

PROPOSAL, BID AND CONTRACT

**CITY OF BEASON RECREATION DEPARTMENT
IMPROVEMENTS TO THE POOL FACILITIES
UNIVERSITY SETTLEMENT CAMPUS
CONTRACT 2018-001**

**CITY OF BEASON RECREATION DEPARTMENT
UNIVERSITY SETTLEMENT CAMP BEACON CAMPUS
724 WOLCOTT AVE.
BEACON N.Y. 12508**

December 2018 – ISSUE #1

PREPARED BY:

M. A. Day Engineering, PC

3 Van Wyck Lane
Suite 2
Wappingers Falls, New York 12590
Phone: 845-223-3202

NOTICE TO BIDDERS

Sealed bids are sought and invited by the City of Beacon, City of Beacon, NY for certain improvements to the existing pool facilities at the City of Beacon University Settlement Camp, Beacon Campus located on Wolcott Avenue (Route 9D) in the City of Beacon, Dutchess County, New York, as set forth in specifications prepared by M.A. Day Engineering, PC, 3 Van Wyck Lane, Wappingers Falls, New York 12590 dated December 2018 - Issue #1.

Bids will be received by the City of Beacon located at 1 Municipal Plaza, Beacon, NY 12508, by 11:00 AM Tuesday, January 8, 2019. All bids received will be publicly opened and read aloud at 11:00 AM, or soon thereafter. The contract will be awarded as soon as practicable thereafter as determined by the City of Beacon.

All bids are to be submitted in a sealed envelope, clearly labeled "CITY OF BEACON UNIVERSITY CAMPUS POOL FACILITY" along with the bidders name and address. Each bid must be accompanied by an original, properly executed, Non-Collusion and Bid Certification.

Work proposed under this contract is located at the City of Beacon University Settlement Campus, City of Beacon. Generally, this contract consists of the following:

Scope of Work

The work proposed by the City of Beacon includes, but is not limited to, the following:

- Demolition and removal of an existing 16'x32' wood-frame building.
- Demolition of existing 16'x34' pool equipment building.
- Removal of existing backwash line from existing pool equipment building.
- Construction of a new 16'x34' pool equipment building.
- Construction of a new 16'x34 masonry block and wood frame rest/changing room.
- Removal any existing vegetation to allow for the installation of the backwash filter waste line to the proposed holding tank and two proposed 1 story block buildings near the existing pool.
- Installation of a 5,000 gallon tank with lockable covers as shown on the attached plans, installation of a high water alarm with tank sensors, 4x4 post with junction box, audible alarm in the newly constructed pool equipment building and vent tank as per plan.
- Installation of a solid PVC waste line to a 5,000 gallon precast holding tank, with audible alarm to be installed in equipment building.
- Minor site grading to return finished grade to existing conditions.
- All disturbed areas shall be brought to final finished grade, seeded and mulch as per the plan.
- Permitting will be performed by the City of Beacon.

Complete details are provided in the specification/plan document portion of the bid document.

A pre-bid and site walk will be held on December 21st, 2018 at 10 AM. Any questions will be answered at that the meeting.

ALL BIDDERS SHOULD BE AWARE THAT THIS PROJECT SHALL BE DONE USING PREVAILING WAGE RATES. IT SHALL BE THE RESPONSIBILITY OF THE BIDDER TO UTILIZE PREVAILING WAGE RATES IN THE BID PROPOSAL FOR ALL THEIR WORK AND THE WORK OF THE SUBCONTRACTORS. IT SHALL BE THE BIDDERS RESPONSIBILITY TO OBTAIN THE CORRECT CURRENT PREVAILING WAGE RATES FOR ALL INVOLVED TRADES FROM THE NEW YORK STATE DEPARTMENT OF LABOR (<http://labor.ny.gov>).

Electronic copies of the Bid Documents may be obtained by contacting the office of M.A. Day Engineering, PC, 3 Van Wyck Lane, Wappingers Falls, N.Y. 12590 (845-223-3202) between the hours of 8:00 a.m. and 4:30 p.m. on Monday through Friday and requesting the documents to be emailed. Contact Jennifer Maraday (jmaraday@madayengineering.com) to request the contract documents. The company information will be required so that contract addenda can also be emailed.

On all estimates for payment the fixed percentage retained shall be ten (5) percent. Any estimate shall be subject to correction in any succeeding estimate.

The final estimate will be prepared after the work has been inspected, tested and approved by the Engineer as required elsewhere herein and after acceptance has been given by the Owner. The fixed percentage retained on the final estimate for the guarantee period shall be five (5) percent of the total value of the work done and materials incorporated therein including any agreed compensation for any authorized extra work.

Payment on the final estimate shall not be made prior to the expiration of thirty (30) days from the date of acceptance of the work by the Owner and the issuance of the Certificate-of-Occupancy and "Permission to Operate" issued by the Dutchess County Health Department for the pool facilities.

The remaining five (5) percent of the retainage (less whatever expenditures that may have been necessary by the Owner for repairs or replacements) shall be made at the expiration of one (1) year from the date of the issuance of the Certificate-of-Occupancy of the facility by the City of Beacon Building Department and the "Permission-to-Operate" by the Dutchess County Department of Health.

No bid will be accepted unless a signed Certification of Non-Collusion is submitted with the bid.

The successful bidder shall be required to provide a Performance Bond and a Labor and Material Payment Bond, each for 100% of the contract price, with the contract.

The completion date for this project will be on May 31, 2019.

