

TOWN OF LONDONDERRY, VERMONT
100 Old School Street
South Londonderry, VT 05155

INVITATION TO BID

**GRADING AND DRAINAGE IMPROVEMENTS AT
LONDONDERRY TOWN OFFICE (TWITCHELL BUILDING)**

Posted: March 11, 2019

Response Date: April 11, 2019

The Town of Londonderry, Vermont (hereinafter referred to as “the Town”) seeks to engage the services of a qualified contractor to conduct grading and drainage improvements at the Town Offices located at 100 Old School Street, South Londonderry, as specified in the **Advertisement for Bids – Information to Bidder**, dated March 11, 2019, which is posted on the Town’s website at www.londonderryvt.org. Said document provides potential contractors with the information necessary to prepare and submit proposals for consideration by the Londonderry Selectboard.

In order to be considered, sealed quotations must be received by the Londonderry Town Administrator, 100 Old School Street, South Londonderry, VT 05155 on or before 3:00 pm on April 11, 2019. Any proposals arriving later than the specified time will be rejected, and no responsibility will be taken by the Town for failure of a delivery service to deliver proposals on time, regardless of the reason. All sealed bids received will be opened publicly immediately after the submission deadline. It is the intention of the Town for the Selectboard to award a contract for this project at its meeting on April 15, 2019.

A pre-bid meeting will be held at the work site on Monday, April 3, 2019 at 1:00 pm. While not mandatory, all interested bidders are strongly encouraged to attend.

The Londonderry Selectboard reserves the right to reject any and all proposals received as a result of this RFP, or to negotiate separately with some or all competing applicants for all or any part of the services described herein.

* * *

ADVERTISEMENT FOR BIDS – INFORMATION TO BIDDERS

1. Sealed BIDS for the construction of the Londonderry Town Office Grading and Drainage Improvements will be received by the Town of Londonderry, Vermont (OWNER), at the following address: 100 Old School Street, South Londonderry, VT 05155 until 3:00 pm (prevailing local time), April 11, 2019, and then at said office publically opened and read aloud.
2. All Bids must be made on the blank form of the BID proposal attached hereto. No lines on the BID may be left blank. **Failure to fully complete the BID will render the Bidder non-responsive, and the Bid will not be read.** In the event there is any discrepancy in the BID between any price in words, figures, or the extended totals, the price in words shall govern and the extended totals in each case shall be corrected accordingly. A conditional or qualified bid will not be accepted.
3. The OWNER reserves the right at its sole discretion to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the OWNER's interests. The OWNER reserves the right to investigate the financial responsibility of any bidder to determine his or her ability to assure service throughout the term of the contract. The OWNER also reserves the right to consult with outside sources to determine the ability of a bidder to perform the requirements of the proposal.
4. Plan sets are available from Marble Valley Engineering, P.C. for the non-refundable amount of \$50.00. Marble Valley Engineering, P.C. is located at 69 Grove Street, Rutland, Vermont 05701. Phone number is (802) 775-1181. Point of contact is Kevin Smith, P.E. E-mail contact may be made via ksmith@marblevalleyengineering.com .
5. A Bidder may withdraw any proposal submitted prior to the hour set for the closing of the Bids provided the request is signed in a manner identical with the proposal being withdrawn. No Bidder may withdraw a Bid within 45 days after the actual date of the opening.
6. All questions by prospective BIDDERS as to the interpretations of the INFORMATION FOR BIDDERS, Forms of PROPOSAL, Form of CONTRACT, Plans, or Specifications, must be submitted in writing to the Consulting Engineer, at least seven (7) days before the date herein set for the opening of BIDS. An interpretation will be emailed to prospective BIDDERS at the addresses given by them no later than five (5) days before the date of opening BIDS. Failure of any BIDDER to receive any such ADDENDUM or interpretation shall not relieve such BIDDER from any obligation under its BID as submitted. All ADDENDA so issued shall become part of the CONTRACT DOCUMENTS.
7. The OWNER will be responsible for payment in accordance with the terms of the Contract.
8. The prospective Bidders are responsible for inspecting the site and for reading and being thoroughly familiar with the Contract Documents. The failure or omission of a Bidder to do any of the foregoing shall, in no way, relieve any Bidder from any obligation in respect to his Bid.
9. A non-mandatory pre-bid meeting and site inspection is scheduled to be held at the Londonderry Town Office on April 3, 2019 starting at 1:00 pm (prevailing local time).

