of Qualifications or any subsequent proposal of any other person or corporation; and that this submission is made in good faith without collusion or connection with any other person applying for the same work.

The undersigned further certifies under pains and penalties of perjury that the undersigned is not debarred from doing public construction work in the Commonwealth of Massachusetts under the provisions of section twenty nine F of chapter twenty nine, or any other applicable debarment provision of any other chapter of the General Laws or any rule or regulation promulgated there under, and further is not debarred from doing public construction work under any law, rule or regulation of the federal government.

The undersigned states that he or she has carefully examined all of the information provided and representations made in this Statement of Qualifications and the documents submitted with the SOQ including all schedules, forms and materials, and certifies to the best of his/her knowledge, that this Statement of Qualifications in its entirety is complete, true and accurate.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY:

Signature: __________________________
(Signature of Authorized Representative)

Name: __________________________

Title: __________________________

Firm Name: __________________________

Date: __________________________
Schedule A - CM at RISK QUALIFICATIONS APPLICATION

Firm Name: ________________________________

1. BUSINESS INFORMATION

Type of business entity (corporation, partnership, joint venture, etc.): _____________________

Number of years in business under current business name: _________________

List all other business names firm has operated under and the time frames for each:

________________________________________________________________________

________________________________________________________________________

If firm is a corporation, provide the following information:

State of incorporation: ____________ Date of Incorporation: _________________

Name of President: ________________________________

Name of Vice President: ________________________________

Name of Secretary or Clerk: ________________________________

Name of Treasurer: ________________________________

If firm is a partnership or joint venture provide the following information:

Type of partnership/joint venture: ________________ Date of organization: ____________

Name of each partner or venturer:

________________________________________________________________________

________________________________________________________________________

Is partnership or joint venture registered in Massachusetts? __________
For each general partner or venturer that is a corporation, provide the following information (use additional sheets if necessary):

Name of corporation: ______________________________________________________
State of incorporation: ______________________________________________________
President: ________________________________
Secretary or Clerk: ________________________________
Treasurer: ________________________________

Name of corporation: ______________________________________________________
State of incorporation: ______________________________________________________
President: ________________________________
Secretary or Clerk: ________________________________
Treasurer: ________________________________

Has any officer of the firm or individual with an ownership interest declared bankruptcy? _____
If yes, state the details on an attachment to this application.

If firm is individually owned provide the following information:

Name of Owner: ______________________________________________________
Date of organization: _____________
Owner’s Residence Address: ______________________________________________________
Names under which firm does business ______________________________________________________
Business Address: ______________________________________________________

If selected firm is an individual doing business under a different name then they shall furnish evidence of any required DBA filings.
1. LICENSURE AND PERFORMANCE INFORMATION

List all jurisdictions and trade categories in which the firm is legally licensed or otherwise qualified to do business and for each jurisdiction provide registration and license numbers where applicable:

If the firm customarily provides scopes of work with its own forces please identify the types/areas of work below:

2. REFERENCES

Provide three trade references below include name of reference, current contact person, telephone number and address:

Provide two bank references below, include name of reference, current contact person, telephone number and address:
Schedule B - EXECUTIVE SUMMARY

Respondent shall attach Executive Summary here

Not to Exceed 6 Pages
Schedule C - MANAGEMENT PERSONNEL

Firm Name: ____________________________

Respondent shall provide the information requested below for each and every person who will have any direct or indirect management responsibility for the Project, including but not limited to project executives, project managers, field superintendents and field engineers. Respondents shall attach a copy of the resume for each person listed. Respondents shall also attach an Organizational Chart for the Project to this Schedule C. (Note: The City will require review and approval before ANY changes are made in major staff roles or responsibilities.)

<table>
<thead>
<tr>
<th>NAME</th>
<th>TITLE</th>
<th>ROLE/JOB RESPONSIBILITIES ON THIS PROJECT</th>
<th># OF YEARS W/FIRM</th>
<th>EDUCATION &amp; EXPERIENCE</th>
<th>COMPLETED PROJECTS (if resume lists all completed projects this section can reference resume)</th>
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</table>
Schedule D - SIMILAR PROJECT INFORMATION

Firm Name:______________________________

Respondent is required to complete all three parts, Parts A, B and C of Schedule D. List below all similar projects the firm has completed during the last ten (10) years. For the purpose of this CM at Risk project “similar projects” shall mean projects where the respondent was the Construction Manager (Part A) or General Contractor (Part B) and shall mean projects where the construction cost for the project was for an amount similar to the amount of the estimated construction cost of this Project; the project was one of similar complexity; the project was of similar type or scope; and the project was the approximate size of this Project or larger. On Part C list the Contact information for the owner and designer for each and every project listed on Part A or Part B. Attach additional sheets if necessary.

Part A. CM PROJECTS – List only projects on which the firm was the Construction Manager in this section.

<table>
<thead>
<tr>
<th>PROJECT NAME &amp; LOCATION</th>
<th>PROJECT OWNER</th>
<th>PROJECT DESCRIPTION</th>
<th>DESCRIPTION OF SERVICES PROVIDED</th>
<th>ORIGINAL AND FINAL CONTRACT AMOUNT WITH EXPLANATION</th>
<th>PROJECT START AND COMPLETION DATE</th>
</tr>
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<tbody>
<tr>
<td>Indicate if in Cambridge</td>
<td></td>
<td>Indicate if historic gut rehab, comm. office space, public/community spaces, etc.</td>
<td>Indicate if CH 149/149A, MSCBA, MSBA, or other</td>
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Schedule D - SIMILAR PROJECT INFORMATION (continued)

Firm Name: ____________________________________________

Part B. GENERAL CONTRACTOR PROJECTS – List only projects on which the firm was the General Contractor or Prime Contractor and was not the Construction Manager in this section.

<table>
<thead>
<tr>
<th>PROJECT NAME &amp; LOCATION</th>
<th>PROJECT OWNER</th>
<th>PROJECT DESCRIPTION</th>
<th>DESCRIPTION OF SERVICES PROVIDED By FIRM</th>
<th>ORIGINAL AND FINAL CONTRACT AMOUNT WITH EXPLANATION</th>
<th>PROJECT START AND COMPLETION DATE</th>
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<td>Historic gut, Community. Space, office space, etc.</td>
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Schedule D – SIMILAR PROJECT INFORMATION (continued)

Firm Name: ______________________________

Part C. PROJECT CONTACTS – Respondent shall list below contact information for the owner and designer on each of the projects listed on Schedule D Part A and Part B above. **Be certain to confirm the contact information is current.**

<table>
<thead>
<tr>
<th></th>
<th>COMPANY NAME</th>
<th>CONTACT PERSON/ADDRESS</th>
<th>TELEPHONE#</th>
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</table>
| OWNER
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Respondent is required to complete both parts A and B of Schedule E. On Part A of Schedule E respondents are required to list each and every project on which the firm was terminated or failed to complete the work within the past seven (7) years. On Part B of Schedule E respondents are required to list each and every conviction or fine incurred by the respondent firm or any of its principals for violations of any state or federal law within the past seven (7) years; and, a complete list of any and all legal proceeding, administrative proceeding and arbitrations whether currently pending or concluded within the past seven (7) years that involved a construction project or a construction contract in which the respondent firm was a named party. Attach additional sheets if necessary.

Part A. TERMINATIONS AND INCOMPLETE PROJECTS

<table>
<thead>
<tr>
<th>PROJECT NAME &amp; LOCATION</th>
<th>PROJECT OWNER</th>
<th>SCOPE OF WORK PERFORMED</th>
<th>PROJECT START &amp; END DATES</th>
<th>ESTIMATED CONTRACT AMOUNT</th>
<th>% COMPLETE</th>
<th>REASON FOR FAILURE TO COMPLETE OR TERMINATION</th>
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</table>
Schedule E - TERMINATIONS and LEGAL PROCEEDINGS (continued)

Firm Name: ________________________________________________

Part B. LEGAL PROCEEDING, CONVICTIONS and FINES

<table>
<thead>
<tr>
<th>PROJECT NAME, LOCATION &amp; OWNER</th>
<th>DESCRIPTION OF CONVICTIONS, FINES and LEGAL PROCEEDING (include caption of case, parties, location of proceeding, description of the dispute or enforcement action, dates action commenced and concluded and status and/or outcome)</th>
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Schedule F – SAFETY RECORD

Respondents shall list their workers compensation experience modifiers for the past three years in the space provided on the Statement of Qualifications form and shall also attach here documentation from their insurance carrier of their Worker’s Compensation Experience Modifier for the past three years.
**Schedule G – MBE/WBE and WORKFORCE COMPLIANCE RECORD**

**Firm Name:** _____________________

Respondent is required to list below each and every project completed within the last five (5) years that had contractual MBE/WBE participation goals or minority and women (EEO) workforce or community residence goals. For each project with goals list the contractually required MBE, WBE and EEO workforce participation goals and the actual MBE, WBE and workforce participation achieved on the project. **Respondents shall attach documentation from the project owner or and independent project manager supporting the amount of actual MBE/WBE participation reported.** In addition, if the goals were not met, explain why and indicate whether any sanctions or penalties were imposed. Attach additional sheets if necessary.

<table>
<thead>
<tr>
<th>PROJECT NAME, LOCATION &amp; AWARDING AUTHORITY</th>
<th>CONTRACT VALUE</th>
<th>MBE GOAL</th>
<th>ACTUAL MBE PARTICIPATION</th>
<th>WBE GOAL</th>
<th>ACTUAL WBE PARTICIPATION</th>
<th>WORKFORCE GOALS</th>
<th>ACTUAL WORKFORCE PARTICIPATION</th>
<th>IF GOALS NOT MET EXPLAIN WHY</th>
<th>SANCTION OR PENALTY AND AMOUNT</th>
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**Firm Name:** _____________________

Respondent is required to list below each and every project completed within the last five (5) years that had contractual MBE/WBE participation goals or minority and women (EEO) workforce or community residence goals. For each project with goals list the contractually required MBE, WBE and EEO workforce participation goals and the actual MBE, WBE and workforce participation achieved on the project. Respondents shall attach documentation from the project owner or and independent project manager supporting the amount of actual MBE/WBE participation reported. In addition, if the goals were not met, explain why and indicate whether any sanctions or penalties were imposed. Attach additional sheets if necessary.
Schedule H – AUDITED FINANCIAL STATEMENT

Respondent shall attach audited financial statements for the two most recent fiscal years here.
Schedule I – LETTER EVIDENCING BONDING CAPACITY

Respondent shall attach here a letter from a surety company (or from an agent meeting the criteria set forth above) evidencing that the surety will provide respondent with payment and performance bonds for the Project in an amount equal to or greater than 100% of the estimated construction cost of the Project. The surety company shall meet the requirements set forth above.
Schedule J – EXAMPLES OF PROJECT MANAGEMENT REPORTS
and BRIEF STATEMENT OF OPERATING PHILOSOPHY

Respondent shall attach here specific examples (no more than 3) of Project Management Reports that were prepared by respondent on one or more of the Construction Manager projects listed on Schedule D, Part A above. In addition, respondent may, at their option, include a brief statement of its operating philosophy.

If information on respondents operating philosophy is contained in its Executive Summary attached at Schedule B the information should not be repeated here, but can be referenced.
SCHEDULE K

Schedule K – PROJECTS WITH SUSTAINABLE DESIGN and/or LEED COMPLIANCE

Firm Name:_______________________________________________________

Respondent is required to complete both parts, Parts A and B of Schedule L. List below all similar projects the firm has completed which involved sustainable design and/or LEED certified buildings. On Part B list the Contact information for the owner and designer for each and every project listed on Part A. Attach additional sheets if necessary.

**Part A. List Projects Involving Sustainable Design and/or LEED Certified Buildings.**

<table>
<thead>
<tr>
<th>PROJECT NAME &amp; LOCATION</th>
<th>PROJECT OWNER</th>
<th>PROJECT DESCRIPTION INCLUDING DESCRIPTION OF SUSTAINABLE DESIGN OR LEED CERTIFICATION</th>
<th>DESCRIPTION OF SERVICES PROVIDED BY FIRM</th>
<th>ORIGINAL AND FINAL CONTRACT AMOUNT WITH EXPLANATION</th>
<th>PROJECT START AND COMPLETION DATE</th>
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</table>
**Schedule K – PROJECTS WITH SUSTAINABLE DESIGN and/or LEED COMPLIANCE**

Firm Name: ____________________________________________

**Part B. PROJECT CONTACTS** – Respondent shall list below contact information for the owner and designer on each of the projects listed on Schedule L Part A above. Be certain to confirm the contact information is current – direct lines or email address. Please verify if your contact is still with their company, or provide their personal contact information.

<table>
<thead>
<tr>
<th>PROJECT NAME &amp; LOCATION</th>
<th>COMPANY NAME</th>
<th>CONTACT PERSON/ADDRESS</th>
<th>TELEPHONE#</th>
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</thead>
<tbody>
<tr>
<td>OWNER</td>
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Schedule L – CERTIFICATE OF ELIGIBILITY AND UPDATE STATEMENT

Respondent shall attach here two documents:

1) a copy of its current DCAMM Certificate of Eligibility (Form CQ7) meeting the requirements set forth above in this RFQ; and

2) a completed and signed DCAMM Update Statement (Form CQ3)
A COMPLETED AND SIGNED PRIME/GENERAL CONTRACTOR UPDATE STATEMENT MUST BE SUBMITTED WITH EVERY PRIME/GENERAL BID FOR A CONTRACT PURSUANT TO M.G.L. c.149, §44A AND M.G.L. c. 149A. ANY PRIME/GENERAL BID SUBMITTED WITHOUT AN APPROPRIATE UPDATE STATEMENT IS INVALID AND MUST BE REJECTED.

Caution: This form is to be used for submitting Prime/General Contract bids. It is not to be used for submitting Filed Sub-Bids or Trade Sub-Bids.

AWARDING AUTHORITIES

If the Awarding Authority determines that the bidder does not demonstrably possess the skill, ability and integrity necessary to perform the work on the project, it must reject the bid.

BIDDER’S AFFIDAVIT

I swear under the pains and penalties of perjury that I am duly authorized by the bidder named below to sign and submit this Prime/General Contractor Update Statement on behalf of the bidder named below, that I have read this Prime/General Contractor Update Statement, and that all of the information provided by the bidder in this Prime/General Contractor Update Statement is true, accurate, and complete as of the bid date.

<table>
<thead>
<tr>
<th>Bid Date</th>
<th>Print Name of Prime/General Contractor</th>
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<table>
<thead>
<tr>
<th>Project Number</th>
<th>Business Address</th>
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<td>(or name if no number)</td>
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<tr>
<th>Awarding Authority</th>
<th>Telephone Number</th>
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SIGNATURE

Bidder’s Authorized Representative
INSTRUCTIONS

INSTRUCTIONS TO BIDDERS

• This form must be completed and submitted by all Prime/General contractors bidding on projects pursuant to M.G.L. c. 149, §44A and M.G.L. c. 149A.
• You must give complete and accurate answers to all questions and provide all of the information requested. MAKING A MATERIALLY FALSE STATEMENT IN THIS UPDATE STATEMENT IS GROUNDS FOR REJECTING YOUR BID AND FOR DEBARRING YOU FROM ALL PUBLIC CONTRACTING.
• This Update Statement must include all requested information that was not previously reported on the Application used for your firm’s most recently issued (not extended or amended) Prime/General Contractor Certificate of Eligibility. The Update Statement must cover the entire period since the date of your Application, NOT since the date of your Certification.
• You must use this official form of Update Statement. Copies of this form may be obtained from the awarding authority and from the Asset Management Web Site: www.mass.gov/dcam.
• If additional space is needed, please copy the appropriate page of this Update Statement and attach it as an additional sheet.
• See the section entitled “Bidding Limits” in the Instructions to Awarding Authorities for important information concerning your bidding limits.

INSTRUCTIONS TO AWARDING AUTHORITIES

Determination of Bidder Qualifications

• It is the awarding authority’s responsibility to determine who is the lowest eligible and responsible bidder. You must consider all of the information in the low bidder’s Update Statement in making this determination. Remember: this information was not available to the Division of Capital Asset Management and Maintenance at the time of certification.
• The bidder’s performance on the projects listed in Parts 1 and 2 must be part of your review. Contact the project references.
• AWARDING AUTHORITIES ARE STRONGLY ENCOURAGED TO REVIEW THE LOW BIDDER’S ENTIRE CERTIFICATION FILE AT THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE. Telephone (617) 727-9320 for an appointment.

Bidding Limits

Single Project Limit: The total amount of the bid, including all alternates, may not exceed the bidder’s Single Project Limit.

Aggregate Work Limit: The annual value of the work to be performed on the contract for which the bid is submitted, when added to the annual cost to complete the bidder’s other currently held contracts, may not exceed the bidder’s Aggregate Work Limit. Use the following procedure to determine whether the low bidder is within its Aggregate Work Limit:

Step 1 Review Update Statement Question #2 to make sure that all requested information is provided and that the bidder has accurately calculated and totaled the annualized value of all incomplete work on its currently held contracts (column 9).

Step 2 Determine the annual dollar value of the work to be performed on your project. This is done as follows:

(i) If the project is to be completed in less than 12 months, the annual dollar value of the work is equal to the full amount of the bid.
(ii) If the project will take more than 12 months to complete, calculate the number of years given to complete the project by dividing the total number of months in the project schedule by 12 (calculate to 3 decimal places), then divide the amount of the bid by the calculated number of years to find the annual dollar value of the work.

Step 3 Add the annualized value of all of the bidder’s incomplete contract work (the
total of column 9 on page 5) to the annual dollar value of the work to be performed on your project. **The total may not exceed the bidder’s Aggregate Work Limit.**

**Correction of Errors and Omissions in Update Statements**

**Matters of Form:** An awarding authority shall not reject a contractor’s bid because there are mistakes or omissions of form in the Update Statement submitted with the bid, provided the contractor promptly corrects those mistakes or omissions upon request of the awarding authority. [810 CMR 8.05(1)].

**Correction of Other Defects:** An awarding authority may, in its discretion, give a contractor notice of defects, other than mistakes or omissions of form, in the contractor’s Update Statement, and an opportunity to correct such defects, provided the correction of such defects is not prejudicial to fair competition. An awarding authority may reject a corrected Update Statement if it contains unfavorable information about the contractor that was omitted from the Update Statement filed with the contractor’s bid. [810 CMR 8.05(2)].
**PART 1 - COMPLETED PROJECTS**

LIST ALL PUBLIC AND PRIVATE *BUILDING* PROJECTS YOUR FIRM HAS COMPLETED SINCE THE DATE OF APPLICATION FOR YOUR MOST RECENTLY ISSUED (NOT EXTENDED OR AMENDED) DCAM CERTIFICATE OF ELIGIBILITY. YOU MUST REPORT ALL REQUESTED INFORMATION NOT PREVIOUSLY REPORTED ON THAT DCAM APPLICATION*.

<table>
<thead>
<tr>
<th>PROJECT TITLE &amp; LOCATION</th>
<th>WORK CATEGORY</th>
<th>CONTRACT PRICE</th>
<th>START DATE</th>
<th>DATE COMPLETED</th>
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Attach additional sheets if necessary

* If your firm has been terminated from a project prior to completion of the work or has failed or refused to complete its work under any contract, full details and an explanation must be provided. See Part 3 of this Update Statement.
## Reference Information

Provide the following reference information for each completed project listed on the previous page.

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Company Name</th>
<th>Contact Person</th>
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<td>GC: GC</td>
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Is your company or any individual who owns, manages or controls your company affiliated with any owner, designer or general contractor named above, either through a business or family relationship?  

[ ] YES  [ ] NO

Are any of the contact persons named above affiliated with your company or any individual who owns, manages or control your company, either through a business or family relationship?  

[ ] YES  [ ] NO

If you have answered YES to either question, explain. ________
**PART 2 - CURRENTLY HELD CONTRACTS**

LIST ALL PUBLIC AND PRIVATE BUILDING AND NON-BUILDING *CONSTRUCTION* PROJECTS YOUR FIRM HAS UNDER CONTRACT ON THIS DATE REGARDLESS OF WHEN OR WHETHER THE WORK COMMENCED.

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<th>8</th>
<th>9</th>
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<tbody>
<tr>
<td>PROJECT TITLE &amp; LOCATION</td>
<td>WORK CATEGORY</td>
<td>START AND END DATES</td>
<td>ON SCHEDULE (yes / no)</td>
<td>CONTRACT PRICE</td>
<td>% NOT COMPLETE</td>
<td>$ VALUE OF WORK NOT COMPLETE (col. 5 X col. 6)</td>
<td>NO. OF YEARS REMAINING (see note below)</td>
<td>ANNUALIZED VALUE OF INCOMPLETE WORK (col. 7 ÷ col. 8) (divided by)</td>
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**ANNUALIZED VALUE OF ALL INCOMPLETE CONTRACT WORK** (Total of Column 9) $_______

**Column 8**  
- If less than one year is left in the project schedule, write 1.  
- If more than 12 months are left in the project schedule, divide the number of months left in the project schedule by 12 (calculate to three decimal places).
Provide the following reference information for each incomplete project listed on the previous page.

<table>
<thead>
<tr>
<th>Project Title</th>
<th>Company Name</th>
<th>Contact Person</th>
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| Owner:        | Owner              | Contact Person | Telephone |
| Designer:     | Designer           | Contact Person | Telephone |
| GC:           | GC                 | Contact Person | Telephone |

| Owner:        | Owner              | Contact Person | Telephone |
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| GC:           | GC                 | Contact Person | Telephone |

| Owner:        | Owner              | Contact Person | Telephone |
| Designer:     | Designer           | Contact Person | Telephone |
| GC:           | GC                 | Contact Person | Telephone |

Is your company or any individual who owns, manages or controls your company affiliated with any owner, designer or general contractor named above either through a business or family relationship?  □ YES □ NO

Are any of the contact persons named above affiliated with your company or any individual who owns, manages or control your company, either through a business or family relationship?  □ YES □ NO

If you have answered YES to either question, explain. _____
**PART 3 - PROJECT PERFORMANCE**

For Parts 3 and 4, if you answer YES to any question, please provide on a separate page a complete explanation. Information you provide herein must supplement the Application for your most recently issued (not extended or amended) DCAM Certificate of Eligibility. You must report all requested information not previously reported on that DCAM Application for Prime/General Certificate of Eligibility. Include all details [project name(s) and location(s), names of all parties involved, relevant dates, etc.].

<table>
<thead>
<tr>
<th>Question</th>
<th>YES</th>
<th>NO</th>
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<tr>
<td>1. Has your firm been terminated on any contract prior to completing a project or has any officer, partner or principal of your firm been an officer, partner or principal of another firm that was terminated or failed to complete a project?</td>
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<tr>
<td>2. Has your firm failed or refused either to perform or complete any of its work under any contract prior to substantial completion?</td>
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<tr>
<td>3. Has your firm failed or refused to complete any punch list work under any contract?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Has your firm filed for bankruptcy, or has any officer, principal or individual with a financial interest in your current firm been an officer, principal or individual with a financial interest in another firm that filed for bankruptcy?</td>
<td></td>
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</tr>
<tr>
<td>5. Has your surety taken over or been asked to complete any of your work under any contract?</td>
<td></td>
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</tr>
<tr>
<td>6. Has a payment or performance bond been invoked against your current firm, or has any officer, principal or individual with a financial interest in your current firm been an officer, principal or individual with a financial interest in another firm that had a payment or performance bond invoked?</td>
<td></td>
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</tr>
<tr>
<td>7. Has your surety made payment to a materials supplier or other party under your payment bond on any contract?</td>
<td></td>
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<tr>
<td>8. Has any subcontractor filed a demand for direct payment with an awarding authority for a public project on any of your contracts?</td>
<td></td>
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<tr>
<td>9. Have any of your subcontractors or suppliers filed litigation to enforce a mechanic’s lien against property in connection with work performed or materials supplied under any of your contracts?</td>
<td></td>
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</tr>
<tr>
<td>10. Have there been any deaths of an employee or others occurring in connection with any of your projects?</td>
<td></td>
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</tr>
<tr>
<td>11. Has any employee or other person suffered an injury in connection with any of your projects resulting in their inability to return to work for a period in excess of one year?</td>
<td></td>
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</tr>
</tbody>
</table>
PART 4 - Legal or Administrative Proceedings; Compliance with Laws

Please answer the following questions. Information must supplement all judicial and administrative proceedings involving bidder’s firm, which were instituted or concluded (adversely or otherwise) since your firm’s Application for your most recently issued (not extended or amended) Certificate of Eligibility. You must report all requested information not previously reported on that DCAM Application for Prime/General Certificate of Eligibility.

The term “administrative proceeding” as used in this Prime/General Contractor Update Statement includes (i) any action taken or proceeding brought by a governmental agency, department or officer to enforce any law, regulation, code, legal, or contractual requirement, except for those brought in state or federal courts, or (ii) any action taken by a governmental agency, department or officer imposing penalties, fines or other sanctions for failure to comply with any such legal or contractual requirement.

The term “anyone with a financial interest in your firm” as used in this Section “I”, shall mean any person and/or entity with a 5% or greater ownership interest in the applicant’s firm.

If you answer YES to any question, on a separate page provide a complete explanation of each proceeding or action and any judgment, decision, fine or other sanction or result. Include all details (name of court or administrative agency, title of case or proceeding, case number, date action was commenced, date judgment or decision was entered, fines or penalties imposed, etc.).

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>1. Have any civil, judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to the procurement or performance of any construction contract, including but not limited to actions to obtain payment brought by subcontractors, suppliers or others?</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>2. Have any criminal proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to the procurement or performance of any construction contract including, but not limited to, any of the following offenses: fraud, graft, embezzlement, forgery, bribery, falsification or destruction of records, or receipt of stolen property?</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>3. Have any judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to a violation of any state’s or federal procurement laws arising out of the submission of bids or proposals?</td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>4. Have any judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to a violation of M.G.L. Chapter 268A, the State Ethics Law?</td>
<td>□</td>
<td>□</td>
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</tbody>
</table>
### PART 4 - Legal or Administrative Proceedings; Compliance with Laws (continued)

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<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tr>
<td>5.</td>
<td>have any judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to a violation of any state or federal law regulating hours of labor, unemployment compensation, minimum wages, prevailing wages, overtime pay, equal pay, child labor or worker’s compensation?</td>
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<tr>
<td>6.</td>
<td>have any judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to a violation of any state or federal law prohibiting discrimination in employment?</td>
<td></td>
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<tr>
<td>7.</td>
<td>have any judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to a claim of repeated or aggravated violation of any state or federal law regulating labor relations?</td>
<td></td>
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<tr>
<td>8.</td>
<td>have any proceedings by a municipal, state, or federal agency been brought, concluded, or settled relating to decertification, debarment, or suspension of your firm or any principal or officer or anyone with a financial interest in your firm from public contracting?</td>
<td></td>
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<tr>
<td>9.</td>
<td>have any judicial or administrative proceedings involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled relating to a violation of state or federal law regulating the environment?</td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>has your firm been fined by OSHA or any other state or federal agency for violations of any laws or regulations related to occupational health or safety? Note: this information may be obtained from OSHA’s Web Site at <a href="http://www.osha.gov">www.osha.gov</a></td>
<td></td>
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<tr>
<td>11.</td>
<td>has your firm been sanctioned for failure to achieve DBE/MBE/WBE goals, workforce goals, or failure to file certified payrolls on any public projects?</td>
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<tr>
<td>12.</td>
<td>other than previously reported in the above paragraphs of this Section I, have any administrative proceedings or investigations involving your firm or a principal or officer or anyone with a financial interest in your firm been brought, concluded, or settled by any local, state or federal agency relating to the procurement or performance of any construction contract?</td>
<td></td>
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<tr>
<td>13.</td>
<td>are there any other issues that you are aware which may affect your firm’s responsibility and integrity as a building contractor?</td>
<td></td>
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</tbody>
</table>
PART 5 - SUPERVISORY PERSONNEL

List all supervisory personnel, such as project managers and superintendents, who will be assigned to the project if your firm is awarded the contract. **Attach the resume of each person listed below.**

<table>
<thead>
<tr>
<th>NAME</th>
<th>TITLE OR FUNCTION</th>
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</table>

PART 6 - CHANGES IN BUSINESS ORGANIZATION OR FINANCIAL CONDITION

Have there been any changes in your firm’s business organization, financial condition or bonding capacity since the date your current Certificate of Eligibility was issued?  

- [ ] Yes  
- [ ] No

If YES, attach a separate page providing complete details.

PART 7 – LIST OF COMPLETED CONSTRUCTION PROJECTS SUBMITTED TO THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE.

Attach here a copy of the list of completed construction projects which was submitted with your firm’s DCAM Application for your most recently issued (not extended or amended) DCAM Certificate of Eligibility. The Attachment must include a complete copy of the entire Section G – “Completed Projects” and the final page – “Certification” (Section J) containing the signature and date that the Completed Projects list (Section G) was submitted to the Division of Capital Asset Management and Maintenance.
Schedule M – COPIES OF THREE SECTIONS FROM THE MOST RECENT
APPLICATION FOR CERTIFICATION SUBMITTED TO DCAMM

Firm Name: ____________________________

Respondent shall attach here a copy of those portions of Respondent’s most recent application for DCAMM certification that contains the listings of Respondent’s Projects in Progress and its Completed Projects. Specifically, Respondent shall submit copies of 1) Section F. Projects in Progress, 2) Section G. Completed Projects and 3) a copy of the signed and dated final page, Section J. Certification, showing the date the application for certification was submitted to DCAMM all copied from their most recent Application for Prime/General Contractor Certificate of Eligibility submitted to DCAMM’s Certification Office.
SECTION IV: INSTRUCTIONS TO OFFERORS

1. One original, eight complete copies and one electronic copy (Physical Electronic Media) of the proposal stapled at the top left corner, NOT IN BINDER OF ANY SORT marked “RFQ for Construction Management at Risk Services, Cambridge Fire Department Headquarters” must be received by Elizabeth Unger, Purchasing Agent, City of Cambridge, 795 Massachusetts Avenue, Cambridge prior to 11:00 a.m., July 21, 2022. Price will be negotiated after finalists have been selected.

2. A pre-proposal meeting and tour of the existing site and building will take place on Tuesday July 12th, 2019, 10:00 a.m. at Cambridge Fire Headquarters Admin suite located off of Broadway.

3. All requests for clarification or any questions about information contained in this RFQ must be submitted in writing and addressed to Elizabeth Unger, Purchasing Agent, City of Cambridge, City Hall, 795 Massachusetts Avenue, Cambridge, MA 02139. Requests for clarification or questions and responses will be sent to all proposers. All requests for information or questions should be emailed to purchasing@cambridgema.gov or delivered to the Office of the Purchasing Agent and must be received by Thursday July 14th, 2022 before noon. The name, address, telephone number and Email of the person to whom such additional information should be sent must be provided by the offeror.

4. Failure to answer any question, to complete any form or to provide the documentation required will be deemed non-responsive and result in an automatic rejection of the proposal unless the City determines that such failure constitutes a minor informality.

SECTION V: EVALUATION OF THE PROPOSALS

1. Proposals: Each offeror must submit a written proposal to this RFQ which includes full and clear descriptions of evaluation criteria outlined in Section VI. A Prequalification Committee will evaluate each proposal based on these evaluation criteria.

2. Price Proposal: Price should not be submitted with this RFQ.

3. References: References will be contacted to determine if the offeror is responsive and responsible. References will be asked about their overall impression of the offeror, quality of work performed, understanding of factors effecting implementation, and the timeliness of the product.

4. Interviews: The Selection Committee may interview no fewer than three finalists to determine if the offeror is responsive and responsible and meets the needs of the City. The City Manager reserves the right to interview all finalists if he so chooses, after the Selection Committee’s deliberations.

5. Award of Contract: The City will award one contract to a responsive and responsible offeror. The City reserves the right to reject any and all proposals if it determines that it is in the best interest of the City to do so.
SECTION VI: EVALUATION CRITERIA

The purpose of information requested in this section is to assist the City in evaluating the offeror's overall qualifications, including its methodologies and technical abilities, and previous experience.

1. Prior Similar Project Experience:
2. Management Team and Organization for the Project:
3. Financial Status:
4. Litigation and Performance/Termination History:
5. Safety Record:
6. History of Compliance with local hiring, MBE/WBE participation, and workforce goals:
7. Quality of References:
8. Experience with sustainable construction and demonstrated knowledge of LEED building standards:
CITY OF CAMBRIDGE
ANTI-COLLUSION/ TAX COMPLIANCE STATEMENT

The undersigned certifies under penalty of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

As required by M.G.L. Chapter 62C, Section 49A, the undersigned further certifies under penalty of perjury that the bidder has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support”.

___________________________________
Signature

___________________________________
Name and title of person signing proposal

___________________________________
Date

___________________________________
Name of business

___________________________________
Address

Return this form with your proposal
ORDINANCE NUMBER 1312

Final Publication Number 3155. First Publication in the Chronicle on December 13, 2007.

City of Cambridge

In the Year Two Thousand and Eight

AN ORDINANCE

In amendment to the Ordinance entitled “Municipal Code of the City of Cambridge”

Be it ordained that Cambridge Municipal Code Chapter 2.112 is hereby amended by adding a new Section 2.112.060 entitled “CORI Screening by Vendors of the City of Cambridge” as follows:

Adding after Section 2.112.050 the following new sections:

SECTION 2.112.060

CORI SCREENING BY VENDORS OF THE CITY OF CAMBRIDGE

Sections:

2.112.061 Purpose
2.112.062 Definitions
2.112.063 CORI-Related Standards of the City of Cambridge
2.112.064 Waiver
2.112.065 Applicability

2.112.061 Purpose

These sections are intended to ensure that the persons and businesses supplying goods and/or services to the City of Cambridge deploy fair policies relating to the screening and identification of persons with criminal backgrounds through the CORI system.

2.112.062 Definitions

Unless specifically indicated otherwise, these definitions shall apply and control.

Awarding Authority means the City of Cambridge Purchasing Agent or designee.

Vendor means any vendor, contractor, or supplier of goods and/or services to the City of Cambridge.
2.112.063 CORI-Related Standards of the City of Cambridge

The City of Cambridge employs CORI-related policies, practices and standards that are fair to all persons involved and seeks to do business with vendors that have substantially similar policies, practices and standards. The City of Cambridge will do business only with vendors who, when required by law to perform CORI checks, employ CORI-related policies, practices, and standards that are consistent with policies, practices and standards employed by the City of Cambridge. The awarding authority shall consider any vendor’s deviation from policies, practices and standards employed by the City of Cambridge as grounds for rejection, rescission, revocation, or any other termination of the contract.

2.112.064 Waiver

The City Manager may grant a waiver to anyone who or which has submitted a request for waiver if it is objectively reasonable; and the City Manager, or a delegate, shall report promptly in writing to the City Council all action taken with respect to every request for a waiver and the reasons for the decision.

2.112.065 Applicability

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

In City Council January 28, 2008.
Passed to be ordained by a yea and nay vote: -
Yeas 9; Nays 0; Absent 0.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-
D. Margaret Drury
City Clerk
City of Cambridge CORI Policy

1. Where Criminal Offender Record Information (CORI) checks are part of a general background check for employment or volunteer work, the following practices and procedures will generally be followed.

2. CORI checks will only be conducted as authorized by Criminal History Systems Board (CHSB). All applicants will be notified that a CORI check will be conducted. If requested, the applicant will be provided with a copy of the CORI policy.

3. An informed review of a criminal record requires adequate training. Accordingly, all personnel authorized to review CORI in the decision-making process will be thoroughly familiar with the educational materials made available by the CHSB.

4. Prior to initiating a CORI check, the City will review the qualifications of the applicant to determine if the applicant is otherwise qualified for the relevant position. The City will not conduct a CORI check on an applicant that is not otherwise qualified for the relevant position.

5. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determination of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations.

6. If a criminal record is received from CHSB, the authorized individual will closely compare the record provided by CHSB with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.

7. If, in receiving a CORI report, the City receives information it is not authorized to receive (e.g. cases with dispositions such as not guilty or dismissal, in circumstances where the City is only authorized to receive convictions or case-pending information), the City will inform the applicant and provide the applicant with a copy of the report and a copy of CHSB’s Information Concerning the Process in Correcting a Criminal Record so that the applicant may pursue correction with the CHSB.

8. If the City of Cambridge is planning to make an adverse decision based on the results of the CORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the City’s CORI policy, advised of the part(s) of the record that make the individual unsuitable for the position and given an opportunity to dispute the accuracy and relevance of the CORI record.
9. Applicants challenging the accuracy of the criminal record shall be provided a copy of CHSB’s *Information Concerning the Process in Correcting a Criminal Record*. If the CORI record provided does not exactly match the identification information provided by the applicant, the City of Cambridge will make a determination based on a comparison of the CORI record and documents provided by the applicant. The City of Cambridge may contact CHSB and request a detailed search consistent with CHSB policy.

10. If the City of Cambridge reasonably believes the record belongs to the applicant and is accurate, then the determination of suitability for the position will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:

   (a) Relevance of the crime to the position sought;
   (b) The nature of the work to be performed;
   (c) Time since the conviction;
   (d) Age of the candidate at the time of offense;
   (e) Seriousness and specific circumstances of the offense;
   (f) The number of offenses;
   (g) Whether the applicant has pending charges;
   (h) Any relevant evidence of rehabilitation or lack thereof;
   (i) Any other relevant information, including information submitted by the candidate or requested by the City.

11. The Personnel Department will assist affected departments, in assessing the suitability of candidates in accordance with paragraph 10 a through i above, to ensure consistency, fairness, and protection of employment opportunities and the public interest.

12. The City of Cambridge will notify the applicant of the decision and the basis of the decision in a timely manner.

13. CORI information shall not be disseminated or shared with any unauthorized employees or other, but shall be maintained in confidence consistent with the obligations of law.

Revised May 5, 2007
CORI COMPLIANCE FORM

Persons and businesses supplying goods and/or services to the City of Cambridge ("Vendors"), who are required by law to perform CORI checks, are further required by Section 2.112.060 of the Cambridge Municipal Code to employ fair policies, practices and standards relating to the screening and identification of persons with criminal backgrounds through the CORI system. Such Vendors, when entering into contracts with the City of Cambridge, must affirm that their policies, practices and standards regarding CORI information are consistent with the policies, practices and standards employed by the City of Cambridge as set forth in the City of Cambridge CORI Policy ("CORI Policy") attached hereto.