The City of Beacon, expressly reserves the right to waive any irregularities in or to accept any bid or to reject any and all bids or to award on any or all items, as the interest of the City may appear to require.

No bidder may withdraw his/her bid within thirty (30) days after the actual date of the bid opening.

City of Beacon

By: City of Beacon

Contained herein, or attached thereto, are the components of the bid package. All bidders will be responsible to determine that the bid package is complete prior to placing a bid.

The components are:

- Instructions to Bidders
- Bid Form
- Certification of Non-Collusion by Bidder
- Bid Bond Form
- Contract Agreement
- Instructions for Bond
- Performance Bond Form
- Labor and Material Payment Bond Form
- Contract General Conditions
- Plans – With specification details shown.

INSTRUCTIONS TO BIDDERS

1. Qualifications of Bidders

The law requires that contracts for public work in the State of New York be awarded to the lowest responsible bidder as will promote the public interest. In order to assist the City in determining whether the apparent low bidder meets this standard, the City reserves the right to require the apparent low bidder to submit the following:

To furnish the City within 5 calendar days from the date of the request, a statement containing the following:

- (a) a description (including project name, location and owner) of any competitively bid project on which the bidder submitted the low bid but was not awarded a contract, within the previous five (5) years,
- (b) a current detailed financial statement showing assets (including a list of equipment owned by the bidder), liabilities and net worth, net total billings and average backlogs of uncompleted work on outstanding contracts for each of the previous three (3) years,
- (c) a list of the officers and principals of the bidder's legal entity, and a list of all subsidiary or affiliated companies in which the bidder's principals have any financial interest,
- (d) a list of the number of full time personnel of the bidder and a description of the construction experience of the bidder's principals and supervisory personnel,
- (e) a description of any projects which the bidder or his predecessors failed to complete or any litigation in which the bidder has been involved with in the previous three (3) years, including a list of project names, locations and owner,
- (f) a list and description of all contracts completed by the bidder within the previous three (3) years,
- (g) a list of at least three (3) project references (including project names, locations, owners, contact persons and telephone numbers) which included work similar in scope, complexity, and construction value as this proposed project, and
- (h) a list and description of the status of all uncompleted contracts of the bidder.

2. Preparation of Bids

Prepare the bid on the official Bid Form included in these documents. Fill in all blank spaces legibly. The Bid Form must contain an original signature.

Bid Security is required as a guarantee that the bidder will enter into the contract if awarded. Bid Security may be in the form of a certified check or bid bond. The surety company shall prepare the bid bond in accordance with the Bid Bond Form included in this package. The amount shall be at least 3% (three percent) of the total bid.

3. Performance Bond, Labor and Material Payment Bond

The bidder to whom the contract is awarded shall furnish a performance bond, and a labor and material payment bond, each equal to 100% of the amount of the contract. The date of each bond must not be prior to the date of contract.

A surety company shall prepare the performance bond, and the labor and material payment bond, in accordance with the bond forms included in this package. A letter of credit, in a form acceptable to the City Attorney, may be substituted for the performance bond and the labor and material payment bond.

4. Visit to the Site

The bid shall be regarded as having been made with full knowledge of conditions and requirements. The bidder agrees and represents that he/she has visited the premises prior to the time of submitting the bid and has inspected and given consideration to the conditions under which the work is to be performed. A pre-bid and site walk will be held on December 7th, 2018, to address any questions and to allow access to the site.

5. Prevailing Wages

Any contract or sub-contract awarded to do the work shall be required to comply with the Davis-Bacon Act and other federal labor standards or provisions. The NYS DOL and Federal Schedule of Wages applicable to this contract are attached. **It shall be the sole responsibility of the Contractor submitting a bid for this project to ensure that the correct and current prevailing wage rates were used by prepare the bid for this project. The prevailing wage rates can be obtained by the New York Stated Department of Labor.**

6. Permits

The City will be responsible for issuing all demolition and construction permits.

7. Erosion and Sediment Control

The bidder is cautioned that the contractor will be responsible for maintaining all sediment and erosion control measures during site construction in accordance with the attached erosion and sediment control plans. No SWPPP inspections are required.

8. Rock Removal

The Contractor will submit a unit price for rock removal.

9. Liquidated Damages

Liquidated damages are not part of this contract.

10. Technical Specifications

The bidder is advised that Technical Specifications are included in the Engineering Report for the design of the pool improvements which is included in the Bid Documents.

- a. The Contractor shall provide submittals for the equipment or certificates of compliance for all substituted materials to be incorporated into the project as a necessary condition of any application for payment. These material specifications will be submitted directly to the project engineer. The contact information for of the project engineer is as follows:

M.A. Day Engineering, PC
C/o Brian J, Stokosa, P.E.
3 Van Wyck Lane
Wappingers Falls, N.Y. 12590
(p) 845-223-3202
(e) bstokosa@madayengineering.com

It is preferable to have materials sent via email but will be accepted in other forms (drop off or mail). Materials can also be provided to the inspecting engineer on-site.