Town of Londonderry, Vermont
Owner

Shane P. O'Keefe
Signature

Town Administrator
Title

March 11, 2019
Date

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BID

Proposal of _____ (hereinafter called "Bidder"), organized and existing under the laws of the State of _____ doing business as: _____
(a corporation, a partnership or an individual)

To the Town of Londonderry, Vermont
(hereinafter called "Owner")

In compliance with your Request for Bids, Bidder hereby proposes to perform all Work for the construction of: Londonderry Town Office Grading and Drainage Improvements in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below. No Bidder may withdraw a Bid within 45 days after the actual date of the opening.

By submission of this Bid, each Bidder certifies, and in the case of a joint Bid, each party thereto certifies as to his own organization, that his Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

BIDDER hereby agrees to commence WORK under this contract on the date of issuance of the NOTICE TO PROCEED and to fully complete the PROJECT within 90 consecutive calendar days thereafter. BIDDER further agrees to pay as liquidated damages, the sum of \$500 for each consecutive calendar day thereafter as provided in Section 4 of the General Conditions.

BIDDER acknowledges receipt of the following ADDENDUM:

BID SCHEDULE

BIDDER agrees to perform all the WORK described in the CONTRACT DOCUMENTS for the following unit prices:

WORK DESCRIPTION: Londonderry Town Office Grading and Drainage Improvements

Item No.	Estimated Quantity	Brief Description; Unit or Lump Sum Price Bid in Both Word and Figures	Total in Figures
Item 1	400 LF	Underdrain Pipe (solid and perforated regardless of size/material) Per horizontal linear foot _____ _____ dollars and _____ cents. (\$ _____)	\$ _____
Item 2	850 SF	Rigid Foam Board Insulation Per square foot _____ _____ dollars and _____ cents. (\$ _____)	\$ _____
Item 3	670 SF	Sheet-Applied Waterproofing Per square foot _____ _____ dollars and _____ cents. (\$ _____)	\$ _____
Item 4	140 LF	Cut Off Wall Per horizontal linear foot _____ _____ dollars and _____ cents. (\$ _____)	\$ _____
Item 5	65 LF	French Drain Per horizontal linear foot _____ _____ dollars and _____ cents. (\$ _____)	\$ _____

Item 6 120 LF

12 inch HDPE Drainage Pipe (solid and perforated)

Per horizontal linear foot _____

_____ dollars

and _____ cents.

(\$ _____)

\$ _____

Item 7 1 EA

Window Well

Per each _____

_____ dollars

and _____ cents.

(\$ _____)

\$ _____

Item 8 1 LS

Miscellaneous Site Work

Lump Sum of _____

_____ dollars

and _____ cents.

(\$ _____)

\$ _____

TOTAL BASE BID (Items 1 through 8):

_____ **Dollars**

and _____ **Cents**

\$ _____

BID AWARD WILL BE BASED ON VALUE OF TOTAL BASE BID (Base Bid Total: Items 1 through 8).

In the event that the price in words is different from the price in numerals, the price written in words shall govern.

The undersigned Bidder does hereby declare and stipulate that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same Work, and that it is made in pursuance of and subject to all the terms and conditions of the Instructions to Bidders, the Construction Contract, the Detailed Specifications, and the Plans pertaining to the Work to be done, all of which have been examined by the undersigned.

Respectfully submitted:

Signature

Address

Title

Date

(Seal - if Bid is by a Corporation)

Attest _____

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NOTICE OF AWARD

TO: _____

PROJECT Description: _____ OWNER's Project Number: _____
Contract 1: Londonderry Town Office Grading and Drainage Improvements

The OWNER has considered the BID submitted by you for the above described WORK in response to its ADVERTISEMENT FOR BIDS dated _____, 20_____, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$ _____

You are required to execute the Agreement within ten (10) calendar days from the date when the NOTICE OF AWARD is delivered. The NOTICE OF AWARD shall be accompanied by the necessary Agreement form. In case of failure of the BIDDER to execute the Agreement, the OWNER may, at its option, consider the BIDDER in default..

The OWNER, within ten (10) days of receipt of the Agreement signed by the party to whom the Agreement was awarded, shall sign the Agreement and return to such party an executed duplicate of the Agreement. Should the OWNER not execute the Agreement within such period, the BIDDER may by WRITTEN NOTICE withdraw their signed Agreement. Such notice of withdrawal shall be effective upon receipt of the notice by the OWNER.