CERTIFICATION

The undersigned certifies under penalties of perjury that the Vendor employs CORI related policies, practices and standards that are consistent with the provisions of the attached CORI Policy. **All Vendors must check one of the three lines below.**

1. ________ CORI checks are not performed on any Applicants.

2. ________ CORI checks are performed on some or all Applicants. The Vendor, by affixing a signature below, affirms under penalties of perjury that its CORI policies, practices and standards are consistent with the policies, practices and standards set forth in the attached CORI Policy.

3. ________ CORI checks are performed on some or all Applicants. The Vendor’s CORI policies, practices and standards are not consistent with the attached CORI Policy. Please explain on a separate sheet of paper.

________________________________________________________________________

(Typed or printed name of person signing quotation, bid or Proposal)-------------------------------------------

Signature

________________________________________________________________________

(Name of Business)

NOTE:
The City Manager, in his sole discretion may grant a waiver to any Vendor on a contract by contract basis.

Instructions for Completing CORI Compliance Form:
A Vendor should not check Line 1 unless it performs NO CORI checks on ANY applicant. A Vendor who checks Line 2 certifies that the Vendor’s CORI policy conforms to the policies, practices and standards set forth in the City’s CORI Policy. A Vendor with a CORI policy that does NOT conform to the City’s CORI Policy must check Line 3 and explain the reasons for its nonconformance in writing. Vendors, who check Line 3, will not be permitted to enter into contracts with the City, absent a waiver by the City Manager.
This form must be submitted with your bid

CITY OF CAMBRIDGE
DESIGNER’S/ENGINEER’S OR CONSTRUCTION MANAGER’S
TRUTH-IN-NEGOTIATIONS CERTIFICATE
For Negotiated Fees

The undersigned hereby certifies under the penalties of perjury that the wage rates and other costs used to support its compensation are accurate, complete and current at the time of contracting.

The undersigned agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the City determines that the fee was increased by such amounts due to inaccurate, incomplete or noncurrent wage rates or other costs.

BY: __________________________
Name and Title: _______________________

Project: _________________________
Date: ________________________

Reference: M.G.L. c. 7, §38H (b)

Return this form with your proposal
Agreement Between The City Of Cambridge
And The
Construction Manager At Risk

- OWNER - CONSTRUCTION MANAGER AT RISK AGREEMENT WITH GENERAL CONDITIONS
  - Exhibit A – Price Proposal for Construction Management Services
  - Exhibit B – Supplemental General Conditions
  - Exhibit C – Purposefully left blank
  - Exhibit D – Procedures for Award of Trade Contracts
  - Exhibit E – Form of Trade Subcontract
  - Exhibit F – Ordinance Number 1260, Municipal Code of Cambridge, Chapter 2.66, Section 2.66.080 “Contractor qualifications and sanctions
  - Exhibit G – Cambridge Employment Plan Sections 2.66.060 ET SEQ. Minority/Women/Resident Hiring
  - Exhibit H – Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program
  - Exhibit I – American with Disabilities Act
  - Exhibit J – Ordinance Number 1312, Municipal Code of Cambridge Chapter 2.112, Section 2.112.060 “CORI Screening by Vendors of the City of Cambridge,” and CORI City Policy.
  - Exhibit K – Municipal Code of Cambridge, Chapter 2.121 Living Wage Ordinance
  - Exhibit L – Truck Safety Ordinance
  - Exhibit M – Certifications
    1. Subcontractor Certification (M/WBE)
    2. Filed Sub Bidder Certification (OSHA)
    3. Non Filed Sub Bidder Certification (OSHA)
    4. Construction Manager Certification (OSHA)
    5. Affidavit of Compliance
    6. Affidavit of Prevailing Wage Compliance
    7. Certificate of Tax Compliance
    8. Non-Collusion Affidavit
    9. Cori Compliance Form
    10. City Noise Ordinance
    11. Minority Business Enterprise Requirements
    12. CEP Project Workforce form
    13. Written Information Security Policy Affirmation
OWNER - CONSTRUCTION MANAGER AT RISK AGREEMENT WITH GENERAL CONDITIONS
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<td>3.4.5 Post-Construction Phase</td>
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<td>4.3 Owner’s Project Manager</td>
<td>4.3</td>
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<td>4.4</td>
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<td>5. Architect's Duties, Responsibilities, and Authority</td>
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<td>6. Blank</td>
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<td>7. Other Contracts</td>
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<tr>
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<td>8. Preconstruction Conference</td>
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<td>9. Notices to Proceed</td>
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<td>10. Construction Progress Schedule</td>
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<td>16. Material and Workmanship</td>
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18. Health, Safety, and Accident Prevention
19. Temporary Heating
20. Availability and Use of Utility Services
21. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements
22. Temporary Buildings and Transportation of Materials
23. Clean Air and Water
24. Inspection and Acceptance of Construction; Punch List
25. Use and Possession Prior to Completion
26. Warranty of Title
27. Warranty of Construction; Substantial Completion
28. Prohibition Against Liens
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**Administrative Requirements**

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31. Payments
   - 31.1 Progress Payments Generally; Retainage
   - 31.2 General Conditions Payments
     - 31.2.1 Preconstruction
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32. Contract Modifications
33. Changes
34. Suspension of Work
35. Disputes
36. Controversies and Claims Subject to Arbitration
37. Indemnification and Covenant Not to Sue
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39. Default
40. Liquidated Damages
41. Termination or Suspension of Contract
42. Assignment of Contract
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44. Subcontracts
45. Subcontracting with Small and Minority Firms, Women’s Business Enterprise, and Labor Surplus Area Firms
46. Equal Employment Opportunity
47. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees
48. Royalties and Patents
49. Contractor’s Accounting Records
50. Examination and Retention of Contracts Records
51. Governing Law
52. Exhibits
53. Certifications
This agreement ("Contract") is made as of Month Date, year by and between the City of Cambridge hereinafter called the “Owner” or “the City” with a principal place of business at City Hall, 795 Massachusetts Avenue, Cambridge, MA 02139 and CM At Risk Firm with a principal place of business at TBD hereinafter called the “Construction Manager, Contractor, or CM”.

Preliminary Statement

A. Pursuant to M.G.L. c. 149A the City of Cambridge (City) is undertaking the ___________________________ Construction Project located at _______________________________ ("the Project").

B. The Construction Manager shall be liable to the City for all of the obligations, responsibilities and liabilities of the Construction Manager under this Contract.

C. The City has engaged ___________________________, (the "Designer" or “Architect”) under a separate agreement to provide design services for the Project.

D. The Project is being funded by the City and the Construction Manager shall comply with City of Cambridge requirements and regulations as noted and contained herein.

NOW, THEREFORE, in consideration of the mutual agreements and obligations of the parties set forth below, the City and the Construction Manager do hereby agree as follows:

Conduct of Work

1. Definitions

A. “Architect” means the person or other entity engaged by the Owner to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a Owner uses an engineer to act in this capacity, the terms “architect,” “designer” and “engineer” shall be synonymous. The Architect shall serve as a technical representative of the City. The Architect’s authority is as set forth elsewhere in this contract. Architect and Designer are used interchangeably and shall have equal meaning when used.

B. "Construction Cost" shall mean the total cost or, to the extent the Project is not completed, the total estimated cost of constructing the Project, including the Hard Cost of the Work, the construction contingency, the General Conditions Costs, and the CM Fixed Fee. The Construction Cost does not include costs of land acquisition, financing costs, or design fees.

C. "Construction Contingency" shall mean the line item included by the CM in the GMP and the Schedule of Values that is available to cover the net amount of any additional costs resulting from unforeseen conditions and events not evidenced at the time that the CM awards a Subcontract or the parties execute the GMP Amendment, as applicable, to the extent that such conditions or events do not result in or constitute significant owner-requested Changes in the Work.

D. “Contract” means the contract entered into between the Owner and the Contractor including all exhibits and amendments thereto. It includes the forms of Bid, the Request for Proposals
for this Project, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, the Contractor’s Price Proposal, these General Conditions of the Contract for Construction, the Feasibility Study information available when the request for proposal is issued, the applicable wage rate determinations, any special conditions included elsewhere in the contract, the plans, the specifications, and drawings. It includes all written changes to any of those documents by addendum, change order, or other modification.

E. “Contracting Officer” is the City Manager, who has authority as the legal representative of the Owner to enter into, administer, and/or terminate this contract. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer designated in writing. The Contracting Officer shall be deemed to be the authorized agent of the Owner in all dealings with the Contractor.

F. “Contractor” means the Construction Manager, the person or other entity entering into the contract with the Owner to perform all of the work required under the contract. Contractor, CM or Construction Manager are used interchangeably and shall have equal meaning when used.

G. “Drawings” means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.

H. “City” means the City of Cambridge. As defined elsewhere in these General Conditions or the contract documents, the determination of the City will be required to authorize changes in the work or for release of funds for payment to the Contractor.

I. “Owner” means the “City of Cambridge”.

J. “Owner’s Project Manager” (“OPM”) is the person appointed by the Owner who has express authority to represent the City with respect to all matters concerning the execution of Contract requirements.

K. “Project” means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.

L. “Specifications” means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.

M. “Subcontract” means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract, or a subcontract.

N. “Subcontractor” means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or the Contractor or another subcontractor, including Trade Contractors as defined in MGL c. 149A.

O. “Work” refers to the services and the entire completed construction or the various separately identifiable parts thereof required by the Contract Documents, including all labor, materials, and equipment furnished, whether incorporated into the Project, or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.5 Relationship of the Parties

A. CM’s Obligation. The CM accepts the relationship of trust and confidence between the City and the CM established by this Agreement and covenants with the City to cooperate at all times with the City, the Designer and any other consultants or project
representatives engaged or employed by the City, and to utilize the CM's best skill, efforts and judgment in furthering the interests of the City; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and, consistent with the requirements of the Contract Documents, to perform the Work in the best way and most expeditious and economical manner consistent with the interests of the City and to make every effort to achieve time savings and construction efficiencies with respect to the Work. The CM, in performing its services under this Agreement, is an independent contractor and is not an agent or employee of, or a joint venture with, the City. The CM shall endeavor to promote harmony and cooperation among the City, the Designer, the CM, Subcontractors, separate contractors and other persons or entities engaged by the City or otherwise employed in connection with the Project, as well as other public agencies having jurisdiction with respect to the Project. The City agrees to use its best efforts to enable the CM to perform the Work in an expeditious manner by furnishing on a timely basis information required by the CM and making payments to the CM in accordance with the requirements of the Contract Documents.

B. Standard of Performance. The CM represents that it is experienced and skilled in construction of projects of the type, magnitude and complexity described in the Contract Documents, that it is familiar with the special problems and requirements of construction of the type required for the Project and in the location of the Site, and that it will furnish a complete and fully operable Project as indicated by and reasonably inferable from the Contract Documents.

C. Liability. No member, officer, consultant, volunteer participant, employee, agent or representative of the City, or the Designer shall be personally liable to the CM under any term or provision of this Contract for the City’s payment obligations or otherwise, or because of any breach hereof. In no event shall the City or the Architect be liable to the CM except for obligations expressly assumed by the City under the Contract Documents, nor shall the City or the Architect ever be liable to the CM for indirect, special or consequential damages. There is no contractual relationship created between the CM and the Architect by virtue of this or any other provision of the Agreement.

2. Contractor's Responsibility for Work

A. The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the Work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the Owner pursuant to the clause entitled Availability and Use of Utility Services herein.

B. At all times during performance of this contract and until the Work is completed and accepted, the Contractor shall directly superintend the Work or assign and have on the work site a competent superintendent who is licensed by the Commonwealth of Massachusetts as a construction superintendent, at the level required for the project bid, and also satisfactory to the City. The contractor’s project manager shall have the authority to act for the Contractor.

C. The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor’s fault or negligence, and shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others. The Contractor shall hold and save the City, its officers and agents, free and harmless from
liability of any nature occasioned by the Contractor’s performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the Contract.

D. The Contractor shall lay out the Work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.

E. The Contractor shall confine all operations (including storage of materials) on Owner premises to areas authorized or approved by the City.

F. The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the Owner and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the City; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.

G. The Contractor’s responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the City. The Contractor will then be released from further obligation except as required by the warranties and insurance requirements, specified elsewhere in the Contract.

H. Construction Means, Methods, Techniques, Etc. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract. Where the Contract Documents refer to particular construction means, methods, techniques, sequences, or procedures or indicate or imply that such are to be used in the Work, such mention is intended only to indicate that the operations of the Contractor shall be such as to produce at least the quality of Work implied by the operations described. The actual determination of whether or not the described operations may be safely and suitably employed on the Work shall be the responsibility of the Contractor, who shall notify the Architect in writing, prior to implementation, of the actual means, methods, techniques, sequences, or procedures which will be employed on the Work, if these differ from those mentioned in the Contract Documents. All loss, damage, liability or cost of correcting defective work arising from the employment of any construction means, methods, techniques, sequences, or procedures shall be borne by the Contractor, notwithstanding that such construction means, methods, techniques, sequences, or procedures are referred to, indicated or implied by the Contract Documents, unless the Contractor has given timely notice to the Owner and the Architect in writing and the Owner has then instructed the Contractor in writing to proceed at the Owner's risk.

I. Terms and Conditions for the Acceptance of the Work are further described within Division 1 General Requirements of the Specifications.

J. Contractor’s Obligation to Perform.
The Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of the Contractor's obligation to perform the Work in accordance with the Contract Documents:

(1) observations by the Architect;
(2) recommendation of any progress or final payment by the Architect;
(3) the issuance of a certificate of Substantial Completion or any payment by the Owner to the Contractor under the Contract Documents;
(4) use or occupancy of the Work, Project, or Site, or any part thereof, by the City;
(5) any acceptance by the City or any failure to do so;
(6) any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptance by the Architect;
(7) any inspection, test, or approval by others; or
(8) any correction of defective Work by the Owner.

K. **Additional Information.** Recognizing that the City may find it necessary during the progress of the Work to establish the current status of performance under the Contract Documents, the CM shall, without limitation of any other requirements of the Contract Documents, promptly provide upon request statements, documents or information to the City or others regarding the status of the Work, compliance of the Work with the Contract Documents, compliance by the CM or any Subcontractor with the Contract Documents, the names of Subcontractors or suppliers, amounts due or to become due or amounts previously paid to Subcontractors or suppliers, estimates of the portion of the Work completed and the cost of completing the Work, and such other matters within the scope of the CM's performance under the Contract Documents as the City may reasonably require.

L. **Information Confidential.** The CM shall treat as confidential any information relating to the Project that is specifically designated or identified by the City as confidential or proprietary, and shall not permit release of such information to other parties without the City’s prior express written authorization.

2.5 **Contract Period.**

The Contractor shall complete all work required under this contract or within the time schedule established as part of this schedule issued by the Owner.

3. **Construction Manager's Services.**

3.1 **Preconstruction Services.** Commencing upon the date of this Agreement, unless otherwise directed in a notice to proceed issued by the City, the CM shall perform preconstruction services as provided in this Article and elsewhere in the Contract Documents, specifically and particularly the list of pre-construction services in the RFP.

3.1.1 **Construction Planning.**

(a) The CM shall provide a preliminary evaluation of the Owner’s program and Project budget requirements, each in terms of the other and provide a report on findings to the Owner and Architect.

(b) Review and recommend revisions, to the project master schedule, construction budget and permitting plan developed by the City.

(c) Attend, schedule and lead periodic project meetings and special meetings for the exchange of information concerning the project, and review of design progress, permits and approvals. Provide a record for all meetings attended.
(d) Review the design documents and other construction documents and make specific recommendations in writing to the City as to value engineering, constructability, suitability, price and availability of materials and equipment, scheduling, time, methods and sequence of construction, and the clarity, consistency and coordination of documentation.

(e) The CM shall assign a professional project scheduler possessing building and site design and construction experience and shall utilize a Manpower Loaded Scheduling Software. If deemed qualified by the City, the CM can assign an in-house scheduler. Develop a detailed critical path method (CPM) schedule that identifies all design activities, permits and all other activities required to be completed before construction activities can begin and a preliminary construction schedule. The CPM project schedules shall be developed using software approved by the City.

(f) Develop, in coordination with the City, a system for tracking project costs and cash flow.

(g) The CM shall make recommendations as to the purchase of, and expedite the procurement of long lead items, which are required for the Project to ensure their delivery by the required dates.

(h) In consultation with the Architect and the City, develop a detailed construction phasing/utilization plan. Identify temporary construction and mitigation measures necessary to implement the phasing/utilization plan. The phasing/utilization plan shall indicate sequence of operations which impact the public way; the means of debris disposal, truck access to and from the site; loading and storage of materials on site; traffic impacts, noise and dust control, and other site specific items in consultation with the Architect and the City. Identify temporary construction and mitigation measures necessary to implement the phasing/utilization plan.

(i) The CM shall lead and advise the City and the Designer with respect to the division of the Work to facilitate the development of bid and proposal packages, bidding and awarding of subcontracts, allowing for scheduled sequential bid and proposal packages and taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities.

(j) The CM shall provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, preliminary budgets, and possible economies.

(k) In consultation with the City, develop detailed MBE/WBE and minority/female workforce utilization plans in conjunction with Exhibit G – Cambridge Employment Plan to insure that Cambridge’s local hiring requirements for this project are met. The plan shall include at a minimum:

   a. Local and/or community outreach
   b. Labor outreach
   c. Analysis of labor or trade opportunities for workers
   d. The availability of M/WBE’s
(l) At completion of the pre-construction phase, certify in writing to the City that all of the required pre-construction tasks have been performed by the Construction Manager using a reasonable standard of care.

(m) CM shall also during the construction planning phase perform design reviews as follows:

1. The CM shall review, on a continuous basis, development of the Drawings, Specifications and other design documents produced by the Designer. The design reviews shall be performed with a group of qualified individuals, who are either employees of the CM or independent consultants under contract with the CM. Review of the documents is to discover inconsistencies, errors and omissions between and within design disciplines.

2. The CM shall consult with City and the Designer regarding the selection of materials, building systems and equipment, and shall recommend alternative solutions whenever design details affect construction feasibility, schedules, cost or quality (without, however, assuming the Designer's responsibility for design) and shall provide other value engineering services to the City.

3. Without limitation, the CM shall review the design documents for clarity, consistency, constructability, maintainability/operability and coordination among the trades, coordination between the specifications and drawings, compliance with M.G.L. c.149A for procurement, installation and construction, and sequence of construction, including recommendations designed to minimize adverse affects of labor or material shortages.

4. The CM reviews shall be performed by the project team members as approved by the City. The reviews shall be provided in writing with detailed notations on the drawings and specifications and coordinated with a detailed spreadsheet of the notations and recommended solutions in order to track the issues to final resolution. The CM shall attend meetings as necessary with the Designer and the City in order to discuss and resolve all issues.

3.1.2 Estimating & Bidding Phase

(a) Perform detailed cost estimates and value engineering analyses for the Feasibility Study and at completion of the schematic design, Design Development, 75% Construction Documents, and 100% Construction Documents phases of the project. The CM at risk firm shall also include one additional estimate at a time decided by the City during the project design phase. The CM at Risk firm shall work with the Architect to reconcile any differences. The CM shall summarize in
writing the results of the cost estimate reconciliation meetings which shall include at a minimum:

1. Areas where cost estimates varied due to insufficient or contradictory information in the design documents;
2. Quantities which varied and reasons for the variance between the cost estimates;
3. Material substitutions or recommendations which would either reduce costs, improve the durability or operability of the building;
4. Recommendations on systems or system elements that might be altered to improve the building and/or reduce construction or operating costs.

(b) The City may require additional cost estimates to confirm budget due to modifications made via design workshops. The CM shall work with the Designer to reconcile differences. The CM shall prepare cost estimates and evaluations on a timely basis and in no case longer than one week after request by the City.

(c) Develop subcontractor interest in the project and furnish to the Architect and the City for their information a list of possible subcontractors and suppliers from whom bids will be requested for major portions of the work. Solicit bids from every subcontractor proffered by the City for both trade work and subcontract work. All such solicitations shall be carefully documented. Pay particular attention to the list of high performing and low performing sub-contractors maintained by the City.

(d) Conduct activities relating to the procurement and award of Trade Contracts and all other contracts for the furnishing of labor, materials, equipment, or other services in connection with the construction of this project. Procurement shall be done in accordance with procedures to be developed by the City and in a manner that will reasonably attempt to meet the Minority and Woman Owned Business Enterprise goals.

(e) Develop the scope of work and prepare bid packages in concert with the Architect for each trade to be bid and lead in the prequalification and qualification of each of the Trade Contractor and other subcontractors as defined by law. Review these packages carefully and thoroughly with the City staff, and amend as needed for approval prior to bidding.

3.1.3 Project Schedules

(a) Preliminary Project Schedule. When project requirements have been sufficiently identified, the Construction Manager shall prepare, and periodically update, a preliminary Project schedule for the Architect’s review and the Owner’s approval. The Construction Manager shall obtain the Architect’s approval of the portion of the preliminary Project schedule relating to the performance of the Architect’s services. The Construction Manager shall coordinate and integrate the preliminary Project schedule with the services and activities of the Owner, Architect, and Construction Manager. As design proceeds, the preliminary Project schedule shall be updated to indicate proposed activity sequences and durations, milestone
dates for receipt and approval of pertinent information, submittal of a Guaranteed Maximum Price proposal, preparation, and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, Owner’s occupancy requirements showing portions of the Project having occupancy priority, and proposed date(s) of phased and project Substantial Completion. If preliminary Project schedule updates indicate that previously approved schedules may not be met, the Construction Manager shall make appropriate recommendations to the Owner and Architect.

(b) Phased Construction. The Construction Manager shall make recommendations to the Owner and Architect regarding the phased issuance of Drawings and Specifications to facilitate phased construction of the Work, taking into consideration such factors as logistics, economies, time of performance, availability of labor and materials, and provisions for temporary facilities.

(c) Master Development Schedule. The CM shall assist the City to meet any scheduling responsibilities assigned by the City. The CM shall also coordinate and integrate its Project schedules with the services and activities of the City and other parties. The requirements provided herein are in addition to and not in limitation of the CM’s obligation to prepare and maintain the Baseline Critical Path Method (CPM) Schedule and other schedules as provided in the General Conditions and other Contract Documents.

3.1.4 Preliminary Cost Estimates.

(a) When Design Development Documents have been sufficiently completed by the Architect, the Construction Manager shall prepare a detailed estimate with supporting data for review by the Architect and approval by the Owner. During the preparation of the Construction Documents, the Construction Manager, as directed by the City, shall update and refine this estimate at appropriate intervals agreed to by the Owner, Architect, and Construction Manager.

(b) If any estimate submitted to the Owner exceeds previously approved estimates or the Owner’s budget, the Construction Manager shall make appropriate recommendations to the Owner and Architect.

(c) The CM shall provide value engineering analysis and recommendations during design and construction as directed and in order to meet the requirement of the project budget.

(d) The City may, but shall not be required to, arrange for periodic estimates of Construction Cost to be performed by other consultants or staff of the City. The CM shall work in good faith and in cooperation and coordination with the Designer, and any other consultants or staff of the City involved in preparing estimates of Construction Cost, in order to reconcile any differences between cost estimates prepared by the CM and such parties, to clarify assumptions upon which cost estimates are based, and otherwise to address any concerns or questions with respect to such cost estimates raised by the Designer, the City or
such other consultants. If in any case the agreed-upon, reconciled estimate of Construction Cost exceeds the Construction Budget established by the City, the CM shall advise and cooperate with the City and the Designer in identifying, specifying and recommending changes in, or additional specification of materials, equipment, component systems and types of construction, or other adjustments in the scope or quality of the Project (collectively, "Cost Reduction Alternatives"), including contingencies or alternative bid items, so as to facilitate revision of the design of the Project to reduce the Construction Cost so as to comply with the Construction Budget. Implementation of any Cost Reduction Alternative shall be subject to the approval of the City, and the City shall have the right, in its sole discretion, to choose which of the Cost Reduction Alternatives developed by the parties shall be implemented, provided, however, that the Designer shall not be required to incorporate Cost Reduction Alternatives into the design of the Project if doing so would result in a violation of Applicable Laws.

(e) The process and responsibilities of the CM described in this Section 3 shall also apply to any separate cost limits within the Construction Budget that have been established by the City for certain phases, components or elements of the Work.

3.1.5 Permits and Approvals. Consistent with the General Conditions, the CM shall assist the City and the Designer in identifying all governmental permits, user fees, approvals and licenses of any kind which must be obtained and be met in connection with the construction, use and occupancy of the Project ("Permits and Approvals").

(a) The CM shall be responsible for obtaining all construction Permits; CM shall be responsible to apply for, expedite, obtain Electrical, Plumbing and HVAC permits, building permit and other miscellaneous permits, and inspection fees, which are customarily obtained by subcontractors.

(b) The CM shall perform the Work in accordance with all conditions, mitigation measures and other requirements of all Permits and Approvals.

(c) The CM shall obtain all permits, inspections and certificates of occupancy for the Project. All City permit fees are waived. All applications, requests, appeals, filings and other documents, materials and information prepared by the CM to be submitted to governmental authorities in connection with the Permits and Approvals shall be subject to the prior approval of the City, and shall be delivered to the City sufficiently in advance of the time of their proposed filing or submission so as to permit a reasonable period for the review and comment of the City and its consultants.

(d) If requested by the City at any time, any such documents or materials to be used in connection with the Permits and Approvals may be prepared by the City or other persons designated by the City, and the City or other persons designated by the City may appear on behalf of the City at any hearing, presentation or conference.
(e) In addition, the CM shall promptly complete and provide such other documentation as may be required by the City, other agencies of the Commonwealth of Massachusetts or such other parties as the City may indicate, provided that if the CM believes in any instances that compliance with such requirement could not have been reasonably anticipated and materially modifies, enlarges or abridges the CM’s duties, obligations, or other rights under the Contract Documents, the CM may submit a proposal for increase in the Contract Price and/or the Contract Time in accordance with the applicable provisions of the Contract Documents.

3.2 Guaranteed Maximum Price.

(a) On the date agreed upon by the City and the CM, or, if no such date is agreed upon, on the date established by the City by written notice to the CM, which date shall be at least 20 days after the date of such written notice, the CM shall submit to the City a proposed GMP, which shall be the sum of the estimated total Hard Cost of the Work, the Construction Contingency, total costs for General Conditions, and the CM Fixed Fee. The CM shall include with the GMP proposal a written statement of its basis in form and substance satisfactory to the City, which shall include at least:

1. a list of the Project design documents upon which the GMP proposal is based; a list of any allowances and a statement of their basis;

2. a list of any assumptions, qualifications and clarifications made by the CM in the preparation of the GMP proposal to supplement the information contained in the Project design documents; (Note: It is assumed by the City that an extremely thorough pre-construction investigation by the CM will eliminate changes during construction. Any conditions missed during design review will be charged against the construction contingency.)

3. a statement that the proposed GMP is based on the Baseline CPM Schedule and the Substantial Completion date specified in the agreement.

4. the proposed GMP, including a detailed statement of the actual and estimated Hard Cost of the Work organized by CSI (Construction Specification Institute) format with quantities, units, and unit rates, Preconstruction and Construction General Conditions Costs, allowances, addenda, Construction Contingency, and Construction CM Fixed Fee and other items that comprise the GMP;

5. a schedule of applicable alternate prices;

6. a schedule of applicable unit prices, rental rates, equipment rates; and
7. the time limit for acceptance of the GMP proposal (which shall not be less than 90 days).

(b) The CM shall meet with the City and the Designer to review the GMP proposal and the written statement of its basis.

1. In the event that the City or the Designer discover any inconsistencies or inaccuracies in the GMP proposal and accompanying information, they shall promptly notify the CM, which shall make appropriate revisions thereto.

2. The City may elect in its sole discretion to accept or not to accept the CM's GMP proposal. The CM understands that any agreement on a GMP shall be subject to approval of the City.

3. Prior to the City’s acceptance of the CM's GMP proposal, the CM shall not incur any cost to be compensated by the City except as provided in this Contract or as the City may specifically authorize in writing.

4. If the City accepts the CM's GMP proposal, the City and CM shall execute and deliver within fifteen (15) days after such acceptance an amendment to this Agreement, in form acceptable to the City and the CM, incorporating the items listed in Subparagraph 3.2(a), above, subject to any modifications agreed upon by the parties (the "GMP Amendment").

5. The CM shall execute and deliver together with the GMP Amendment, performance and payment (labor and materials) bonds in the form provided by the City, executed by a surety licensed by the Commonwealth of Massachusetts Division of Insurance. Each such bond shall be in the amount of the GMP.

6. If the City does not accept the CM's GMP proposal, the City may suggest modifications to the GMP proposal, elect to solicit bids or proposals for the construction of the Project from other contractors, using any solicitation method or methods chosen by the City, consistent with applicable laws and procedures, or negotiate with the second highest ranked proposer to reach agreement on the contract and GMP amendment.

7. If the City does not accept the CM's GMP proposal within the time limit for acceptance specified in the GMP proposal, as it may be extended by agreement of the parties, then this Contract shall terminate upon the completion of the CM's performance of the Work then in progress or upon notice from the City as provided in the General Conditions, and no additional compensation shall be due to the CM other than that specified to be paid for pre-construction services.

3.3 Construction Services. Commencing upon the date of the Notice to Proceed with Construction, unless otherwise directed by the City, the CM shall perform Construction Services as provided in these paragraphs and elsewhere in the Contract Documents, in particular the list of construction services in the RFP. Where discrepancies occur, the more detailed and/or more stringent shall prevail, subject to the priority of documents stated in Section 26 of the General Conditions.
3.3.1 **Construction Cost Monitoring.** The CM shall provide a system of Project cost monitoring and reporting, and shall develop cash flow reports and forecasts in such format as approved by the City to coordinate with the cost loaded CPM. The CM shall identify variances between actual costs and its estimated costs and shall immediately advise the City whenever projected costs exceed previous reports. Such reports and other information shall be included in the Monthly Progress Reports to be submitted to the City.

3.3.2 **Quality Assurance/Quality Control.** The CM shall prepare and submit to the City for its approval a Quality Assurance/Quality Control program. Such program shall provide that the CM shall be responsible for insuring that adequate quality assurance and quality control programs are developed, implemented and enforced by the CM's staff and all Subcontractors, including an experienced quality manager, employed by the CM, whose responsibility shall be quality assurance and quality control and shall be stationed at the Project Site and who shall be responsible for reviewing and coordinating the quality control activities of all Subcontractors and monitoring the implementation and enforcement thereof in connection with all aspects of the Work. The quality manager shall report to the City and its representatives on a weekly basis the status of the program for each trade, and any deficiencies, and a recommended plan for corrective action.

3.3.3 **Prevailing Wage.** Work under this project is subject to the prevailing wage laws M.G.L.c.149, s.26-27H.

3.3.4 **Criminal Offender Record Information Check.** All employees and/or prospective employees of the CM, Trade Contractors and Subcontractors working on this project may be subject to a CORI (Criminal Offender Record Information) check pursuant to Chapter 6 of the Massachusetts General Laws and City requirements. Any CORI checks performed by the CM, Trade Contractors or Subcontractors working on this project must comply with the City’s CORI Policy and ordinance.

3.3.5 **CM Responsibility for Managing Construction.** The CM shall be responsible for managing, coordinating, and supervising all aspects of the Work as described in this Agreement, the General Conditions, and all other Contract Documents.

3.3.6 **Conditions When CM May Perform Work.** The CM may submit its qualifications to bid on trade contract or subcontract work in accordance with the provisions of the Trade Contractor Section Process set forth in the General Conditions; provided that the CM firm customarily performs the work for which it submits qualifications; provided further, that the CM firm must perform the work with employees on its own payroll; and provided further, that the CM firm meets all the requirements of the selection process. The CM firm may also self-perform work included in the General Conditions (also known as "Division 1") made necessary by an emergency to protect life or to prevent serious property damage pursuant to an advance written approval by the City where possible. Where advance written approval is not possible due to an extreme emergency, written approval must be obtained from the City as soon as possible after work begins to alleviate the emergency.
3.4 General Administrative Requirements for Preconstruction and Construction Services

3.4.1 Monthly Progress Reports. On the fifth (5th) day of each month, or on such other day established by the City, the CM shall submit to the City the documents listed in this paragraph for the preceding month, in form and substance acceptable to the City, containing, without limitation, the following information:

(a) An Executive Summary Progress Report. The CM shall submit to the City an Executive Summary Progress Report in form and content satisfactory to the City.

(b) A Project Status Overview including, without limitation, the following:

   (1) Progress report by division of work or area;
   (2) construction schedule update, without limitation, a Summary Schedule (progress bar chart) from the CPM
   (3) status of the construction contingency budget,
   (4) status of subcontractor buy-outs,
   (5) status of testing and inspection activities performed by the CM and subcontractors,
   (6) status of shop drawings and submittals,
   (7) status of change orders,
   (8) Quality control/quality assurance report;
   (9) Safety and loss control report;
   (10) MBE/WBE and workforce participation status;
   Procurement status report, including, without limitation, a status of EEO & MBE/WBE participation;
   (11) Project schedule update;
   (12) Project cost update, including, without limitation, the following:
      i. Cost summary; Cash flow update; List of outstanding change Orders and change Directives;
      ii. List of potential changes and outstanding change Proposal
      iii. Requests and CM change Requests; and
   (13) Such other reports, logs or documents as the City may reasonably require for the management of the Project.

3.4.2 Subcontracts. Unless otherwise specifically approved by the City, all Work shall be performed by the CM pursuant to Subcontracts awarded by the CM in accordance with the General Conditions of the Contract, Exhibit D, Procedures for Award of Subcontracts.

(a) The CM shall consult with the City with respect to proposed bidding and proposal forms and procedures for all subcontracts. The CM will solicit bids from every sub-contractor recommended by the City. The CM understands and agrees that the City and its representatives shall have access to any documents submitted by all Trade Contractors and Other Subcontractors to
the CM, for review as to compliance with bidding and proposal procedures and other requirements of the Contract Documents. No Subcontract or other agreement between the CM and any third party for the furnishing or supply of any labor, materials or equipment in the performance of the Work shall be entered into without the City’s prior approval. The City shall respond promptly to any request for approval of a Subcontract. Standard forms of subcontract agreement for all Trade Contractors (filed sub-contractors) are attached as Exhibit E to the General Conditions of the Contract. No material revisions shall be made to any such Subcontract or other agreement approved by the City without the prior approval of the City. Copies of all executed Subcontracts shall be provided to the City promptly.

(b) Purchases from Affiliated Entities. Except in the event of an emergency as provided herein, neither the CM nor any Subcontractor shall enter into any subcontract, contract, agreement, purchase order, or other arrangement (collectively, an "Arrangement") for the performance of any portion of the Work or the furnishing of any materials, services or equipment in connection therewith with any party or entity if such party or entity is an Affiliated Entity (as defined below), unless such Arrangement has been approved by the City, after full disclosure in writing by the CM and Subcontractor, if applicable, to the City of such affiliation and all details relating to the proposed Arrangement. The term "Affiliated Entity" means any entity related to or affiliated with the CM and/or any Subcontractor, as applicable, or with respect to which the CM and/or any Subcontractor, as applicable, has direct or indirect ownership or control, including, without limitation, any entity owned in whole or in part by the CM and/or any Subcontractor, as applicable; any holder of the issued and outstanding shares of, or the holder of any interest in, the CM and/or Subcontractor, as applicable; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the CM and/or any Subcontractor, as applicable, has a direct or indirect interest which interest includes, but is not limited to, that of a partner, employee, agent or shareholder.

3.4.3 Design Related Requirements During Construction. The recommendations and advice of the CM concerning design modifications or alternatives shall be subject to the review and approval of the City. If the CM recognizes or discovers that any portion of the Drawings and Specifications is at variance with Applicable Laws, the CM shall promptly notify the Designer and the City in writing, and if the CM fails to promptly to notify the Designer and the City, having recognized or discovered such variance, the CM shall be liable for an equitable portion of any loss, cost or damage sustained by the City on account of such variance.

3.4.4 CM’s Organization and Staff. The CM shall establish an organization and lines of communication required to carry out the requirements of this Agreement in order to organize and direct the complete construction of the Project. A listing of the CM’s key staff is set forth as Exhibit 1 attached hereto and incorporated herein. All key staff shall be available for and actively participate in the performance of the services provided under the Contract Documents unless such failure is for good cause beyond the control of the CM. No substitution of any assigned and
approved key staff shall be made by the CM without the prior written consent of the City in its sole discretion. Before any such substitution is made, the CM shall submit to the City the qualifications of any proposed replacement. The removal or replacement, without the City’s consent, of any of the key staff listed in Exhibit 1, other than as a result of retirement, disability, death or bona fide termination of employment, shall constitute a material breach of this Agreement and the City reserves the right to terminate the contract and assess damages. Within thirty (30) days after execution of this Agreement, the CM shall furnish to the City a detailed organizational Chart (the "Organizational Chart") for approval by the City. Such Chart shall reflect the same persons as set forth in the Proposal unless otherwise approved by the City. The Organizational Chart shall expand upon and update the General Conditions Cost Administrative Breakdown set forth in Exhibit 1, and shall identify each staff position, the anticipated start date and end date for each identified staff person and the estimated personnel cost on account of each such staff person. Upon approval by the City, which approval shall not be unreasonably withheld, the Organizational Chart shall supersede and replace the General Conditions Cost Administrative Breakdown set forth on Exhibit 1. The CM’s management and field supervisory staffing shall be in accordance with the approved Organizational Chart. All modifications to the Organizational Chart after initial approval by the City must be approved by the City, such approval not to be unreasonably withheld. The City may require replacement of any member of the CM’s staff with or without cause, and may require increased levels of staffing by the CM, at no increase in the Contract Price, if necessary to achieve proper production, management, administration or superintendence, or if otherwise necessary to maintain progress in accordance with the Project Schedule. By executing this Agreement, the CM certifies that the CM and each member of its key staff comply with all licensing, registration and other requirements applicable to the CM and the performance of its services hereunder pursuant to Applicable Laws. Furthermore, the City shall have the right to require the CM and any Subcontractor to replace any on-site personnel who it reasonably finds objectionable, with other personnel approved by the City.