BID FORM

TO: City of Beacon

In compliance with your Notice to Contractors, duly published, the undersigned,

_____, proposes and agrees as follows:

1. To furnish all the materials, equipment, and incidentals, and to furnish labor and do all the work required, to construct, furnish, and complete the improvements to be made at the pool facilities and associated work in accordance with the prices so named in this bid in a workmanlike manner, in accordance with the specifications, of which are a part of the proposal and hereto annexed.
2. To complete all the work as specified, on which this bid is based, by May 31, 2019, after the City's Notice to Proceed.
3. To furnish the City within five (5) calendar days from the date of the request, if identified as the apparent low bidder and if requested by the City, a statement of qualifications as described in Section 1 Qualifications of Bidders in the Instructions to Bidders.
4. To enter into a contract within ten (10) calendar days from the date of acceptance of this bid and, within fifteen (15) calendar days from the date of acceptance of this bid to furnish, with suitable surety to be approved by the City of Beacon, performance and labor and material payment bonds, the amount of each of the bonds to be the full amount of the bid as it appears in this proposal.
5. To comply with the Davis-Bacon Act and other federal labor standards or provisions and to pay New York State prevailing wage rates applicable to this contract. **It is the responsibility of the Contractor to utilize current prevailing wage rates provided by the New York State Department of Labor in the preparation of the bid for this project.**
6. In compliance with the Instructions to Bidders, the undersigned declares that he/she has examined the site of the work and informed himself/herself fully in regard to all conditions pertaining to the place where the work is to be done. He/she has examined the plans and specifications for the work and the contractual documents relating thereto, has read all special provisions furnished prior to the opening of bids, and has satisfied himself/herself relative to the work to be performed.
7. If the undersigned fails to perform any of the promises made herein, the certified check herewith deposited will be paid to the City of Beacon or payment of the bond herewith deposited will be enforced for the benefit of the City of Beacon, as liquidated damages for such default; otherwise the check or bond will be returned to the undersigned.

ADDENDA:

Receipt of the following addenda is hereby acknowledged:

	<u>DATE</u>	<u>SIGNATURE</u>
ADDENDUM NO. 1	_____	_____
ADDENDUM NO. 2	_____	_____

BASE BID:

The bidder proposes to perform the work required in accordance with the Base Bid of the Contract Documents for the lump sum of

_____, \$ _____
(in writing) (and figures)

SIGN BID HERE _____
Authorized Signature Title

Print Name

Legal Company Name _____

Address _____

City, State, Zip _____

Telephone No. _____

Federal I.D. # _____

UNIT PRICES

	Estimated Quantity	
UP #1	300 YD3	Additional Excavation _____ DOLLARS & _____ CENTS PER CUBIC YARD \$_____/CY \$ _____
UP #2	300 YD3	Additional Structural Fill _____ DOLLARS & _____ CENTS PER CUBIC YARD \$_____/CY \$ _____
UP #3	500 YD3	Rock Excavation _____ DOLLARS & _____ CENTS PER CUBIC YARD \$_____/CY \$ _____

Bidder's
Initials _____

DESCRIPTION OF UNIT PRICES:

Unit Price #1 - Additional Excavation:

A fee per cubic yard of additional excavation shall be paid for furnishing all labor & equipment necessary for additional excavation deemed necessary by the Owner and/or the Engineer. This excavation shall include but not be limited to, additional foundation excavation, utility work, etc. Any additional excavation shall be approved by the Owner or the Engineer prior to the excavation work being performed.

Unit Price #2 - Additional Structural Fill:

A fee per cubic yard of additional structural fill shall be paid for furnishing all labor, material & equipment necessary to provide & compact additional structural fill deemed necessary by the Owner and/or the Engineer. Structural fill shall be defined as any material meeting the following specifications:

<u>Sieve Size</u> <u>Designation</u>	<u>% Passing</u> <u>By Weight</u>
2 inch	100 %
¼ inch	30-65 %
No. 40	5-40 %
No. 200	0-10%

Compact the structural fill at optimum moisture content to the required grade to not less than 95% of maximum dry unit weight according to ASTM D 1557. Any additional structural shall be approved by the Owner or the Engineer prior to the installation of any fill.

Unit Price #3 – Additional Rock Excavation:

A fee per in-situ cubic yard of rock excavation shall be paid for furnishing all labor, material & equipment necessary to remove additional bedrock necessary to complete the contract or as deemed necessary by the Owner and/or the Engineer. Rock excavation shall be defined as any rock or other material which cannot be excavated with a "Caterpillar 225 Hydraulic Excavator" or a machine of equal size. Any additional rock excavation shall be approved by the Owner or the Engineer prior to the commencement of any work.

CERTIFICATION OF NON-COLLUSION BY BIDDER

- (1) The prices in this bid have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices, with any other bidder or with any competitor.
- (2) Unless otherwise required by law, the prices which have been quoted in this bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder, directly or indirectly, to any other bidder or to any competitor, before the time of the bid opening.
- (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A bid shall not be considered for award nor shall any award be made where (1), (2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (1), (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the City Clerk of the Municipality to which the bid is made, or his/her designee, determines that such disclosure was not made for the purpose of restricting competition.

- (4) The fact that a bidder (a) has published price lists, rates, or tariffs, covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items or other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph (1).
- (5) Any bid hereafter made to any public authority or to any official of any public authority created by the State or any political subdivision, by a corporate bidder for work of services performed or to be performed or goods sold or to be sold where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in the lead paragraph of this section, shall be deemed to have been authorized by the board of directors of the bidder and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation/partnership/individual.

(officer's/partner's/ individual's) name printed

(officer's/partner's/individual's) signature

(Corp./Partnership/Individual) name printed

(Corp./Partnership/Individual) signature

STATE OF NEW YORK)
 ss:
COUNTY OF _____)

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

BID BOND FORM

KNOW ALL PERSONS BY THESE PRESENTS: that

* _____ as Principal; and

** _____ as Surety, are hereby held and firmly bound unto the City of Beacon in the amount of:

_____ Dollars (\$_____) for the payment whereof Principal and Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed this _____ day of _____ 20____.