The OWNER shall issue the NOTICE TO PROCEED within ten (10) days of the execution of the Agreement. The "Date of Issuance" of the NOTICE TO PROCEED shall start the CONTRACT time. Should there be reasons why the NOTICE TO PROCEED cannot be issued within such period, the time may be extended only by mutual written agreement between the OWNER and CONTRACTOR.

If the NOTICE TO PROCEED has not been issued within the ten (10) day period or within the period mutually agreed upon, the CONTRACTOR may terminate the Agreement without further liability on the part of either party.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this _____ day of _____, 20_____

Town of Londonderry, Vermont
OWNER

(Print or Type Name)

Title: _____

Signature

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

Dated this _____ day of _____, 20_____

CONTRACTOR

(Print or Type Name)

Title: _____

Signature

CONTRACT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____, by and between the
Town of Londonderry, Vermont, hereinafter referred to as the Owner, and
_____, hereinafter referred to as the Contractor:

WITNESSETH: That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed that:

1. The Contractor will furnish all of the materials and supplies, equipment, and labor and other services necessary in conformance with these Contract documents for the construction and completion of the Project described in general as follows:

Londonderry Town Office Grading and Drainage Improvements

2. The CONTRACTOR will commence the WORK required by the CONTRACT DOCUMENTS on the date of issuance of the NOTICE TO PROCEED and will complete the same within 90 calendar days unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS. The CONTRACTOR acknowledges that the date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the CONTRACTOR further agrees to pay as liquidated damages, the sum of \$500 for each consecutive calendar day that the CONTRACTOR shall be in default after the time specified in the Agreement and as provided in Section 4 of the General Conditions.
3. The CONTRACTOR agrees to perform all the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ _____ or as shown in the BID schedule.
4. The Contract Documents include the following:
 - a) Advertisement for BIDS / Information for BIDDERS
 - b) BID
 - c) Notice of Award
 - d) Contract Agreement
 - e) Notice to Proceed
 - f) Payment Requisition Form
 - g) Certificates of Completion
 - h) General Conditions
 - i) Plans and specifications prepared by Marble Valley Engineering, P.C., numbered 1 through 6, and dated May 30, 2017.
5. The Owner will pay to the Contractor in the manner and at such times as set forth in the General Conditions and in such amounts as required by the Contract Documents.
6. This Contract shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Contract in duplicate, on the date first above written.

OWNER: Town of Londonderry, Vermont

ATTEST: _____
(Signature)

By: _____
(Signature)

Name: _____
(please print)

Name: _____
(please print)

Title: _____

Title: _____

CONTRACTOR: _____

By: _____
(Signature)

Name: _____
(please print)

(contractor's seal)

Title: _____

Address: _____

ATTEST: _____
(Signature)

Name: _____
(please print)

Title: _____

NOTICE TO PROCEED

To: _____
(CONTRACTOR)

Date of Issuance: _____

Project: Londonderry Town Office Grading and Drainage
Improvements

You are hereby notified to commence all WORK on this date in accordance with the Agreement dated _____, 20____. The date of completion of all WORK is _____, 20____

Town of Londonderry, Vermont
(OWNER)

By: _____
(Printed or Typed Name)

By: _____
(Signature)

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED

is hereby acknowledged by _____,
(Name of CONTRACTOR)

this the ____ day of _____, 20__

By: _____
(Printed or Typed Name)

By: _____
(Signature)

Title: _____

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CERTIFICATE OF SUBSTANTIAL COMPLETION

OWNER _____ OWNER's Project Number Contract 1 _____

Project Name _____

=====

CONTRACTOR _____ Contract Date _____

Contract for Londonderry Town Office Grading and Drainage Improvements

=====

Project or Specified Part Shall Include _____

DEFINITION OF SUBSTANTIAL COMPLETION

The date of Substantial Completion of a Project or specified part of a Project is the date when the construction is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part of the Project can be utilized for the purpose for which it was intended.