3.4.4 Post-Construction Phase   In addition to items specified in the RFP, included are the following:

In accordance with the project Designer, develop and implement procedures for orderly completion of punch list items, checkout of utilities, operational systems and equipment and initial start-up and testing. Preparation and delivery to the City of warranties, as-built drawings, maintenance manuals, and the like, and generally administer closeout of the project. Ensure performance of all warranty obligations, resolution of all claims, and other post-construction requirements. Participate in a month-11 walk through prior to the expiration of the one year general warranty. All such items as identified shall be remedied within 30 days from date of the 11 month walk through.

4. OWNER’S RESPONSIBILITIES

4.1 Information Services
(a) The Owner through the Architect shall provide information in a timely manner regarding the requirements of the Project, including the Owner’s objectives, constraints, and criteria, including space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

(b) The Owner shall, at the written request of the Construction Manager prior to the commencement of the Construction Phase and thereafter, furnish to the Construction Manager reasonable evidence that financial arrangements have been made to fulfill the Owner’s obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager.

(c) The Owner shall establish and update an overall construction budget for the Project, based on consultation with the Construction Manager and Architect, which shall include contingencies for changes in the Work and other costs which are the responsibility of the Owner.

4.2 Structural and Environmental Tests, Surveys, and Reports. In the Preconstruction Phase, the Owner shall furnish the following with reasonable promptness and at the Owner’s expense.

(a) Reports, surveys, drawings and tests concerning the conditions of the site which are required by law.

(b) Surveys to ALTA standards describing physical characteristics, legal limitations, and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All information on the survey shall be referenced to a project benchmark.

(c) The services of a geotechnical engineer when such services are requested by the Construction Manager and approved by the Owner. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.

(d) Structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports which are required by law.

(e) Third Party Commissioning of all Mechanical and electrical and energy saving equipment and systems. (CM to coordinate this item.)
4.3 Owner’s Project Manager (“OPM”) shall be the individual who the Owner shall designate in writing who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization in accordance with the General Conditions.

4.4 Architect. The Owner shall retain a Designer to provide Basic Services, including normal structural, mechanical and electrical engineering services, other than cost estimating services in accordance with the General Conditions.

5. Architect's Duties, Responsibilities, and Authority

A. The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.

B. The Architect shall serve as the Contracting Officer’s technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) Changes any of the other express terms or conditions of the contract.

C. The Architect’s duties and responsibilities may include but shall not be limited to:
   (1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the Owner which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor’s designated representative at the site;
   (2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Architect;
   (3) Reviewing and making recommendations with respect to (i) the Contractor’s construction progress schedules; (ii) the Contractor’s shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor’s price breakdown and progress payment estimates; and,
   (4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

D. Further duties, responsibilities and authority of the Architect are described in Division 1 General Requirements of the Specification.

E. The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, Suppliers, or of any other persons performing portions of the Work.
6. Intentionally Blank

7. Other Contracts
The Owner may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Owner employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Architect. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Owner employees.

Construction Requirements

8. Preconstruction Conference
Within ten calendar days of execution of the GMP amendment to the contract, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the Owner, its Architect, and other interested parties convened by the Owner. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The Owner will provide the Contractor with the date, time, and place of the conference.

9. Notices to Proceed. The Contractor shall begin work upon receipt of a Letter of Intent or written Notice to Proceed with Preconstruction Services from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

The CM shall begin preconstruction and construction phase services pursuant to the terms and conditions included in written Notices to Proceed ("NTP") issued by the City.

(a) Preconstruction Services. The NTP for preconstruction services shall be issued within a reasonable time following execution of the Contract. The City may instruct the CM to begin any or all certain portions of the preconstruction services with a Letter of Intent.

(b) Construction Services. The NTP for construction services shall be issued within a reasonable time following the execution of the GMP Amendment as defined in Paragraph 3.2, provided that, in the City's discretion, it may elect to issue such NTP prior to the execution of the GMP Amendment. If the NTP is issued prior to the execution of the GMP Amendment, the City may, in its discretion, limit the scope of the NTP in whatever manner it deems appropriate until the execution of the GMP Amendment or a reasonable period following such execution, at which time, such limitations, if any, shall be rescinded.

10. Construction Progress Schedule
A. The Contractor shall, before the construction work commences on the contract or another period of time determined by the City, prepare and submit to the City for approval three copies of a practicable CPM schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including trade and subcontractor...
procurement, shop drawings, acquiring labor, fabrication and delivery of materials, and equipment). The schedule shall be in the form of a progress bar chart or other forms as may be requested and of suitable scale to indicate appropriately the percentage of work scheduled for completion of the work by any given date during the period. The float time in the schedule shall belong to the Project. If the Contractor fails to submit monthly progress updates to the schedule within the time prescribed, the Architect may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule. Further detailed requirements for the form of and approval process for this schedule are included within Division 1 General Requirements of the Specification.

B. The Contractor shall enter the actual progress in the schedule as required by Architect and immediately deliver three copies of the annotated schedule to the Owner. If the Architect determines, upon the basis of inspection conducted pursuant to the clause entitled *Inspection and Acceptance of Construction*, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Architect, without additional cost to the Owner. In this circumstance, Architect may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Architect deems necessary to demonstrate how the approved rate of progress will be regained. Further requirements for the update, review and revision of this schedule are included within Division 1 General Requirements of the Specification.

C. Failure of the Contractor to comply with the requirements of the Architect under this clause shall be grounds for a determination by the City that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Owner may terminate the Contractor’s right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

D. Time is of the Essence. The CM acknowledges that the times of Substantial Completion of the Work, Final Completion of the Work, any other milestones for completion of portions of construction, times for submitting proposals for contract modifications, and other times set forth in the Contract Documents are essential conditions of this Agreement.

11. Site Investigation and Conditions Affecting the Work

A. The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Owner, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Owner.
B. The Owner assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Owner. Nor does the Owner assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

C. The Site is shown on the design drawings.

D. By executing this Agreement, the CM acknowledges that it has visited the Site and has learned as much about the Site as may reasonably learned from such an inspection. No information which would reasonably have been obtained by such a site inspection may serve as the basis for any change order proposal or claim for additional costs and/or additional time.

E. Limited information about soil and other subsurface conditions at the Site are provided in the Feasibility Study included with the Request for Proposals of this Agreement. Neither the City, nor the Designer represents that such information is complete, accurate, or an approximate indication of subsurface conditions. No change order proposal or claim for additional costs and/or additional time resulting from the CM’s reliance on such information shall be allowed except as expressly provided in the Contract Documents.

F. Site Testing By CM. Prior to the commencement of any portions of the Work, the CM, if directed by the City, or if it elects at its own discretion, shall conduct further testing of the subsurface conditions at the Site. If such testing is performed at the direction of the City, or to the extent that the CM demonstrates to the City that further testing as proposed by the CM is likely to significantly reduce differing site condition and other costs for which the City may be responsible under the Contract, and the City approves such testing, the costs of such testing shall be paid by the City.

12. Differing Site Conditions

A. The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Architect of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

B. The Architect shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor’s risk, until Architect has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor’s cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the Owner within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause if appropriate and the contract modified in writing accordingly. No adjustment shall be made if, upon investigation, the Architect determines that there are no differing site conditions.

C. No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Architect.
D. No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

13. Specifications and Drawings for Construction
A. The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Architect access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, or in case of discrepancy in the figures, in the drawings, or in the specifications, the best quality shall govern. If best quality is not discernible, the matter shall be submitted to the Architect, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Architect shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided. Further information regarding the intent of drawings and specifications and a detailed method for resolution of the conflict among contract documents is included within Division 1 of the Specification.

B. Wherever in the specifications or upon the drawings the words “directed”, “required”, “ordered”, “designated”, “prescribed”, or words of like import are used, it shall be understood that the “direction”, “requirement”, “order”, “designation”, or “prescription”, of the Architect is intended and similarly the words “approved”, “acceptable”, “satisfactory”, or words of like import shall mean “approved by”, or “acceptable to”, or “satisfactory to” the Architect, unless otherwise expressly stated.

C. Where “as shown”, “as indicated”, “as detailed”, or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word “provided” as used herein shall be understood to mean “provide complete in place,” that is, “furnished and installed”.

D. “Shop drawings” means drawings, submitted to the Owner by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The Owner may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract. Further requirements for the submittal, review and approval of shop drawings are included within Division 1 General Requirements of the Specification.

E. If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Architect without evidence of the Contractor’s approval may be returned for resubmission. The Architect will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Owner’s reasons therefor. Any work done before such approval shall be at the Contractor’s risk. Approval or review by the Architect shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (F) below.
F. If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Owner concurs, the Owner shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

G. It shall be the responsibility of the Contractor to make timely requests of the Owner for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

H. The Contractor shall submit to the Architect for approval of all shop drawings as called for under the various headings of these specifications. As required by the Architect, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted. The number of copies of shop drawings required is indicated within Division I General Requirements of the Specification.

I. This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Architect.

14. Requirements for Substitutions. (Reference: M.G.L. c.30 §39M (b)). Where products or materials are prescribed by manufacturer name, trade name, or catalog reference, the words “or approved equal” shall be understood to follow.

A. An item shall be considered equal to the item so named or described if, in the opinion of the Architect:

(1) it is at least equal in quality, durability, appearance, strength and design;

(2) it performs at least equally the function imposed by the general design for the work; and

(3) it conforms substantially, even with deviations, to the detailed requirements for the Items as indicated by the specifications. Note: It is the contractor’s responsibility to prepare a detailed point-by-point comparison of any proposed substitutions. If the Architect approves any substituted material, without having the point comparison, such approval will not be valid.

B. Net Savings. No proposed substitution will be permitted unless the Contractor certifies that the proposed substitution will yield a net savings to the Owner and will not extend the Contract Time.

C. Contractor’s Expense. Any structural or mechanical changes made necessary to accommodate substituted equipment under this paragraph shall be at the expense of the Contractor or Subcontractor responsible for the Work item.
D. Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the Contractor, notwithstanding approval or acceptance of such substitution by the City or the Architect, unless such substitution was made at the written request or direction of the City or the Architect.

E. All data to be provided by the Contractor in support of any proposed “or equal” or substitute item will be at the Contractor's expense.

15. As-Built Drawings & Project Photographs
A. “As-built drawings,” as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. “As-built drawings” shall be synonymous with “Record drawings.”

B. As required by the Architect, the Contractor shall provide the Architect accurate information to be used by the CM in the preparation of permanent as-built drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks. Requirements for the creation, maintenance, submittal and approval of As-Built Drawings, including form and number of copies required, are further defined within Division 1 General Requirements of the Specification.

C. This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Construction Manager to ensure that all as-built drawings prepared by subcontractors are submitted to the Architect.

D. Project Photographs

The City shall be responsible for obtaining the site photographs. (The City to procure these services in conjunction with existing building documentation prior to demolition)

16. Material and Workmanship
A. All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Architect, is equal to that named in the specifications, unless otherwise specifically provided in this contract. The process of determining equality of proposed alternate materials, equipment and the like is described in detail within Division 1 General Requirements of the Specification.

B. Approval of equipment and materials.

(1) The Contractor shall obtain the Architect’s approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Architect the name of the manufacturer, the model number,
and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical, and other equipment. When required by this contract or by the Architect, the Contractor shall also obtain the Architect’s approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection. The submittal and approval process is fully detailed within Division 1 General Requirements of the Specification.

2) When required by the specifications or the Architect, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor’s expense, with all shipping charges pre-paid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor’s name, and the identification of the construction project for which the material or product is intended to be used.

(3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced. Samples shall be accompanied by the number of certifications required by the provisions of Division 1 General Requirements of the Specification.

(4) Approval of a sample shall not constitute a waiver of the Owner’s right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.

(5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Architect may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use as frequently as the Architect determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of re-testing materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient. No claim for time extension will be permitted for failure to comply with testing requirements as specified.

(6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.

C. Prohibition against use of lead-based paint. The Contractor shall comply with the prohibition against the use of lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

17. Permits, Codes and Sales Tax
A. The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the
drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Architect. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Architect shall modify the contract by change order pursuant to the clause entitled Changes herein to conform to the code or regulation.

B. The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work including any and all fees levied by authorities having jurisdiction, and shall include the costs associated with all permits, fees and licenses in the Bid Price. All City permit fees are waived by the City. Where the Owner can arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor, the contract amount shall be reduced accordingly. Only written notification by the Owner shall constitute a waiver of this requirement.

C. Sales Tax Exemption: To the extent that materials and supplies are used or incorporated in the performance of the contract, the Contractor is considered an exempt purchaser under the Massachusetts Sales Act, Chapter 14 of the Acts of 1966. The Owner will furnish its tax exempt certificate to the CM.

D. Other Taxes: The Contractor shall be responsible for paying all other taxes and tariffs of any sort, related to the work.

18. Health, Safety, and Accident Prevention
A. In performing this contract, the Contractor shall: (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation; (2) Protect the lives, health, and safety of other persons; (3) Prevent damage to property, materials, supplies, and equipment; and, (4) Avoid work interruptions.

B. For these purposes, the Contractor shall: (1) Comply with all federal, state and local worker safety laws; and, (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

C. The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data as required by law.

D. The Architect shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor’s representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Architect may issue an order stopping all or part of the work until satisfactory corrective action has been taken.

The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.
E. The Contractor shall be responsible for its subcontractors’ compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the Owner may require.

19. Temporary Heating
The Contractor shall provide temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used with permission of the owner shall be turned over to the Owner in the condition and at the time required by the specifications.

20. Availability and Use of Utility Services
A. The Contractor shall obtain and pay for all required temporary utility services required to perform the Work.
B. The Contractor, at its expense and in a manner satisfactory to the Owner, shall install and maintain all necessary temporary utility services and connections and distribution lines, and meters. Before final acceptance of the work by the Owner, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.
C. Further requirements are included in Division 1 General Requirements of the Specification.

21. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements
A. The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.
B. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Architect.
C. The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.
D. The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
E. Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.
F. New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.

G. No structural members shall be altered or in any way weakened without the written authorization of the Structural Engineer of Record, unless such work is clearly specified in the plans or specifications.

H. If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refacing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refacing or reconstruction is specified in the plans or specifications.

I. The Contractor shall give all required notices to Owner, so that any adjoining or adjacent property Owner or other party can be notified by the City before the commencement of any work.

J. The Contractor shall indemnify and save harmless the City from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the Owner and City may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

K. The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the City may have the necessary work performed and charge the cost to the Contractor.

22. Temporary Buildings and Transportation of Materials
   A. Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Owner and shall be built with labor and materials furnished by the Contractor without expense to the Owner. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work.

   B. The Contractor shall, as directed by the Architect or Owner, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Architect. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, roads, or other site materials, furnishings, and equipment.

23. Clean Air and Water
   A. Definition. “Facility” means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by the Contractor or any subcontractor, used in the performance of the contract or any subcontract. When a
location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency (EPA) determines that independent facilities are collocated in one geographical area.

B. In compliance with regulations issued by the United States Environmental Protection Agency (EPA), 40 CFR Part 15, pursuant to the Clean Air Act, as amended (“Air Act”), 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, as amended (“Water Act”), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Contractor agrees to —

1. Not utilize any facility in the performance of this contract or any subcontract which is listed on the EPA List of Violating Facilities pursuant to Part 15 of the regulations for the duration of time that the facility remains on the list;
2. Promptly notify the Architect or Owner if a facility the Contractor intends to use in the performance of this contract is on the EPA List of Violating Facilities or the Contractor knows that it has been recommended to be placed on the List;
3. Comply with all requirements of the Air Act and the Water Act, including the requirements of Section 114 of the Air Act and Section 308 of the Water Act, and all applicable clean air and clean water standards; and,

24. Inspection and Acceptance of Construction, Punch List
A. Definitions. As used in this clause -

(1) “Acceptance” means the act of an authorized representative of the Owner by which the Owner approves and assumes Ownership of the work performed under this contract. Acceptance may be partial or complete.

(2) “Inspection” means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.

(3) “Testing” means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.

B. The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to Owner inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

C. Owner inspections and tests are for the sole benefit of the Owner and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the Owner after acceptance of the completed work under paragraph (J) below.

D The presence or absence of the Owner’s inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Architect’s written authorization. All instructions and approvals with respect to the work shall be given to the Contractor by the Architect.
E. The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Architect. The Owner may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The Owner shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size and performance, tests shall be performed as described in the contract.

F. The Owner may conduct routine inspections of the construction site on a daily basis.

G. The Contractor shall, without charge, replace or correct work found by the Owner not to conform to contract requirements, unless the Owner decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

H. If the Contractor does not promptly replace or correct rejected work, the Owner may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor’s right to proceed.

I. If any work requiring inspection is covered up without approval of the Owner, it must, if requested by the Architect, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the Owner considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall bear all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Architect shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

J. The Contractor shall notify the Architect, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. At this time the Contractor shall provide a punch list indicating all items of work requiring completion. The punch list shall be provided in a mutually agreeable format to the Owner and Architect for incorporation of the Owner, Architect and Consultant items. If the Architect determines that the state of preparedness is as represented, the Owner will promptly arrange for the inspection. The Architect and Owner shall perform one back punch upon notice from the contractor that all work has been completed. Any remaining items not completed at the time of the back punch shall then be monetized as determined by the Architect and Owner. Unless otherwise specified in the contract, the Owner shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Architect determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Owner’s right under any warranty or guarantee.

25. Use and Possession Prior to Completion
A. The Owner shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Architect shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Owner intends to take possession of or use. However, failure of the Architect to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Owner’s possession or use shall not be deemed an acceptance of any work under the contract.

B. While the Owner has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the Owner’s possession or use, notwithstanding the terms of the clause entitled Permits, Codes and Sales Taxes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas occupied without proper remuneration therefor. If prior possession or use by the Owner delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

C. Notwithstanding any statement to the contrary, the right of possession of the premises and the improvements made thereon by the Contractor shall remain at all times in the Owner. The Contractor's right to entry and use thereof arises solely from the permission granted by the Owner under the Contract Documents. The Contractor shall confine the Contractor's apparatus, the storage of materials, and the operations of the Contractor's workers to limits indicated by law, ordinance, the Contract Documents and permits and/or directions of the Architect and shall not unreasonably encumber the premises with the Contractor's materials. The Owner shall not be liable to the Contractor, the Subcontractors, Suppliers, or anyone else with respect to the conditions of the premises, except for a condition caused directly and solely by the negligence of the Owner.

D. At all times, the Owner and the Architect shall have access to the Work.

26. Warranty of Title
The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

27. Warranty of Construction; Substantial Completion
A. In addition to any other warranties in this contract, the Contractor warrants that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of one year from the date of Substantial Completion. The term Substantial Completion shall be the date upon which, determined by the Architect, the work is sufficiently complete that the Owner may occupy and use all areas of the work for normal purposes without interference from incomplete work or construction operations; no more than 2% of the value of the work (including administrative and support operations and change orders) is incomplete; all temporary facilities have been removed; and a complete list of all incomplete or unsatisfactory items of work, with monetary values assigned to each, has been prepared and agreed upon. Substantial completion shall not be considered achieved, regardless of the value of incomplete or
unsatisfactory items, if any item substantially impairs the function or efficiency of any mechanical or electrical system or the physical integrity or safety of any part of the work. If the Owner takes possession of any part of the work before Substantial Completion, this warranty shall continue for a period of one year from the date that the Owner takes possession.

B. The Contractor shall remedy, at the Contractor’s expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor’s expense, any damage to Owner-owned or controlled real or personal property when the damage is the result of—

(1) The Contractor’s failure to conform to contract requirements; or
(2) Any defects of equipment, material, workmanship or design furnished by the Contractor.

C. The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor’s warranty with respect to work repaired or replaced under original warranty will run for one year from the date of acceptance of the repaired or replaced work or the balance of the original warranty, whichever is greater. Refer to each section for extended warranties as applicable.

D. The Architect shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.

E. If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Owner shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor’s expense.

F. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall: (1) Obtain all warranties that would be given in normal commercial practice; (2) Require all warranties to be executed in writing, for the benefit of the Owner; and, (3) Enforce all warranties for the benefit of the Owner. At, and as a condition of achieving, Substantial Completion, all warranties shall be issued in the name of the City or assigned to the City. The Contractor shall be responsible for demonstrating to the satisfaction of the City that any assignment is authorized and enforceable in accordance with the terms of the subject warranty, or that the assignment has been expressly authorized in writing by the party that originally provided the subject warranty.

G. In the event the Contractor’s warranty under paragraph (A) of this clause has expired, the Owner may bring suit at its own expense to enforce a subcontractor’s, manufacturer’s or supplier’s warranty.

H. Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the Owner nor for the repair of any damage that results from any defect in Owner furnished material or design.

I. Notwithstanding any provisions herein to the contrary, the establishment of the time periods in this section above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be
commenced to establish the Contractor’s liability with respect to its obligation other than specifically to correct the work.

J. This warranty shall not limit the Owner’s rights under the **Inspection and Acceptance of Construction** clause of this contract with respect to latent defects, gross mistakes or fraud.

K. Following Substantial Completion, all rights arising under this Section 27 shall run to the benefit of, and shall be enforceable by, the City. The CM shall achieve Substantial Completion of the entire Work, no later than July 1, 2019, which is 1,092 days from the date of execution of the contract as work should begin immediately for Construction, subject to any adjustments in the contract time approved by the City in accordance with the Contract Documents (the Architect certified "Substantial Completion Date" or the “Contract Time”). The CM shall achieve Final Completion of the Work, no later than 60 days after substantial completion of the entire work, subject to adjustments of the contract time approved by the City in accordance with the Contract Documents (the "Final Completion Date"). The CM will determine with the City’s approval, the optimal timing of the Notice to Proceed for Construction, the duration in calendar days, and the projected Substantial Completion Date.

28. **Prohibition Against Liens**: The Contractor is prohibited from placing a lien on the Owner’s property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

29. Blank

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**Administrative Requirements**

**30. Order of Precedence**

*Priority Among Contract Documents.* In the event of conflict among the Contract Documents, the Contract Documents shall be construed according to the following priorities:

- **Highest Priority:** Modifications
- **Second Priority:** Agreement with General Conditions
- **Third Priority:** Addenda---later date to take precedence
- **Fourth Priority:** Supplementary General Conditions
- **Fifth Priority:** Drawings and Specifications

If there is a conflict within the Drawings, the figured dimensions shall govern over the scaled dimensions. Detailed Drawings shall govern over the general Drawings. Larger scale Drawings shall take precedence over smaller scale Drawings. Drawings shall govern over Shop Drawings. Whenever there is a conflict concerning quality or quantity between or among notes, specifications, dimensions, details, or schedules in the Specifications or in the Drawings, or between the Specifications and the Drawings, or in all other instances not specifically noted above, the Contractor shall provide, unless otherwise directed by a Modification of the Contract, the better quality or greater quantity of Work at no increase in the Contract Sum or in the Contract Time.
Compliance with these priority conditions shall not justify any changes in the Work or any increase in the Contract Sum or Contract Time, unless any such compliance results in work that may not be reasonably inferred from the Contract Documents as being required to produce the intended result as determined by the Architect.

In the event of a conflict between the contract and any applicable state or local law or regulation, the state or local law or regulation shall prevail; provided that such state or local law or regulation does not conflict with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

31. Payments

31.1 Progress Payments Generally; Retainage

A. The Owner shall pay the Contractor the price as provided in this contract. The City shall pay to the CM in current funds for the CM's proper performance of the Contract and completion of the Work, the Contract Price consisting of the final negotiated General Conditions Payment, as defined below, the Hard Cost of the Work, as defined below, and the CM Fee as defined below. The total payments to the CM (the Contract Price) shall not exceed the Guaranteed Maximum Price agreed to by the Parties, subject to authorized additions and deductions as provided in the Contract Documents.

B. The Owner shall make progress payments approximately every 30 days as the work proceeds, subject to Owner approval, based on work accomplished which meets the standards of quality established under the Contract, as approved by the Architect.

C. Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Architect, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining progress payments. The breakdown shall be approved by the Architect. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract. Further requirements for schedule of values are included in Division 1 General Requirements of the Specification.

D. The Contractor shall submit, on forms provided by the Owner, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the contract price. Such estimates shall be submitted not later than 45 days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Owner with the concurrence of the Architect prior to payment.

E. Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made:

I hereby certify, to the best of my knowledge and belief, that:
(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

Name:

Title:

Date:

F. Except as otherwise provided in State law, the Owner shall retain five (5) percent of the amount of progress payments until completion and acceptance of all work under the contract. Further requirements for retainage are included in Division 1 General Requirements of the Specification. The City shall retain five percent (5%) from the amount approved for payment during the construction phase in the monthly Applications for Payment, as provided in the General Conditions of the Contract. Such retainage shall be applied with respect to all amounts payable under the Application for Payment, including the Hard Cost of the Work, the CM Fee and the General Conditions Payment. Retainage shall be paid as provided in the General Conditions.

G. The Architect, at its discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments. Material delivered to the Contractor at locations other than the site may also be taken into consideration, pending lender or funding agency agreement, if the Contractor furnishes satisfactory evidence that (1) it has acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Architect; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Architect may require to assure the protection of the Owner’s interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the Owner. Further requirements for stored materials are included in Division 1 General Requirements of the Specification. No fabrication costs shall be included in any stored material payments. No stored materials payments will be considered for common and non-specific construction materials, such as drywall, studs, conduit, wire, piping, fasteners, etc.

H. All material and work covered by progress payments made shall, at the time of payment become the sole property of the City, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the Owner to require the fulfillment of all of the terms of the contract. In the event that the work of the Contractor has been damaged by other contractors or persons other than employees of the Owner in the course of their employment, the Contractor shall restore such damaged work.
without cost to the Owner and to seek redress for its damage only from those who directly caused it.

I. The Owner shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the Owner arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor’s claim to amounts payable under this contract has been assigned.

J. Prior to making any payment, the Architect may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Architect determines such evidence is necessary to substantiate claimed costs.

K. The Owner shall not (1) determine or adjust any claims for payment or disputes arising thereunder between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers, except as required by law. The failure or refusal of the Owner to withhold moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bonds furnished under this contract.

L. For Change Orders or Contract Modifications authorized by the City pursuant to the Contract Documents, the Contract Price shall be adjusted as provided in Article 33 of the General Conditions and not otherwise. After agreement by the City and the CM on a guaranteed maximum price for construction of the Work (the "GMP") and execution of the GMP Amendment, any increase or decrease in the Contract Price approved by the City by execution of a Change Order shall increase or decrease the GMP, accordingly.

31.2 General Conditions Payment.

A. In consideration of the performance by the CM of the work described in the Contract Documents the City shall pay to the Construction Manager, as full and complete compensation, except for allowances, to the Construction Manager for all Fees and General Conditions costs incurred in the performance of such work an amount equal to the payment specified in Section A of Exhibit A ("Price Proposal for Construction Management Services"), subject to the following:

(1) For purposes of payment the CM Fees and General Conditions Costs shall be divided into a Preconstruction Services Fee and Construction Services Fee and Construction General Conditions Costs as specified in Section A of Exhibit A. The Pre-Construction Services Fees is a lump sum in the CM at Risk Proposal for Construction Management Services section A in the amount of [in words] Dollars ($00,000).

(2) The total dollar values for Construction Services Fee and General Conditions Costs set forth in Section A of Exhibit A represent the maximum amount to be paid over the course of the project to the CM for all Construction Services Fee and General Conditions Costs upon acceptance of the GMP. The Construction Services Fee
is fixed in the amount of [in words] Dollars ($00,000). The General Conditions costs will be adjusted as needed and finalized based on mutual agreement at the time of the GMP execution. Allowances shall be kept to a minimum.

(3) The provisions in the Contract Documents concerning the anticipated schedule for the Project and the durations of the Preconstruction Period, and Construction Period, are not for the purpose of describing the compensation for General Conditions Costs and do not extend or authorize any extension of the Contract Substantial Completion date and/or the Final Completion date.

(4) The CM may make a formal claim for extension of the Contract Substantial Completion date and/or the Final Completion date only as provided in, and subject to the limitations specified in, the Contract Documents and General Conditions.

B. Either the City, or the Construction Manager, subject to the approval of the City, may request that one or more specific items included in General Conditions Costs be included in a Subcontract bid or proposal package or otherwise separately procured. Whether included in a Trade Contractor bid package or Subcontractor proposal or otherwise separately procured, each such item shall be bid as an alternate and, if accepted by the City, the cost of such item shall be considered part of the Hard Cost of the Work, and the amount of the General Conditions Payment due hereunder shall be reduced by the total cost of such item.

C. If the Construction Manager performs additional work of the type described in Exhibit A under a Change Order approved by the City, compensation, if any, due to the Construction Manager shall be computed in accordance with this section and Article 33 of the General Conditions of the Contract; otherwise, the City shall have no obligation to compensate the Construction Manager on account of the cost of the work for any amounts exceeding the total payments as set forth in Section A in Exhibit A.

D. The General Conditions Costs for payment bond and performance bond Insurance that appear in Section C.4 of Exhibit A shall be adjusted up or down by Change order, based on the difference between the GMP and the estimated Project amount carried in Exhibit A. There will be no CM Fee attributable to any such adjustment.

31.2.1 Preconstruction. From the commencement of the Preconstruction Period through the end of the Preconstruction Period, monthly payments on account of the General Conditions Costs shall be made.

(a) The amount of the monthly payments shall be determined by applying the percentage of completion of the Preconstruction General Conditions work set forth in Exhibit A as approved by the City on the Schedule of Values, and deducting from such value any amounts previously paid to the CM on account of Preconstruction General Conditions Costs.

(b) For each month or partial month during the period from the commencement of the Preconstruction Period, through the period
when Preconstruction services end, the CM shall submit a monthly invoice to the City requesting payment of the Preconstruction General Conditions Costs. Payment shall be processed in accordance with this section. If the pre-construction services take more time than projected, the corresponding fixed fee will NOT be adjusted.

31.2.2 Construction. During the Construction Period monthly payments to the CM on account of General Conditions Costs shall be made.

(a) The amount of the monthly payments shall be determined by full documentation of all costs, up to the percentage of the Hard Cost of the Work approved for payment by the City to the total amount of the Construction Period General Conditions Costs set forth in Exhibit A, and deducting from such value any amounts previously paid to the CM on account of Construction Period General Conditions Costs. Detailed documentation will be required to substantiate any General Conditions payments.

(b) For each month or partial month during the period from the commencement of the Construction Period, through Final Completion, the CM shall submit a monthly invoice to the City requesting payment of the Construction Period General Conditions Costs. Payment shall be processed in accordance with the provisions of this section.

31.3 Construction Manager’s Fee

A. Preconstruction. In further consideration of the performance of the Contract by the CM, the City shall pay to the CM a fee associated with preconstruction services as identified in Section A of Exhibit A (the "CM Preconstruction Fee") in monthly payments. The amount of the monthly payments shall be determined by applying the percentage of completion of the Preconstruction General Conditions work as approved by the City on the Schedule of Values, and deducting from such value any amounts previously paid to the CM on account of the CM Preconstruction Fixed Fee. For each month or partial month during the period from the commencement of the Preconstruction Period, through the end of the period when preconstruction services end, the CM shall submit a monthly invoice to the City requesting payment of the CM Preconstruction Fixed Fee. Payment shall be processed in accordance with Article 27 of the General Conditions of the Contract. In no case will the total of these payments exceed the agreed upon fixed fee.

B. Construction. In further consideration of the performance of the Contract by the CM, the City shall pay to the CM a fee associated with construction services as identified in Section A of Exhibit A (the "CM Fixed Construction Fee") in monthly payments. The amount of the monthly payments shall be determined by applying the percentage of the Hard Cost of the Work approved for payment by the City, to the total amount of the CM Fixed Construction Fee set forth in Exhibit
A and deducting from such value any amounts previously paid to the CM on account of the CM Fixed Construction Fee.

31.4 Hard Cost of the Work.

Hard Cost of the Work. The "Hard Cost of the Work" shall mean those costs listed in this Section. Hard Cost of the Work shall not include any item included in the General Conditions Costs.

(1) Subcontract Costs. Payments made by the Construction Manager to any subcontractor in accordance with the requirements of an approved Subcontract.

(2) Costs of Materials and Equipment Incorporated in the Completed Construction. Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completed construction, less all discounts and rebates. Costs of materials described herein which are in excess of those actually installed, but which are required to provide reasonable allowance for waste and spoilage. Unused excess materials, if any, shall be delivered to the City at the completion of the Work or, at the City’s option, shall be sold by the Construction Manager. Amounts realized, if any, from such sales shall be credited to the City as a deduction from the Hard Cost of the Work.

(3) Emergencies and Repairs to Damaged or Nonconforming Work. The following costs, incurred by the Construction Manager shall become a part of the Hard Cost of the Work when approved by the City:

(a) in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

(b) in repairing damaged Work, provided that such damage did not result from the fault or negligence of the Construction Manager or the Construction Manager's personnel or any Subcontractor, and only to the extent that the cost of such repairs is not recoverable by the Construction Manager from others or the Construction Manager is not compensated therefore by insurance or otherwise.

(c) in correcting defective or nonconforming Work, provided that such defective or nonconforming Work did not result from the fault or negligence of the Construction Manager or the Construction Manager's personnel or any Subcontractor or material supplier, and only to the extent that the cost of correcting the defective or nonconforming Work is not recoverable by the Construction Manager from third parties or the Construction Manager is not compensated by insurance or otherwise.

(d) Any costs incurred by the CM which would otherwise be within the scope of this Subsection but are excluded because such costs result from the fault or negligence of the CM, the CM's personnel, any Subcontractor or any other party for whom the CM is responsible may be charged against the Construction Contingency to the extent permitted by and in accordance with the provisions of
Paragraph 8.2.1, and any such costs incurred after the Construction Contingency has been exhausted shall not be reimbursable as a Hard Cost of the Work.

(e) Miscellaneous Hard Costs
The following costs shall be included in the Hard Cost of the Work:

(i) Subcontractor Bond premiums, or sub-guard [?].

(ii) Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents in accordance with the General Conditions.

(iii) Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the City as Hard Costs of the Work.

31.5 Construction Contingency.

A. Any use of the Construction Contingency shall be submitted and receive approval by the Owner prior to any expenditure. Examples of unforeseen conditions and events to which the Construction Contingency may apply include, but are not limited to, the following:

1. unanticipated cost overruns on the CM's procurement of Subcontracts or other purchases of materials or labor costs, provided that the same are not caused by the fault, negligence, or breach of contract of the CM or any Subcontractor;

2. expediting or acceleration costs required to meet the Baseline CPM Schedule, as long as the same are not made necessary by the fault or negligence of the CM or any Subcontractor; and

3. such other unforeseen events and conditions as may be specified in the Contract Documents as chargeable to the Construction Contingency.

B. After execution of the GMP Amendment, if the contract price of total subcontracts as awarded is less than the amount carried for such subcontracts in the GMP breakdown, the Construction Contingency referenced in this section shall be increased by the amount of such savings up to 50% of the buyout savings. In the event that Trade and Subcontractor bids are substantially lower than carried forth in the GMP, the buyout savings beyond 50% shall be committed to a project contingency within the GMP for use by the Owner to fund changes in the project. Any such expenditure from the project contingency shall be without CM markups.

C. Costs authorized to be paid from the Construction Contingency by Paragraph 8.2.1 shall be paid to the CM as Hard Cost of the Work only if and to the extent reasonably approved by the City. The Construction Contingency shall be reduced by the net amount of the additional Hard Cost of the Work resulting from the use of
the Construction Contingency as authorized by Paragraph 7.2.1. The CM shall not receive any CM Fee in connection with any use of the Construction Contingency.

D. Contingency Balance. If, at the time of completion and final acceptance of the Work pursuant to Article 27 of the General Conditions of the Contract, there is a balance in the Construction Contingency, it shall be retained by the City, and the contract will be so adjusted.

31.6 Non-Compensable Costs. Neither the Hard Cost of the Work nor the General Conditions Costs shall include any of the items set forth below:

(a) Salaries, bonuses and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal offices, or other offices, except the site office for this project. Expenses of the Construction Manager's principal offices, site office or other offices, except the site office for this project (including, without limitation, in-house computer costs, and other costs of doing business, services, and related expenses to maintain such offices).

(b) Overhead and general expenses of any kind, including but not limited to office or fabrication shop overhead and drafting and printing costs, except as specifically provided in Exhibit A.

(c) The CM's capital expenses, including interest on the CM's capital employed for the Work.

(d) Costs of machinery and equipment owned or rented by the CM, except as specifically provided in Exhibit A.

(e) Costs incurred due to the fault, negligence or breach of contract of the CM, Subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, death or injury to person or damage to property, the correction of damaged, defective or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, unanticipated cost overruns incurred by the CM in the procurement of Subcontracts, materials or labor, and making good damage to property not forming part of the Work, except: (i) to the extent reimbursement is received through the recovery of insurance proceeds, or (ii) to the extent such items may be charged to the Construction Contingency pursuant to this section.

(f) Cost for purchase and maintenance of tools, materials, supplies and facilities not consumed during construction or incorporated into the Work, except as specifically provided in Exhibit A.

(g) Penalties, fines or costs imposed by governmental authorities in connection with, or resulting from any violation of, or noncompliance with Applicable Laws by the Construction Manager or any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

(h) Any legal fees incurred by the Construction Manager, unless the same are incurred at the written direction, or with the prior written approval, of the City.
(i) Travel or meal expenses and personnel relocation expenses, except as specifically provided in Exhibit A.

(j) General Conditions Costs in excess of the total of all General Conditions costs as set forth in Section A in Exhibit A, as adjusted.

(k) Costs which would cause the GMP to be exceeded.

(l) Costs incurred by the CM after final payment; provided, however, that to the extent there is Contingency remaining at final payment, such Contingency shall be available to pay costs incurred during the one year period after final payment, but only if Contingency would be available, subject to reasonable approval by the City, to pay such costs had such costs been incurred prior to final payment.

31.7 Discounts, Rebates, Refunds and Expenses. Cash discounts obtained on payments made by the CM shall accrue to the City if (a) before making the payments the CM included them in an Application for Payment and received payment therefore from the City, or (b) the City has deposited funds with the CM with which to make payments; otherwise, cash discounts shall accrue to the CM. The CM shall notify the City of the availability of any cash discounts so that the City may elect to pay or deposit such funds with the CM in order to obtain such cash discount. Such cash discounts and any other trade discounts, rebates, refunds and other amounts received from sales of surplus materials and equipment shall be credited to the Hard Cost of the Work, and the CM shall make provisions so that they can be secured and credited accordingly. The City anticipates utility or energy rebate(s) for this Project. The CM shall assist in the application for such rebates. The full amount of the rebate shall be paid to the City.