WHEREAS,

The condition of the above obligation is such that, whereas the Principal has submitted to the City of Beacon a certain bid, attached hereto and hereby made a part hereof, to enter into a contract in writing for the _____ Project and associated work for the City of Beacon as shown and specified in the contract, plans and specifications.

NOW THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate
- (b) If said Bid shall be accepted and the Principal shall execute and deliver the Contract Agreement in the form attached hereto (properly completed in accordance with said Bid) and furnish such performance bond and labor and material payment bond as required, then this obligation shall be void. Otherwise, the same shall remain in force and effect, it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall in no way be impaired or affected by any extension of the time within which the Principal may accept such bid; and said Surety does hereby waive notice of any such extension.

*Insert Bidder's Name

**Insert Surety's Name

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are Corporations have caused their Corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

(Seal of Principal if a Corporation)

PRINCIPAL

By: _____

(Corporate Seal of Surety Co.)

(Officer's/Partner's/Individual's) signature

(Officer's/Partner's/Individual's) name printed

(Corporation/Partnership/Individual) name printed

STATE OF NEW YORK)
 ss:
COUNTY OF _____)

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

City of Beacon

CONTRACT AGREEMENT

THIS AGREEMENT, made and executed this ____ day of _____, in the year Two Thousand Eighteen, by and between the City of Beacon and

_____, Contractor,

WITNESSETH: in consideration of the mutual agreements herein contained the parties hereto have agreed and hereby agree with each other, the City, its successors and assigns, and the Contractor, and his/her successors and assigns, as follows:

The City of Beacon agrees to pay and the Contractor agrees to accept a total, final and fixed Contract Price of:

_____ (\$_____)

for the work outlined in the bid documents and specifications.

The Contractor will furnish all labor and materials necessary to perform the work shown on the plans and specifications as prepared for the City of Beacon by M.A. Day Engineering and the office of Aryeh Siegel, R.A.

Included in this Contract are all labor, supervision, machinery, equipment, facilities, tools, transportation, supplies, materials, insurance's, permits, certificates, tests, guarantees, protection of equipment and property and life during construction, and all other things whether or not explicitly shown or mentioned, necessary and proper for or incidental to the completion of a workmanlike job, complete in every respect and detail, left ready and in perfect condition for the Owner's use, as called for in the plans and specifications.

On all estimates for payment the fixed percentage retained shall be ten (5) percent. Any estimate shall be subject to correction in any succeeding estimate.

The final estimate will be prepared after the work has been inspected, tested and approved by the Engineer as required elsewhere herein and after acceptance has been given by the Owner. The fixed percentage retained on the final estimate for the guarantee period shall be five (5) percent of the total value of the work done and materials incorporated therein including any agreed compensation for any authorized extra work.

Payment on the final estimate shall not be made prior to the expiration of thirty (30) days from the date of acceptance of the work by the Owner and the issuance of the Certificate-of-Occupancy and "Permission to Operate" issued by the Dutchess County Health Department for the pool facilities.

The remaining five (5) percent of the retainage (less whatever expenditures that may have been necessary by the Owner for repairs or replacements) shall be made at the expiration of one (1) year from the date of the issuance of the Certificate-of-Occupancy of the facility by the City of Beacon Building Department and the "Permission-to-Operate" by the Dutchess County Department of Health.

The Contractor, by placing his/her signature on this Contract, hereby certifies that he/she has read and is aware, cognizant, and knowledgeable of the contents of all bid documents and the contract documents and he agrees to abide by and be bound by their contents and by all applicable federal, State and local laws, ordinances and statutes.

Attached hereto and bound into this Contract are a Performance Bond, and a Labor and Material Payment Bond, each in the amount of _____ (\$) surety. As required by provisions of the Contract Documents, each bond shall be in the amount of 100% of the project bid price.

Payments, both progress and final, will be made as submitted to, reviewed and approved by the Consulting Engineer and Architect of Record (M.A. Day Engineering, PC and the office of Aryeh Siegel, R.A.) and the Recreation Department. Payment requests will be approved no more frequently than once per month.

The Contractor agrees to begin work on the day specified in the City's Notice to Proceed, and unless the date for completion is extended pursuant City of Beacon approval, he/she further agrees to complete the work within ninety (90) days from the starting date to be specified in the Notice to Proceed.

(Corporate Seal if applicable)

(Officer's/Partner's/Individual's) signature

(Officer's/Partner's/Individual's) name printed

(Corporation/Partnership/Individual) name printed

STATE OF NEW YORK)
 ss:
COUNTY OF _____)

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

City of Beacon (Owner)

Attest By: _____
Signature Name (printed)

Title (printed)

INSTRUCTIONS FOR BOND

The name, including full given name and business or residence address of each individual party to the bond shall be inserted in the space provided therefore, and each such party shall sign the bond with his usual signature on the line opposite the scroll seal.

If the principals are partners, their individual names shall appear in the space provided therefore, with the recital that they are partners composing a firm, naming it, and all the members of the firm shall execute the bond as individuals.

If the principal or surety is a corporation, the name of the state in which incorporated shall be inserted into the space provided therefore, and said instrument shall be executed and attested under the corporate seal as indicated in the form. If the corporation has no corporate seal the fact shall be stated in which case a scroll or adhesive seal shall appear following the corporate name.

The official character and authority of the person or persons executing the bond for the principal, if a corporation, shall be certified by the secretary or the assistant secretary, according to the form herein provided. In lieu of such certificate there may be attached to the bond copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.