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To: Town of Londonderry, Vermont _____
(OWNER)

And To: _____
(CONTRACTOR)

The WORK performed under this CONTRACT has been inspected by authorized representatives of the OWNER, CONTRACTOR, and ENGINEER, and the Project or Specified Part of the Project is hereby declared to be Substantially Completed as of the following date:

Date of Substantial Completion: _____

If a tentative list of items to be completed or corrected is appended hereto, the failure to include an item on it does not alter the responsibility of the CONTRACTOR to complete all the WORK in accordance with the CONTRACT DOCUMENTS and CONTRACT TIME.

Recommended By:

Marble Valley Engineering, P.C.
ENGINEER

(Signature)

Date

(Print or Type Name)

Approved By:

Town of Londonderry, Vermont
OWNER

(Signature)

Date

(Print or Type Name)

=====

The CONTRACTOR accepts the above Certificate of Substantial Completion.

CONTRACTOR

(Signature)

Date

(Print or Type Name)

=====

EXCEPTIONS AS TO GUARANTEES AND WARRANTIES:

=====

ATTACHMENTS:

1) Punch List Dated: _____

2) List the CONTRACTOR's Warranty Start and End Dates along with any Extended Warranty information here. Some items (such as roofing) may have a manufacturer's warranty longer than one year. Any documentation to support warranty requests (bill of sale, etc.) need to be supplied as part of the OWNER's O&M Manual under the warranty section.

CERTIFICATE OF FINAL COMPLETION AND ACCEPTANCE OF WORK

CONTRACT NO. _____ AGREEMENT DATE: _____

CONTRACT DESCRIPTION: Londonderry Town Office Grading and Drainage Improvements

Notice to Proceed Date of Issuance: _____

Completion Date per Agreement and Change Orders # _____ thru # _____: _____
(Date)

FINAL CERTIFICATION OF CONTRACTOR

I hereby certify that the WORK as identified in the Final Estimate of Payment for construction CONTRACT WORK dated _____, represents full compensation for the actual value of WORK completed. All WORK completed conforms to the terms of the AGREEMENT and authorized changes.

CONTRACTOR	Signature
Date	Print or Type Name
Title	

FINAL CERTIFICATION OF ENGINEER

I have reviewed the CONTRACTOR'S Final Payment Request dated _____ and hereby certify that to the best of my knowledge, the cost of the WORK identified on the Final Estimate represents full compensation for the actual value of WORK completed and that the WORK has been completed in accordance with the terms of the AGREEMENT and authorized changes. This certification is provided in accord with the terms of GENERAL CONDITION number 16.3.

Marble Valley Engineering, P.C.
ENGINEER

Date	Signature
Date	Print or Type Name

FINAL ACCEPTANCE OF OWNER

I, as representative of the OWNER, accept the above Final Certifications and authorize Final Payment in the amount of \$ _____ and direct the CONTRACTOR'S attention to the GENERAL CONDITION #5. The guaranty for all WORK completed subsequent to the date of SUBSTANTIAL COMPLETION, expires one (1) year from the date of this Final Acceptance.