32. Contract Modifications
A. Only the Owner has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.

B. The Architect may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., changes); or (2) for administrative matters which do not change the rights or responsibilities of the parties (e.g., change in the Owner address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor, the Owner and The Architect.

33. Changes
A. The Architect with the approval of the Owner may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes: (1) In the specifications (including drawings and designs); (2) In the method or manner of performance of the work; (3) Owner-furnished facilities, equipment, materials, services, or site; or, (4) Directing the acceleration in the performance of the work. The City may make changes in the Work when the City considers it to be necessary or desirable, as further provided in this section.
B. Any other written order or oral order (which, as used in this paragraph (B), includes direction, instruction, interpretation, or determination) from the Architect that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Architect written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.

C. Except as provided in this clause, no order, statement or conduct of the Architect shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

D. If any change under this clause causes an increase or decrease in the Contractor’s cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Owner shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no proposal for any change under paragraph (B) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the Owner is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

E. The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (A) of this clause, or (2) the furnishing of a written notice under paragraph (B) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Architect may extend the period for submission. The proposal may be included in the notice required under paragraph (B) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

F. The Contractor’s written proposal for equitable adjustment shall be submitted in the form of a lump sum cost supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:
   (1) As used in this paragraph, “Cost” shall mean the estimated or actual net increase or decrease in cost to the Contractor, Subcontractor, or Sub-subcontractor for performing the Work covered by the change, including actual payments for materials, equipment rentals, expendable items, wages, and associated benefits to the workers and to supervisors employed full time at the Site, insurance, bonds, and other provable direct costs, but not including any administrative, accounting or expediting costs, or other indirect or overhead costs, or any wages or benefits of supervisory personnel not assigned full time to the Site, or any amount for profit or fee to the Contractor, Subcontractor, or Sub-subcontractor
   (2) CM Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not included as direct costs, to a maximum of 3%. The indirect costs shall only apply to changes if the CM can demonstrate that the GMP General Conditions staffing is not able to manage the particular changes or a portion thereof subject to review with the Contract Officer.
   (3) CM Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change, to a maximum of 3%, if warranted.
   (4) “Percentage” shall mean an allowance to be added to or subtracted from the Cost in lieu of overhead and profit and of any other expense which is not included in the Cost of the
Work covered by the change, as defined above. Percentage for a Sub-subcontractor shall be 8% of any net increase or decrease of Cost of any Work performed by the Sub-subcontractor’s own forces plus 4% of any net increase or decrease in Cost of any Work performed for the Sub-subcontractor by lower tier Sub-subcontractors. Percentage for a Subcontractor shall be 12% of any net increase or decrease of Cost of any Work performed by the Subcontractor’s own forces plus 4% of the Cost of Work performed by Sub-subcontractors. Percentage for the Contractor shall be 15% of any net increase or decrease of Cost of any Work performed by the Contractor's own forces plus 5% of any net increase or decrease in the Cost for all other Work covered by the change. When the Contractor is also performing Work as a Subcontractor or Sub-subcontractor, the Contractor shall only be entitled to a total of no more than 15% of any net increase or decrease of Cost of any Work.

G. The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.

H. The Owner shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.

I. Failure to reach an agreement on any proposal shall be a dispute under the Section 35 entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.

J. Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Architect.

K. The Architect may elect to implement the use of Construction Change Directives as necessary to maintain the progress of the work.

A “Construction Change Directive” is a written order prepared by the Architect and signed by the Owner and Architect directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum, or Contract Time, or both. The Owner may, by Construction Change Directive (or “CCD”), and without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly in a forthcoming change order. Payment for all work performed under a CCD is subject to approval and execution of a Change Order.

34. Suspension of Work
A. The Architect may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Architect determines appropriate for the convenience of the Owner.

B. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Architect in the administration of this contract, or (2) by the Architect’s failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption by the Contractor Officer and the contract
modified in writing accordingly. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.

C. A claim under this clause shall not be allowed (1) for any costs incurred before the Contractor shall have notified the Architect in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

D. The Owner and the Contractor agree that the preceding paragraphs place a burden upon the Contractor to inform the Owner as soon as practicable, whenever the Contractor considers that an action or inaction of the Owner or its Representatives could result or has resulted in a delay in the Project, thereby providing the Owner with the opportunity to take action to avoid or lessen the time extensions or damages that might be associated with such action or inaction.

E. The Contractor must file any claim for additional compensation made pursuant to this Article as a change Order request. The amount of any such claim shall be calculated only in accordance with the provisions of Article 33.

F. Additional compensation will not be allowed for delays of thirty (30) days or less.

35. Disputes
A. “Claim,” as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the Contract. A claim arising under the Contract, unlike a claim relating to the Contract, is a claim that can be resolved under a Contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

B. All disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.

C. All claims by the Contractor shall be made in writing and submitted to the Architect for a written decision. Unless otherwise provided, all Claims must be made within twenty-one (21) days after the occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Any change or addition to a previously made Claim shall be made by a written notice within the twenty-one-day period in order to be valid. A claim by the Owner against the Contractor shall be subject to a written decision by the Architect.

D. The Architect shall, within 60 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
E. The Architect’s decision shall be final unless the Contractor (1) appeals in writing to the City of Cambridge City Manager in accordance with the Owner’s policy and procedures. Such appeal must be made within 30 days after receipt of the Architect’s decision.

F. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Architect.

G. If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or the Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by change ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes (except weather) beyond the Contractor’s control, or by delay authorized by the Owner, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order or Construction Change Directive for such reasonable time as the Architect may determine.

H. No extensions of time shall be granted because of seasonal or abnormal variations in temperature, humidity or precipitation, which conditions shall be wholly at the risk of the Contractor, whether occurring within the time originally scheduled for completion or within the period of any extension granted. There shall be no increase in the Contract Sum on account of any additional costs of operations or conditions resulting therefrom.

I. In the case of written orders by the Owner, the Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Owner or the Architect on account of any delay in the commencement of the work and/or any hindrance, delay, or suspension of any portion of the Work, whether such delay is caused by the Owner, the Architect, or otherwise, except as and to the extent expressly provided under M.G.L. c. 30, §390. The Contractor acknowledges that the sole remedy for any such delay and/or suspension will be an extension of time as provided in this Article.

J. Claims for Differing Subsurface or Latent Physical Conditions. (Reference: M.G.L. c.30, §39N). If, during the progress of the Work, the Contractor or the City discovers that the actual subsurface or latent physical conditions encountered at the Site differ substantially or materially from those shown on the Drawings or indicated in the Contract Documents, either the Contractor or the City may request an equitable adjustment in the Contract Sum 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 City shall make an investigation of such physical conditions, and if they differ substantially or materially from those shown on the Drawings 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 Drawings 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 City shall make an equitable adjustment in the Contract Sum and the Contract shall be modified in writing accordingly.

36. Controversies and Claims Subject to Arbitration.
Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the
American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except controversies of Claims relating to aesthetic effect, subject to the City’s Reservation of Rights provided for in paragraph F below. In any such arbitration in which the amount stated in the demand is $100,000 or less, the American Arbitration Association shall appoint a single arbitrator in accordance with such Rules, who shall be a lawyer. In any such arbitration in which the amount stated in the demand is in excess of $100,000, the demand shall include the name of an arbitrator appointed by the claimant. The respondent shall appoint a second arbitrator and shall notify the claimant in writing of such appointment within thirty (30) days of receipt of the demand, failing which the matter shall be decided by the arbitrator named in the claimant’s demand. Within thirty (30) days after the claimant’s receipt of notice of the appointment of the second arbitrator, the two arbitrators shall appoint a neutral arbitrator and shall notify the parties in writing of such appointment, failing which either party may apply to the American Arbitration Association to appoint such neutral arbitrator. If such neutral arbitrator is appointed by the American Arbitration Association, he or she shall be a lawyer.

A. Rules for Arbitration.

If the neutral arbitrator is appointed by the American Arbitration Association, the said Association shall administer the arbitration and its Construction Industry Arbitration Rules shall govern all aspects of the proceeding including the enforcement of any award. If the neutral arbitrator is not appointed by the American Arbitration Association, then the panel of arbitrators shall act as the administrator of the arbitration but the Construction Industry Arbitration Rules of the Association shall nonetheless govern all aspects of the proceeding, including the enforcement of any award, provided however that the arbitration panel shall have all of the powers and duties conferred on the Association pursuant to said rules. In addition, the following rules shall govern the selection of arbitrators and the proceedings:

(1) Neither party may appoint as arbitrator an employee or an owner of that party, nor the parent, spouse, or child of an employee or owner of that party.

(2) After the neutral arbitrator has been appointed, neither party may engage in ex parte communication with any arbitrator.

B. When Arbitration May Be Demanded

(1) Demand for arbitration of any Claim, the basis of which arises prior to final payment or the earlier termination of the Contract may not be made before the earlier of (1) the date on which the Architect has rendered a written decision after consultation with the City on the Claim or has notified the parties in writing that such decision will not be rendered or (2) forty-five (45) days following receipt by the Architect and the City of a written request for a decision sent by registered or certified mail to both the Architect, the City and the other party to this Contract.

(2) In no event shall a demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.

C. Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Contract and signed by the Architect, the City, the Contractor, and any other person or entity sought to be joined. No arbitration shall include, by consolidation
or joinder or in any other manner, parties other than the City, the Contractor, a separate contractor, and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the City, the Contractor, or a separate contractor shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity so named or described herein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Contract shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

D. Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence, or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.

E. Award Final. The award rendered by the arbitrator or arbitrators shall be final, and judgment entered upon it in accordance with applicable law in any court having jurisdiction thereof.

F. The City's Reservation of Rights. Notwithstanding any provision contained in this Article 36 or elsewhere in the Contract Documents, the City reserves the following rights in connection with Claims between the City and the Contractor, which right may be exercised by the City unilaterally, in the City's sole discretion, and without the consent of the Contractor:

(1) the right to institute legal action against the Contractor in any court of competent jurisdiction in lieu of demanding arbitration, in which case the dispute or disputes which are the subject of such action shall be decided by such court, and not by arbitration;

(2) the right to obtain from any court of competent jurisdiction a stay of any arbitration instituted by the Contractor, provided that the application for such stay is made before the appointment of the neutral arbitrator in such arbitration, in which case the dispute or disputes which are the subject of such arbitration shall be decided by such court and not by arbitration;

(3) the right to require the Contractor to join as a party in any arbitration between the City and the Architect relating to the Project, in which case the Contractor agrees to be bound by the decision of the arbitrator or arbitrators in such arbitration.

37. Indemnification and Covenant Not to Sue
A. To the fullest extent permitted by law, the Contractor shall assume the defense of, indemnify and hold harmless the City, the Architect, the Architect's consultants and agents and employees of any of them from and against claims, damages, losses, and expenses, including, but not limited, to attorneys' fee, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom caused in whole or in part by alleged negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts
they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

B. In claims against any person or entity indemnified under the foregoing paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under the foregoing paragraph shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under Workers’ Compensation laws, disability benefit acts or other employee benefit acts.

C. The obligations of the Contractor in this Article shall not extend to the liability of the Architect, the Architect's consultants, and agents or employees of any of them arising out of (1) the preparation of maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications, or (2) the giving of or failure to give directions or instructions by the Architect, the Architect's consultants and agents or employees or any of them, provided such giving or failure to give instructions or directions are the primary cause of the injury or damage.

E. The Contractor, or any successor, assign, or subrogee of the Contractor agrees not to bring any civil suit, action, or other proceeding in law, equity or arbitration against the Architect or the officers, employees, agents, or consultants of the Architect, for the enforcement of any action which the Contractor may have arising out of or in any manner connected with the Work. The Contractor shall assure that this covenant not to sue is contained in all subcontracts and sub-subcontracts of every tier and shall assure its enforcement. The Architect, its officers, employees, agents, and consultants are intended third-party beneficiaries of this covenant not to sue, and are entitled to enforce this covenant in law or equity.

E. To the fullest extent permitted by law, the CM shall indemnify, defend (with counsel subject to the supervision of the City) and hold harmless the City of Cambridge and their officers, agents, divisions, agencies, employees, representatives, successors and assigns from and against all claims, damages, losses and expenses, including but not limited to court costs and attorneys’ fees, arising out of or resulting from the performance of the Work, including but not limited to those arising or resulting from: labor performed or furnished and/or materials used or employed in the performance of the Work; violations by CM, any Subcontractor, or by any person directly or indirectly employed or used by any of them in the performance of the Work or anyone for whose acts any of them may be liable (CM, subcontractor and all such persons herein collectively called "CM's Personnel") of any Laws; violations of any provision of this Contract by CM or its subcontractors, suppliers or any other person or firm providing labor and/or materials for the work.; injuries to any persons or damage to any property in connection with the Work; or any act, omission, or neglect of CM's Personnel.

The CM shall be obligated as provided above, regardless of whether or not such claims, damages, losses and/or expenses, are caused in whole or in part by the actions or inactions of a party indemnified hereunder. In any and all claims by CM's Personnel against parties indemnified hereunder, the CM's indemnification obligation set forth above shall not be limited in any way by
any limitation on the amount or type of damages, compensation or benefits payable by or for the CM or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described herein.

38. Survival of Obligations.
   A. All representations, indemnifications, warranties, and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Contract.

   B. In case the City elects to proceed in accordance with Section 36F. above, the word “litigation” shall be deemed to replace the word “arbitration” wherever the latter word appears in the Contract Documents.

39. Default
   A. If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In this event, the Owner may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Owner resulting from the Contractor’s refusal or failure to complete the work within the specified time, whether or not the Contractor’s right to proceed with the work is terminated. This liability includes any increased costs incurred by the Owner in completing the work.

   B. The Contractor’s right to proceed shall not be terminated or the Contractor charged with damages under this clause if—

   (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the Owner or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the Owner, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

   (2) The Contractor, within 10 days from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for
completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of Article 35, the Disputes clause of this contract.

C. If, after termination of the Contractor’s right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the Owner.

40. Liquidated Damages

A. If the CM shall neglect, fail or refuse to achieve Substantial Completion of the Work within the Contract Time, as adjusted in accordance with the provisions of the Contract Documents, the CM and the CM's surety agree, as a part of the consideration for the execution of this Contract by the City, to pay the City the amounts set forth in this section below, not as a penalty, but as liquidated damages to cover certain losses, expenses and damages of the City for such breach of contract as herein set forth. The CM acknowledges that delay in Substantial Completion of the Project will cause disruption of the City’s operations and the other tenants of the Project. The City project management team and the City of Cambridge School Department will incur other direct administrative, professional, rental, storage, moving, transportation and other costs in the event of such delay. The City’s public school students and teachers will also be substantially inconvenienced. Delay in Substantial Completion will also require the City to incur additional costs for compensation to the Designer and other consultants or contractors for extended or additional work on the Project. In light of the costs, damages, losses, risks and liabilities described above, the parties have agreed upon the liquidated damages stated below. Such damages have been fixed and agreed upon because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain, and said amounts may be retained by the City on or after the scheduled date of Substantial Completion from current progress payments or any other amounts owing to the CM. The agreed liquidated damages amount is $3,000 for each calendar day of delay in achieving Substantial Completion. The Contractor remains liable for damages caused other than by delay. If the City terminates the Contractor’s right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the City in completing the work.

B. Except as otherwise expressly provided, none of the following shall constitute a waiver of the CM's or its surety's obligations to pay liquidated damages or any portion thereof:

1. Acceptance of any portion of the Work or payment to the CM or its surety therefor;  
2. Completion of a portion of the Work or the use or occupancy thereof by the City or others;
3. The City’s requiring or allowing the CM or its surety to complete the Work.

41. Termination or Suspension of the Contract

A. Suspension by the Owner
   (1) At any time and without cause, the City may suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to the Contractor and the Architect which will fix the date on which Work will be resumed. The Contractor shall resume Work on the date so fixed. The Contractor shall be allowed an adjustment in the Contract Sum or an extension of the Contract Time, or both, directly attributable to any such suspension if the Contractor makes an approved Claim therefor.

   (2) If the Work is defective, if the Contractor fails to provide a sufficient number of skilled workers or suitable materials or equipment, or if the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the City to begin and prosecute correction of such default or neglect with diligence and promptness, the City may correct such deficiencies, without prejudice to other remedies the Owner may have. In such case, an appropriate Work Change Directive shall be issued deducting from payments then or thereafter due to the Contractor the cost of correcting such deficiencies including compensation for the Architect's additional services and expenses made necessary by such default, neglect, or failure and any and all direct, indirect, or consequential costs associated with the order to stop the Work. If such payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the difference to the Owner. The Contractor shall remain responsible for maintaining progress and shall not be entitled to any increase in the Contract Time or the Contract Sum.

B. Termination by the Contractor
   If, through no act or fault of the Contractor, a Subcontractor, or a Sub-subcontractor, the Work is suspended for a period of more than ninety (90) days by the Owner, or under an order of court or other public authority, or the Architect fails to act on any application for payment within thirty (30) days after it is submitted in proper form and content, or the Owner fails for thirty (30) days to pay the Contractor any sum finally determined to be due, then the Contractor may terminate the Contract upon seven (7) days’ written notice to the Owner, provided that the Owner does not remedy such suspension or failure within that time.

C. Termination by the Owner
   (1) If the Contractor is adjudged a bankrupt, or if the Contractor makes a general assignment for the benefit of the Contractor's creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or if the Contractor fails to make prompt payment to Subcontractors for materials or labor, or persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, or disregards an instruction, order, or decision of the Architect, or otherwise is guilty of substantial
violation of any provision of the Contract, then the Contractor shall be in default, and the
Owner may, without prejudice to any other right or remedy and upon written notice to
the Contractor, take possession of all materials, tools, appliances, equipment,
construction equipment and machinery and vehicles, offices and other facilities on the
Project Site, and all materials intended for the Work, wherever stored, and, seven (7) days
after such notice, may terminate the employment of the Contractor, accept assignment of
any or all subcontracts, and finish the Work by whatever method the Owner may deem
expedient. The Owner shall be entitled to collect from the Contractor all direct, indirect,
and consequential damages suffered by the Owner on account of the Contractor's default,
including without limitation additional services and expenses of the Architect made
necessary thereby. The Owner shall be entitled to hold all amounts due to the Contractor
at the date of termination until all of the Owner's damages have been established, and to
apply such amounts to such damages.

(2) (Reference: Cambridge Municipal Code Chapter 2.117, Section 2.117.110C). In the
event the Contractor or any of its agents or employees violates any provision of
and Employees” which is applicable to Owner contractors in connection with the
awarding, administration, or performance of the Contract, the Owner may terminate the
Contract.

42. Assignment of Contract
A. The Contractor shall not assign or transfer any interest in this contract; except that
claims for monies due or to become due from the Owner under the contract may be assigned to a
bank, trust company, or other financial institution. Such assignments of claims shall only be made
with the written concurrence of the Owner’s Contracting Officer. If the Contractor is a
partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of
such partnership as approved by the Contracting Officer.

B. Successors and Assigns. The City and the CM bind themselves, their partners, successors,
assigns and legal representatives to the other party hereto and to the partners, successors,
assigns and legal representatives of such other party in respect to all covenants,
agreements and obligations contained in the Contract Documents. Neither the CM nor
any partner of the CM shall assign or transfer the Contract or sublet or subcontract it
(other than subcontracting portions of the Work as expressly permitted by and in
accordance with the Contract Documents), or otherwise transfer or assign any of its or
their rights or obligations under all or any portion of the Contract Documents without the
prior written consent of the City, which consent may be withheld by the City in its sole
discretion, nor shall the CM or any partner of the CM assign any moneys due or to
become due to it hereunder, without such prior written consent of the City. Any
assignment of the Contract or any interest therein by the CM or any partner of the CM
shall be void, and the assignee in such case shall acquire no rights in the Contract or in
such moneys.

43. Insurance
A. Before commencing work, the Contractor and each subcontractor shall furnish the City with
certificates of insurance showing all required insurance is in force and will insure all
operations under the Contract as follows.
1. **Worker’s Compensation.**

*(Reference: M.G.L. c.149 §34A)*. Before commencing performance of the Contract, the CM shall provide by insurance for the payment of compensation and the furnishing of other benefits under M.G.L. c. 152 to all persons to be employed under the Contract, and the CM shall continue such insurance in full force and effect during the term of the Contract. Sufficient proof of compliance with this paragraph must be furnished at the time of execution of this Contract.

2. **Additional Insured.**

Each policy excluding only the Worker’s Compensation and Owners Protective Liability must list the City of Cambridge, 795 Massachusetts Ave Cambridge MA 02139 as an additional insured.

3. **Insurance Rating.**

Any insurance carrier utilized to fulfill the insurance requirements of this Contract shall have a minimum A.M. Best rating of A-X.

4. **Premiums.**

The CM must provide the required insurance at its own expense. Failure to provide and continue in force 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 City at least fifteen (15) days prior to the intended effective date thereof, which date shall be expressed in said notice.

5. **Notice of Occurrence.**

Notice of occurrence shall be given to the City Manager, City of Cambridge, City Hall, 795 Massachusetts Avenue, Cambridge, MA 02139 and, at the option of the CM, and any other City official permitted by law to receive notice.

6. **Waiver of Subrogation.**

The CM and all Subcontractors waive subrogation rights against the City for all losses.

7. **Coverage Period.**

Each insurance policy must cover the entire contract period and beyond as specified in the following sections.

The insurance required shall include all major division of coverage and shall be on a [comprehensive] commercial general form basis including Premise and Operations (including X-C-U), bodily injury (including death); broad form property damage (including completed operations) including injury to, or destruction of tangible property, including loss of use therefrom; personal injury; Owner’s Protective (as a separate policy), Products and Completed Operations, and Owned, Non-owned, Leased, and Hired Motor Vehicles. Such insurance shall be written for not less than any limits of liability required by law or the following limits, whichever are greater:

**Owner’s Protective Liability (as a separate policy)**
- Each Occurrence: $1 Million
- Aggregate: $2 Million

**Commercial General Liability**
- General Aggregate - per project: $2 Million
- Products Completed Operations Aggregate – per project: $1 Million
- Personal Injury and Advertising Limit: $1 Million
- Each Occurrence: $1 Million

This policy shall include contractual liability coverage insuring the contractor’s indemnity obligations under this Contract. The contractual and completed operations coverage shall be maintained on the City’s and Indemnities’ behalf for a period of two (2) years after final completion and acceptance by the City. If the Work includes work to be performed within 50 feet of a railroad, any exclusion for liability assumed under contract for work within 50 feet of a railroad shall be deleted.

This policy shall include the City and any other party at interest requested by the City as an additional insured with endorsements equivalent to ISO CG 20 10 for ongoing operations and to ISO CG 20 37 for completed operations. This policy shall be primary and non-contributory with respect to any other insurance available to an additional insured. The policy shall include endorsement equivalent to ISO CG 24 04, a Waiver of Subrogation in favor of the City. The policy shall include endorsement CG 24 10, Coverage for injury to leased workers.

**Railroad Protective Liability** (if required by an abutter, permittee or other, in the following amounts, or such higher limits as required by abutter or permittee)
- Each Occurrence: $2 Million
- Aggregate: $6 Million

**Automobile Liability** for all owned, non-owned, hired and leased vehicles
- Combined single limit: $1 Million
- Bodily injury - each person: $100,000
- Bodily injury - each accident: $1 Million
- Property damage - each occurrence: $1 Million
If hauling contaminants and/or pollutants, the policy shall include a CA 99 48 Broadened Pollution Endorsement. must adhere to Sections 29 and 30 of the Motor Carrier Act of 1980, which shall contain coverage Form MCS-90. The policy shall name the City as an additional insured. The policy shall contain a Waiver of Subrogation in favor of the City.

The CM at Risk Firm shall purchase and maintain builder risk coverage against loss or damage on all Work included in this Contract in an amount equal to the Initial Contract Sum, plus the value of subsequent contract modifications and the cost of materials supplied or installed by others, comprising the total value for the entire Project on the site on a replacement cost basis without optional deductibles. Such coverage shall be written on an all risks basis or equivalent form and shall include, without limitation, insurance against perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, terrorism, collapse, earthquake, flood, windstorm, false work, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's services and expenses and City’s loss of use in a mutually agreed amount, required as a result of an insured loss. This policy and/or installation floater shall include transportation and stored materials coverage in an amount equal to the value of the stored materials at the project site only as required below.

The CM shall maintain insurance on offsite stored material designated to be incorporated in the Work against fire, theft or other hazards, while stored at an offsite location. The policy or policies shall specifically state they shall include the interests of the City, the CM and subcontractors of every tier as insureds.

Coverage shall include any costs for work performed by the Designer or any consultant as the result of a loss experienced during the term of this Contract.

Coverage shall include permission for temporary occupancy.

Coverage shall be maintained until final completion and acceptance by the City of the Work and final payment has been made.

The CM is responsible for the payment of any and all deductibles under all of the insurance provided by the CM.

Contractor Pollution Liability

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<td>Combined single limit- per occurrence</td>
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<td>Annual aggregate</td>
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The CM shall purchase and maintain coverage for bodily injury and property damage resulting from liability arising out of pollution related exposures such as mold, fungi, or bacteria abatement, asbestos abatement, lead paint abatement, tank removal, removal of contaminated soil, etc. The insurance policy shall cover the liability of the CM during the processes of identification, removal, storage, transport and disposal of hazardous waste, lead, contaminated soil and/or asbestos abatement. The policy shall include coverage for on-Site and off-Site bodily injury and loss of, damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water, whether it be gradual or sudden and accidental. The policy shall also
include defense and clean-up costs. The City shall be named as an additional insured and coverage must be on an occurrence basis.

Umbrella Liability (for underlying Commercial General Liability, Automobile Liability and Worker’s Compensation Coverage B)

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<td>Combined single limit</td>
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<td>General aggregate</td>
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Worker’s Compensation |
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9. **Excess Umbrella Liability Insurance.**

The CM may purchase and maintain excess liability insurance in the umbrella form over and above the limits of liability required for the insurance to be purchased and maintained in accordance with the requirements set forth above. Any such amounts must be in addition to the umbrella limits required, must list the underlying umbrella policy, and must list the City as an additional insured. Evidence of such excess liability shall be delivered to the City in the same form and manner as the required insurance policies.

10. **Property Insurance**

The City does not intend to purchase property insurance covering the Project or the Work. The Contractor shall not be required to provide such insurance, and the Contractor may, if it so desires procure property insurance that will protect the interests of the Contractor, Subcontractor and Sub-subcontractors in the Work. The Contractor understands that such property insurance is solely the City’s responsibility, and the Contractor, its Sub-subcontractors shall have no claim against the City on account of the City’s failure to provide such property insurance. The Contractor shall promptly replace all damaged Work in which it or its Subcontractors and Sub-subcontractors have an insurable interest, and all Work which is stolen, vandalized, or damaged due to the Contractor’s failure to protect the site as required, at no additional cost to the City, whether or not the Contractor procures property insurance with respect to such Work as hereinabove provided.

11. **Amendment of Requirements.**

The City reserves the right, at its sole discretion, to amend the insurance requirements contained herein.

12. **Occurrence Basis.**
All insurance shall be written on an occurrence basis, unless the City approves in writing coverage on a claims-made basis. Coverage’s whether written on an occurrence or a claims-made basis shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment.

13. Certificates of Insurance.

Certificates of Insurance acceptable to the City confirming the insurance coverage required herein are attached to the Contract. The City shall have no obligation to execute the Contract and may award the Contract to the next lowest responsible and responsive bidder, if such insurance certificates have not been provided to the City within five (5) business days after presentation of the Contract to the Contractor for execution. If requested by City the Contractor will provide complete certified copies of every insurance policy before commencing and during performance of the Contract.


The Contractor shall furnish to the City copies of any endorsements that are subsequently issued amending limits of coverage.

44. Subcontracts
A. The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a City of Cambridge project or who has been suspended or debarred from participating in contracting programs by the state in which the work under this contract is to be performed.
B. The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.
C. The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.
D. Nothing contained in this contract shall create any contractual relationship between any subcontractor and the City or Architect.

45. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

The applicable goals, if any, for minority business enterprise and woman business enterprise participation are established by the Contract Documents.
The Contractor shall take the following steps to ensure that subcontracts are awarded to small business firms, minority firms, women’s business enterprises, and labor surplus area firms:

A. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
B. Ensuring that small and minority businesses and women’s business enterprises are solicited whenever they are potential sources;
C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises;
D. Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women’s business enterprises; and
E. Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

46. Equal Employment Opportunity
In addition to the requirements of this Article, additional Equal Employment Opportunity regulations governing this Contract are included in Division 1 General Requirements of the Specification, and will be strictly enforced. The specification Section is the governing language on this issue. During the performance of this contract, the Contractor agrees as follows:

A. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap.
B. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, or handicap. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.
C. The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Owner that explain this clause.
D. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants will receive consideration for employment, without regard to race, color, religion, sex, national origin, or handicap.
E. The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Owner advising the labor union or workers’ representative of the Contractor’s commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
F. The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
G. The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall
permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

H. In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

I. The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

J. Definitions. For the purpose of this Article, the following definitions shall prevail:

"Minority" means a person who is a citizen or permanent resident of the United States and who is either:

(1) Black (person having origins in any Black racial groups of Africa);
(2) Hispanic (person having origins of Mexican, Puerto Rican, Cuban, Central, or South American region);
(3) Native American (person having origins in any of the original peoples of North America and who are recognized as Native Americans by a tribal organization);
(4) Eskimo and Aleut (persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia);
(5) Asian (persons having origins in any of the original peoples of the Far East, Southeast Asia, Indian Subcontinent or the Pacific Island, for example- China, Japan, Korea, Philippine Islands, Samoa); or
(6) Cape Verdean (persons having origins in any of the original peoples of the Cape Verde Island who are of Black African origin).

K. The CM and all of its Subcontractors shall comply at all times and in all respects with federal, state, and local applicable laws affecting or regulating employment of persons in connection with the Work, and with the Supplementary Conditions and all other provisions in the Contract Documents relating to Equal Employment Opportunity, Nondiscrimination and Affirmative Action.

47. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

A. No member, officer, or employee of the Owner, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her
tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

B. Conflict of Interest. The CM shall familiarize its employees assigned to perform services under this Agreement with the provisions of chapter 268A of the Massachusetts General Laws (the Massachusetts conflict-of-interest statute). The CM acknowledges that the City is a municipality for purposes of the aforementioned statute and that the CM is an "interested party" for purposes of the aforementioned law. Accordingly, the CM, its employees and agents shall not offer or provide any employee of the City or the City any gift, gratuity, favor, meal, entertainment, loan or other item of monetary value. The CM warrants and represents that it currently has no interest and shall not acquire any interest, direct or indirect, which would be adverse to or conflict in any manner with the performance of its services under this Agreement or with the interest of the City or the Project. The CM further agrees that in the performance of this Agreement no person or entity having any such adverse or conflicting interest shall be employed or granted a subcontract. Except with the City's knowledge and express consent, the CM shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to be adverse to the interests of the City or to compromise the CM's professional judgment with respect to the Project. The CM has a continuing obligation to divulge to the City all circumstances of its relationships with third parties, as well as any other interests that may have an effect on the City or the Project at the time of execution of this Agreement or during its effectiveness. If the City believes that there is or has been a conflict of interest, or the appearance of a conflict of interest, it will so notify the CM. The CM shall make full disclosure of all material facts, and shall have a period of thirty (30) days after receipt of such notice to cure the conflict of interest or the appearance of conflict of interest, including the right to request a meeting with the City Manager to explain its position. If the conflict of interest or appearance of conflict of interest is not cured to the satisfaction of the City or the controversy otherwise resolved prior to expiration of such thirty (30) days period, the CM shall be deemed to be in default of this Agreement and the City may exercise any remedies available to it under this Agreement or applicable law.

48. Royalties and Patents
The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the City 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 and the Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, the Contractor has reason to believe that any design, process or product specified is an infringement of a patent, the Contractor shall promptly notify the Architect. Failure to give such notice shall make the Contractor responsible for resultant loss.

49. Contractor’s Accounting Records
A. The Construction Manager shall check all materials, equipment and labor entering into the Work, and shall keep such full and detailed accounts and exercise such controls as may be necessary for proper accounting and financial management under this Agreement. All books and records shall be maintained in accordance with generally accepted accounting principles, consistently applied. Without limitation, the CM shall comply with the requirements set forth in Article 47 of the General Conditions. The City and its authorized representatives shall, upon request by the City, be afforded copies of, and at all times shall be afforded access to, all of the Construction Manager's records, books, correspondence, instructions, drawings, receipts, invoices, vouchers, memoranda, estimates, budgets, breakdowns, accounting data, bid proposals, cost control information and any other documents and data relating to this Agreement, including data in electronic media or any other media (collectively, "records") and the Construction Manager shall preserve all such records for a period of six years, or for such longer period as may be required by law, after Final Payment. With respect to work performed by the CM's own forces on a lump sum basis, the CM shall only be required to maintain certified payrolls, documentation required by Equal Employment Opportunity, Non-Discrimination and Affirmative Action, requirements and such other records as are required by Applicable Laws or the terms of the Contract Documents.

B. Without limitation of the foregoing, the City shall have the right, at any time and from time to time, upon notice to the Construction Manager, to audit the Construction Manager's records in connection with the Work at the Construction Manager's offices. The Construction Manager shall facilitate any such audit by making necessary facilities available to the City and its accountants or other representatives.

C. Subcontractors shall have the same obligations to maintain books and records and to permit audits by the Construction Manager or the City as are applicable to the Construction Manager under the Contract Documents.

D. If any inspection of the Construction Manager's or any Subcontractor's books, records or other documents reveals an overcharge, the Construction Manager shall pay the City or, at the City's election, the City may reimburse itself by taking as a credit against future payments due the Construction Manager, an amount equal to the overcharge. CM will repay the City auditing costs, if necessary.

50. Examination and Retention of Contractor's Records
A. The City of Cambridge, or any of their duly authorized representatives shall, until 6 years after final payment under this contract, have access to and the right to examine any of the Contractor’s directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

B. The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (A) above. “Subcontract,” as used in this clause, excludes purchase orders not exceeding $10,000.
C. The periods of access and examination in paragraphs (A) and (B) above for records relating to (1) appeals under the Disputes clause of this contract (Article 35), (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the City or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

51 Governing Law. The Contract shall be governed by the laws of the Commonwealth of Massachusetts.

52 Exhibits. The following Exhibits are attached to and incorporated in this Agreement:
   - Exhibit A – Price Proposal for Construction Management Services
   - Exhibit B - Supplemental General Conditions
   - Exhibit C - Blank
   - Exhibit D - Procedures for Award of Trade Contracts
   - Exhibit E - Form of Trade Subcontract
   - Exhibit F - Ordinance Number 1260, Municipal Code of Cambridge, Chapter 2.66, Section 2.66.080 “Contractor qualifications and sanctions
   - Exhibit G - Cambridge Employment Plan Sections 2.66.060 ET SEQ. Minority/Women/Resident Hiring
   - Exhibit H - Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program
   - Exhibit I - American with Disabilities Act
   - Exhibit J - Ordinance Number 1312, Municipal Code of Cambridge Chapter 2.112, Section 2.112.060 “CORI Screening by Vendors of the City of Cambridge”.
   - Exhibit K - Municipal Code of Cambridge, Chapter 2.121 Living Wage Ordinance
   - Exhibit L - Certifications
     1. Subcontractor Certification (M/WBE)
     2. Filed Sub Bidder Certification (OSHA)
     3. Non Filed Sub Bidder Certification (OSHA)
     4. Construction Manager Certification (OSHA)
     5. Affidavit of Compliance
     6. Affidavit of Prevailing Wage Compliance
     7. Certificate of Tax Compliance
     8. Non-Collusion Affidavit

53. Certifications
Pursuant to M.G.L. c. 62(c), s.49 (a), the individual signing this Contract on behalf of the Construction Manager hereby certifies, under the penalties of perjury, that to the best of his or her knowledge and belief the Construction Manager has complied with any and all applicable state and federal tax laws. The individual signing this Contract on behalf of the Construction Manager further certifies under penalties of perjury that the Construction Manager is not presently suspended or debarred from doing public construction work in the Commonwealth under the provisions of M.G.L. c. 29, s. 29F, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder and is not presently suspended or debarred from doing public construction work by any agency of the United States.
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in quadruplicate under seal as of the date set forth above.

**CONSTRUCTION MANAGER**

The undersigned is an authorized signatory of CM at Risk Firm.

By:

Name: 

Title: 

Date: 

**City of Cambridge**

By executing this Agreement, the undersigned authorized signatory of The City, who incurs no personal liability by reason of the execution hereof or anything herein contained, hereby certifies under penalties of perjury that this Contract is executed in accordance with law.

By:

Name: 

Title: City Manager

Date: 

By: 

Name: Elizabeth Unger

Title: Purchasing Agent

Date: 

**Approved as to Form:**

By:

Name: Nancy E. Glowa

Title: City Solicitor

Date: 

Approved as to the availability of appropriation of Funds:

By:
Name: Joseph McCann

Title: City Auditor

Date:
Exhibit A

Price Proposal for Construction Management Services
Exhibit B

SUPPLEMENTAL GENERAL CONDITIONS

1. PROJECT LOCATION and NOTICE OF ADDITIONAL SCOPE ITEMS
The project involves construction related to ______________Project located at _________________________________. The following items are additional work required by this contract. They have been put in this section meaning to describe items specifically required by the City of Cambridge (henceforward referred to as City) and the Owner’s Project Manager (OPM). Where they repeat conditions stated in other specification sections, the intention is to reinforce, clarify or underscore specific requirements of the contract. If ambiguity or conflicting direction exists, the Contractor is required to identify the condition and request guidance and clear direction immediately.

2. NEIGHBORHOOD CONSIDERATIONS
The project sits on a site surrounded by commercial property and by a relatively dense residential neighborhood. It is singularly important to the City’s Administration, its Mayor, and City Council to insure a safe, and reasonably undisturbed, residential environment during the course of this project. The following items relating to the safety, security, and mitigation of construction impacts on the site are requirements of this contract.