PERFORMANCE BOND FORM

KNOW ALL PERSONS BY THESE PRESENTS: that

(Contractor)

(Address)

as Principal, hereinafter called Contractor, and

(Surety)

(Address)

as Surety, hereinafter called Surety, are held and firmly bound unto the City of Beacon, as Obligee, hereinafter called Owner, in the amount of

_____ (\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, CONTRACTOR has by written agreement dated _____,

20____ entered into a Contract with Owner for the City of Beekman Recreation Department Pool Improvements Project at University Campus in accordance with plans and specifications prepared by M.A. Day Engineering, PC, which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and hold harmless the Owner from all costs and damages which the Owner may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety shall promptly remedy the default by (1) Completing the Contract in accordance with its terms and conditions, or (2) Obtaining a bid or bids for submission to the Owner for completing the Contract in accordance with its terms and conditions, and upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date

on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person, corporation or entity other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which shall be deemed an original, this _____ day of _____, 20____.

(Corporate Seal if applicable)

(Officer's/Partner's/Individual's) signature

(Officer's/Partner's/Individual's) name printed

(Corporate Partnership/Individual) name printed (Principal)

STATE OF NEW YORK)
 ss:
COUNTY OF _____)

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

NOTES:

1. Date of Bond must not be prior to date of Contract.
2. If Contractor is a Partnership all partners should execute the bond.
3. Surety Companies executing Bonds must be authorized to do business in New York State and be approved by the Owner.
4. All bonds shall be in a form acceptable to and shall be approved by the Owner.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____ secretary of the corporation named as principal in the within bond; that _____ who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said corporation of its governing body.

_____ (Corporate Seal)

LABOR AND MATERIAL PAYMENT BOND FORM

_____, as surety ("Surety")
(Insert Proper Name of Surety)

and _____
(Insert Proper Name of Contractor)

as principal ("Contractor"), enter into, execute this bond ("Payment Bond"), and bind themselves in favor of the City of Beacon

as obligee ("Owner") in the penal sum of \$ _____
(Insert Penal Sum)

as per This Contract 2018-001 and any addendums thereto – December 2018

WHEREAS, the Contractor has executed a contract with the Owner herewith ("Construction Contract") for construction of the work outlined in Contract 2018-001 and any applicable addenda.

("PROJECT"); and,

WHEREAS, the Owner has required the Contractor to furnish this Labor and Material Payment Bond containing the terms and conditions set forth herein as a condition to executing the Construction Contract with the Contractor;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and for themselves, their heirs, administrators, executors and successors agree:

1. The Construction Contract is hereby incorporated herein and by reference made a part hereof to the same extent and effect as though it were copied verbatim herein. The Surety and the Contractor are bound for the full performance of the Construction Contract including without exception of all its terms and conditions, both express and implied, and, without limitation, specifically including contractor's obligation to pay for labor, materials, services and equipment provided in connection with the Construction Contract performance;
2. For purposes of this Labor and Material Payment Bond, Beneficiary is defined as a person or entity who has actually provided labor, material, equipment, services or other items for use in furtherance of the Construction Contract, and having:
 - (A) a direct contract with the Contractor; or
 - (B) a direct contract with a subcontractor of the Contractor; or
 - (C) rights, under the laws of the jurisdiction where the Project is located, to file a lien, a claim or notice of lien, or otherwise make a claim against the Project or against funds held by the Owner, if the Project is, or were, subject to such filing.

3. The Surety shall not be obligated hereunder to any party other than a Beneficiary defined above unless such other party has given written notice of its claim to the Contractor and the Surety within the longer of:

- (A) ninety (90) days after such other party provided labor, material, equipment, services or other items for use in furtherance of the Construction Contract; or,
- (B) the period of time provided by the jurisdiction wherein the Project is located for (1) filing of a lien, claim of lien, notice of lien, if the Project is, or were, subject to such filing, or (2) otherwise making a claim against the Project or against funds held by the Owner;

stating the amount claimed and identifying, by name and address, the person or entity to whom such labor, material, equipment, services or other items were provided.

4. In no event shall the Surety be obligated hereunder for sums in excess of the Penal Sum. The Penal Sum shall be deemed increased by any amount by which the contract price increases by virtue of change orders.
5. Upon receipt of a claim from a Beneficiary hereunder, the Surety shall promptly, and in no event later than 30 days after receipt of such claim, respond to such claim in writing (furnishing a copy of such response to the Owner) by:
- (A) making payment of all sums not in dispute; and,
 - (B) stating the basis for disputing any sums not paid.
6. No action shall be commenced by a Beneficiary hereunder after the passage of the longer of one (1) year following final completion of the Construction Contract or, if this bond is provided in compliance with applicable law, any limitation period provided therein. If the limitation period contained in this paragraph is unenforceable, it shall be deemed amended to provide the minimum period for an action against the Surety on a payment bond by a third-party beneficiary thereof.
7. Any and all notices to the Surety or the Contractor shall be given by Certified Mail, Return Receipt Requested, to the address set forth for each party below:

SURETY:

CONTRACTOR:

OWNER:

CONTRACTOR

SURETY

(TYPED NAME) SEAL

(TYPED NAME) SEAL

By: _____
(SIGNATURE)

By: _____
(SIGNATURE)

(PRINTED NAME, TITLE & ADDRESS)

(PRINTED NAME, TITLE & ADDRESS)

(DATE OF EXECUTION)

(DATE OF EXECUTION)

NOTES:

1. Date of Bond must not be prior to date of Contract.
2. If Contractor is a Partnership all partners should execute the bond.
3. Surety Companies executing Bonds must be authorized to do business in New York State and be approved by the Owner.
4. All bonds shall be in a form acceptable to and shall be approved by the Owner.