Town of Londonderry
OWNER

Date	Signature
Date	Print or Type Name
Title	

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GENERAL CONDITIONS

1. The CONTRACTOR shall furnish and pay the cost, including taxes (except tax exempt entities) and all applicable fees, of all the necessary materials and shall furnish and pay for full time on-site superintendence during any construction activity, labor, tools, equipment, and transportation, and perform all the Work required for the construction of all items listed and itemized under the Bid Schedule of the Bidder's Proposal attached hereto in strict accordance with the Plans, Specifications and requirements, general conditions and special conditions which are attached hereto and made a part hereof, and any amendments thereto and such supplemental plans and specifications which may hereafter be approved.
2. The OWNER shall provide the land and/or construction easements upon which the Work under this Contract is to be done, and will, so far as is convenient, permit the CONTRACTOR to use as much of the land as is required for the erection of temporary construction facilities and storage of materials, together with the right of access to same, but beyond this, the CONTRACTOR shall provide at the CONTRACTOR's cost and expense any additional land required.
3. In the event the OWNER is dissatisfied with the slow progress or incompetence in the performance of the Work in accordance with the schedule for completion of the various aspects of construction, the OWNER shall give the CONTRACTOR written notice in which the OWNER shall specify in detail the cause of dissatisfaction. Should the CONTRACTOR fail or refuse to remedy the matters complained of within five days after the written notice is received by the CONTRACTOR the OWNER shall have the right to take control of the Work and either make good the deficiencies of the CONTRACTOR itself or direct the activities of the CONTRACTOR in doing so, employing such additional help as the OWNER deems advisable. In such events the OWNER shall be entitled to collect from the CONTRACTOR any expenses in completing the Work.
4. The OWNER may withhold liquidated damages at the rate of \$500 / day or as otherwise specified in the Bid from the amount payable to the CONTRACTOR for each calendar day that the CONTRACTOR is in default after the time of completion stipulated in these Contract Documents. It is understood that the amount is approximately equal to the interest and other charges incurred by the OWNER.
5. The CONTRACTOR guarantees all material and equipment furnished and all Work performed for a period of one (1) year from the date of substantial completion of the Contract (or one (1) year from Final Completion of the Contract for all work completed after Substantial Completion). The CONTRACTOR guarantees that the facility is free from defects due to faulty materials or workmanship and the CONTRACTOR shall make the necessary corrections or repairs to correct these defects.
6. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as specified in the Contract Documents. If the CONTRACTOR observes that the Contract Documents are at variation with any laws, ordinances, rules or regulations, the CONTRACTOR shall promptly notify the OWNER in writing and any necessary changes shall be adjusted through the use of Contract Change Orders.
7. The CONTRACTOR agrees to pay all claims for labor, materials, services and supplies and agrees to allow no such charge to be fixed on the property of the OWNER.
8. The CONTRACTOR agrees to comply with all laws, rules and regulations that apply to related Work.
9. The actual performance of Work and superintendence shall be performed by the CONTRACTOR, but the OWNER shall, at all times, have access to the premises for the purpose of observing or inspecting the Work performed by the CONTRACTOR.
10. It is fully understood and agreed that none of the requirements of this Contract shall be considered as waived unless changes are made in writing and then only by the persons executing this Contract.
11. The CONTRACTOR agrees not to sublet or assign this Work without the written consent of the OWNER.
12. The CONTRACTOR shall have full responsibility under these General Conditions, General Provisions, or Plans and Specifications for any SUBCONTRACTs which the CONTRACTOR may let.

13. All questions or controversies which may arise between the CONTRACTOR and the OWNER, under or in reference to this Contract, should be resolved, to the fullest extent possible at a meeting between the CONTRACTOR and the OWNER. The agreements reached at such meetings shall be carefully documented and become final and binding on all parties concerned.

14. The CONTRACTOR shall indemnify and save harmless the OWNER and the OWNER's agents and employees, from and against all losses and all claims, demands, payments, suits, actions, recoveries, and judgments of every nature, and description brought or recovered against them by reasons of any act or omission of the said CONTRACTOR, its agents, or employees, in the execution of the Work or in guarding the same.

15. SHOP DRAWINGS: Submittals of all material to be purchased and installed by the CONTRACTOR shall be made to the OWNER for approval. Review by the ENGINEER is to be as required or requested by the OWNER.

16. PAYMENT

16.1 The OWNER shall retain (10%) percent of the contract amount until final completion and acceptance of all work covered by the CONTRACT DOCUMENTS.

16.2 The entire balance found to be due the CONTRACTOR, excepting such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR. Such payment shall be conditioned, however, upon the submission by the CONTRACTOR of evidence satisfactory to the OWNER that all claims for labor, material, and any other outstanding indebtedness in connection with this Contract have been paid.

16.3 Upon final completion and acceptance of the WORK, the ENGINEER shall issue a certificate attached to the final payment request that the WORK has been accepted by him under the conditions of the CONTRACT DOCUMENTS. The entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the OWNER, shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the WORK.

16.4 The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and others relating to or arising out of this WORK.

17. SUSPENSION OF WORK: The OWNER may suspend the work or any portion thereof for a period of not more than ninety days or such further time as agreed by the CONTRACTOR. The CONTRACTOR will be allowed an increase in the contract price or an extension of contract time, or both, directly attributable to any suspension.

18. TERMINATION

18.1 After ten (10) days from delivery of a written notice to the CONTRACTOR and the Engineer, the OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case, the CONTRACTOR shall be paid for all work executed and any expense sustained.

18.2 Upon completion or termination of the Work, the CONTRACTOR shall remove from the vicinity of the Work all equipment and all temporary structures, waste materials and rubbish resulting from its operations, leaving the premises in a neat and presentable condition. In the event of failure to do so, the same may be done by the OWNER at the expense of the CONTRACTOR.