3. COORDINATION
The Construction Manager (“CM” or “GC”) shall designate a specific contact person and furnish relevant telephone numbers for use by the OPM and City during work hours and during job-related emergencies throughout the duration of the contract. In case of an emergency even / contact after work hours, the CM’s designee shall respond within one hour and shall be present, if necessary, at the job-site within three hours of initial contact. Names of the CM’s and all major trades’ contact people shall be given to the OPM prior to start of construction. The designee shall be required to attend periodic neighborhood meetings as required with the City in order to maintain communications with the project’s neighborhood representatives.

The CM shall have a working, licensed superintendent on the job site at all times during construction.

4. SITE SAFETY and CLEANLINESS
The GC is required to strictly adhere to all Municipal, State, and OSHA safety standards and requirements. There must be a Safety Plan, acceptable to the OPM and submitted to the Architect, operational at all times, and a written copy must be available on site at all times as well. The plan will govern safe and appropriate dress and behavior, in consideration of the neighborhood environment within which the expansion project will take place, as well as other requirements normal to a professional construction safety plan.

At all times during the course of the work and especially after hours and on weekends, the GC shall adequately secure the site to the satisfaction of the OPM.

Any equipment or material permitted to be stored on-site shall be properly secured and located away from pedestrian or vehicular travel lanes.

5. SITE SECURITY, ACCESS, and FENCING
The CM shall maintain a site secured from unauthorized entry at all times. There must be continual observation, during construction operations, of open gates or fence openings to insure that the public, the homeless, or others cannot wander into the construction site un-escorted.

Fence sections shall be unbent and fabric shall be completely secured at all times. Sections damaged, or deemed unsafe or unacceptable by the OPM shall be replaced immediately. Sections shall be secured firmed so as not to be easily tipped, and shall be mechanically fastened top and bottom as a minimum.

At the end of each day’s work the CM shall physically conduct a visual inspection of the perimeter fence to insure that no one can easily gain access to the site. The fencing shall be 100% mechanically connected and have coverage from 4” to 6” above the ground to the fence height specified. It will be unacceptable to be able to bend the fence supports away from each other to “slide” in between supports to gain access. Snow fence, caution tape, pieces of machinery, etc. are not acceptable components of a secure fence and will not be allowed for any overnight security line.

This is of major importance to the project and must be attended to at all times.

6. RODENT and INSECT CONTROL

The CM is responsible for providing a proactive program of pest extermination: at a minimum once prior to each major excavation and demolition operation; once after each of those operations; and, once every four (4) months during the construction period up to “substantial completion” of the project.

The Contractor shall be required to provide the services of a Massachusetts state licensed experienced rodent control person whose duties shall be to identify rodent activity or infestation resulting from the construction activity under this contract and to take approved and professionally acceptable remedial action, including baiting, elimination of sources of harborage and making recommendations that may be necessary in controlling and/or eliminating rodent activity. The licensed person shall maintain a close liaison with the City for the duration of construction. The rodent control person employed by the Contractor shall keep careful records of his/her activity; these shall be transmitted through the Contractor to the City of Cambridge Inspectional Services Department.

Garbage shall always be separated from construction debris, held in sealed containers, and removed from the site every 24 to 48 hours.

7. DUST and DIRT CONTROL

The CM, in addition to requirements stated in other sections, shall be responsible for wetting down and chemically treating all demolition, excavation, and removal operations that generate dust. Trash chutes must be enclosed. Dirt piles shall be covered if wetting or chemical treatment does not keep dust from becoming airborne. Dust generated from brushing, grinding, or similar operations shall be screened in such a way as to prohibit it from becoming airborne and migrating from the site. Particular attention shall be paid to any adjacent windows, parked cars and the neighborhood park.

Wheel washing, particularly during wet/muddy soil operations such as dewatering, soil retention and excavation, shall be required of all vehicles leaving the site. Street and sidewalk sweeping shall occur regularly as required to maintain safety and cleanliness. During earth moving and exaction operations sweeping may be required twice daily or more. They shall be swept clean weekly for the balance of the project as required.

This is of major importance to the project and must be attended to at all times.
8. **NOISE and VIBRATION CONTROL**

There shall be particular attention paid to noisy or significant vibratory operations and equipment. All machines will be muffled and maintained in good operating condition. All jack hammering and high-impact operations, such as boulder breaking and close-to-building concrete demolition, shall be scheduled with the OPM.

9. **NEIGHBORHOOD PARKING**

The GC is responsible to insure that its workforce is respectful of the crowded parking conditions in the neighborhood and to control the use of parking meters by their forces. The limits posted on the meters will be enforced. The periodic “feeding” of the meters in order to stay in a spot all day is illegal. Every effort shall be made to encourage use of public transportation, some form of vehicle-pooling or other off-site parking arrangements for the trades people. There will be only limited, registered, on-site parking, and that will be strictly enforced. The Owner is not responsible for providing any parking for the construction workers. The contractor shall provide parking for the City on-site staff in close proximity to the site for the duration of the construction project. A minimum of four spaces is required.

10. **TRAFFIC CONTROL**

Various city streets that are small-scale and residential will be off limits to all trucks and other construction vehicles. Only the major, larger-scale streets will be open for construction traffic. Examples of these different streets around the site are:

   a. major, “useable”: Cambridge Street

   b. small/”off-limits” residential: Willow and Berkshire Streets except for those portions that immediately abut the construction site.

   **No Construction vehicle of any kind shall be allowed on Donnelly Field which abuts the project**

Queuing of vehicles with their motors running will not be allowed. Also, the work hours listed below will pertain to truckers delivering material: they will not be allowed to sit idling waiting for the project’s construction gates to open (see additional below).

This section specifies maintenance and protection of vehicular and pedestrian traffic during construction and other safety control devices and requirements for the protection of the traveling public and working personnel during construction and related operations, as approved by the City.

The Contractor must provide barrels, (detour) signs, flashers, channeling devices, lights, and arrow boards. The design, application, and installation of all devices required by this section shall conform to the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) and Part VI of the Manual on Uniform Traffic Control Devices, published by U.S. DOT, latest edition, Americans with Disabilities Act (ADA), and the Commonwealth of Massachusetts, Highway Department (MHD), Standard Specifications for Highways and Bridges, latest edition except as modified herein. **All traffic signs provided by the Contractor must be gender-neutral.**

Traffic Management Plan: Before starting any work under this Contract, the Contractor shall prepare a plan that indicates the traffic routing proposed by the Contractor during the various stages and time periods of the work, and the temporary pedestrian and construction facilities, temporary barricades, gender neutral...
signs, drums, and other traffic control devices to be employed during each stage and time period of the work, to maintain traffic and cyclist and pedestrian access to abutting properties. Particular care shall be taken to establish and maintain methods and procedures that will not create unnecessary or unusual hazards to public safety. Traffic control devices required only during working hour operations shall be removed at the end of each working day. The Contractor shall submit the aforementioned Traffic Management Plan for approval by the Owner. Implementation shall begin only after the plan has been reviewed and approved by the Owner.

**No separate measurement or payment will be made for Traffic Control work.** All preparation of traffic management plans, construction signs, cones, drums, barricades, flashers, lights, pavement markings and other temporary traffic control devices necessary for compliance with the requirements of this Section, shall be furnished and installed by the Contractor at its expense.

**VEHICULAR TRAFFIC**

The Contractor shall meet the following conditions, unless otherwise specifically approved by the Owner, the City and/or Engineer:

1. All work shall be prosecuted with proper regard for the convenience of the public and in a manner to permit unimpeded traffic flow whenever possible. The interruption of traffic will not be permitted unless specifically allowed by a City permit and in accordance with the requirements of the City and in conformance with MUTCD requirements.

2. The Contractor shall be responsible for necessary coordination with the City departments affected by the project.

3. Traffic control devices and signs shall be removed, dismounted or properly covered for those periods of the day when not in use.

4. The DPW shall be notified of any re-routing of traffic. Approval must be obtained from the City prior to any re-routing of traffic (except emergencies).

5. The Contractor shall coordinate the work with the schedules of City Rubbish & Recycling Collection trucks so as not to impede access to the adjacent stores and property owners and shall cooperate with delivery personnel to facilitate deliveries to properties within the work zone.

6. No operations shall be conducted, including the loading or unloading of vehicles, on or near the traveled lanes or road shoulders without first erecting warning signs and channelizing devices as directed. These precautions shall be maintained at all times while work is in progress.

7. Construction signs and channelizing devices shall be used to separate traffic from the work areas and for traffic control. Placement other than as shown in the plans or the MUTCD will require prior approval.

8. Temporary signs and channeling devices shall not be set up until there is adequate visibility or appropriate construction lighting. The Contractor shall schedule his/her work so that temporary signs and channeling devices are removed and traffic is returned to its normal pattern before the end of the work period.

9. Work requiring overnight lane closures shall not begin until all materials required for the completion of each night's work are delivered or available to the project site, unless
otherwise approved by the City and/or Engineer.

10. Access to residences and businesses shall be maintained at all times.

11. Work operations shall not be performed on the roadway in such a manner that traffic is obstructed or endangered simultaneously from both sides of the roadway.

12. The Contractor shall keep all roadway areas open to traffic as clear as possible at all times. Materials shall not be stored on any roadway area or within 4 feet of the traveled way. Material shall be delivered to the installation areas as they are needed to provide a continuous installation. Location of storage areas shall be subject to approval.

13. The Contractor shall remove all equipment and construction vehicles from the traveled way and shoulders open to traffic during non-work hours. Vehicles shall be parked in pre-approved areas no closer than four feet from the traveled way unless specifically permitted.

14. The Contractor shall furnish 60-inch x 30-inch approved signs reading "CONSTRUCTION VEHICLE - DO NOT FOLLOW" to be used on trucks hauling to the project, when such signs are deemed necessary by the City and/or Engineer. The color, type of sheeting and size of lettering shall conform to that of the permanent construction signs.

15. Temporary signs and channeling devices shall not be set up in inclement weather.

16. The Contractor shall furnish, install, and maintain 36-inch x 36-inch approved signs reading "GROOVED PAVEMENT AHEAD" in advance of all roadway areas which have been cold-planed.

17. The Contractor shall furnish, install and maintain additional temporary cones and barrels, as directed by the Engineer, after Traffic Calming devices (horizontal and vertical deflections) have been constructed.

**BICYCLE TRAFFIC**

1. Bicycle traffic shall be accommodated on all public streets either within bicycle lanes where existing or in vehicular travel lanes.

2. Where bicycle lanes are not present, provide a shared vehicle lane as wide as physically feasible.

3. When travel lanes are restricted to less than 14-foot in width warning signage (W11-1/W16-1 combination - Bicycle warning symbol with SHARE THE ROAD plaque) shall be placed warning motor vehicle operators of the presence of bicycles in the roadway.

4. If the disruption occurs in a bicycle lanes over a short distance (approximately 500 feet or less), bicyclists should be routed to share a motor vehicle lane.

5. On projects where the disruption occurs over a longer distance (more than 500 feet), and on busy roadways, a temporary bicycle lane or wide outside lane (at least 14 foot wide) should be provided. If that is not feasible, provide access, including ramps if necessary, for bicyclists to have the option of using sidewalks, except within zones where sidewalk bicycle riding is prohibited by the City.
6. Steel plates:

When steel plates are used in the travel way warning signage (Warning Steel Plates Ahead) shall be placed at least 50 feet in advance.

Steel plates shall be set so there is no vertical lip over 1/4 inch between the plate and adjacent pavement. This shall be accomplished in one of the following ways:

a. Recessing the plate so that the top of the plate matches adjacent pavement (with no lip over 1/4 inch).

b. Providing bituminous concrete lip painted reflective orange to provide a smooth transition slope up from existing pavement to top of plate.

c. Non-slip surface steel plates are preferred for use, and must be used where plates are in an intersection or within a crosswalk.

7. Raised castings: Where raised castings are present after cold planing and/or in anticipation of final paving, provide the following:


b. Spray paint reflective fluorescent orange the raised portions of the castings.

8. Cold planing and pavement installation: Where cold planing or the installation of pavement in lifts results in vertical joints greater than 1/4 inch, provide temporary bituminous concrete lip painted reflective orange to provide a smooth transition slope between the pavement layers.

9. When the roadway or travel lanes narrow due to construction, advance warning signs should be placed at least 20 feet in advance.

10. Narrow cuts that are parallel with the direction of travel create an extreme hazard for cyclists, whose tires could get caught. These should never be made and left in an area where bicyclists will be traveling. If necessary, they should be blocked off and cyclists routed around the hazard. When performing advance pavement cutting for trenching or other roadway excavation, use only saw cutting (approximately 1/4 inch or narrower).

11. Debris should be swept to maintain a reasonably clear riding surface in the bicycle lanes or, where there are no bicycle lanes, the outer 5 or 6 feet of roadway. Promptly remove gravel, debris, litter, sand, stone, and other obstructions from bicycle lanes and travel lanes.

12. Advance construction signs shall not be placed in bicycle lanes and shall not otherwise obstruct bicyclists’ path.

13. Temporary ramps for site access ramps. The creation of ramps in the roadway is not permitted unless being created in an area that is otherwise used by on-street parking.

14. Restore pavement markings for bike lanes within 2 weeks of paving.

PEDESTRIAN TRAFFIC
1. Sidewalks shall be maintained at all times through the construction periods. Temporary sidewalks, pedestrian detours and pedestrian and construction facilities shall be constructed as needed to maintain pedestrian traffic and business access, as required by the contractor’s means and methods and approval by City DPW and Traffic & Parking Department.

2. Pedestrian access will be provided to abutting land users at all times, as approved by the Owner and City and in accordance with MUTCD, ADA and AAB requirements.

3. Unobstructed walkways of 4 feet minimum width, unless otherwise approved by the City, will be provided at all times.

4. Temporary pedestrian walkways shall be separated from roadway and construction areas by barricades as approved by the City.

DETOURS

1. If approved by the City, construct and maintain detours around the work to maintain traffic over any construction work in a public street, road, or highway where traffic cannot be maintained on alignment of original roadbed or pavement.

2. When detours are allowed, the Contractor shall provide all detour signs approved by the City and/or Engineer with directional arrows. Signs shall be placed at all streets and intersections to provide required direction to allow motorists to return to the street location beyond the detour. The Contractor must submit a written detour plan for the City and/or Engineer's approval prior to implementation of the detour.

3. The Contractor is responsible for the notification of any parties affected by the detour, including, but not limited to Cambridge Fire Alarm, Cambridge Police, State Police, MBTA, MDC, Cambridge Traffic Department, and abutting property owners.

SPECIAL REQUIREMENTS

1. The Contractor shall provide necessary access for fire apparatus and other emergency vehicles through the work zones to abutting properties at all times.

2. Open excavations adjacent to the traveled way or shoulders shall not remain open through non-work hours unless adequately protected by barricades or barriers and specifically authorized by the City.

3. At least one serviceable driveway and sidewalk access to all residences and businesses within the project shall be maintained at all times.

4. The Contractor shall not allow unnecessary idling of trucks and/or equipment throughout the entire project area. The City of Cambridge prohibits idling of trucks and equipment for periods of time exceeding five (5) minutes when not in use.

11. POLICE DETAILS
Scheduling Police Details shall be the responsibility of the Contractor. A Police Detail is to be present during all construction activity. To schedule a detail officer, call (617) 349-3350. All scheduling must be coordinated with City of Cambridge’s on-site representative.

The Cambridge Police Department requires 24-hour advance notice to obtain a Police Detail, except in emergencies and 4-hour advance notice to cancel a detail.

The Contractor must submit all signed detail forms to the City of Cambridge on-site representative, so that the City can pay all submitted and approved Police detail invoices. Any invoices that are not approved will be the responsibility of the contractor to pay.

The City of Cambridge Police Department shall bill the Owner for the services of uniformed police officers provided by the Police department.

The Contractor will be required to reimburse the City of Cambridge if the Contractor fails to show for the job or if the Contractor fails to cancel the detail with adequate advance notice.

The Contractor shall pick up the authorized City signs from the Public Works Department after receipt of the appropriate permits. The Contractor shall fill in the date, time and reason where indicated on the sign with a permanent waterproof black marker.

It shall be the responsibility of the Contractor to post an adequate number of signs at the appropriate construction locations at least twenty-four (24) hours prior to needing access to the parking area.

When the signs have been posted, the Contractor shall notify the Traffic & Parking Office at (617) 349-4724 and specify the streets that have been posted. The Traffic & Parking Office will log the information.

Towing will only be allowed at verified locations after all of the above procedures have been followed.

Signs shall only be posted for the date and time that actual construction will take place. No signs shall be posted for more than five working days. Signs shall be removed immediately following completion of construction.

Posting of temporary signs shall be considered incidental to the work of this Contract.

12. CATCH BASIN AND MANHOLE PROTECTION

The Contractor shall identify all sewer manholes, storm drain manholes and storm drain catch basins within the proposed construction limits. The Contractor must then take all reasonable precautions to protect these structures during construction.

The Contractor shall line all catch basins with filter fabric and other materials necessary for erosion and sedimentation control. Filter fabric used to line catch basins must be removed prior to any inclement weather and reinstalled at the direction of the Owner and the City DPW. This work will be considered incidental to the work of the Contract.

Should infiltration of unsuitable material into drainage structures take place, the Contractor shall be responsible for the cleaning of the structure, disposal of material, and a final TV inspection at no cost to the Owner.

13. USE OF CITY HYDRANT
In accordance with rules and regulations of the Massachusetts Department of Environmental Protection and the City of Cambridge Water Department, the Contractor is required to provide a backflow preventer and to obtain a permit from the Water Department at (617) 349.4770 before using any hydrant within the City.

The City will shut down any job violating this provision.

14. WEATHER CONDITIONS

The mixture of cement concrete sidewalk or bituminous concrete shall not be placed when weather conditions of fog or rain prevail or when the pavement surface shows signs of free moisture. In the event of temporary suspension of work or during stormy weather, or whenever the OPM or Engineer shall direct, the Contractor shall take all steps necessary to protect their work and materials against damage or injury from the weather and shall direct all subcontractors to do the same.

15. INSPECTION AND TESTING OF MATERIALS

The inspection and sampling of materials will be carried out at the source in accordance with established policies and procedures of the Massachusetts Highway Department. The Owner shall not be responsible or assume any obligation for the inspection and sampling of the materials at the source. The Contractor shall be required, if requested, to provide certification of material compliance with the specification.

All materials and workmanship shall be subject to inspection, examination and testing at all times during or as a result of construction.

The Owner shall contract with an inspection agency and shall pay for all initial testing and laboratory inspection. The Contractor shall assume all costs for re-testing materials which fail to meet contract requirements as presented in the specifications.

16. SITE CLEAN-UP

The Contractor shall perform work in a manner to minimize dust and collection of debris. The actual work area shall be minimized and maintained daily. The Contractor shall sweep the work area and remove and legally dispose of surplus excavated material and debris during the progress of the work and at the close of each day.

Upon completion of the work, the Contractor shall remove debris and unused materials and perform procedures necessary to leave the project area and adjacent affected areas in a neat and clean condition.

17. STORAGE OF EQUIPMENT/MATERIALS

No equipment shall be stored within the limit of the roadway or sidewalk without the permission of the DPW.

Any equipment or material stored on site shall be properly secured and located outside pedestrian or vehicular travel lanes.

The contractor shall be required to secure off-site storage of materials. There is no site adjacent to the site for use by the contractor.
18. **TREE PROTECTION DURING CONSTRUCTION**

During all construction operations the utmost care shall be taken by the Contractor to avoid unauthorized, unnecessary or improper breaking, cutting or otherwise wounding of public or private shade trees. All plans and schedules shall be subject to review by the City Arborist. Trucks and heavy equipment shall not pass over or park on roots of public shade trees. Particular and continuous attention shall be paid to those trees identified on the contract drawings requiring specific protection throughout the project’s duration.

19. **UTILITY LINES and STRUCTURES**

Any damage done to City electrical, water, drainage or sewer lines, as well as structures such as hydrants, catch basins etc., or private services will be repaired in accordance with the specifications of the City Department or private entity whose line or structure has been damaged. If a City Representative determines the damages occurred due to Contractor negligence, such as tapping a service or a water main with a backhoe or operating a hydrant incorrectly, the contractor shall repair the damage at no additional expense to the Owner.

20. **DPW WEEKLY CONSTRUCTION MEETINGS**

The Contractor must attend the Department of Public Works (DPW) weekly construction meetings every Monday at 9:00 A.M. at DPW offices or as otherwise directed by the OPM or City Engineer. The Contractor’s representative at this meeting must be intimately familiar with the contract work and be capable of answering detailed questions regarding the contract work.

21. **UTILITY COORDINATION**

The Contractor shall contact Dig Safe, when the scope of work requires outside excavation, to mark out all utilities in the area of the proposed work. It shall be the Contractor’s responsibility to contact utility companies that may have conflicts with the proposed work and arrange for assistance prior to excavation.

It shall be the Contractor’s responsibility to obtain locations for all types of utility structures within the area to be affected by the work and to protect them from being covered by the placement of roadway or sidewalk surfacing materials.

22. **WORK HOURS**

Work hours for construction activities are governed by City ordinance, and are allowed between 7:00 am through 5:00 pm Monday through Friday. Any work beyond 5:00 pm and any work from 9:00 am to 4:00 pm on Saturday must be authorized, in advance, by the OPM. No Sunday or holiday work shall be allowed except during emergencies. The CM shall assume the normal work day to be Monday through Friday, 7:00 a.m. to 3:30 p.m.

No work activity, idling of engines, cleaning, or any other noise generation – of any kind – is allowed prior to 7:00 am.

This is of major importance to the project and must be attended to at all times.

23. **VIDEOTAPEING PRIOR TO CONSTRUCTION**
It shall be the Contractor's responsibility to videotape the entire area of construction in advance of the start of work. It is of utmost importance to show the street line as well as all private and public property defects to minimize any claims of private property damage. It shall be the Contractor's responsibility to prove that such a defect existed prior to the start of the work. If the Contractor cannot prove damage to be a pre-existing condition, the necessary repairs shall be made at the expense of the Contractor.

A copy of the videotape must be conveyed to the Architect and/or Owner in advance of the start of work.

24. **PERMITS**

It shall be the responsibility of the Contractor to apply for and receive all necessary permits before the start of work at each location. (City of Cambridge fees shall be waived by the City.) A copy of the permit must be on the job site at all times for inspection (except for emergency repair work). Failure to have the permit available may result in suspension of the rights granted by the permit.

25. **POSTING OF TEMPORARY SIGNS: "EMERGENCY, NO PARKING"**

Only authorized City of Cambridge "Emergency, No Parking" signs shall be allowed. Signs are available at the Public Works Department.

26. **DRAINAGE**

During construction, drainage shall be maintained at all times by the Contractor. Catch basin relocations and installations shall be accomplished in coordination with the installation of curb.

27. **WATER LINES**

Any damage done to City water lines, hydrants, structures, or private services will be repaired in accordance with the Cambridge Water Department specifications. If a City Representative determines the damages occurred due to Contractor negligence, such as tapping a service or a water main with a backhoe or operating a hydrant incorrectly, the contractor shall repair the damage at no additional expense to the City or Owner.

23. **JOB-SITE SAFETY**

All construction activity shall conform to the latest OSHA standards and other applicable safety standards.

At all times during the course of the work and especially after hours and on weekends, the Contractor shall adequately secure the site to the satisfaction of the Owner.

Any equipment or material permitted to be stored on-site shall be properly secured and located outside pedestrian or vehicular travel lanes.

30. **UTILITY COORDINATION**
The Contractor shall contact Dig Safe when the scope of work requires outside excavation to mark out all utilities in the area of the proposed work. It shall be the Contractor's responsibility to contact utility companies that may have conflicts with the proposed work and arrange for assistance prior to excavation.

It shall be the Contractor's responsibility to obtain locations for all types of utility structures within the area to be affected by the work and to protect them from being covered by the placement of roadway or sidewalk surfacing materials.

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

31. PROJECT SIGNS

The Contractor shall provide one project signs from a professional sign make The sign shall be: an 4'-0” x 8'-0” weatherproof sign with text approved by the City.

The Contractor shall provide a “community bulletin board” 48” x 48” which has tack-able surface inside a weatherproof “display case” where notices to the neighborhood can be posted and regularly updated. The case shall be lockable. The OPM shall have access as requested.

The Contractor shall also provide up to (as needed) twenty-five (25) 10” x 14” metal or .055 poly signs (with corner mounting holes) with standard safety messages as prescribed by the OPM which will be mounted and re-mounted on the security fences at various times and locations throughout the duration of the project.

32. OTHER

The General Contractor shall be responsive to the OPM in regard to requests for mitigation of other impacts upon the school and the neighborhood. Specific examples of situations requiring reactions to adverse actions include but are not limited to:

- Deliveries, queuing / idling vehicles, inappropriate worker dress, language or behavior;
- Site / building lighting shielded so as to not shine directly in residences;
- Out-of-tune carburetors causing unacceptable levels of exhaust emissions;
- Specifically noisy fractional horsepower small engines / equipment and compressors
- Confusing or insufficient signage to clearly direct pedestrian traffic.
- City Noise Ordinance
Pursuant to M.G.L. c.149A, as contained in Chapter 193 of the Acts of 2004, the City of Cambridge (“City”) is required to develop a process consistent with legal requirements for the selection of subcontractors for construction manager at risk projects. This process is described in these Procedures for Award of Subcontracts (the “Procedures”). The Procedures are divided into three parts. The first part describes the prequalification and procurement of “Trade Contractors”, which, for the purposes of the Procedures, shall mean the subcontractors performing work in trade categories covered by Section 44F of Chapter 149. The second part describes the prequalification and procurement of all subcontractors that are not Trade Contractors. The third part addresses additional procurement matters.

For the purposes of the Procedures, the term Project shall mean the specific construction project to which the Procedures are being applied; the term CM shall mean the construction manager at risk selected by the City to construct the Project; the term Designer shall mean the firm (and its sub-consultants) selected by the City to design; and the term Applicant shall mean any firm that submits a response pursuant to the Procedures.

I. TRADE CONTRACTORS

A. Applicability of Procedures

1. Subcontracts Subject to Trade Contract Procedures. The procedures set forth in Sections 2 and 3 below shall govern the award of subcontracts by the CM for the furnishing of labor, materials, and equipment in the performance of the categories of work listed below whenever the estimated construction cost of such category of work exceeds $25,000:

- Acoustical Tile
- Electrical work
- Elevators
- Fire Protection sprinkler systems
- Glass and Glazing
- Heating, Ventilating, and Air Conditioning
- Lathing and Plastering
- Marble
- Masonry Work
- Metal windows
- Miscellaneous and Ornamental Iron
- Painting
- Plumbing
- Resilient Floors
- Roofing and Flashing
- Terrazzo
- Tile
- Waterproofing, Damp-proofing and Caulking

The subcontractors performing these trades are referred to throughout the Contract Documents as “Trade Contractor(s).” Contracts for work in these categories of work where the estimated cost of such work exceeds $25,000 are referred to as “trade contracts.”

B. Qualification of Trade Contractors

1. Prequalification Committee. The City shall establish a prequalification committee (“the Prequalification Committee”) consisting of at least five members. The members shall include the City, a representative of the Designer, and a representative of the CM. The Deputy City Manager is the chairperson of the Prequalification Committee. An alternate may be appointed for each member of the Prequalification Committee to serve on occasions when the regular member cannot be available. Both the representative of the Designer and CM serving on the Prequalification Committee, and the alternates representing the Designer and CM shall be subject to the City approval. The Prequalification Committee shall conduct the prequalification of trade contractors as set forth in Sections 2 and 3 of the Procedures.
Request for Qualifications. The City shall issue a request for qualifications (“RFQ”) for each category of work listed in Section A.1 if such work is required on the Project. The RFQ shall be placed on the Comm-PASS web site; advertised in a newspaper of general circulation in the area of the Project and in the Central Register established under Massachusetts General Laws, Chapter 9, Section 20, and in such additional media as the City and the Prequalification Committee may deem appropriate at least fourteen (14) calendar days before the deadline for Applicants to submit a response to the RFQ by submission of a Statement of Qualifications (“SOQ”). All interested Trade Contractors shall be eligible to respond to the RFQ and participate in the prequalification process. The CM firm may submit its qualifications to bid on trade contract work provided that the CM customarily performs the work for which it submits its qualifications and does so with employees on its own payroll, and provided that the CM meets all the requirements of the selection process. The RFQ shall be prepared by the City in a form consistent with the requirements of M.G.L. c. 149A and in consultation with the Prequalification Committee and the CM. The RFQ shall contain a form or forms (individually or collectively, the City “Statement of Qualifications” or “SOQ”) requiring the information necessary for the Prequalification Committee to determine if the Applicant is qualified to perform the category of work for which it seeks prequalification on the Project. The City’s Standard form RFQ and SOQ will be provided by the City and must be utilized as the RFQ and SOQ for the Project. The RFQ shall include, at a minimum:

a. the date, time, and place for submission;
b. relevant information about the project and the bidding process;
c. the specific criteria for trade contractor prequalification and selection;
d. a statement indicating that the RFQ will be used to prequalify trade contractors that will be invited to submit a bid; and
e. that the responders’ names are to be posted, but that there shall be no public opening of responses.

Prequalification Criteria. The Prequalification Committee shall evaluate the information submitted by each Applicant on its Statement of Qualifications, the results of reference checks performed by the City and/or the CM, and any other information required or obtained by the Prequalification Committee. The following subparagraphs enumerate the legally required categories to be used by the Prequalification Committee in evaluating the Applicants, the subcategories of information within each category, and the specific point allocation required for prequalification within each category. Applicants must achieve an overall score of 70 or greater and must also achieve the minimum required points within each category in order to be deemed prequalified. Applicants that do not achieve both the minimum scores within each category and do not achieve an overall score of 70 or above shall not be deemed prequalified.

a. Management Experience (50 points, minimum of 25 required for approval)
   i) Business owners - The name, title, years with firm of the owner(s) of the business
   ii) Management personnel - The names, title, education and construction experience, years with firm, and list of projects completed by all management personnel.
   iii) Similar project experience - The project name(s), description, description of scope, original trade contract sum, final trade contract sum with explanation, and date completed of similar projects.
   iv) Terminations – A list of any projects on which the trade contractor was terminated or failed to complete the work.
   v) Lawsuits – A list of commercial lawsuits in which the trade contractor is a defendant or defendant-in-counterclaim with regard to construction contracts within the last 3 years. The lawsuits shall not include any actions that primarily involve personal injury or workers’ compensation claims, or where the sole cause of action involves the trade contractor’s exercise of its rights for direct payment under the law.
   vi) Safety record – The three-year history of the trade contractor’s workers’ compensation experience modifier.

b. References (30 points; minimum of 15 required for approval)
   i) Client references - for all projects listed in clause (iii) of Management experience above, including the project name, client’s name, address, telephone and fax
number, and contact person.

   ii) Credit references - A minimum of five credit references, including telephone and fax number of contact person from key suppliers, vendors and banks.

   iii) Public project record – A list of all completed public building construction projects as defined in section 44A of Chapter 149 during the past three years with client’s name, address, telephone and fax number and contact person.

c. Capacity to Complete Projects – (20 points; minimum of 10 required for approval)
   i) Annual revenue for prior three fiscal years. There shall be no requirement for submission of financial statements.
   ii) Revenue under contract for next three fiscal years.

d. Commitment Letter – (mandatory, no points assigned)
   Mandatory commitment letters from surety companies or authorized agents stating that payment and performance bonds at 110% of the estimated trade contract value will be provided to the applicant if it is the successful bidder. The surety company providing the commitment letter must be licensed to do business in the Commonwealth and appear on the United States Treasury Department Circular 570.

e. Certificate of Eligibility – (mandatory, no points assigned)
   All SOQs submitted after January 1, 2006 must include a DCAMM certificate of eligibility listing the Applicant as currently certified as a subcontractor in the scope of work for which the Applicant is submitting its SOQ.

f. Update Statement – (mandatory, no points assigned)
   All SOQs submitted after January 1, 2006 must include a fully completed and current Update Statement prepared by the Applicant.

If the Applicant is a joint venture, the Applicant must submit a copy of the joint venture agreement, signed by each member, and the joint venture agreement must clearly identify, for each member of the joint venture, such member’s proportionate share or interest in the financial or other benefits, risks or liabilities of the venture ("joint venture interest"). One member of the joint venture must have a joint venture interest greater than fifty (50) percent ("the Lead Venturer"). The requirements for prequalification in a-f above shall be met by each member of the joint venture; and the bonding requirements of d above shall be met by the Lead Venturer or by the joint venture as an entity. A joint venture prequalified by the Prequalification Committee must obtain a Certificate of Eligibility from DCAMM prior to the time bids are filed and must submit the Joint Venture’s Certificate of Eligibility with its bid.

Joint ventures must be submitted for consideration by the Prequalification Committee. Following the deadline for submission of SOQs for a specific category of work, joint ventures for that category of work which were not submitted to the Prequalification Committee may not bid on that category of work, except that two firms both of whom were independently prequalified by the Prequalification Committee for that category of work, may form a joint venture to bid that category of work without further consideration by the Prequalification Committee provided the Joint Venture has been DCAMM Certified prior to submitting its bid and submits the Joint Venture’s Certificate of Eligibility with its bid.

Deliberations of the Prequalification Committee. The Prequalification Committee shall consider each SOQ submitted based on the criteria set forth above. The Prequalification Committee shall require that all mandatory submissions are submitted by the Applicant and apply a numerical scoring system, with both the minimum point scores for each category, and a score of 70 out of a possible 100 overall points, required to be prequalified. The Prequalification Committee shall prepare a written record of the evaluation of each Applicant.

The scoring system shall provide for the assigning of scores as follows. The Prequalification Committee shall first consider whether the Applicant has met the requirements of Subparagraphs d, e and f, bonding
commitment letter, certificate of eligibility and update statement. If the Applicant has satisfied those criteria, it shall be awarded up to 100 points using the criteria listed above. Applicants that do not meet the requirements of Subparagraphs d, e and f shall not be presented to the Prequalification Committee for consideration.

Any Applicant that fails to achieve either an overall score of at least 70 or that fails to achieve the minimum required points within each category shall be deemed not to be prequalified for the category of work for which the Applicant sought prequalification. If it is determined at any time during the evaluation process, that an Applicant has willfully supplied materially false or misleading information in its application or otherwise, the Applicant may be eliminated from further consideration for prequalification for the Project and, in the discretion of the Commissioner, for any other projects requiring prequalification under these Procedures.

The decision of the Prequalification Committee shall be final and not subject to appeal except on the grounds of fraud or collusion. An Applicant firm’s prequalification score shall be made available to that Applicant firm only and only upon request. An Applicant firm’s score shall not be open to public inspection to the fullest extent possible under the law.

A list of the Applicants that have been determined by the Prequalification Committee to be prequalified and therefore eligible to bid shall be posted at the offices of the City listing the firms by trade categories. Applicants shall also be notified of the Prequalification Committee’s determination on prequalification by mail at the address furnished by each Applicant.

The Prequalification Committee reserves the right to reopen the prequalification process for any category of work before it has completed its evaluation of firms that previously submitted SOQs and/or to hold multiple rounds of prequalification for any given category of work. In either case, any Applicant that has submitted a complete SOQ shall not be required to submit another one, although any Applicant not prequalified may elect to amend its SOQ prior to the latest deadline for submitting information for the trade contract for which the Applicant seeks to be prequalified.

No person or firm suspended or debarred pursuant to Massachusetts General Laws Chapter 29, Section 29F, or Chapter 149, Section 44C, or disqualified pursuant to Chapter 7, Section 38D, or which has been debarred by the Federal Government shall be determined to be qualified to compete for a trade contract or any other contract or subcontract to be issued on the Project. If any Applicant determined to be qualified to perform one or more trade contracts is subsequently suspended or debarred pursuant to such laws, the qualification of such Applicant shall be rescinded and such Applicant shall be notified of such action and eliminated from the list of prequalified bidders.

Determinations to Remain in Effect. The Prequalification Committee’s determinations as to which Applicants are prequalified shall remain in effect, subject to the following provisions of this section, for the duration of the Project. Upon receipt at any time of additional information deemed material and significant by the Prequalification Committee regarding a previously prequalified Applicant’s qualifications or responsibility, including, but not limited to, compliance with any minimum prequalification requirements, the Prequalification Committee may determine, in consultation between the City and the CM, that the Applicant is not qualified to perform the applicable trade contract(s) for the Project. In such event, the Prequalification Committee shall notify the Applicant of its determination, and inform the Applicant of any information on which the Prequalification Committee’s determination is based that was not furnished by the Applicant.
C. Bidding

1. Requests for Bids. A request for bids (“RFB”) will be issued for each trade contract subject to these Procedures. The RFB will only be issued to the Trade Contractors appearing on the list of prequalified Applicants for the applicable trade contract determined pursuant to Section B above. The RFB shall include at least the following attachments:

a. the date, time and place for submission of responses to the request for bids. All Trade Contractor bids for the City projects will be submitted and opened at the office of the Purchasing Agent, City Hall, third floor, 795 Massachusetts Avenue, Cambridge MA 02139;

b. fully detailed drawings and specifications by class of work in accordance with paragraph (a) of Subsection 1 of Section 44F of Chapter 149 of the Massachusetts General Laws (i.e., separate specification sections for the trades listed in Paragraph A.1 above) which shall provide for full competition for each item of material to be furnished under the contract as set forth under subsection (b) of M.G.L. c.30, §39M;

c. drawings and specifications that provide for full competition for each item of material to be furnished under the contract as set forth under Subsection (b) of Section 39M of Chapter 30 of the Massachusetts General Laws;

d. a detailed definition of the Trade Contractor’s scope of work, including alternates and unit price items, if any, within that scope of work;

e. a project schedule indicating the planned sequence and duration of each trade contractor’s work;

f. list of the Trade Contractors prequalified for the work covered by the RFB;

g. a Trade Contractor bid form, in a format provided by the City, that shall require, without limitation, a listing of price, addenda, alternates and unit price items, if any, for the trade work; certification that the trade contractor will perform the complete trade work with employees on his own payroll, except for work customarily performed by sub-trade subcontractors within the trade; and the names of all sub-trade subcontractors to be used if awarded the trade contract and each sub-trade contract sum; to the extent applicable, an identification by the Trade Contractor that it is a MBE or WBE or a list of the MBEs and/or WBEs proposed to be used by the Trade Contractor;

h. an affidavit that must be executed by all bidders confirming that all sub-trade subcontractors named on the bid form have been prequalified by the Trade Contractor using criteria similar to the criteria for the prequalification of Trade Contractors;

i. an affidavit of tax compliance that must be executed by all bidders;

j. an affidavit of prevailing wage compliance pursuant to M.G.L. c. 149, §§ 26 and 27 that must be executed by all bidders;

k. a non-collusion affidavit that must be executed by all bidders;

l. a requirement that a bidder post a 5% bid bond from a surety company licensed to do business in the Commonwealth and whose names appears on U.S. Treasury Department Circular 570; but the bid bond shall be returned to the bidder if the bidder is not selected as the Trade Contractor;

m. a budget for the project, and the budget amount for the trade contract scope of work as provided in the project guaranteed maximum price, if available, or as provided in the most recent budget for the project;

n. a requirement that a bidder submit a current Certificate of Eligibility issued by DCAMM to the Trade Contractor showing that the Trade Contractor is certified for the trade category for which the bid is submitted.

o. a requirement that a bidder submit a completed Update Statement with its bid; and

p. a Trade Contractor agreement form as set forth in M.G.L. c. 149A, §8 (k).