STATE OF NEW YORK)
 ss:
COUNTY OF _____)

On the _____ day of _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

CONTRACT GENERAL CONDITIONS

1.0 PAYMENT

1.1 Total Payment

- a. For the Contractor's complete performance of the work, the Owner will pay, and the Contractor agrees to accept, subject to the terms and conditions hereof, the total of the lump sum prices and the unit prices at which this Contract was awarded, plus the amount required to be paid for any extra work as approved in writing by the City of Beacon, less credit for any work omitted.

1.2 Progress Payments

- a. The Owner will make a lump sum payment if work is completed within thirty (30) days from the date specified in the Notice to Proceed, or the Owner will make monthly progress payments on account of this Contract, on or after the fourth Monday of each month, whenever the monthly estimate of the Contractor, as approved by the Consultant Engineer and/or City, shows that the fair value of the work completed during the previous month exceeds one thousand dollars (\$1,000).
- b. Payment will be in an amount equal to ninety-five percent (95%) of the value of the work completed in accordance with the unit values shown on the Bid Sheets, or the Contractor's schedule of values as approved by the Engineer, less the aggregate of all previous payments, except where specifically provided elsewhere herein.
- c. Payment requests shall be made on AIA Document G702 and AIA Document G703 Continuation Sheets and shall be submitted by the tenth day of the month in which payment is scheduled to be made. Payment requests shall be approved, changed or rejected by the Consultant Engineer at least three (3) days prior to the date upon which payment is scheduled to be approved by the City of Beacon. Delays in payment due to disagreement between the Consultant Engineer and Contractor about a quantity shall be borne by the Contractor. It is also the burden of the Contractor to obtain agreement from the Consultant Engineer or to be satisfied with his estimate.
- d. When submitting payment requests, the Contractor shall certify with each request that all subcontractors, suppliers and laborers have been paid in full (less 5% retainage, if allowed) up to the date of the request. In addition, the Contractor shall provide certificates of compliance for all materials to be incorporated into the project. No payment will be made by the Owner without the required certification and certificates.
- e. All materials and work covered by progress payments shall become the property of the Owner. Payments made to the Contractor shall not be construed as acceptance by the Owner of any work or materials not in

accordance with the plans and specifications.

1.3 Substantial Completion

- a. When the work or major portions thereof are substantially completed, the Contractor may submit a request for payment of the remaining amount of the contract amount. Upon receipt of such request for payment, the Consultant Engineer shall make an inspection and identify all work that is incomplete or otherwise not ready for final acceptance.
- b. The Owner shall approve and promptly pay the remaining amount of the contract balance less two times the value of any remaining items to be completed (as identified in the Engineer's Certificate of Substantial Completion) and an amount necessary to satisfy any claims, liens or judgments against the Contractor which have not been suitably discharged. The Certificate of Substantial Completion may also assign responsibilities for security, maintenance, and damage to the work, insurance, etc. The Certificate shall fix the time within which the Contractor shall complete all items listed as being incomplete or otherwise not ready for final acceptance.
- c. As the remaining items of work (as identified in the Engineer's Certificate of Substantial Completion) are satisfactorily completed or corrected, the Contractor may prepare a request for payment, but not more often than monthly, for any such work. The Owner shall pay as in paragraph 1.1 above, subject to the retainage in paragraph 1.4 below.

1.4 Security Retainage

- a. A five percent (5%) security retainage may be held by the City for a period of thirty (30) days after final payment if all work has not been completed to the satisfaction of the Consultant Engineer. At the end of this period another inspection of the facility will be made and if all work is deemed satisfactory in the opinion of the City of Beacon the retainage shall be released. If any remedial maintenance is required, the Contractor will be notified to take all corrective actions as necessary to remedy the unsatisfactory condition.

1.5 Final Payment

- a. Within thirty (30) days after receiving notice from the Contractor of completion of all of the work and submission of satisfactory evidence of having repaired any and all damage to public or privately owned properties resulting from, but not a part of, the work under this contract, the Consultant Engineer will cause a final inspection to be made for approval of all the work done under this contract. If upon such inspection the Consultant Engineer determines that no further work is to be done, the Owner will issue a Certificate of Completion to the Contractor for the work done under this contract.
- b. As a condition precedent to receiving final payment, the Contractor shall submit AIA forms (or similar) G706 Contractor's Affidavit of Payment of

Debts and Liens, G706A Contractor's Affidavit of Release of Liens, and G707 Consent of Surety Company to Final Payment.

- c. The Owner will, not later than thirty (30) days after the final acceptance of the work under this Contract, pay the Contractor the entire sum so found due thereunder after deduction of all previous payments and the amount to be retained pursuant to the ninety (90) day period of maintenance. It is mutually agreed; that all prior payment having been based on estimates made solely to enable the Contractor to prosecute the work advantageously, the final payment will be subject to such corrections as may be found necessary to bring the total payments into agreement with the contract price.

1.6 Acceptance of Final Payment

- a. The acceptance by the Contractor or by anyone claiming by or through him of the final payment shall operate as and shall be a release to the Owner and every officer and agent thereof, from any and all claims and all liability to the Contractor for anything done or furnished in connection with this work or project and for any act or neglect of the Owner or of any others relating to or affecting the work. No payment, however, final or otherwise shall operate to release the Contractor or his sureties from any obligations under this contract or performance bond.