The prequalified Trade Contractors shall submit bids in compliance with the requirements of the Request for Bids package.

2. Bid Opening, Award, Rejection and Negotiation of Bids. Bids shall be opened publicly by the City of Cambridge Purchasing Agent. Bids for each trade shall be: a) accepted only from firms appearing on the list of prequalified firms described in Paragraph B for such trade; b) submitted as set forth in the RFB; and c) opened publicly. Any bid which does not include the bid bond or affidavits required pursuant to law or any response in which the information requested is incomplete, conditional, or obscure or which contains any additions not required in the request for bids package shall be rejected. The trade contract for each
trade shall be awarded to the lowest prequalified bidder except that the City reserves the right to reject the bids of any and all Trade Contractors if: a Trade Contractor is not eligible to submit a bid; if the bid does not represent the bid of a person competent to perform the work specified; or if less than three such bids were received and the prices are not reasonable for acceptance without further negotiation or competition. In addition if fewer than three responsive bids are received for any trade category and the lowest bid exceeds the estimated cost for the work, the CM shall attempt to negotiate an acceptable price with the lowest prequalified bidder. If the negotiations are unsuccessful, the construction manager shall terminate negotiations with the lowest prequalified bidder and shall initiate negotiations with the trade contractor who was the second lowest prequalified bidder. If the CM is unsuccessful in negotiating an acceptable price with the lowest prequalified bidder and second lowest prequalified bidder, the construction manager, on behalf of and with the consent of the public agency, shall solicit additional bids utilizing the procedures for selection of subcontractors who are not trade contractors, set out below and in M.G.L. c. 149A, § 8 (j).

3. **Trade Contract Execution.** Each trade contractor selected to perform work on the Project shall return an executed trade contract including the required performance and payment bonds and insurance certificate to the CM within 10 business days of receipt of the trade contract from the CM. The trade contract shall be the trade contract agreement required by law and in a form provided as Exhibit E of these Contract documents.

II. **OTHER SUBCONTRACTS**

A. **Applicability of Procedures**

1. **Subcontracts Subject to Procedures For Other Subcontracts**. The process set forth in these Sections A. and B. of the Procedures shall apply to the procurement of subcontracts and subcontractors that are not subject to the provisions of Sections 2 and 3 above, specifically subcontractors that are not Trade Contractors, and where the subcontract scope of work has an estimated value that is equal to or exceeds $25,000.

B. **Prequalification and Procurement**

1. **Subcontracts in With An Estimate Cost equal to or greater than $25,000**. For Subcontracts that are not trade contracts with an estimated cost equal to or greater than $25,000, the CM shall submit to the City for its approval the qualifications which it believes a subcontractor must have to perform the work of the subcontract and a list of a minimum of three (3) subcontracting firms, and preferably at least five (5) subcontracting firms, which the CM believes meet the qualifications. The CM shall submit information in a form and content satisfactory to the City concerning the qualifications and responsibility of the proposed subcontractors and, when relevant, how the selection will further the CM’s compliance with its Project MBE and WBE participation goals. The CM firm may submit its qualifications to bid on subcontract work provided that the CM customarily performs the work for which it submits its qualifications and does so with employees on its own payroll, and provided that the CM meets all the requirements of the selection process. The City may eliminate firms from the list of firms submitted by the CM, and the City may add firms to the list submitted by the CM. The CM must add the firms requested by the City to the list if the firms are acceptable to the CM. If the firms the City requested be added are not acceptable to the CM based upon qualifications, ability or for any other reason the CM must advise the City of its objections and the basis for the objections in writing. If the City determines that the CM’s objections to the City requested firm(s) are valid then the requested firms will not be added to the list otherwise the firm(s) requested by the City will be added.

The CM will invite all subcontractors on the approved list to submit bids for the subcontract work, using forms and procedures approved by the City. The bids shall be based on detailed bidding information developed by the CM for the subcontract work. The CM will submit to the City a list of bids submitted for each subcontract and with the list will indicate the bidder it recommends be selected to be awarded a subcontract. The CM shall along with its submission provide a written explanation as to the reasons for its selection and recommendation. The CM’s recommendation will be based on relevant factors including, but not limited to, price, quality of work, and MBE and/or WBE participation. The City approval is required before a subcontract can be awarded by the CM to a subcontractor, which approval shall not be unreasonably withheld provided the selection will not have an adverse effect on meeting project goals.
including, but not limited to, price, quality of work and/or MBE/WBE participation. In no event will the selection of a subcontractor affect the GMP agreed to by the CM. The CM may, with the approval of the City, reject the proposals for a subcontract and either re-solicit that scope of work or negotiate with one or more of the firms that submitted the rejected proposals. Such rejection may be based on the proposal being too high compared to the amount carried in the GMP for that scope of work or upon any other basis approved by the City.

2. **Subcontracts With An Estimated Cost Less Than $25,000.** Subcontracts with an estimated cost less than $25,000, and subcontracts for the supply of materials or equipment not including performance of labor in construction at the Project site, regardless of the estimated cost, may be awarded by the CM using any method selected by the CM with the approval of the City.

### III. OTHER PROCUREMENT PROVISIONS

#### A. Emergencies

In case of an emergency, the City may award a contract for such work as is necessary to preserve or protect the health or safety of persons or property pursuant to Massachusetts bidding laws or the City may approve the CM to perform such work with its own forces.

#### B. Termination of Contracts

**Termination of Trade Contracts and Other Subcontracts.** If a trade contract, or other subcontract, is terminated in whole or in part by the CM after the subcontractor commences work but prior to completion of the work covered by such trade contract or other subcontract on account of breach or default by the trade contractor or other subcontractor, or for other reasons in the public interest approved by the City, the CM may engage a replacement subcontractor using any method selected by the CM and approved by the City, or may perform the affected work with its own forces, as necessary to preserve, protect, or complete the work without following these procedures and without public advertisement or opening of bids or proposals. The termination of a trade or other subcontractor prior to completion of its work shall not be the basis for an increase in the GMP.

#### C. Miscellaneous Provisions

1. **Procurement Records.** The Prequalification Committee and the CM shall ensure that the City has a complete set of the following records:
   a. All RFQs issued pursuant to these Procedures, including all addenda.
   b. All SOQs and other information furnished to or otherwise obtained by the Prequalification Committee and the CM concerning qualification of each Applicant responding to an RFQ including any references or scoring obtained or generated in connection with the SOQs.
   c. All RFBs issued by the CM to prequalified Trade Contractors pursuant to Section C of these Procedures.
   d. All bids received from such Trade Contractors in response to such RFBs.
   e. All solicitations for bids or proposals issued by the CM to firms other than Trade Contractors.
   f. All bids and proposals received by the CM from such firms in response to such solicitations.
   g. All contracts awarded pursuant to these procedures.
   h. All other written documents required pursuant to the terms of these Procedures.
   i. All other documents referring or relating to the evaluation of qualifications, proposals or bids, including but not limited to, all notes (to the extent included in Project files), memoranda, correspondence and meeting minutes, whether formal or informal, in either electronic media or hard copy. The City shall retain copies of such records for a period of six (6) years from the date of final payment under the contract to which such records relate. The Secretary of Administration and Finance and the Inspector General of the Commonwealth shall have access to all such records at any time upon reasonable notice.

2. **Severability.** If any provision of these Procedures shall be determined to be invalid or unenforceable, the remaining provisions of the Procedures shall remain in full force and effect.

3. **Time.** The periods of time within which any party is required to act under the terms of these procedures when described in terms of “days” shall, unless otherwise specified, mean calendar days (and not business days), except that if the last day of any such time period falls on a Saturday, Sunday, or legal holiday in Massachusetts, the period of time during which the required action must be taken will be extended to the next following business day.
COMMONWEALTH OF MASSACHUSETTS
FORM FOR SUBCONTRACT BETWEEN CONSTRUCTION MANAGER AND TRADE
CONTRACTOR AS SET FORTH IN THE CONTRACT DOCUMENTS

THIS AGREEMENT MADE THIS _______ DAY OF ___________________, 20 ___,
by and between _________________________________________
a corporation organized and existing under the laws of ___________________________.
a partnership consisting of ____________________________________________
an individual doing business as ____________________________________________
hereinafter called the “Construction Management At Risk Firm” and ________________
a corporation organized and existing under the laws of ___________________________
an individual doing business as ____________________________________________
hereinafter called the “Trade Contractor”.

WITNESSETH that the Construction Management At Risk Firm and the Trade
Contractor for the considerations hereafter named, agree as follows:

(1) The Trade Contractor agrees to furnish all labor and materials required for the
completion of all work specified in Section No(s). _______ of the specifications for
_______________________________ (name of Sub-trade(s)) and the plans referred to
therein and addenda No._______ for the __________________________ (project) all as
prepared by __________________ designer. All work shall be in accordance with the
contract documents listed on Exhibit A; and the detailed Scope of Work listed on Exhibit
B. The Construction Management At Risk Firm agrees to pay the Trade Contractor as full
payment for all the work in Exhibit B the sum of $ __________. This price includes the
following alternates: Nos. ______, ______, ______, ______.

(A) The Trade Contractor agrees to be bound to the Construction Management At Risk
Firm by the terms of the hereinbefore described plans; specifications (including all
general conditions stated therein) and addenda No._______, and ______, and ______, and
to assume to the Construction Management At Risk Firm all the obligations and
responsibilities that the Construction Management At Risk Firm by those documents
assumes to the City of Cambridge (City) hereinafter called the “Public Agency,” except
to the extent that provisions contained therein are by their terms or by law applicable only
to the Construction Management At Risk Firm.

(B) The Construction Management At Risk Firm agrees to be bound to the Trade
Contractor by the terms of the hereinbefore described documents and to assume to the
Trade Contractor all the obligations and responsibilities that the Public Agency by the
terms of the hereinbefore described documents assumes to the Construction Management
At Risk Firm, except to the extent that provisions contained therein are by their terms or
by law applicable only to the Public Agency.

(2) The Construction Management At Risk Firm agrees to begin, prosecute and complete
the entire work specified by the Public Agency in an orderly manner so that the Trade
Contractor will be able to begin, prosecute, and complete the work described in this
Trade Contract; and, in consideration thereof, upon notice from the Construction
Management At Risk Firm, either orally or in writing, the Trade Contractor agrees to
begin, prosecute and complete the work described in this Trade Contract in an orderly
manner and in accordance with the Project Schedule attached as Exhibit C as it may be
reasonably modified from time to time by agreement of the Construction Management At
Risk Firm and the Trade Contractor.

(3) The Trade Contractor agrees to furnish to the Construction Management At Risk
Firm, on execution of this Trade Contractor Agreement and prior to commencing the
work, evidence of workers’ compensation insurance as required by law and evidence of
public liability and property damage insurance of the type and in limits required to be
furnished to the Public Agency by the Construction Management At Risk Firm.

(4) The Construction Management At Risk Firm agrees that no claim for services
rendered or materials furnished by the Construction Management At Risk Firm to the
Trade Contractor shall be valid unless written notice thereof is given by the Construction
Management At Risk Firm to the Trade Contractor during the first ten (10) days of the
calendar month following that in which the claim originated.

(5) This Trade Contractor Agreement is contingent upon the execution of an amendment
to the contract between the Construction Management At Risk Firm and the Public
Agency for the work of the Trade Contractor.

(6) If the trade contractor should be adjudged a bankrupt, or if he should make a general
assignment for the benefit of his creditors, or if a receiver should be appointed on account
of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in
cases for which extension of time is provided, to supply enough properly skilled
workmen or proper materials, or if he should fail to make prompt payment to sub-trade
subcontractors or for material or labor, or persistently disregard laws, ordinances or the
instructions of the Construction Management At Risk Firm, or otherwise be guilty of a
substantial violation of any provision of the contract, then the Construction Management
At Risk Firm may, without prejudice to any other right or remedy and after giving the
Trade Contractor and his surety seven days’ written notice, terminate the employment of
the Trade Contractor and take possession of the premises and of all materials, tools, and
appliances thereon and finish the work by whatever method he may deem expedient. In
such case the Trade Contractor shall not be entitled to receive any further payment until
the work is finished. If the unpaid balance of the trade contract price shall exceed the
expense of finishing the work including compensation for additional architectural,
managerial and administrative services, such excess shall be paid to the Trade Contractor.
If such expense shall exceed such unpaid balance, the Trade Contractor shall pay the
difference to the Construction Management At Risk Firm. The Construction Management At Risk Firm and Trade Contractor shall have the right to seek damages for breach of this Trade Contract without terminating this Trade Contract or ceasing performance hereunder.

(7) Trade Contractor is directed to the following executive orders, which are incorporated herein from the general conditions of the Construction Manager At Risk Contract: Order 481, regarding undocumented workers; Order 478, regarding nondiscrimination and affirmative action; Order 130, regarding anti-boycott agreement; Order 484, regarding clean energy and efficient buildings; Order 390, regarding affirmative market programs; and Order 195, regarding access to records. Trade Contractor is further directed to M.G.L. c. 7 s. 22C, which restricts the investment of state funds in companies doing business in Northern Ireland.

(8) The following exhibits are incorporated into their subcontract:

Exhibit A: Contract Documents
Exhibit B: Detailed Scope of Work
Exhibit C: Project Schedule

IN WITNESS WHEREOF, the parties hereto have executed this agreement the date and year first above-written.

SEAL ATTEST ___________________  
________________________________  
Trade Contractor

SEAL ATTEST ___________________  
________________________________  
Construction Management At Risk Firm
ORDINANCE NUMBER 1260

Final Publication Number 2965. First Publication in the Chronicle on July 31, 2002.

City of Cambridge

In the Year Two Thousand and Two

AN ORDINANCE

In amendment to the Ordinance entitled “Municipal Code of the City of Cambridge”

Be it ordained by the City Council of the City of Cambridge as follows:

That Title 2 of the Municipal Code entitled “Administration and Personnel” be amended in Chapter 2.66 entitled “Cambridge Employment Plan” by striking out Section 2.66.080 entitled “Contractor qualifications and sanctions” and substituting in place thereof the following new section.

Section 2.66.080 Contractor qualifications and sanctions.

A. All bidders and all subcontractors under the bidder for projects subject to G.L. c. 149, §44A (2) and G.L. c 30 §39M shall, as a condition for bidding, agree in writing that they shall comply with the following obligations:

1. The bidder and all subcontractors under the bidder shall comply with the Cambridge Employment Plan as it currently exists and as it may, from time to time, be amended, and specifically shall comply with the worker hour’s requirements of Section 2.66.060(A).

2. The bidder and all subcontractors under the bidder must comply with the obligations established under G.L. c. 149 and G.L. c 30 §39M to pay the appropriate lawful prevailing wage rates to their employees.

3. The bidder and all subcontractors under the bidder must maintain or participate in a bona fide apprentice training program as defined by c. 23, §§11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprenticeship Training of the Department of Labor and Industries and must abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract.

4. The bidder and all subcontractors under the bidder must furnish, at their expense, hospitalization and medical benefits for all their employees employed on the project and/or coverage at least comparable in value to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by G.L. c. 149, §26 and G.L. c 30 §39M in establishing minimum wage rates.

5. The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all the employees employed on the project in accordance with G.L. c. 152.

6. The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers’ compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding in accordance with G.L. c. 149, §148B and G.L. c 30 §39M.
A. All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on projects subject to G.L. c. 149, §44A (2) and G.L. c 30 §39M shall comply with the obligations numbered 1 through 6 as set forth in subsection A of this section for the entire duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.

B. Any bidder or subcontractor under the bidder who fails to comply with any one of obligations 1 through 6 as set forth in subsection A of this section for any period of time shall be, at the sole discretion of the City Manager, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City in the amount of five percent of the dollar value of the contract.

C. In addition to the sanctions outlined in subsection C of this section, a general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to G.L. c. 149, §44F and G.L. c 30 §39M. Any contractor or subcontractor who has been determined to have violated any of the obligations set forth in subsections A and B of this section shall be barred from performing any work on any future projects for six months for a first violation, for three years for a second violation, and permanently for a third violation.

D. The provisions of this section shall not apply to construction projects for which the low general bid was less than one hundred thousand dollars or to work performed pursuant to subcontracts that are subject to G.L. c. 149, §44F and G.L. c 30 §39M and that were bid for less than twenty-five thousand dollars, or to re-bids for construction projects for which the City receives fewer than three qualified general contract bidders in the original bid. (Ord. 1162, 1995)

In City Council September 9, 2002.
Passed to be ordained.
Yeas 8; Nays 0; Absent 1.
Attest: - D. Margaret Drury, City Clerk.

A true copy;

ATTEST:

D. Margaret Drury
City Clerk
HIRING REQUIREMENTS

On any construction project which is funded in whole or in part by City, State or Federal funds, or funds which the City expends or administers in accordance with a federal grant, or on any construction project for which the City is a signatory to the construction contract, the worker hours shall be performed as follows:

1. No less than TWENTY-FIVE PERCENT (25%) of the total employee worker hours shall be performed by BONA FIDE CAMBRIDGE RESIDENTS. A Cambridge resident is any person for whom the principal place where that person normally eats and sleeps and maintains his or her normal personal and household effects is within the City of Cambridge.

2. No less than TWENTY-FIVE PERCENT (25%) of the total employee worker hours shall be performed by MINORITY PERSONS. Minority persons mean and include those persons who are Black, Hispanic, Asian, Native American, or Cape Verdean.

3. No less than TEN PERCENT (10%) of the total employee worker hours shall be performed by WOMEN.

COMPLIANCE, ENFORCEMENT, SANCTIONS

1. All contractors entering into construction contracts shall:
   a. Certify that they have read the provisions Cambridge Municipal Ordinance §2.66.060, et seq. (a copy of which follows) and that they shall comply with them;
   b. List all job openings with Employment Resources, Inc. ("ERI") and keep accurate records as to action taken on referrals from that agency;
   c. Maintain personnel records listing names, addresses, sex and race of their employees; and require their subcontractors to do likewise. All records required to be maintained by this section shall be made available on request to representatives of the Cambridge Community Development Department. All such records shall be maintained for the duration of the construction project and for one year thereafter.

2. Failure to comply with these requirements will result in the imposition of sanctions permitted by the Cambridge Municipal Code and any other applicable laws or provisions.

3. The following standards will be used to determine whether the Contractor has acted in good faith in attempting to meet the requirements of Cambridge Municipal Ordinance §2.66.060, et seq. for hiring residents, minorities and women:

   The Contractor must demonstrate that it has done all of the following except where such requirement would conflict with a collective bargaining agreement:

   a. Prior to construction and during construction, when necessary, it posted jobs with ERI and all appropriate trade unions and requested that referrals be made in the proportions necessary to meet the CEP’s employment standards;
b. It interviewed all qualified applicants and returned completed interview forms to ERI within one week of each respective interview;

c. It provided the City with the name and telephone number of the person designated as Compliance Officer to work directly with the City; and

d. It has submitted to the City a projection of workforce needs over the course of construction of the project. Such submission shall reflect the needs, by trade, for each month of the construction process.

In addition, at the discretion of the City, contractors may be required to comply with the following:

a. Place its own ads in local and local minority newspapers or tabloids;
b. Place a State Department Employment and Training ad.
SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM

I. DEFINITIONS

For the purpose of this Contract, "minority" refers to Asians, Blacks, Hispanics, North American Indians, and Cape Verdeans.

II. NONDISCRIMINATION AGREEMENT

During the performance of this Contract, the Contractor and all of the Subcontractors (hereinafter, in this Article, collectively referred to as the Contractor), all assignees, and successors in interest, agree as follows:

1. In connection with the performance of Work under this Contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex. The aforesaid provision shall include, but not be limited to the following: employment upgrading, demotion or transfer; recruitment advertising; recruitment layoff; termination; rates of pay or other forms of compensation; conditions or privileges of employment; and selection for apprenticeship. The Contractor shall post notices in conspicuous places, available for employees and applicants for employment, to be provided by the City setting forth the provisions of the Fair Employment Practices Law of the Commonwealth (M.G.L. c. 151B).

2. In connection with the performance of Work under this Contract, the Contractor shall undertake in good faith affirmative action measures designed to eliminate any discriminatory barriers in the terms and conditions of employment on the grounds of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex and to eliminate and remedy any effects of such discrimination in the past. Such affirmative action shall entail positive and aggressive measures to ensure equal opportunity in the areas of hiring, upgrading, demotion or transfer, recruitment, layoff or termination, rate of compensation, and in-service or apprenticeship training programs. This affirmative action shall include all action required to guarantee equal employment opportunity for all persons regardless of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex. A purpose of this provision is to ensure to the fullest extent possible an adequate supply of skilled tradespersons for this and future City public construction projects.

III. NEGOTIATIONS WITH MINORITY SUBCONTRACTORS

If the Contractor shall use any subcontractor on any Work performed under this Contract, it shall take affirmative action to negotiate with qualified MBE subcontractors that are certified by SOMWBA. This affirmative action shall cover both pre-bid and post-bid periods. It shall include notification to the Affirmative Action Officer or its designee, while bids are in preparation, of all products, work, or services for which the Contractor intends to negotiate bids.

IV. COMPLIANCE WITH REQUIREMENTS

The Contractor shall comply with the provisions of Executive Order No. 74, as amended by Executive Order No. 116 dated May 1, 1975, M.G.L. c. 151B, as amended, and Chapters 2.66
(Cambridge Employment Plan) of the Cambridge Municipal Code, all of which are herein incorporated by reference and made a part of this Contract.

As part of its obligation of remedial action under the foregoing section the Contractor shall maintain on its Project a not less than 25% ratio of minority employee work hours to total work hours in each job category, including, but not limited to, bricklayers, carpenters, cement, masons, electricians, ironworkers, operating engineers, and those "classes of work" enumerated in M.G.L. c. 149, §44C.

V. NON-DISCRIMINATION

The Contractor, in the performance of all Work after the award, and prior to completion of the Contract Work, will not discriminate on grounds of race, color, religious creed, national origin or ancestry, age, disability, sexual orientation, marital status, family status, military status, source of income, or sex in employment practices, in the selection or retention of Subcontractors, or in the procurement of materials and rentals of equipment.

VI. SOLICITATION FOR SUBCONTRACTS AND FOR THE PROCUREMENT OF MATERIALS AN EQUIPMENT

In all solicitations either by competitive bidding or negotiation made by the Contractor either for work to be performed under a subcontract or for the procurement of materials or equipment, each potential subcontractor or supplier shall be notified in writing by the Contractor of the Contractor's obligations under this Contract relative to non-discrimination and affirmative action.

VII. COMPLIANCE-INFORMATION, REPORTS AND SANCTIONS

The Contractor will provide all information and reports required by the City and will permit access to its facilities and any books, records, accounts and other sources of information which may be determined by the City to affect the employment of personnel.

Whenever the City believes the Contractor may not be operating in compliance with the terms of this Contract, the City directly, or through its designated agent, shall conduct an appropriate investigation, and may confer with the parties, to determine if such Contractor is operating in compliance with the terms of this Contract. If the City or its agent finds the Contractor not in compliance, it shall make a preliminary report on the non-compliance and notify such Contractor in writing of such steps as will bring such Contractor into compliance. In the event that such Contractor fails or refuses to fully perform such steps, the City shall make a final report on non-compliance and may impose of one or more of the sanctions listed or permitted by law. If, however, the City believes the Contractor has taken or is taking every possible measure to achieve compliance, it shall not make a final report of non-compliance.

3. Within fourteen (14) days of the issuance of the report, the City shall move to impose one or more of the following sanctions, as it may deem appropriate to attain full and effective enforcement:

a. The recovery by the City from the General Contractor of 1/100 of 1% of the Contract award price or $1,000 whichever sum is greater, in the nature of liquidated damages or if a Subcontractor is in non-compliance, the recovery by the City from the Contractor, to be assessed by the Contractor as a back charge against the Subcontractor of 1/10 of 1% of the subcontract price, or $400 whichever sum is greater, in the nature of liquidated damages, for each week that such party fails or refuses to comply;

b. The suspension of any payment or part thereof due under the Contract until such time as the Contractor is able to demonstrate its compliance with the terms of the Contract;
c. The termination, or cancellation, of the Contract, in whole or in part, unless the Contractor is able to demonstrate within a specified time its compliance with the terms of the Contract; or

d. The denial to the Contractor of the right to participate in any future contracts awarded by the City for a period of up to three (3) years.

If at any time after the imposition of sanctions as Contractor is able to demonstrate that it is in compliance with this Contract, it may request the City to suspend the sanctions conditionally, pending a final determination by the City as to whether the Contractor is in compliance. Upon final determination, the City shall either lift the sanctions or re-impose them.

**VIII. SEVERABILITY**

The provisions of this Article are severable and if any of these provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.
Exhibit I

Americans With Disabilities Act (42 U.S.C. 12131)
Section 504 of the Rehabilitation Act of 1973

The Americans with Disabilities Act (the "Act") applies to all employers of fifteen or more employees. All vendors that are subject to the Act must comply with its provisions. In further compliance with the Act, all Contractors who enter into contracts with the City are prohibited from discrimination against the City's employees, regardless of the size of the Contractor.

The Act protects against discrimination on the basis of "disability", which is defined as a physical or mental impairment that substantially limits at least one "major life activity"; discrimination against a person having a history or record of such impairment; and discrimination against an individual regarded - even if inaccurately - as having such an impairment. The Act also expressly prohibits discrimination that is based on an individual's relationship or association with a disabled person.

The bidder shall not discriminate against any qualified employee or job applicant with a disability and will make the activities, programs and services covered by any contract awarded through this procurement readily accessible to and usable by individuals with disabilities. To be qualified for a job, or to avail oneself of the bidder's services, the individual with the disability must meet the essential eligibility requirements for receipt of the bidder's services or participation in the bidder's programs or activities with or without: 1) reasonable modifications to the bidder's rules, policies and practices; 2) removal of architectural, communication, or transportation barriers; or, 3) provisions of auxiliary aids and services.

By submitting its bid, the bidder certifies to the City of Cambridge that it understands and will comply with all applicable provisions of the Act, including compliance with applicable provisions of Section 504 of the Rehabilitation Act of 1973, if the bidder is receiving federal funds.
Exhibit J

ORDINANCE NUMBER 1312

Final Publication Number 3155. First Publication in the Chronicle on December 13, 2007.

City of Cambridge

In the Year Two Thousand and Eight

AN ORDINANCE

In amendment to the Ordinance entitled “Municipal Code of the City of Cambridge”

Be it ordained that Cambridge Municipal Code Chapter 2.112 is hereby amended by adding a new Section 2.112.060 entitled “CORI Screening by Vendors of the City of Cambridge” as follows:

Adding after Section 2.112.050 the following new sections:

SECTION 2.112.060

CORI SCREENING BY VENDORS OF THE CITY OF CAMBRIDGE

Sections:

2.112.061 Purpose
2.112.062 Definitions
2.112.063 CORI-Related Standards of the City of Cambridge
2.112.064 Waiver
2.112.065 Applicability

2.112.061 Purpose

These sections are intended to ensure that the persons and businesses supplying goods and/or services to the City of Cambridge deploy fair policies relating to the screening and identification of persons with criminal backgrounds through the CORI system.

2.112.062 Definitions

Unless specifically indicated otherwise, these definitions shall apply and control.

Awarding Authority means the City of Cambridge Purchasing Agent or designee.

Vendor means any vendor, contractor, or supplier of goods and/or services to the City of Cambridge.
2.112.063 CORI-Related Standards of the City of Cambridge

The City of Cambridge employs CORI-related policies, practices and standards that are fair to all persons involved and seeks to do business with vendors that have substantially similar policies, practices and standards. The City of Cambridge will do business only with vendors who, when required by law to perform CORI checks, employ CORI-related policies, practices, and standards that are consistent with policies, practices and standards employed by the City of Cambridge. The awarding authority shall consider any vendor’s deviation from policies, practices and standards employed by the City of Cambridge as grounds for rejection, rescission, revocation, or any other termination of the contract.

2.112.064 Waiver

The City Manager may grant a waiver to anyone who or which has submitted a request for waiver if it is objectively reasonable; and the City Manager, or a delegate, shall report promptly in writing to the City Council all action taken with respect to every request for a waiver and the reasons for the decision.

2.112.065 Applicability

If any provision of these sections imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, order, or policy then the provisions of these sections shall control.

In City Council January 28, 2008.
Passed to be ordained by a yea and nay vote:-
Yeas 9; Nays 0; Absent 0.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-
D. Margaret Drury
City Clerk
City of Cambridge CORI Policy

1. Where Criminal Offender Record Information (CORI) checks are part of a general background check for employment or volunteer work, the following practices and procedures will generally be followed.

2. CORI checks will only be conducted as authorized by Criminal History Systems Board (CHSB). All applicants will be notified that a CORI check will be conducted. If requested, the applicant will be provided with a copy of the CORI policy.

3. An informed review of a criminal record requires adequate training. Accordingly, all personnel authorized to review CORI in the decision-making process will be thoroughly familiar with the educational materials made available by the CHSB.

4. Prior to initiating a CORI check, the City will review the qualifications of the applicant to determine if the applicant is otherwise qualified for the relevant position. The City will not conduct a CORI check on an applicant that is not otherwise qualified for the relevant position.

5. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determination of suitability based on CORI checks will be made consistent with this policy and any applicable law or regulations.

6. If a criminal record is received from CHSB, the authorized individual will closely compare the record provided by CHSB with the information on the CORI request form and any other identifying information provided by the applicant, to ensure the record relates to the applicant.

7. If, in receiving a CORI report, the City receives information it is not authorized to receive (e.g. cases with dispositions such as not guilty or dismissal, in circumstances where the City is only authorized to receive convictions or case-pending information), the City will inform the applicant and provide the applicant with a copy of the report and a copy of CHSB’s Information Concerning the Process in Correcting a Criminal Record so that the applicant may pursue correction with the CHSB.

8. If the City of Cambridge is planning to make an adverse decision based on the results of the CORI check, the applicant will be notified immediately. The applicant shall be provided with a copy of the criminal record and the City’s CORI policy, advised of the part(s) of the record that make the individual unsuitable for the position and given an opportunity to dispute the accuracy and relevance of the CORI record.

9. Applicants challenging the accuracy of the criminal record shall be provided a copy of CHSB’s Information Concerning the Process in Correcting a Criminal Record. If the CORI record provided does not exactly match the identification information provided by the applicant, the City of Cambridge will make a determination based on a comparison of the CORI record and documents provided by the applicant. The City of Cambridge may contact CHSB and request a detailed search consistent with CHSB policy.

10. If the City of Cambridge reasonably believes the record belongs to the applicant and is accurate, then the determination of suitability for the position will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to the following:

(a) Relevance of the crime to the position sought;
(b) The nature of the work to be performed;
(c) Time since the conviction;
(d) Age of the candidate at the time of offense;
(e) Seriousness and specific circumstances of the offense;
(f) The number of offenses;
(g) Whether the applicant has pending charges;
(h) Any relevant evidence of rehabilitation or lack thereof;
(i) Any other relevant information, including information submitted by
    the candidate or requested by the City.

11. The Personnel Department will assist affected departments, in assessing the suitability of
    candidates in accordance with paragraph 10 a through i above, to ensure consistency, fairness, and
    protection of employment opportunities and the public interest.

12. The City of Cambridge will notify the applicant of the decision and the basis of the decision in a
    timely manner.

13. CORI information shall not be disseminated or shared with any unauthorized employees or other,
    but shall be maintained in confidence consistent with the obligations of law.

    Revised May 5, 2007
Chapter 2.121
LIVING WAGE ORDINANCE

Sections:

2.121.010 Title and Purpose
2.121.020 Definitions
2.121.030 Living Wage
2.121.040 Waivers and Exceptions
2.121.050 Notification Requirements
2.121.060 Duties of covered Employers
2.121.070 Community Advisory Board
2.121.080 Enforcement
2.121.090 Severability
2.121.100 Effective Date

2.121.010 Title and Purpose.

This Chapter shall be known as the "Cambridge Living Wage Ordinance". The purpose of this ordinance is to assure that employees of the City of Cambridge and employees of City contractors, subcontractors and beneficiaries of tax abatements, loans, grants, subsidies and other assistance provided by the City earn an hourly wage that is needed to support a family of four.

2.121.020 Definitions.

For the purposes of this ordinance, the term:

(a) "Applicable Department" means the Personnel Department for employees of the City of Cambridge, the Purchasing Department, with the advice and assistance of the appropriate department which receives the services, for Covered Employers who contract or subcontract with the City of Cambridge, the School Department for employees, contractors and subcontractors of the School Department, and the City Manager’s Office for any other Person who is a Beneficiary of assistance other than a contract or subcontract.

(b) "Assistance" means:

1. any grant, loan, tax incentive, bond financing, subsidy, or other form of assistance valued at least $10,000 that an employer receives by or through the authority or approval of the City of Cambridge, including, but not limited to, c. 121A tax abatements, industrial development bonds, Community Development Block Grant (CDBG) loans and grants, Enterprise Zone designations awarded after the effective date of this chapter, and the lease of city owned land or buildings below market value; and

2. any service contract, as defined herein, of at least $10,000 with the City of Cambridge that is made with an employer to provide services pursuant to G.L.c. 30B or other public procurement laws, awarded, renegotiated or renewed after the effective date of this chapter.

3. any service subcontract, as defined herein, of at least $10,000.

(c) "Beneficiary" means:
(1) any person who is a recipient of Assistance;
(2) any company or person that is a tenant or sub-tenant, leaseholder or sub-leaseholder of a recipient of Assistance, provided that said company or person employs at least 25 persons and occupies property or uses equipment or property that is improved or developed as a result of Assistance, after the effective date of this chapter; and

(d) "Covered Employer" means the City of Cambridge or a Beneficiary of Assistance.

(e) "Covered Employee" means:

(1) a person employed by the City of Cambridge except for persons in those positions listed in Section 2.121.040(j) of this ordinance; and
(2) a person employed by a Covered Employer, or a person employed by an independent contractor doing business with a Covered Employer, who would directly expend any of his or her time on the activities funded by the contract or the activities for which the Beneficiary received the Assistance, except for persons in those positions listed in Section 2.121.040(j) of this ordinance.

(f) "Living Wage" has the meaning stated in Section 2.121.030.

(g) "Person" means one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by the Commonwealth of Massachusetts.

(h) “Service Contract” means a contract let to a contractor by the City of Cambridge for the furnishing of services, to or for the City, except contracts where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a “service contract” for the purposes of this definition.

(i) “Service Subcontract” means a subcontract primarily for the furnishing of services, to or for a recipient of Assistance, except where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a “service subcontract” for the purposes of this definition.

2.121.030  Living Wage.

(a) Applicability. Covered Employers shall pay no less than the Living Wage to their employees.

(b) Amount of wage. The Living Wage shall be calculated on an hourly basis and shall be no less than $10.00, subject to adjustment as provided herein. The Living Wage shall be upwardly adjusted each year no later than March first in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Annual Average Consumer Price Index for All Urban Consumers (CPI-U) Boston-Lawrence-Salem, MA - NH, as published by the Bureau of Labor Statistics, United States Department of Labor applied to $10.00.

(c) No reduction in collective bargaining wage rates. Nothing in this chapter shall be read to require or authorize any beneficiary to reduce wages set by a collective bargaining agreement.

(d) Cuts in non-wage benefits prohibited. No Beneficiary will fund wage increases required by this chapter, or otherwise respond to the provisions of this chapter, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of its employees.
2.121.040 Waivers and Exceptions.

(a) Waivers. A Covered Employer may request that the City Manager grant a partial or whole waiver to the requirements of this chapter.

(b) General Waivers. Waivers may be granted where application of this chapter to a particular form of Assistance is found by the City Solicitor to violate a specific state or federal statutory, regulatory or constitutional provision or provisions, and the City Manager approves the waiver on that basis.

(c) Hardship Waivers for certain not-for-profit employers. An employer, who has a contract with the City of Cambridge which is not subject to the provisions of G.L. c. 30B, may apply to the City Manager for a specific waiver where payment of the Living Wage by a not-for-profit Covered Employer would cause a substantial hardship to the Covered Employer.

(d) Chapter 30B contract waivers. Prior to issuing an invitation for bids for a procurement contract subject to the provisions of G.L. c. 30B, any Applicable Department may apply to the City Manager for a waiver of the application of the Living Wage to the contract where payment of the Living Wage by a Covered Employer would make it inordinately expensive for the City to contract for the services or would result in a significant loss of services, because the contracted work cannot be segregated from the other work of the Covered Employer.

(e) General Waiver Request Contents. All General Waiver requests shall include the following:
   1. The nature of the Assistance to which this chapter applies;
   2. The specific or official name of the Assistance and Assistance program, the statutory or regulatory authority for the granting of the Assistance, and a copy of that authority;
   3. The conflicting statutory, regulatory, or constitutional provision or provisions that makes compliance with this chapter unlawful, and a copy of each such provision; and
   4. A factual explication and legal analysis of how compliance with this chapter would violate the cited provision or provisions, and the legal consequences that would attach if the violation were to occur.

(f) Hardship Waiver Request Contents. All Hardship Waiver requests shall include the following:
   1. The nature of the Assistance to which this chapter applies;
   2. A detailed explanation of why payment of the Living Wage would cause a substantial hardship to the Covered Employer; and
   3. A statement of proposed wages below the Living Wage.