2.0 CONTRACT SECURITY

2.1. Satisfactory surety

- a. If at any time the Owner shall become dissatisfied with any surety or sureties, or the performance bond, or if for any other reason such bond shall cease to be adequate security for the Owner, the Contractor will, within five (5) days after notice from the Owner's attorney to do so, substitute an acceptable bond in such form and amount and signed by such other surety as may be satisfactory to the Owner's attorney. The Contractor shall pay the premiums on all bonds. No further payments shall be deemed due nor shall be made until the new surety shall have been qualified.

3.0 INSURANCE

3.1 Proof of insurance

- a. Simultaneously with the execution of the contract, the Contractor shall provide at his own cost and expense, proof of the following insurance to the City, in the form of a Certificate of Insurance:
 - 1. Statutory Worker's Compensation coverage, in compliance with the Compensation Law of the State of New York.
 - 2. General Liability Insurance coverage in the comprehensive general liability form including blanket contractual coverage for the operation of the program under the Agreement in the amount of \$1,000,000.00. This insurance shall include coverage for bodily injury and property damage in

the amount of \$500,000.00. The City must be listed as additional named insured.

3. Automobile liability insurance coverage for all owned, leased, or non-owned vehicles in the amount of \$1,000,000.00 per occurrence. This insurance shall include coverage for bodily injury and property damage. The City must be listed as additional named insured.

4. Disability insurance in accordance with State Law.

- b. Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the City Clerk by registered mail, return receipt requested, at the address listed below:

City of Beacon
23 West Center Street
Beacon, New York 12508

Upon receipt of such notice the City shall have the option to cancel the Agreement without further expense or liability to the City, or to require the Contractor to replace the canceled insurance policy, or rectify any material change in the policy, so that the insurance coverage required is maintained continuously throughout the term of the Agreement in form and substance acceptable to the City. Failure of the Contractor to take out or to maintain, any required insurance, shall not relieve the Contractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification.

- c. All property losses shall be made payable to and adjusted with the City.
- d. All insurance policies referred to above shall be underwritten by companies authorized to do business in the State of New York and acceptable to the City.
- e. In the event that claims in excess of these amounts are filed by reason of any operations under the Agreement, the amount of excess of such claims, or any portion thereof, may be withheld from payment due or to become due the Contractor until such time as the contractor shall furnish such additional security concerning such claims as may be determined by the City.

4.0 GUARANTEE/WARRANTY

4.1 Maintenance Bond

- a. All labor and materials shall be guaranteed for a minimum of one year from the date of final completion and acceptance of work. Issuance of final payment shall constitute final acceptance. **After Notice of Substantial Completion and prior to issuance of final payment, the contractor shall provide a Maintenance Bond in the amount of 10 percent of the**

contract price. The bond shall remain in effect for one year from the date of final acceptance.

4.2 Time period for repair of defects

- a. If, within one year after the date of final acceptance, or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it within 10 (ten) calendar days after receipt of a written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition.
- b. In case of an emergency where, in the opinion of the Consultant Engineer, delay would cause serious loss or damage, and if the Contractor does not respond to make the repairs after 24 hour notice, the Owner may make repairs at the expense of the Contractor. Said repairs will be considered to apply to all items of work done by the Contractor pertaining to the installation including trench settlement.

5.0 INDEMNIFICATION

5.1 Applicability

- a. The Contractor shall indemnify and hold harmless the Owner and the Consultant Engineer and their agents and employees from and against all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss, or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. In any and all claims against the Owner or the Consultant Engineer or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph 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 Contractor or subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts. The obligations of the Contractor under this paragraph shall not extend to the liability of the Consultant Engineer, his agents or employees arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, design or specifications, or (2) the giving of or the failure to give directions or instructions by the Consultant Engineer, his agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

6.0 ENGINEER NOT RESPONSIBLE

The undertaking of periodic inspections by the Engineer OR Architect shall not be construed as supervision of actual construction nor make him responsible for providing a safe place for the performance of work by contractors or contractors employees of those of suppliers or subcontractors or for access, visits, use, work, travel, or occupancy by any person.

Approval by the architects and/or engineers of shop drawings for any material, apparatus, devices, and layouts shall not relieve this contractor from the responsibility of furnishing same of proper dimension, size, quality, quantity, and all performance characteristics to efficiently perform the requirements and intent of the contract documents. Such approval shall not relieve this Contractor from responsibility for errors of any sort on the shop drawings. If the shop drawings deviate from the contract documents, this Contractor shall advise the architects and/or engineers of the deviations in writing accompanying the shop drawings, including the reasons for the deviations.

7.0 SPECIFICATIONS AND DRAWINGS

The specifications and drawings are intended to cover all of the work that is known to be required to effect the complete installation. They are intended to be mutually explanatory of each other, but should any discrepancy or inconsistency appear or any misunderstanding arise as to the importance of anything contained in either the specifications or the drawings, the interpretation of the doubtful portions will be made by the Engineer OR Architect, whose decision shall, in all cases, be final and binding on the Contractor. Any materials or workmanship obviously necessary to satisfactory completion shall be furnished and installed whether or not specifically shown or mentioned. Any correction or errors or omissions in the specifications or drawings, or both, may be made by the Engineer OR Architect when such correction is necessary for the proper fulfillment of their intention as determined by him. Figures shall have preference over scale in reading dimensions. Copies of the specifications and drawings shall be kept constantly at the work.