(g) Chapter 30B Contract Waiver Request Contents. A chapter 30B contract waiver request shall include the following:
   1. The nature of the Assistance to which this chapter applies;
   2. A detailed explanation of why the contracted work cannot be segregated from the other work of the bidding Covered Employers thereby making the cost of the contract with the payment of the Living Wage inordinately expensive or would result in a significant loss of services;

(h) Community Advisory Board review and recommendation regarding waiver requests. The Community Advisory Board, as described in Section 2.121.070 of this ordinance, shall consider waiver requests along with their supporting documentation and analysis, and may hold a public hearing to consider the views of the public before making a recommendation to the City Manager regarding the waiver request. For a hardship waiver, the Community Advisory Board shall offer an opportunity to be heard by employees of the Covered Employer. After reviewing the recommendation of the Community Advisory Board, the City Manager may approve and grant or deny all or part of a request. The City Manager may in his or her discretion grant a temporary hardship waiver pending the hearing before the Community Advisory Board.
For chapter 30B contract waivers, the Community Advisory Board shall make its recommendation to the City Manager no more than thirty days after it is notified of the request for a chapter 30B contract waiver.

(i) Terms of exceptions. If an employer is subject to this chapter as a result of its receipt of more than one kind of Assistance covered by this chapter, and if the City Manager grants a waiver with respect to one form of Assistance, the City Manager need not find that this chapter is inapplicable to the employer with respect to another form of Assistance received by the employer.

(j) Exceptions. The following positions will be excepted from the requirement of the payment of the Living Wage upon certification in an affidavit in a form approved by the Applicable Department and signed by a principal officer of the Covered Employer that the positions are as follows:

1. youth hired pursuant to a city, state, or federally funded program which employs youth as defined by city, state, or federal guidelines, during the summer, or as part of a school to work program, or in other related seasonal or part-time program;
2. work-study or cooperative educational programs;
3. trainees who are given a stipend or wage as part of a job training program that provides the trainees with additional services, which may include, but are not limited to, room and board, case management, or job readiness services.
4. persons working in a recognized supported employment program that provides workers with additional services, which may include, but are not limited to, room and board, case management, counseling, or job coaching:
5. positions where housing is provided by the employer;
6. employees who are exempt from federal or state minimum wage requirements; and
7. individuals employed by the City of Cambridge where the employment of such individuals is intended primarily to provide a benefit or subsidy to such individuals, although the City is compensating them for work performed.

2.121.050 Notification Requirements.

All Applicable Departments shall provide in writing an explanation of the requirements of this ordinance in all requests for bids for service contracts and to all persons applying for Assistance as defined by this ordinance. All persons who have signed a service contract with the City of Cambridge or a contract for Assistance shall forward a copy of such requirements to any person submitting a bid for a subcontract on the Assistance contract.

2.121.060 Duties of Covered Employers.

(a) Notification Requirements. Covered employers shall provide each Covered employee with a fact sheet about this ordinance and shall post a notice about the ordinance in a conspicuous location visible to all employees. The fact sheet and poster shall be provided to the Covered Employer by the Applicable Department and shall include:

1. notice of the Living Wage amount;
2. a summary of the provisions of this ordinance;
3. a description of the enforcement provisions of the ordinance;
4. the name, address, and phone number of a person designated by the Applicable Department to whom complaints of noncompliance with this ordinance should be directed.

(b) Contract for Assistance. At the time of signing a contract for assistance with the City of Cambridge or with a Beneficiary, the contract must include the following:

1. the name of the program or project under which the contract or subcontract is being awarded;
2. a local contact name, address, and phone number for the Beneficiary;
3. a written commitment by the Beneficiary to pay all Covered Employees not less than the Living Wage as subject to adjustment under this ordinance and to comply with the provisions of this ordinance;
4. a list of Covered Employees under the contract with the employees’ job titles;
(5) a list of all subcontracts either awarded or that will be awarded to Beneficiaries with funds from the Assistance. Upon signing any subcontracts, the Covered Employer shall forward a copy of the subcontract to the Applicable Department.

(c) Maintenance of payroll records. Each Covered Employer shall maintain payrolls for all Covered Employees and basic records relating thereto and shall preserve them for a period of three years. The records shall contain the name and address of each employee, the job title and classification, the number of hours worked each day, the gross wages, deductions made, actual wages paid, and copies of social security wage and withholding reports, and evidence of payment thereof and such other data as may be required by the Applicable Department from time to time.

(d) Applicable Department duties. The Applicable Department shall cause investigations to be made as may be necessary to determine whether there has been compliance with this Ordinance. The Applicable Department shall report the findings of all such investigations to the Community Advisory Board.

(e) Covered Employer to cooperate. The Covered Employer shall submit payroll records on request to the Applicable Department. The Covered Employer shall permit City representatives to observe work being performed upon the work site, to interview employees and to examine the books and records relating to the payrolls being investigated to determine payment of wages.

(f) City Assistance Reports. Each Applicable Department shall file a City Assistance Report with the City Manager and the Community Advisory Board by July 31 of each year. The report shall include, for each Assistance package or contract approved during the preceding fiscal year:
   (1) the name of the Applicable Department (awarding agency), the name of the specific program under which the Assistance was awarded, and the origin of funds for Assistance;
   (2) a description of the purpose or project for which the Assistance was awarded;
   (3) the name, address, and phone number of a local contact person for the Covered Employer;
   (4) the total cost to the City of Assistance provided to each Beneficiary, including both face-value of Assistance, as well as revenue not collected as a result of the Assistance.

2.121.070 Community Advisory Board.

(a) Purpose. The purpose of the Community Advisory Board shall be to review the effectiveness of this Ordinance at creating and retaining Living Wage jobs, to make recommendations to the City Manager regarding the granting of Waivers to Covered Employers, to review the implementation and enforcement of this ordinance, and to make recommendations from time to time in connection therewith.

(b) Composition. The Community Advisory Board shall be composed of nine members and shall include representatives of labor unions, community organizations and the business community. All members will be appointed by the City Manager. Members of the Board shall serve a three-year term. Whenever a vacancy shall occur the City Manager shall appoint a replacement within thirty days of said vacancy.

(c) Meetings. The Community Advisory Board shall meet quarterly and in special session as required. All meetings of the Board shall be open to the public and will allow for public testimony on the uses of the City Assistance generally, and on specific instances of Assistance or proposed Assistance as received or sought by individual enterprises.

(d) Conflict of Interest. No member of the Community Advisory Board shall participate in any proceeding concerning a Beneficiary, a Covered Employer or a Covered Employee, or applicant for waiver or exemption, if the member or any member of his or her immediate family has a direct or indirect financial interest in the outcome of said proceeding.
(a) Enforcement powers. In order to enforce this chapter, the Applicable Department may, with the approval and assistance of the City Solicitor, issue subpoenas, compel the attendance and testimony of witnesses and production of books, papers, records, and documents relating to payroll records necessary for hearing, investigations, and proceedings. In case of failure to comply with a subpoena, the City may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and the productions of books, papers, records, and documents. Said court, in the case of a refusal to comply with any such subpoena, after notice to the person subpoenaed, and upon finding that the attendance or testimony of such witnesses or the production of such books, papers, records, and documents, as the case may be, is relevant or necessary for such hearings, investigation, or proceedings, may issue an order requiring the attendance or testimony of such witnesses or the production of such documents and any violation of the court’s order may be punishable by the court as contempt thereof.

(b) Complaint procedures. An employee who believes that he or she is a Covered Employee or an applicant for a position to be filled by a Covered Employee who believes that his or her employer is not complying with requirements of this chapter applicable to the employer may file a complaint with the Applicable Department or with the Community Advisory Board. Complaints of alleged violations may also be filed by concerned citizens or by the City Council. Complaints of alleged violations may be made at any time, but in no event more than three years after the last date of alleged violation, and shall be investigated promptly by the Applicable Department. Statements written or oral, made by an employee, shall be treated as confidential and shall not be disclosed to the Covered Employer without the consent of the employee.

(c) Investigations and hearings. The Applicable Department shall investigate the complaint, and may, in conjunction with the City Solicitor, and in accordance with the powers herein granted, require the production by the employer of such evidence as required to determine compliance. Prior to ordering any penalty the applicable Department shall give notice to the employer and conduct a hearing. If at any time during these proceedings, the employer voluntarily makes restitution of the wages not paid to the employee making the complaint and to any similarly situated employees, by paying all back wages owed plus interest at the average prior year Massachusetts passbook savings bank rate, or otherwise remedies the violation alleged if the violation involves matters other than wages, then the Applicable Department shall thereafter dismiss the complaint against the employer.

(d) Remedies. In the event that the Applicable Department, after notice and hearing, determines that any Covered Employer has failed to pay the Living Wage rate or has otherwise violated the provisions of this chapter, the Applicable Department may order any or all of the following penalties and relief:

1. Fines up to the amount of $300 for each Covered Employee for each day that the Covered Employer is in violation of this Ordinance, except if the violation was not knowing and willful, then the total fine shall not exceed the amount of back wages plus interest owed;
2. Suspension of ongoing contract and subcontract payments;
3. Ineligibility for future City Assistance for up to three years beginning when all penalties and restitution have been paid in full. In addition, all Covered Employers having any principal officers who were principal officers of a barred beneficiary shall be ineligible under this section; and
4. Any other action deemed appropriate and within the discretion and authority of the city. Remedies in this section shall also apply to the party or parties aiding and abetting in any violation of this chapter.

(e) Private right of action. Any Covered Employee, or any person who was formerly employed by a Beneficiary, may bring an action to enforce the provisions of this chapter to recover back pay and benefits, attorneys fees and costs, by filing suit against a Beneficiary in any court of competent jurisdiction.

(f) Remedies herein non-exclusive. No remedy set forth in this chapter is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce the right granted under this chapter in a court of law. This chapter shall not be construed to limit an employee’s right to bring a common law cause of action for wrongful termination.
(g) **Retaliation and discrimination barred.** A Covered Employer shall not discharge, reduce the compensation or otherwise retaliate against any employee for making a complaint to the City, otherwise asserting his or her rights under this chapter, participating in any of its proceedings or using any civil remedies to enforce his or her rights under the chapter. The City shall investigate allegations of retaliation or discrimination and shall, if found to be true, after notice and a hearing, order appropriate relief as set out in paragraphs (c) and (d) herein

2.121.090 **Severability.**

In the event any provision of this ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

2.121.100 **Effective Date.**

This law shall be effective sixty (60) after final passage. The Living Wage Ordinance (2.121) provides, at 1.121.030(b) that the wage shall be upwardly adjusted each year no later than March 1st in proportion to the increase in the Annual Average Consumer Price Index for the prior calendar year for All Urban Consumers (CPI-U) in the Boston area, as published by the federal Bureau of Labor Statistics.

For calendar year 1999, the CPI-U increased by 2.5%. Therefore the new living wage, as of March 1, 2000 is $10.25.

For calendar year 2000, the CPI-U increased by 4.3%. Therefore the new living wage, as of March 1, 2001 is $10.68.

For calendar year 2001, the CPI-U increased by 4.3%. Therefore the new living wage, as of March 1, 2002 is $11.11.

For calendar year 2002, the CPI-U increased by 2.6%. Therefore the new living wage, as of March 1, 2003 is $11.37.

The City Council has voted to amend the section of the Living Wage Ordinance (1.121.030 (b) that provides the method for calculating cost of living increases each year. As a result of this change, the living wage as of March 30, 2003 is $11.44.

For calendar year 2003, the CPI-U increased by 3.76%. Therefore the new living wage, as of March 1, 2004 is $11.87.

For calendar year 2004, the CPI-U increased by 2.7%. Therefore the new living wage, as of March 1, 2005 is $12.19.

For calendar year 2005, the CPI-U increased by 3.3%. Therefore the new living wage, as of March 1, 2006 is $12.59.

For calendar year 2006 the CPI-U increased by 3.1%. Therefore the new living wage, as of March 1, 2007 is $12.98.

For calendar year 2007 the CPI-U increased by 1.9%. Therefore the new living wage, as of March 1, 2008 is $13.23.

For calendar year 2008 the CPI-U increased by 3.5%. Therefore the new living wage, as of March 1, 2009 is $13.69.
For calendar year 2009 the CPI-U decreased by .67%. Therefore the new living wage, as of March 1, 2010 will remain at $13.69.

For calendar year 2010 the CPI-U increased by 1.57%. Therefore the new living wage, as of March 1, 2011 is $13.90.

For calendar year 2011 the CPI-U increased by 2.71%. Therefore the new living wage, as of March 1, 2012 is $14.28.

For calendar year 2012 the CPI-U increased by 1.58%. Therefore, the new living wage, as of March 1, 2013 is $14.51.

For calendar year 2013 the CPI-U increased by 1.37%. Therefore the new living wage, as of March 1, 2014 is $14.71.

For calendar year 2014 the CPI-U increased by 1.61% Therefore the new living wage, as of March 1, 2015 is $14.95.

For calendar year 2015 the CPI-U increased by .06%, Therefore the living wage, as of March 1, 2016 is $15.04.

For calendar year 2016 the CPI-U increased by 1.47% Therefore the new living wage, as of March 1, 2017 is $15.26.

For calendar year 2017 the CPI-U increased by 2.51% Therefore the new living wage, as of March 1, 2018 is $15.64.

For calendar year 2018 the CPI-U increased by 3.29% Therefore the new living wage, as of March 1, 2019 is $16.15.

For calendar year 2019 the CPI-U increased by 1.91% Therefore the new living wage, as of March 1, 2020 is $16.46.

For calendar year 2020 the CPI-U increased by 1.13% Therefore the new living wage, as of March 1, 2021 is $16.65.

For calendar year 2021 the CPI-U increased by 3.26% Therefore the new living wage, as of March 1, 2022 is $17.19.
2.112.081 - Short Title.

Sections 2.112.081 to 2.112.089 may be cited as the “Truck Safety Ordinance” of the City of Cambridge.

2.112.082 Declaration of findings and policy – Scope.

The City Council hereby finds that the provisions of these sections are intended to promote the public purpose of effectively protecting Vulnerable Road Users, as defined in Section 2.112.083 below, against the risks associated with sharing the road with Large Vehicles, as defined in Section 2.112.083 below. These sections seek to minimize the potential for injury to Vulnerable Road Users, specifically relating to falling under the sides of or being caught under the wheels of Large Vehicles.

2.112.083 Definitions.

The following words shall for the purposes of these sections, unless the context clearly requires otherwise, have the following meanings:

A. “City” shall mean the City of Cambridge.

B. “City Solicitor” shall mean the city solicitor for the City of Cambridge.

C. “City Vendor” shall mean any individual, firm, business, consultant, contractor, or supplier of goods and/or services to the City of Cambridge, or any subcontractors, employees or agents thereof.

D. “Contract” shall mean any contract executed between the City and a City Vendor for $10,000 or more for goods, services, design or construction.

E. “DPW Commissioner” shall mean the Commissioner of the Department of Public Works or his or her designee.

F. “Large Vehicle” shall mean any Class 3 or above motor vehicle, trailer, semi-trailer or semi-trailer unit, with a gross vehicle weight rating (GVWR) exceeding 10,000 pounds, and are able to travel at speeds more than 15 miles per hour.

G. “Purchasing Agent” shall mean the purchasing agent for the City of Cambridge.
H. “TPT Director” shall mean the Director of the Traffic, Parking & Transportation Department or his or her designee.

I. “Vulnerable Road User” shall mean (a) a pedestrian, including but not limited to those persons actually engaged in work upon a way, or in work upon utility facilities along a way, or engaged in the provision of emergency services within the way, or (b) a person operating a bicycle, handcycle, tricycle, skateboard, roller skates, in-line skates, moped, other non-motorized or electric personal mobility or recreational device other than an automobile or motorcycle, wheelchair, personal assistive mobility device, horse-drawn carriage, motorized bicycle, motorized scooter, farm tractor, agricultural trailer, or similar vehicle designed primarily for farm use, or other motorized vehicle which has a maximum speed of less than 20 miles per hour, or (c) a person riding an animal.

2.112.084 Applicability.

A. These sections shall apply to every Large Vehicle used by a City Vendor while under a City Contract, except as provided in Section C below.

B. The City, through its Purchasing Department, shall require that all City Contracts with City Vendors for supplies, services, design and/or construction in the amount of $10,000 a year or more shall include a provision requiring compliance with these sections and all associated rules and regulations promulgated hereunder.

C. The provisions of these sections shall not apply to:

1. A motor vehicle which has a maximum speed not exceeding fifteen (15) mph;

2. A fire apparatus;

3. An emergency medical vehicle;

4. A vehicle which is being driven or towed to a place whereby previous arrangement has been scheduled to install any safety requirements for large vehicles such that it complies with these sections;

5. Vehicles used by City Vendors solely for the purpose of snow clearance or removal;

6. Vehicles used by City Vendors solely for the purpose of street sweeping;

7. Vehicles used by City Vendors solely for the purpose of street paving.

2.112.085 Requirements for Large
A. All Large Vehicles subject to the provisions of these sections shall be equipped with convex mirrors, cross-over mirrors, decals, and side under-ride guards affixed to the sides of Large Vehicles in a manner consistent with these sections.
B. The DPW Commissioner and the TPT Director shall have the authority to promulgate regulations to accomplish any of the provisions of these sections, including but not limited to required specifications for convex mirrors, cross-over mirrors, decals, and side under-ride guards affixed to the sides of Large Vehicles.

C. As future technical innovations to improve safety for Vulnerable Road Users become available, the DPW Commissioner and the TPT Director may research and test such technical innovations, and update any rules and regulations promulgated hereunder consistent with such research and tests.

2.112.086 Enforcement.

Any violation of any provision of these sections by a City Vendor shall constitute a breach of the subject contract the City Vendor has with the City and will be considered a default under such contract with the City, and shall subject the City Vendor to any and all penalties contained in such contract. Any violations of these sections shall be reported to the Purchasing Agent and the City Solicitor.

2.112.087 Waiver.

A. If the Purchasing Agent believes that extenuating circumstances exist which would prevent any City Vendor(s) from complying with the provisions of these sections, the Purchasing Agent, upon the recommendation of both the DPW Commissioner and the TPT Director, may approve a waiver of some or all of the requirements of these sections prior to issuing an invitation for bids for any procurement contract.

B. If the DPW Commissioner and the TPT Director believe that extenuating circumstances exist which would prevent a City Vendor from complying with the provisions of these sections for a specific delivery or operation, the DPW Commissioner and TPT Director may approve a limited waiver of the requirements of these sections for the specific delivery or operation not to exceed one month.

C. Waivers will be issued in a form and manner consistent with the provisions of these sections and the rules and regulations promulgated hereunder.
2.112.088  Conformity with Existing State and Federal Law and Severability

These sections shall be implemented in conformity with all applicable provisions of federal, state and local laws, and the provisions of these sections are severable; if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions, which shall remain in full force and effect.

2.112.089  Effective Date

The effective date of these sections shall be six months from enactment.

In City Council November 9, 2020. Ordained by a yea and nay vote:- Yeas 9; Nays 0;
Absent 0.
Attest:- Anthony I. Wilson, City Clerk
A true copy;

ATTEST:-
Anthony I. Wilson
City Clerk
The City of Cambridge Commissioner for Public Works (the “DPW Commissioner”) and the City of Cambridge Director of Traffic, Parking and Transportation (the “TPT Director”) hereby adopt the following Truck Safety Ordinance Regulations pursuant to the Truck Safety Ordinance, Chapter 2.112, Section 2.112.080 of the Cambridge Municipal Code (“Truck Safety Ordinance” or “Ordinance”). The provisions of the Truck Safety Ordinance, including but not limited to the definitions contained in the Ordinance, shall apply to these regulations. Additionally, for purposes of these Regulations a “Side Under-Ride Guard” shall mean a piece of equipment that is installed on a Large Vehicle between the front and rear wheels to help prevent injuries to Vulnerable Road Users, and particularly to protect against the risk of falling under the side of the vehicle and being caught under the wheels of the vehicle.

1. All Large Vehicles subject to the provisions of the Truck Safety Ordinance shall be equipped with convex mirrors, cross-over mirrors, decals, and Side Under-Ride Guards affixed to the sides of Large Vehicles in a manner consistent with the specifications detailed in Section 2 below.

2. The following technical specifications shall be met in order for equipment to meet the provisions of the Truck Safety Ordinance for Side Under-Ride Guards, convex mirrors, convex cross-over mirrors, and safety decals.

2.1 Side Under-Ride Guards

(a) Equipping Large Vehicles with Side Under-Ride Guards

Large Vehicles must be constructed or equipped in such a way as to offer, throughout their length, effective protection to Vulnerable Road Users against the risk of falling under the side of the vehicle and being caught under the wheels of the vehicle. This requirement may be considered satisfied:

1) if the Large Vehicle is equipped with Side Under-Ride Guards in accordance with the requirements of Section 2.1(b) and depicted in diagram (1) below, or if

2) the Large Vehicle is designed and/or equipped such that by virtue of its shape and characteristics, its component parts can be incorporated and/or regarded as a replacement for the Side Under-Ride Guards, but the component parts’ combined functions must satisfy the requirements set out in Section 2.1(b) and diagram (1) below.
(b) Technical Specifications

Side Under-Ride Guards may use horizontal rails or a continuous flat surface that meets the following requirements:

1) The lower edge of Side Under-Ride Guards shall at no point be more than twenty-one and one-half (21.5”) inches above the ground. It is preferred that the lower edge be no more than thirteen and eight tenths (13.8”) inches above the ground.

2) The upper edge of Side Under-Ride Guards shall be no more than fourteen (14”) inches below the structure of the vehicle as shown in the top schematic in diagram (1), which on a vertical plane must be tangential to the outer surface of the tires, as shown in the middle schematic in diagram (1).

3) The rear and forward edges of Side Under-Ride Guards shall not be more than twelve (12”) inches from the tire on the wheel immediately adjacent to the Side Under-Ride Guards, as shown in the middle schematic in diagram (1).

4) Every Side Under-Ride Guard shall be essentially rigid and securely mounted and shall not be subject to loosening due to vibration in normal use of the vehicle. Side Under-Ride Guards shall be capable of withstanding a force of 440 pounds applied perpendicularly to any part of its surface by the center of a ram the circular face of which is not more than eight and one half (8.5”) inches in diameter.

5) No part of a Side Under-Ride Guard shall be subject to deflection by more than six (6”) inches by the ram referenced above, as shown in the bottom schematic in diagram (1), and

6) No part of a Side Under-Ride Guard which is less than ten (10”) inches from its rear edge shall be subject to deflection by more than one and one quarter (1.25”) inches from the ram referenced above, as shown in the bottom schematic in diagram (1).
2.2 Convex Mirrors

Large Vehicles must be equipped with convex mirrors to enable the operator of the Large Vehicle to see all points on an imaginary horizontal line which is three (3’) feet above the road, starting from five (5’) feet directly behind the placement of the convex mirror, and which view extends rearward beyond the full length of such large vehicle on both the left and right sides of the Large Vehicle.

2.3 Cross-Over Mirrors

Large Vehicles must be equipped with a convex cross-over mirror on the front of the vehicle to enable the operator of the Large Vehicle to see any person or object at least three (3’) feet tall passing in front of the vehicle.

2.4 Safety Decals
Large Vehicles must be equipped with a minimum of two (2) safety decals on the rear of the Large Vehicle, two (2) safety decals on the left side of the Large Vehicle, and two (2) safety decals on the right side of the Large Vehicle, that warn Vulnerable Road Users of blind spots, with the following requirements:

(a) Decals must be “safety yellow” in color.
(b) Decals must include language or images warning of the blind spot locations on the vehicle.
(c) Decals on the sides of Large Vehicle must be placed on or within one (1’) foot of the Side Under-Ride Guards.

3. Compliance

3.1 All Large Vehicles subject to the Ordinance and these Regulations shall comply with these Regulations and the City of Boston Code of Ordinances, Chapter 4, Section 4-8, and shall have all convex mirrors, cross-over mirrors, Side Under-Ride Guards, and decals inspected and approved by the City of Boston Inspectional Services Department. Upon successful completion of the inspection and approval by the City of Boston, all Large Vehicles shall be affixed with the City of Boston Inspectional Services Department’s compliance certification sticker (“Sticker”).

3.2 A fee to cover the costs associated with the City of Boston’s inspection and Sticker shall be determined by the City of Boston Commissioner of the Inspectional Services Department and paid by the applicant / owner of the Large Vehicle.

3.3 Certification and receipt of the City of Boston Sticker must occur prior to any delivery of supplies, services, design and/or construction within the City of Cambridge by any Large Vehicle subject to the requirements of the Ordinance and these Regulations.

3.4 Any Large Vehicle that already has a current City of Boston Sticker does not need to submit to further inspection by the City of Boston Inspectional Services Department until two years has passed since its original certification, unless the convex mirrors, cross-over mirrors, Side Under-Ride Guards, or decals have been damaged, worn, removed, replaced or modified in any way since the last inspection.

3.5 Large Vehicles must display their Sticker, which shall denote the year of inspection. Inspections and Stickers must be updated biennially.

By:_____________________
Owen O’Riordan
Commissioner of Public Works

Date:_____________________
July 1st 2021
By: ______________________________

Joseph Barr

Date: July 1, 2021

Director of Traffic, Parking and Transportation
Subcontractor's Certification

Prior to the award of any subcontract, regardless of tier, the prospective subcontractor must execute and submit to the Construction Manager the following certification, which will be deemed a part of the resulting subcontract:

**SUBCONTRACTOR'S CERTIFICATION**

__________________________ (Subcontractor) certifies that:

1. it will obtain from each of its subcontractors prior to the award of any subcontract under this subcontract the subcontractor certification required by these bid conditions;

2. it read, understands and shall comply with the Minority/Women/Resident hiring requirements set forth in Cambridge Municipal Code §2.66.060, et seq.;

3. it is aware that failure to comply with the Cambridge Employment Plan will result in, at minimum, the following: 1) it will be ineligible to bid for future contracts with the City of Cambridge, and 2) the City of Cambridge will notify DCAMM of such failure which may affect the contractor's future qualification to bid for public contracts throughout the Commonwealth;

4. it has read, understands and shall comply with all the pertinent provisions of the Americans with Disabilities Act and will be subject to sanctions for failure to do so;

5. it has read, understands and shall comply with all the provisions of the Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program and will be subject to sanctions for failure to do so.

Signed under the penalty of perjury.

__________________________
Signature of authorized representative of subcontractor

__________________________
Print name of authorized representative of subcontractor

__________________________
Dated

In order to ensure that the subcontractor's certification becomes part of all subcontracts under the prime contract, no subcontract shall be executed until an authorized representative of the City agency (or agencies) administering this project or the Affirmative Action Officer has determined, in writing, that the said certification has been incorporated in such subcontract, regardless of tier. Any subcontract executed without such written approval shall be void.
CONSTRUCTION MANAGER CERTIFICATION

__________________________________________ (Name of General Bidder) hereby certifies that it, and all its subcontractors who are not filed sub bidders shall:

(1) 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 a 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.

Signed under the penalties of perjury. ______________(date)

________________________________________________
Signature of authorized representative of contractor

________________________________________________
Print name of authorized representative of contractor

RETURN THIS FORM WITH YOUR BID
FILED SUBBIDDERS CERTIFICATION - BID FORM

(Name of Sub Bidder) hereby certifies that it, and all its subcontractors who are not filed sub bidders shall:

(1) 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 each employee.

Signed under the penalties of perjury. (date)

Signature of authorized representative of contractor

Print name of authorized representative of contractor

RETURN THIS FORM WITH YOUR BID
Construction Manager’s Certification

The Construction Manager must certify the following prior to the execution of any amendment authorizing Work to commence:

CONSTRUCTION MANAGER CERTIFICATION

(__________________________) certifies that:

1. it shall obtain from each of its subcontractors and submit to the contracting or administering agency prior to the performance of any work under said subcontract a certification by each subcontractor, regardless of tier, that it will comply with the Minority/Women/Resident workforce ratio;

2. it read, understands and shall comply with the Minority/Women/Resident hiring requirements set forth in the Cambridge Employment Plan, Cambridge Municipal Code §2.66.060, et seq.;

3. it is aware that failure to comply with the Cambridge Employment Plan will result in, at minimum, the following: 1) it will be ineligible to bid for future contracts with the City of Cambridge, and 2) the City of Cambridge will notify DCAMM of such failure which may affect the contractor’s future qualification to bid for public contracts throughout the Commonwealth;

4. it has read, understands and shall comply with all the pertinent provisions of the Americans with Disabilities Act and will be subject to sanctions for failure to do so;

5. it has read, understands and shall comply with all the provisions of the Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program and will be subject to sanctions for failure to do so.

Signed under the penalties of perjury.

__________________________________________
Name of Authorized Representative

__________________________________________
Date

__________________________________________
Signature
AFFIDAVIT OF COMPLIANCE

_____Massachusetts Business Corp.  _____Foreign Corp.  _____Non-Profit Corp.

I, ________________________________, ________________________________, of
(Name)  (Title)

______________________________
(Offerer’s Company Name)

with a principal office located at

________________________________________________________________________

do hereby certify that the above named corporation has filed with the State Secretary all
certificates and annual reports required by Chapter 156B Sec. 109 (business corporation), by
Chapter 181, Sec. 4 (foreign corporation) or by chapter 180, Sec. 26A (non-profit corporation) of
the Massachusetts General Laws.

SIGNED UNDER THE PENALTIES OF PERJURY this ___ day of _____________, 2012.

________________________________________
Name of Authorized Representative

________________________________________
Date

________________________________________
Signature of Duly Authorized Corporate Officer
AFFIDAVIT OF PREVAILING WAGE COMPLIANCE
(C. 149, S. 26 and 27)

I, _______________________ , _______________________, of ____________________________ ,_________________________ , (Offeror’s Company Name)

with a principal office located at _______________________________________________________________.

do hereby certify that the above named corporation will comply with the prevailing wage laws as set forth in Sections 26 and 27 of the Massachusetts General Laws.

SIGNED UNDER THE PENALTIES OF PERJURY this ___day of __________, 2012.

_____________________________
Name of Authorized Representative

_____________________________
Date

_____________________________
Signature of Duly Authorized Corporate Officer
CERTIFICATION OF TAX COMPLIANCE

Pursuant to M.G.L. Ch. 62c. sec. 49a.

I, ________________________, of _______________________, hereby certify under penalties of perjury that _________________ has, to my best knowledge and belief, filed all state tax returns and paid all state taxes required under law.

Federal Identification Number
or Social Security Number

Company Name

Signature

Name of Duly Authorized (type/print)

Title/Company Position
NON-COLLUSION AFFIDAVIT

The undersigned hereby declares under the penalties of perjury that they have carefully examined the Notice to Contractors, form of Contract and general conditions, specifications and plans referred to, and also the site upon which the proposed work is to be performed.

The undersigned also hereby certifies under the penalties of perjury that the offeror is the only entity interested in this proposal; that it is made without any connection with any other person making any bid for the same work, that no person acting for, or employed by, the City is directly or indirectly interested in this proposal, or in any contract which may be made under it, or in expected profits to arise therefrom; and without directly or indirectly influencing or attempting to influence any other person or corporation to bid or to refrain from bidding or to influence the amount of the bid of any other person or corporation; and that this proposal is made in good faith without collusion or connection with any other person bidding for the same work; and that this proposal is made with distinct reference and relation to the plans and specifications prepared for this contract and herein mentioned. The undersigned further declares that in regard to the conditions affecting the work to be done and the labor and materials needed, this proposal is based solely on Offeror’s own investigation and research and not in reliance upon any representation of any employee officer or agent of the City.

No oral, written or telegraphic amendments to this bid will be accepted. An offeror wishing to amend this proposal after transmittal to the City may do so only by written notice received by the City in the office designated in the request for proposal prior to the time and date set for the opening of proposals.

Name of Offeror: __________________________________________________________
Company or Joint Venture Name

________________________________________________________
Authorized Representative Signature

________________________________________________________
Print Name and Title
**CORI COMPLIANCE FORM**

Persons and businesses supplying goods and/or services to the City of Cambridge ("Vendors"), who are required by law to perform CORI checks, are further required by Section 2.112.060 of the Cambridge Municipal Code to employ fair policies, practices and standards relating to the screening and identification of persons with criminal backgrounds through the CORI system. Such Vendors, when entering into contracts with the City of Cambridge, must affirm that their policies, practices and standards regarding CORI information are consistent with the policies, practices and standards employed by the City of Cambridge as set forth in the City of Cambridge CORI Policy ("CORI Policy") attached hereto.

**CERTIFICATION**

The undersigned certifies under penalties of perjury that the Vendor employs CORI related policies, practices and standards that are consistent with the provisions of the attached CORI Policy. **All Vendors must check one of the three lines below.**

1. _______ CORI checks are not performed on any Applicants.

2. _______ CORI checks are performed on some or all Applicants. The Vendor, by affixing a signature below, affirms under penalties of perjury that its CORI policies, practices and standards are consistent with the policies, practices and standards set forth in the attached CORI Policy.

3. _______ CORI checks are performed on some or all Applicants. The Vendor’s CORI policies, practices and standards are not consistent with the attached CORI Policy. Please explain on a separate sheet of paper.

__________________________________________________________________________________________
(Typed or printed name of person signing quotation, bid or Proposal)

__________________________________________________________________________________________
(Name of Business)

**NOTE:**
The City Manager, in his sole discretion may grant a waiver to any Vendor on a contract by contract basis.

**Instructions for Completing CORI Compliance Form:**
A Vendor should not check Line 1 unless it performs NO CORI checks on ANY applicant. A Vendor who checks Line 2 certifies that the Vendor’s CORI policy conforms to the policies, practices and standards set forth in the City’s CORI Policy. A Vendor with a CORI policy that does NOT conform to the City’s CORI Policy must check Line 3 and explain the reasons for its nonconformance in writing. Vendors, who check Line 3, will not be permitted to enter into contracts with the City, absent a waiver by the City Manager.

**This form must be submitted with your bid**
Chapter 8.16 - NOISE CONTROL

Sections:

8.16.010 - Short title.
8.16.020 - Declaration of findings and policy—Scope.
8.16.030 - Definitions.
8.16.040 - Enforcement.
8.16.050 - General prohibition of noise disturbances.
8.16.060 - Measured noise disturbance.
8.16.070 - Restrictions on noise emitted from construction sites.
8.16.080 - Non-measured noise disturbances.
8.16.081 - Leaf Blowers
8.16.090 - Exceptions and variances.
8.16.100 - Miscellaneous.

8.16.010- Short title.

This chapter may be cited as the "Noise Control Ordinance" of the City of Cambridge.

(Ord. 1121 (part), 1991)

8.16.020- Declaration of findings and policy—Scope.

A. Declaration of Findings and Policy. Whereas excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life; and whereas the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the City to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

B. Scope. This chapter shall apply to the control of all sound and vibration originating within the limits of the City, unless otherwise exempted by law.

(Ord. 1121 (part), 1991)

8.16.030- Definitions.

1. "Authorized enforcement personnel" means the City Police Commissioner, the Commissioner of the Inspectional Services Department, the chairperson of the License Commission and their designees.

2. "Commercial area" means any area defined as an office or business district by the City zoning ordinance, Article 3.000.

3. "Construction" means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

4. "Daytime" means the period between the hours of seven a.m. and six p.m. daily except Sunday and holidays according to the time system locally in effect.

5. "dB" means the abbreviation for decibel.
6. "dB(A)" means the A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of Specifications for Sound Level Meters (S1. 4 1971), American National Standards Institute (ANSI), properly calibrated, and operated on the "A" weighting network.

7. "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

8. "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

9. "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

10. "Hz" means the abbreviation for Hertz, which means cycles per second.

11. "Impact device" means a construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of a moil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers and power impact hammers, impact wrenches, riveters and stud drivers.

12. "Industrial area" means any area defined as an industrial district by the City zoning ordinance, Article 3.000.

13. "L10 level" means the A-weighted sound level exceeded ten percent of the time.


15. "Motorcycle" means any vehicle so defined in G.L., c. 90, § 1.

16. "Noise disturbance" means any sound which (a) causes temporary or permanent hearing loss in persons exposed; or (b) is injurious to the public health; (c) causes a nuisance which is prohibited by law; or (d) is defined as a noise disturbance pursuant to the provisions of this chapter.

17. "Noise sensitive zone" means any area designated by the enforcement authority pursuant to subsection B of Section 8.16.040 of this chapter for the purpose of ensuring exceptional quiet. Noise sensitive zones shall include, but not be limited to, areas where noise sensitive activity occurs, such as the operation of schools, libraries open to the public, churches, hospitals and nursing homes.

18. "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

19. "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

20. "Public space" means any real property or structures thereon which are owned or controlled by a governmental entity.

21. "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

22. "Residential area" means any area defined as a residence district by the City zoning ordinance, Article 3.000.

23. "Sound pressure level" is numerically equal to twenty times the logarithm (to the base ten) of the sound pressure to the reference sound pressure (the reference sound pressure shall equal twenty micropascals). Unless
otherwise stated, the level is understood to be that of a root mean-square pressure.

24. "Weekday" means any day Monday through Friday which is not a legal holiday.

(Ord. 1121 (part), 1991)

8.16.040- Enforcement.

A. Enforcement Officials. The Police Commissioner, the Commissioner of the Inspectional Services Department and the chairperson of the License Commission shall be the authorized enforcement personnel charged with the enforcement of these provisions.

B. The License Commission may designate any appropriate area as a noise sensitive zone as that term is defined in Section 8.16.030(17) of this chapter.

C. Violations. Authorized enforcement personnel may: order and specify reasonable remedial actions to be taken by a violator of this chapter to achieve compliance; or issue citations, pursuant to G.L., c. 40, § 21D, for violations of these provisions assessing fines of three hundred dollars for each day such violation is committed or permitted to continue. Additionally, any person found in violation of any of the provisions of this chapter may be prosecuted for a misdemeanor and upon conviction thereof shall be fined three hundred dollars.

D. Injunction. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this chapter and which causes a noise disturbance may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

E. Suspension or Revocation of License or Permit. As an additional remedy for violation of any provision of this chapter, any enforcement official under subsection A of this section may summarily suspend, and after a hearing may revoke, any license or permit, including a building or demolition permit.

(Ord. 1121 (part), 1991)

8.16.050- General prohibition of noise disturbances.