If the Contractor, in the course of the work, finds any discrepancy between the plans and the physical conditions of the locality, or any errors or omissions in the plans or in the layout as given by the points and instructions furnished by the Engineer, it shall be his duty to immediately inform the Engineer, in writing and the Engineer shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the Contractor's risk.

In case, by inadvertence or otherwise, the plans or specifications do not require some work or material necessary for that purpose, the Contractor shall, nevertheless, be required to provide the same so that the work may be completed according to the true intent and purpose of the plans and specifications.

8.0 CONTROL OF WORK

In the performance of the work, the Contractor shall abide by all orders, directions and requirements of the Engineer and shall perform all work to the satisfaction of the Engineer OR Architect, and at such time and places, by such methods and in such a manner and sequence as he may require. The Engineer OR Architect shall then determine the amount, quality, acceptability and fitness of all parts of the work, shall interpret the Plans, Specifications, Contract Documents and any Extra Work Orders, and shall decide all other questions in connection with the work.

The Contractor shall employ no plant, equipment, materials, methods or workers to which the Engineer OR Architect objects, and shall remove no plant materials, equipment or other facilities from the site of the work without the Engineer OR Architect's permission. Upon request, the Engineer OR Architect shall confirm in writing any oral order, direction, requirement or determination.

The enumeration herein or elsewhere in the Contract Documents of particular instances in which the opinion, judgment, discretion or determination of the Engineer OR Architect shall control or in which work shall be performed to his satisfaction or subject to his approval of inspection, shall not imply that only matters similar to those enumerated shall be so governed and performed, but without exception all the work shall be governed and so performed.

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

The Contractor shall not sublet any part of the work under this Contract, nor assign any moneys, due him/her hereunder, without first obtaining the written consent of the Owner. This Contract shall inure to the benefit of and shall be binding upon their respective successors and assigns; but neither party hereto shall assign or transfer his/her interest herein in whole or in part without the consent of the other.

The Contractor shall assume all responsibility for, and shall take precautions for preventing injury to work completed or in progress by other contractors in or about the work; he/she shall cover and protect such work from damage, and all injury to same before completion of this Contract shall be made good by him/her. In the event that this is not done immediately, the Engineer OR Architect is hereby authorized to deduct the amount of the same, as determined, from the monthly and final payment.

The Contractor shall pay to the Owner all expenses, losses and damages as determined by the Engineer OR Architect incurred by said Owner in consequence of any defect, omission or mistake of the Contractor, agents, sub-contractors or employees, or be responsible for the making good thereof, and the Engineer OR Architect is hereby authorized to deduct the same, as determined, from the monthly and final payments.

If the work to be done under this Contract shall be abandoned, or if the Contract of any claim thereunder shall be assigned by the Contractor otherwise than as herein specified,

or if at any time the Engineer OR Architect shall be of the opinion, and shall so certify in writing to the Owner, the conditions herein specified as to the rate of progress are not fulfilled, or that the work or any part thereof is unnecessarily or unreasonably delayed, or that the Contractor has violated any provisions of this Contract, the Owner may notify the Contractor to discontinue all work, or any part thereof as the Owner may designate, and the Owner may thereupon by contract or otherwise as he may determine, complete the work or such part thereof, and charge the entire expense of so completing the work or part thereof to the Contractor; and for such completion the Owner, for itself or its contractors, may take possession of, and use or cause to be used in the completion of the work or part thereof, any of such materials, equipment, machinery, implements, and tolls of every description as may be found upon the site of said work.

All expenses incurred under the section shall be deducted and paid by the Owner out of any money then due or to become due the Contractor under this Contract, or any part thereof; and in such accounting the Owner shall not be held to obtain the lowest figures for the work of completing the Contract or any part thereof, or for insuring the proper completion, but all sums actually paid therefor shall be charged to the Contractor. In case the expenses so charged are less than the sum which would have been payable under this Contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference; and in case such expenses shall exceed the said sum the Contractor shall pay the excess amount to the Owner upon completion of the work without further demand being made therefor.

The Contractor shall comply at all times with the provisions of the "Occupation Safety and Health Standards for the Construction Industry" (29 CFR Part 1926).

The Contractor shall procure and pay for all permits and licenses necessary for the execution of his work and the use of such work when completed.

The Contractor shall observe all rules and regulations of the State and Local Health Officials, and must take such precautions as are necessary to avoid creating unsanitary conditions.

The Contractor shall indemnify and save harmless the Owner, its officers, and employees, from all suits, actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the said Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work, or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any claims or amounts arising or recovered under the "Workman's Compensation Act", or any other law, ordinance, order, or decree.

Until final acceptance of the work by the Engineer OR Architect, as evidence in writing, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements, or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof.

In case of suspension of work from any cause whatever, the Contractor shall be responsible for all materials, and shall properly store them, if necessary, and shall provide suitable drainage of the roadway and erect necessary temporary structures at his expense.

The Contractor shall not, without consent from the proper parties, enter or occupy with men, tools or materials, any land outside the rights of way or property of City of Beacon.

The Owner shall not be precluded or stopped, notwithstanding any such measurement, estimate or certificate, and payment in accordance therewith, from recovering from the Contractor and sureties such damages as it may sustain by reason of his failure to comply with the terms of the Contract. Neither the acceptance by the Owner or by any representative of the Owner, nor any payment for nor acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Owner, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damage herein provided. A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

Plan – Specification Sheets