No person or persons owning, leasing or controlling the operation of any source or sources of noise shall wilfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the establishment or continuation of a condition of noise disturbance.

(Ord. 1121 (part), 1991)

8.16.060- Measured noise disturbance.

A. This section shall apply to the use or occupancy of any lot or structure thereon and to the noise produced thereby, but shall not apply to the following:

1. To the intermittent or occasional use, during the daytime, of light homeowner's residential outdoor equipment or commercial service equipment provided said equipment and its use complies with other provisions of this chapter;

2. To construction activities and the associated use of construction devices nor to the noise produced thereby, provided such activities, and such equipment and its use, comply with provisions of this chapter.

3. To bell towers or clock towers with bells or chimes.

(Ord. 1206, Added, 07/27/1998)

B. Noise in Residential Areas or Affecting Residential Property. No person shall create or cause to be emitted
from or by any source subject to the provisions of this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot located in any residential area or in residential use elsewhere in conformance with the zoning ordinance, in excess of any level of subsection E of this section, residential district noise standard, provided, that if said lot is located in any industrial area, the noise level measured at the lot line shall not exceed any level of subsection E of this section, residential-industrial noise standard. Noise emitted from construction sites shall be excepted from this regulation.

C. Noise in Commercial Areas. No person shall create or cause to be emitted from or by any source subject to the provisions of this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot in any commercial area other than a lot in residential use in conformance with the zoning ordinance, in excess of any level of subsection E of this section, business district noise standard. Noise emitted from construction sites shall be excepted from this regulation.

D. Noise in Industrial Areas. No person shall create or cause to be emitted from or by any source subject to this chapter, any noise which causes or results in a noise level, measured at any lot line of any lot in recreational or business use in any industrial area in conformance with the zoning ordinance, in excess of any level of subsection E of this section, industrial district noise standard. Noise emitted from construction sites shall be excepted from this regulation.

E. Area Noise Standards. Noise standards referred to in this chapter for the several zoning districts of the City, as defined in and established pursuant to the City zoning ordinance are established by Table 8.16.060E following this section.

(Ord. 1121 (part), 1991)

<table>
<thead>
<tr>
<th>Octave Band Center Frequency Measurement (Hz)</th>
<th>Residential Area</th>
<th>Residential in Industrial Area</th>
<th>Commercial Area</th>
<th>Industry Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Daytime</td>
<td>Other Times</td>
<td>Daytime</td>
<td>Other Times</td>
</tr>
<tr>
<td>31.5</td>
<td>76</td>
<td>68</td>
<td>79</td>
<td>72</td>
</tr>
<tr>
<td>63</td>
<td>75</td>
<td>67</td>
<td>78</td>
<td>71</td>
</tr>
<tr>
<td>125</td>
<td>69</td>
<td>61</td>
<td>73</td>
<td>65</td>
</tr>
<tr>
<td>250</td>
<td>62</td>
<td>52</td>
<td>68</td>
<td>57</td>
</tr>
<tr>
<td>500</td>
<td>56</td>
<td>46</td>
<td>62</td>
<td>51</td>
</tr>
<tr>
<td>1,000</td>
<td>50</td>
<td>40</td>
<td>56</td>
<td>45</td>
</tr>
<tr>
<td>2,000</td>
<td>45</td>
<td>33</td>
<td>51</td>
<td>39</td>
</tr>
<tr>
<td>4,000</td>
<td>40</td>
<td>28</td>
<td>47</td>
<td>34</td>
</tr>
<tr>
<td>8,000</td>
<td>38</td>
<td>26</td>
<td>44</td>
<td>32</td>
</tr>
</tbody>
</table>

Single Number
Equivalent (dB(A)) | 60 | 50 | 65 | 55 | 65 | 70
---|---|---|---|---|---|---

(Ord. 1206, Added, 07/27/1998)

8.16.070 - Restrictions on noise emitted from construction sites.

A. Except as provided for in subsections C and D of this section, it is unlawful for any person to operate any construction device or devices on any construction site if the operation of such device or devices emits noise, measured at the lot line of the affected property, in excess of the values shown below:

<table>
<thead>
<tr>
<th>Lot Use of Affected Property</th>
<th>L\textsuperscript{10} Level</th>
<th>Maximum Noise Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>75 dB(A)</td>
<td>86 dB(A)</td>
</tr>
<tr>
<td>Business or Office</td>
<td>80 dB(A)</td>
<td>—</td>
</tr>
<tr>
<td>Industrial</td>
<td>85 dB(A)</td>
<td>—</td>
</tr>
</tbody>
</table>

2. The same level shall apply to a public way as applies to an industrial use. Measurements should not be taken closer than fifty feet or approximately fifteen meters from the nearest active construction device on the construction site. The maximum noise level shall be measured on the sound level meter at slow response.

B. The L\textsuperscript{10} level shall be determined in the following manner:

1. Every ten seconds, on the mark, the A-weighted noise level on the sound level meter with slow response is recorded until one hundred observations have been made. If, during any of these observations, a measurement is substantially affected by any source outside the construction site (such as aircraft overflight), measurements made during these periods will not be considered. However, the observation period shall be extended until one hundred valid measurements are obtained. The L\textsuperscript{10} level will be that level that is equal to the tenth highest level recorded.

2. If, in the estimation of the person taking the measurements, outside noise sources contribute significantly to the noise level, the above procedure shall be repeated (with the same outside noise source contributions) when construction is inactive, in order to determine the existing background L\textsuperscript{10} level. The L\textsuperscript{10} level during construction must exceed the background L\textsuperscript{10} level by 5 dB(A) to be considered a violation of subsection A of this section.

C. Except as provided for in subsection D of this section, it shall be unlawful to operate a construction device at any street excavation, grading or repair, utility street work installation or repair, which produces a noise level exceeding 86 dB(A) at a distance of fifty feet or approximately fifteen meters from the device.

2. The provisions of subsection A of this section shall not apply to any construction site covered by subdivision C (1). The provisions of this subsection will not be applicable to any construction device used in emergency service work that is necessary to return utility service to an area provided that within twenty-four hours such device is brought into compliance with this section or is not reused within the City until it does comply.

D. The provisions of subsections A and C of this section shall not be applicable to impact devices.

(Ord. 1121 (part), 1991)
8.16.080- Non-measured noise disturbances.

Noise Disturbances Prohibited. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this section. Bell towers and clock towers with bells or chimes shall be exempt from the operation of this section. (Ord. 1206, Added, 07/27/1998)

A. Horns, Signalling Devices, Etc. The sounding of any horn or signalling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the City, except as a danger warning; the creation by means of any such signalling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signalling device except the one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signalling device when traffic is for any reason held up.

B. Radios, Phonographs, Etc. The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker or public address systems, unless used by the City of Cambridge, or other machine or device for the producing or reproducing of sound in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, vehicle or dwelling unit in which it is located.

C. Street Sales. Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the City except between the hours of eight a.m. and five p.m. if all necessary permits are obtained.

D. Animals, Birds. Etc. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which are plainly audible within a noise sensitive zone, or plainly audible at a distance of fifty feet from the lot line of the lot on which it is located.

E. Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of nine p.m. and seven a.m. the following day on weekdays, or between the hours of nine p.m. and nine a.m. the following day when the following day is a Saturday, Sunday or holiday in such a manner as to be plainly audible at a distance of fifty feet from the lot line of the lot on which such activity is located, or to be plainly audible within a noise sensitive zone.

F. Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work:

1. Between the hours of six p.m. and seven a.m. the following day on weekdays, or between the hours of six p.m. and nine a.m. the following day when the following day is a Saturday, Sunday or holiday, such that the sound therefrom is plainly audible at a distance of fifty feet from the lot line of the lot on which said activity is located, or within a noise sensitive zone, except for emergency work of public service utilities or by special variance issued pursuant to subsection B of Section 8.16.090;

2. This section shall not apply to the use of domestic power tools subject to subsection L of Section 8.16.080.

G. Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to be plainly audible at a distance of fifty feet from the lot line of the lot on which said activity is located, or within a noise sensitive zone.

H. Places of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces,
reproduces, or amplifies sound in any place of public entertainment in such a manner as to be plainly audible at a distance of fifty feet from the source or to be plainly audible within a noise sensitive zone.

I. Vibration. Operating or permitting the operation of any device that creates vibration which is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at fifty feet from the source if on a public space or public right-of-way. For the purposes of this section, "vibration perception threshold" means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

J. Emergency Signalling Devices.

1. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signalling device, except for emergency purposes or for testing, as provided in subdivision (2) following.

2. Testing of a stationary emergency signalling device shall occur at the same time of day each time such a test is performed, but not before eight a.m. or after ten p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed ten minutes.
   
   a. Testing of the complete emergency signalling system, including the functioning of the signalling device and the personnel response to the signalling device, shall not occur more than once in each calendar month. Such testing shall not occur before eight a.m. or after ten p.m. The time limit specified in paragraph (a) above shall not apply to such complete system testing.

3. Sounding or permitting the sounding of any exterior burglar (or fire) alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within ten minutes of activation and does not sound again at all within the hour.
   
   a. In addition to the enforcement provisions of 8.16.040, violators of section (a) above shall be subject to a fine of $100.00 for each violation. Each ten (10) minute interval of sounding, or part thereof, after the initial ten (10) minutes sounding shall constitute a separate violation.

   b. Fines for the sounding of burglar or fire alarms in violation of this ordinance may be assessed against the owner or occupant of the building in which the alarm is located.

   d. Any motor vehicle, located on either public or private property, whose alarm has been sounding in excess of ten (10) minutes in an hour, is hereby deemed to be a public nuisance subject to immediate abatement. To effect abatement, policy must first observe personally that the sounding has lasted in excess of ten (10) minutes, and then make reasonable efforts to contact the owner of such vehicle to either have the owner shut-off the alarm or to authorize police to arrange for the shut-off of the alarm. If such efforts are unsuccessful, police are hereby authorized to abate the nuisance by arranging for tow company employees to shut off the alarm and/or to tow the motor vehicle to a storage area or other place of safety. In addition to any fines for violating this chapter, the registered owner of the motor vehicle shall be responsible for all reasonable expenses, costs and charges incurred by the deactivation of the alarm, and by the removal and storage of such vehicle.

K. Noise Sensitive Zones.

1. Creating or causing the creation of any sound within any noise sensitive zone as defined by this chapter, so as to disrupt the activities normally conducted within the zone, provided that conspicuous signs are displayed indicating the presence of the zone; or

2. Creating or causing the creation of any sound within any noise sensitive zone, as defined by this
chapter, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity, provided that conspicuous signs are displayed indicating the presence of the zone.

L. Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snow blower, or similar device used outdoors in residential areas between the hours of ten p.m. and seven a.m. so as to be plainly audible at a distance of fifty feet from the lot line of the lot on which said activity is located, or in a noise sensitive zone.

M. Electronic Bug Killing Devices. The use of an electric bug killing device between the hours of eleven p.m. and eight a.m. if a written objection to such use by an abutter has been received by the City Clerk within one year.

(Ord. 1121 (part), 1991)

(Ord. No. 1167, Amended, 09/11/95; Ord. No. 1167, Amended, 09/11/95)

(1206, Added, 07/27/1998; 1200, Amended, 04/27/1998, additions to 8.16.080 (J) (3))

8.16.081- Leaf Blowers

Statement of purpose. The City Council hereby finds that the reduction of noise and emissions of particulate matter resulting from the use of leaf blowers is a public purpose that protects the public health, welfare and environment of the City of Cambridge and its citizens. The City Council recognizes that a total ban on the use of such equipment would have a severe adverse impact on the ability of the City to effectively remove leaves, dust, dirt, grass clippings, cuttings and trimmings from trees, shrubs and other types of litter and debris from streets, sidewalks, cemeteries and large recreational facilities and other open spaces and to clean and maintain such facilities without relaxing restrictions on the use of such equipment for maintenance operations of such facilities.

(Ord. 1311, Added, 12/10/2007)

8.16.081.1 Use Regulations. The use of leaf blowers shall be regulated as follows:

1. Definitions.

   a. Definition of leaf blower. Leaf blowers are defined as portable, handheld or back pack style power equipment that is powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, moving, removing, dispersing or redistributing leaves, dust, dirt, grass clippings, cuttings and trimmings from trees and shrubs or any other type of litter or debris.

   b. Definition of commercial leaf blower operator. Any entity or organization that employs two (2) or more employees that receives income, remuneration or compensation of any kind, whether as a fee, a charge, a salary, wages or otherwise, for operating a leaf blower, except that municipal operators and municipal contractors are excluded from this definition.

(Ord. 1311, Added, 12/10/2007)

8.16.081.2 Limitations on Use.

   a. The use of leaf blowers is prohibited except between March 15 and June 15 and between September 15 and December 31 in any year. The provisions of this subsection 8.16.081.2.2(a) do not apply to the use of leaf blowers in accordance with the provisions of this Leaf Blower Ordinance and regulations promulgated hereunder by municipal operators and municipal contractors performing leaf blower operations in Mayor Thomas W. Danehy Park, Fresh Pond Reservation, Thomas P. O'Neil, Jr. Municipal Golf Course at Fresh Pond, Cambridge Municipal
Cemetery, Old Burial Ground or performing emergency operations and clean-up associated with storms, hurricaness and the like or by operators performing leaf blower operations on one or more adjoining parcels of land in common ownership that together comprise a total of two (2) acres or more, so long as the owners of such land comply with the provisions of subsection 8.16.081.2.2(c).

b. The use of leaf blowers is further prohibited on Sundays and legal holidays except Columbus Day and Veterans' Day and prohibited on other days except between the hours of 8:00 a.m. and 5:00 p.m. Mondays through Fridays and 9:00 a.m. and 5:00 p.m. Saturdays, Columbus Day and Veterans' Day. Commercial leaf blower operators may operate leaf blowers between the hours of 12:00 noon and 5:00 p.m. only on Columbus Day and between the hours of 1:00 p.m. and 5:00 p.m. only on Veterans' Day, consistent with the provisions of G.L. c. 136, §13 as it may be amended. The provisions of this subsection 8.16.081.2.2(b) do not apply to the use of leaf blowers in accordance with the provisions of this Leaf Blower Ordinance and regulations promulgated hereunder by municipal operators and municipal contractors performing leaf blower operations in Mayor Thomas W. Danehy Park, Fresh Pond Reservation, Thomas P. O'Neil, Jr. Municipal Golf Course at Fresh Pond, Cambridge Municipal Cemetery, Old Burial Ground or performing emergency operations and clean-up associated with storms, hurricanes and the like or by operators performing leaf blower operations on one or more adjoining parcels of land in common ownership that together comprise a total of two (2) acres or more, so long as the owners of such land comply with the provisions of subsection 8.16.081.2.2(c).

c. Commercial leaf blower operators and owners of one or more adjoining parcels of land in common ownership that together comprise a total of two (2) acres or more seeking to operate leaf blowers on such land shall not be permitted to operate leaf blowers, but may be exempted from the prohibition of this subsection 8.16.081.2.2(c) if they submit an operations plan to the City Manager or his or her designee for review and approval. At a minimum, the operations plan shall: address the owner's or operator's efforts to mitigate the impacts of noise and emissions upon citizens and the occupants and owners of nearby property, include an inventory of all leaf blowing equipment owned and to be used by the owner or operator in its operations program, which shall comply with the noise and emission restrictions set forth in this Leaf Blower Ordinance and regulations promulgated hereunder, and include the owner's or operator's plan for educating users of its equipment on the proper use of equipment as well as the need to mitigate impacts upon others. The operations plan shall be reviewed by the City Manager or his or her designee, who shall ensure that it complies with the applicable provisions of this Leaf Blower Ordinance and regulations promulgated hereunder, and shall impose any conditions that may be required in order for the owner or operator to comply with the provisions of this Leaf Blower Ordinance and regulations promulgated hereunder. No operations plan submitted by owners of one or more adjoining parcels of land in common ownership that together comprise a total of two (2) acres or more seeking to operate leaf blowers on such land shall be approved by the City Manager unless there has been a showing of significant hardship.

d. Leaf blower operations shall not cause leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris to be blown or deposited on any adjacent or other parcel of land, lot, or public right-of-way/property other than the parcel, land, or lot upon which the leaf blower is being operated. Leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris shall not be blown, swept or raked onto or into an adjacent street or gutter, except by municipal employees or municipal contractors or leaf blower operators placing leaves, dust, dirt, grass clippings, cuttings and trimmings from trees and shrubs on a municipal street or sidewalk for collection and pick-up, during municipal street and sidewalk sweeping and cleaning operations. In no event shall leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris be blown, swept or raked onto or into catch basins or onto vehicles, persons or pets. Deposits of leaves, dirt, dust, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris shall be removed and disposed of in a sanitary manner which will prevent dispersement by wind, vandalism or similar means.

e. All leaf blowers shall satisfy the emissions standards of the United States Environmental Protection Agency and noise level standards as follows: the sound emitted from any leaf blower shall be rated by the manufacturer to be no greater than 65 decibels.
f. On parcels of 10,000 square feet or less, only one leaf blower at a time may be used, and on parcels larger than 10,000 square feet, only one leaf blower may be used within each 10,000 square foot area.

(Ord. 1311, Added, 12/10/2007)

8.16.081.3 Fees.

A fee for the City to recover all costs connected with emission or sound testing and enforcement may be charged in an amount set by the License Commission and approved by the City Manager.

(Ord. 1311, Added, 12/10/2007)

8.16.081.4 Regulations

The License Commission and the Commissioner of Public Works shall have the authority to promulgate regulations to implement the provisions of this Leaf Blower Ordinance.

(Ord. 1311, Added, 12/10/2007)

8.16.081.6 Severability.

The provisions of this chapter are severable. If any section, provision or portion of this chapter is determined to be invalid by a court of competent jurisdiction, the remaining provisions of this chapter shall continue to be valid.

(Ord. 1311, Added, 12/10/2007)

8.16.081.7 Effective Date.

The provisions of this Leaf Blower Ordinance shall be effective commencing on March 1, 2008 except as to City of Cambridge contracts now in effect, as to which the provisions of this Leaf Blower Ordinance shall be effective commencing on September 15, 2008.

(Ord. 1311, Added, 12/10/2007)

8.16.090 Exceptions and variances.

A. Emergency Exception. The provisions of this chapter shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of an emergency, or (b) the emission of sound in the performance of emergency work.

B. Special Variances.

1. The License Commission shall have the authority, consistent with this section, to grant special variances which may be requested pursuant to any section of this chapter.

2. Any person seeking a special variance pursuant to this section shall file an application with the License Commission. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for a special variance shall be published according to procedure. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the License Commission containing any information to support his claim. If the License Commission finds that a sufficient controversy exists regarding an application, a public hearing may be held.

3. In determining whether to grant or deny the application, the License Commission shall balance the hardship to the applicant and the community, of not granting the special variance, against the adverse
impact on the health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. The License Commission shall also consider whether the noise disturbance occurs in or across a buffer zone. Buffer zones shall be the imaginary line along the ground surface, its vertical extension, and the area at fifty feet on either side of the line, which separates a residential area from a commercial area or an industrial area. Applicants for special variances and other persons contesting special variances may be required to submit any information the License Commission may reasonably require. In granting or denying an application, the License Commission shall place on public file a copy of the decision and the reasons for denying the special variance.

4. Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted.

5. Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances under subdivision (2).

6. The License Commission may issue guidelines defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

C. Variances for Time to Comply.

1. Within sixty days following the effective date of the ordinance codified in this chapter, the owner of any commercial or industrial source of sound may apply to the License Commission for a variance in time to comply with Section 8.16.080I, vibration, or Section 8.16.060, measured noise disturbance.

2. Any person seeking a variance in time to comply shall file an application with the License Commission. The application shall contain information which demonstrates that bringing the source of sound or activity for which the variance is sought into compliance with this chapter prior to the date requested in the application would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for a variance in time to comply shall be published according to procedure. Any individual who claims to be adversely affected by allowance of the variance in time to comply may file a statement with the License Commission containing any information to support his claim. If the License Commission finds that a sufficient controversy exists regarding an application, a public hearing may be held.

3. In determining whether to grant or deny the application, the License Commission shall balance the hardship to the applicant and the community, of not granting the variance in time to comply against the adverse impact on health, safety, and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the variance. The License Commission shall also consider whether the noise disturbance occurs in or across a buffer zone. Buffer zones shall be the imaginary line along the ground surface, its vertical extension and the area at fifty feet on either side of the line which separates a residential area from a commercial area or an industrial area. Applicants for variances in time to comply and persons contesting variances may be required to submit any information the License Commission may reasonably require. In granting or denying an application, the License Commission shall place on public file a copy of the decision and the reasons for denying or granting the variance in time to comply.

4. Variances in time to comply shall be granted to the applicant containing all necessary conditions, including a schedule for achieving compliance. The variance in time to comply shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the variance shall terminate the variance and subject the person holding it to those provisions of this chapter for which the variance was granted.

5. Application for extension of time limits specified in variances in time to comply or for modification of
other substantial conditions shall be treated like applications for initial variances under subsection B of Section 8.16.090, except that the License Commission must find that the need for the extension or modification clearly outweighs any adverse impacts of granting the extension or modifications.

6. The License Commission may issue guidelines defining the procedures to be followed in applying for a variance in time to comply and the criteria to be considered in deciding whether to grant a variance.

D. Reconsideration. Any person aggrieved by a decision or action of the authorized enforcement officials may, within ten business days of said decision or action, request reconsideration of same by the official.

(Ord. 1121 (part), 1991)

8.16.100 Miscellaneous.

A. Severability. It is the intention of the City Council that each separate provision of this chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this chapter be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

B. All ordinances or parts of ordinances inconsistent herewith are repealed.

C. This chapter shall take effect thirty days after its adoption.

(Ord. 1121 (part), 1991)
Exhibit

M.11MINORITY & WOMEN BUSINESS ENTERPRISE REQUIREMENTS
CHAPTER 193 ACTS OF 2004

GENERAL

To comply with the City of Cambridge Minority Business Enterprise requirements (MBE) and the Commonwealth of Massachusetts Construction Reform laws, general contractors must submit Minority Business Enterprise (MBE) Forms and Women’s Business Enterprise, (WBE) forms with its bid. The process is explained below. Failure to meet the requirements may result in automatic disqualification of the bidder. Upon request or upon its own initiative, the City may grant an extension of time for submission of the appropriate MBE/WBE Forms. Extensions shall be granted only upon a finding by the City that the bidder's failure to submit the appropriate MBE/WBE forms was excusable.

PROCEDURE

Steps you should take to comply with the City's MBE & Chapter 193 Acts of 2004 requirements are as follows:

- Consult the Supplier Diversity Office (SDO) Certified Minority/Women Business Directory
  Only MBE & WBE firms approved by SDO will be accepted by the City of Cambridge.

- Attempt to develop a bid that includes at least ten percent (10%) of your total bid price in the form of work subcontracted to (or materials purchased from) one or more Minority Businesses.

- Attempt to develop a bid that includes at least four percent (4%) of your total bid price in the form of work subcontracted to (or Materials purchased from) one or more Women Business Enterprises.

To reach the MBE & WBE goals, you (the General Contractor) must contact as many of the subcontractors or suppliers in the SDO directory as necessary. Please note that MBE/WBE FORM #3 - CONTRACT REQUEST-FOR-EXTENSION and MBE/WBE FORM #4 - INFORMATION ON UNSUCCESSFUL CONTACT require you to provide a list of each firm contacted and other related information.

If you are successful in achieving or exceeding the 10% MBE & 4% WBE goals you must:

A. Complete and submit MBE/WBE FORM #1 - CONTRACTOR CERTIFICATION OF COMPLIANCE.

B. Have your participating SDO sub-contractor complete MBE/WBE FORM #2 - LETTER OF INTENT TO PARTICIPATE, to be submitted with your bid.

If you are unsuccessful securing SDO certified businesses to fulfill the MBE & WBE goals then complete and submit with your bid MBE/WBE FORM#3 - CONTRACTOR REQUEST FOR EXTENSION and MBE/WBE FORM #4 - INFORMATION ON UNSUCCESSFUL MBE CONTACT.

Supplier Diversity Office (617) 973-8692 www.mass.gov/supplier-diversity-office

Elizabeth Unger, Purchasing Agent - 617 349-4310
MINORITY/WOMEN BUSINESS ENTERPRISE PROGRAM

COMPLIANCE DETAILS

PERCENTAGE OF MBE PARTICIPATION - percentage of MBE participation shall be that percentage of the total bid price represented by the amount to be paid to MBE(s). The General Bidder's compliance with the percentage requirement shall continue to be determined by reference to the above-described method throughout the term of the contract, even though the actual may be greater or less than the bid price. The General Bidder shall submit to the Minority Business Compliance Officer signed copies of its subcontracts with all MBE's involved in meeting the percentage of Minority Business Enterprise Requirement.

PERCENTAGE OF WBE PARTICIPATION - percentage of WBE participation shall be that percentage of the total bid price represented by the amount to be paid to WBE(s). The General Bidder's compliance with the percentage requirement shall continue to be determined by reference to the above-described method throughout the term of the contract, even though the actual may be greater or less than the bid price. The General Bidder shall submit to the Minority Business Compliance Officer signed copies of its subcontracts with all WBE's involved in meeting the percentage of Women Business Enterprise Requirement.

ROLE of the MBE/WBE REVIEW COMMITTEE - The MBE Review Committee shall have referred to it by the Purchasing Agent and the Minority Business Compliance Officer all questions of interpretation of the MBE/WBE Program that arise during the Program's operation. The MBE Review Committee shall have the responsibility and authority to respond with binding answers to these questions. It also has the responsibility and authority to recommend to the City Manager whatever improvements it believes can be made in the program, based on operating experience.

CHANGES OF MBE/WBE STATUS - Any change or substitution of the officers or stockholders in a participating MBE/WBE company that reduces the minority ownership or control to less than the requisite percentage will immediately rescind the MBE/WBE designation previously given by SDO. The General Bidder (Prime Contractor) shall immediately notify the Minority Business Compliance Officer upon learning of such a change in status. In this event, the Prime Contractor shall submit to the Minority Business Compliance Officer a revised Contractor Certification of Compliance with MBE/WBE Requirements, showing how the lost participation will be replaced.

SANCTIONS

A. If the Prime Contractor does not comply with the terms of the Minority Business Enterprise requirements of the contract, the City may (1) suspend any payment for the activity that should have been performed by the MBE/WBE pursuant to the contract, or (2) require specific performance of the Prime Contractor's obligation by requiring the Prime Contractor to sub contract with any MBE/WBE for any contract or specialty item at the contract price established for that item in the proposal submitted by the Prime Contractor.

B. To the extent that the Prime Contractor has not Complied with the MBE/WBE requirements of the contract, the City may retain an amount determined by multiplying the bid price of this contract by the required percentage of MBE/WBE participation, less the amount paid to the MBE/WBE for work performed under the contract and any payments already suspended under "A" above.

C. In addition, or as an alternative, to the remedies under "A" and "B" above, the City may suspend, terminate, or cancel this contract, in whole or in part, or may call upon the Prime Contractor's surety to perform all terms and conditions in the contract, unless the Prime Contractor is able to
demonstrate its compliance with the MBE/WBE requirements, and may further deny to the Prime Contractor the right to participate in any future contracts awarded by the City for a period of up to three years.

D. In any proceeding involving the imposition of sanctions by the City, no sanctions shall be imposed if the City finds that the Prime Contractor has taken every possible measure to comply with MBE/WBE requirements, or that some other justifiable reason exists for waiving the MBE requirements in whole or part.

E. Any bidder or contractor shall provide such information as is necessary in the judgment of the City to ascertain its compliance with the MBE/WBE Requirements.

F. No sanctions shall be imposed by the City except in an adjudicatory proceeding under Chapter 30A of the General Laws.

G. A Prime Contractor shall have the right to request suspension of any sanctions imposed by the City upon showing that it is once again in compliance with the MBE/WBE Requirements.
## CONTRACTOR CERTIFICATION OF COMPLIANCE

Minority Business Enterprise Requirements

<table>
<thead>
<tr>
<th>Name &amp; Address of Participating Minority Bus. Enterprises</th>
<th>Name of Participant</th>
<th>Dollar Value of Participation</th>
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<td>7. GRAND TOTAL FOR MINORITY BUSINESS COMMITMENT $</td>
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<td>8. PERCENTAGE MBE PARTICIPATION (Line 7 Divided by tot. bid price) %</td>
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The below-signed bidder certifies that it will honor the above Minority Business Enterprise Commitment and that it understands that a breach of this commitment constitutes a breach of the contract.

Date

Authorized Signature

General Contractor

Business Address
LETTER OF INTENT TO PARTICIPATE
Minority Business Enterprise Requirements M.B.E.

TO: _________________________________________________________________
    (Name of General Bidder)

1. My company intends to perform work under the above-identified contract as:
   __________ an individual
   __________ a partnership
   __________ a corporation
   __________ a joint venture with _____________________________________
   __________ other (explain) ___________________________________________
   _________________________________________________________________

2. My company has been certified by the State Office of Minority and Woman Owned Business Assistance (SDO) as a Minority Business Enterprise and is listed as such in the most recently issued SDO Minority Business Directory. I hereby certify that my company's qualification as a Minority Business Enterprise have not changed since its application was submitted to SDO. I further certify that my company will give immediate notification in writing to both SDO and your Company in the event that its minority ownership, control, or management should change.

3. My company understands that if your company is awarded the contract, your company intends to enter into an agreement with my company to perform the activity described below for the prices indicated. My firm also understands that your firm, as General Bidder, will make substitutions and quantity changes only as allowed or required by the provisions of the contract with the City of Cambridge.

<table>
<thead>
<tr>
<th>ITEM NO</th>
<th>DESCRIPTION OF MY COMPANY’S ACTIVITY*</th>
<th>QUANTITY</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
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</table>

TOTAL AMOUNT$

* Description of Activity should include notations such as "Labor Only", "Material Only", etc.

Date ___________________________ General Contractor ___________________________

Authorized Signature

__________________________________________
Business Address

CONTRACTOR REQUEST FOR EXTENSION

Minority Business Enterprise Requirements

CONTRACTOR REQUEST FOR EXTENSION OF MINORITY BUSINESS ENTERPRISE REQUIREMENTS

The below-signed General Bidder certifies that it made a good faith effort to develop the required 10% (M.B.E.) Minority Business Enterprise participation in this contract, but was able to develop only MBE______%.

The below-signed General Bidder further certifies that it contacted the below-listed firms from the SDO MINORITY BUSINESS DIRECTORY supplied by the City of Cambridge Purchasing Department with the Bidding Documents; that said contracts were bona fide efforts to develop the required Minority Business Enterprise participation in the above-identified contract but were unsuccessful due to circumstances beyond the control of the General Bidder; and that the information given on the following pages about each contract has made is accurate and complete.

MBE Companies Contacted

1.____________________________________ 11.____________________________________
2.____________________________________ 12.____________________________________
3.____________________________________ 13.____________________________________
4.____________________________________ 14.____________________________________
5.____________________________________ 15.____________________________________
6.____________________________________ 16.____________________________________
7.____________________________________ 17.____________________________________
8.____________________________________ 18.____________________________________
9.____________________________________ 19.____________________________________
10.___________________________________ 20.___________________________________

The below-signed General Bidder therefore requests that the City of Cambridge grant an extension of ten working days in order to provide the General Bidder and opportunity to secure the required percentage of Minority Business participation.

_________________________________________  ______________________________
Date                                          General Contractor

_________________________________________
Authorized Signature

_________________________________________
Business Address
INFORMATION ON UNSUCCESSFUL MBE CONTACT
Minority Business Enterprise Requirements

Additional copies of this information form shall be prepared by the General Bidder in the quantity necessary to comply with bidding requirements.

ITEM NO. ON REQUEST-FOR-EXTENSION

NAME OF MBE COMPANY CONTACTED

ADDRESS

TELEPHONE NO.

DATE OF INITIAL CONTACT

HOW WAS CONTACT MADE? (Check appropriate answer) Telephone ___ in person ___ internet ___

SUB-CONTRACT WORK OFFERED TO THIS MBE COMPANY

RESULT OF CONTACT (Check appropriate answer) MBE FIRM DECLINED JOB _____;

MBE FIRM OFFERED TO DO JOB AT PRICE OF $ ____________, WHICH WAS DETERMINED BY OUR COMPANY TO BE TO HIGH _____;

MBE COMPANY OFFERED TO DO THE JOB AT A PRICE OF $ ____________, WHICH WAS SATISFACTORY, BUT THE MBE COMPANY WAS JUDGED BY OUR COMPANY TO BE UNQUALIFIED FOR THE JOB _____.

OTHER

NAME AND TITLE OF THE MBE COMPANY OFFICER WHO CAN VERIFY ABOVE INFORMATION AS TO MBE COMPANY’S RESPONSE

It is certified herewith by the below-signed officer of the General Bidder that the above information is accurate and complete.

____________________________  __________________________
Date                          General Contractor

____________________________  __________________________
Authorized Signature          Business Address
<table>
<thead>
<tr>
<th>Name &amp; Address of Participating Women Bus. Enterprises</th>
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<th>Dollar Value of Participation</th>
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<td>%</td>
<td></td>
</tr>
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</table>

The below-signed bidder certifies that it will honor the above Women Business Enterprise Commitment and that it understands that a breach of this commitment constitutes a breach of the contract.

Date

General Contractor

Authorized Signature

Business Address
LETTER OF INTENT TO PARTICIPATE  
Women Business Enterprise Requirements  
W.B.E.

TO: _________________________________________________________________
   (Name of General Bidder)

1. My company intends to perform work under the above-identified contract as:
   ___________ an individual
   ___________ a partnership
   ___________ a corporation
   ___________ a joint venture with __________________________
   ___________ other (explain) __________________________
   _______________________________________________________________

2. My company has been certified by the State Office of Minority and Woman Owned Business Assistance (SDO) as a Women Business Enterprise and is listed as such in the most recently issued SDO Women Business Directory. I hereby certify that my company's qualification as a Women Business Enterprise have not changed since its application was submitted to SDO. I further certify that my company will give immediate notification in writing to both SDO and your Company in the event that its minority ownership, control, or management should change.

3. My company understands that if your company is awarded the contract, your company intends to enter into an agreement with my company to perform the activity described below for the prices indicated. My firm also understands that your firm, as General Bidder, will make substitutions and quantity changes only as allowed or required by the provisions of the contract with the City of Cambridge.

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</table>

TOTAL AMOUNT

* Description of Activity should include notations such as "Labor Only", "Material Only", etc.

__________________________  __________________________
Date                          General Contractor

__________________________  __________________________
Authorized Signature         Business Address
The below-signed General Bidder certifies that it made a good faith effort to develop the required 4% (W.B.E.) Women Business Enterprise participation in this contract, but was able to develop only WBE___%.

The below-signed General Bidder further certifies that it contacted the below-listed firms from the SDO WOMEN BUSINESS DIRECTORY supplied by the City of Cambridge Purchasing Department with the Bidding Documents; that said contracts were bona fide efforts to develop the required Women Business Enterprise participation in the above-identified contract but were unsuccessful due to circumstances beyond the control of the General Bidder; and that the information given on the following pages about each contract has made is accurate and complete.

WBE Companies Contacted

1. ___________________________ 11. ___________________________
2. ___________________________ 12. ___________________________
3. ___________________________ 13. ___________________________
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5. ___________________________ 15. ___________________________
6. ___________________________ 16. ___________________________
7. ___________________________ 17. ___________________________
8. ___________________________ 18. ___________________________
9. ___________________________ 19. ___________________________
10. ___________________________ 20. ___________________________

The below-signed General Bidder therefore requests that the City of Cambridge grant an extension of ten working days in order to provide the General Bidder and opportunity to secure the required percentage of Minority Business participation.

Date ___________________________ General Contractor ___________________________

Authorized Signature ___________________________ Business Address ___________________________
Additional copies of this information form shall be prepared by the General Bidder in the quantity necessary to comply with bidding requirements.

| ITEM NO. ON REQUEST-FOR-EXTENSION | ________________________________ |
| NAME OF WBE COMPANY CONTACTED     | ________________________________ |
| ADDRESS                          | ________________________________ |
| TELEPHONE NO.                    | ________________________________ |
| DATE OF INITIAL CONTACT          | ________________________________ |

HOW WAS CONTACT MADE? (Check appropriate answer) Telephone _____ in person_____ internet

SUB-CONTRACT WORK OFFERED TO THIS WBE COMPANY ________________________________

RESULT OF CONTACT (Check appropriate answer) WBE FIRM DECLINED JOB _____; WBE FIRM OFFERED TO DO JOB AT PRICE OF $ ____________, WHICH WAS DETERMINED BY OUR COMPANY TO BE TO HIGH _____; WBE COMPANY OFFERED TO DO THE JOB AT A PRICE OF $ ____________, WHICH WAS SATISFACTORY, BUT THE WBE COMPANY WAS JUDGED BY OUR COMPANY TO BE UNQUALIFIED FOR THE JOB ______.

OTHER____________________________

NAME AND TITLE OF THE MBE COMPANY OFFICER WHO CAN VERIFY ABOVE INFORMATION AS TO MBE COMPANY’S RESPONSE ________________________________

It is certified herewith by the below-signed officer of the General Bidder that the above information is accurate and complete.

Date ___________________________ General Contractor ___________________________

Authorized Signature ___________________________ Business Address ___________________________
THIS FORM MUST BE SUBMITTED WITH YOUR BID

PROJECTED WORKFORCE CERTIFICATION

I, __________________ (general contractor) certify that the following is my projected workforce for this contract:

<table>
<thead>
<tr>
<th>GENERAL CONTRACTOR</th>
<th>ESTIMATED # OF NEW HIRES</th>
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Signed under the penalties of perjury,

_____________________________________
General Contractor
CITY OF CAMBRIDGE
WRITTEN INFORMATION SECURITY POLICY (WISP) AFFIRMATION

I, ____________________________, the undersigned, hereby confirm and acknowledge to the City of Cambridge that I am aware of and understand the City of Cambridge’s Written Information Security Policy (WISP) as outlined in the link below; and shall comply with the requirements of the City of Cambridge’s WISP policy to the extent the policy applies to this contract.

https://www.cambridgema.gov/-/media/Files/informationtechnologydepartment/WISP.pdf

Date: _________________________

________________________________________
Signature of bidder/Contractor

________________________________________
Printed Name of bidder/Contractor

________________________________________
Title