19. CONTRACT CHANGE ORDERS

19.1 All changes affecting the Project's construction cost, length of time, or modifications of the terms or conditions of the CONTRACT, must be authorized by means of a written CONTRACT Change Order which is mutually agreed to by the OWNER and CONTRACTOR. The CONTRACT Change Order will include extra WORK, WORK for which quantities have been altered from those shown in the BID Schedule, as well as decreases or increases in the quantities of installed units which are different from those shown in the BID Schedule because of final measurements. All changes must be recorded on a CONTRACT Change Order and fully executed before they can be included in a payment estimate. Changes for WORK, quantities, and/or conditions will include any respective time adjustment, if justified. Time adjustments will require an updated Project Schedule with the Change Order.

19.2 When the Contract sum is, in whole or in part, based on unit prices, the OWNER reserves the right to increase or decrease a unit price quantity as may be deemed reasonable or necessary in order to complete the WORK contemplated by this CONTRACTOR. Overhead and Profit (OHP) will not be included in a unit quantity Change Order.

19.3 The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- (a) Unit prices previously approved, or
- (b) An agreed lump sum, or
- (c) Time and Materials (T&M) for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the WORK.

19.4 In addition, there may be added an amount to be agreed upon to cover the cost of general overhead and profit (OHP). The markup for OHP by the General CONTRACTOR may not exceed 15% if the General CONTRACTOR executes the WORK. If a SUBCONTRACTOR executes the WORK, the SUBCONTRACTOR's OHP may not exceed 15% of the cost of the actual WORK, and the General CONTRACTOR may not apply for more than a 5% markup for OHP on the actual WORK (not including the SUBCONTRACTOR's OHP).

20. PARTIAL PAYMENT ESTIMATES

20.1 The OWNER may, after consultations with the Engineer, withhold or, on account of subsequently discovered evidence, nullify the whole or part of any approved partial payment estimate to such extent as may be necessary to protect the OWNER from loss on account of:

- 20.1.1 Defective work not remedied,
- 20.1.2 Claims filed,
- 20.1.3 Failure of CONTRACTOR to make payments properly to SUBCONTRACTORS or suppliers,
- 20.1.4 A reasonable doubt that the Work can be completed for the balance then unpaid,
- 20.1.5 Damage to another CONTRACTOR,
- 20.1.6 Performance of Work in violation of the terms of the CONTRACTOR Documents.

20.2 Where Work on unit price items is substantially complete but lacks testing, clean-up and/or corrections, amounts shall be deducted from unit prices in partial payment estimates to amply cover such testing, clean-up and/or corrections.

20.3 When the items in 20.1 and 20.2 are cured, payment shall be made for amounts withheld because of them.

20.4 Payments will not be made that would deplete the retainage nor place in escrow any funds that are required for retainage nor invest the retainage for the benefit of the CONTRACTOR.

21. PROTECTION OF LIVES AND PROPERTY

21.1 In order to protect the lives and health of its employees under the CONTRACTOR, the CONTRACTOR shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any VOSHA Safety and Health requirements.

21.2 The CONTRACTOR alone shall be responsible for the safety, efficiency, and adequacy of its plant, appliances, and methods, and for any damages, which may result from their failure or their improper construction, maintenance or operation.

22. INSURANCE

22.1 The CONTRACTOR shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the CONTRACTOR'S execution of the WORK, whether such

execution be by himself or by any SUBCONTRACTOR or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

22.1.1 Claims under workmen's compensation, disability benefit and other similar employee benefit acts;

22.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death or his employees;

22.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;

22.1.4 Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any other person; and

22.1.5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.

22.2 Certificates of Insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the WORK. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled unless at least fifteen (15) days prior WRITTEN NOTICE has been given to the OWNER

22.3 INSURANCE REQUIREMENTS. Insurance obtained by the CONTRACTOR to cover the below-listed requirements shall be procured from an insurance company registered and licensed to do business in the State of Vermont. All insurance coverage for property damage shall provide coverage for "Replacement" cost. Before the Contract is signed and becomes effective, the CONTRACTOR shall file with the OWNER a certificate of insurance, in duplicate, executed by an insurance company or its licensed agent(s), on a form satisfactory to the OWNER, stating that with respect to the Contract awarded, the CONTRACTOR carries insurance in accordance with the following requirements. Renewal certificates for keeping the required insurance in force for the duration of the Contract shall also be filed as specified above. No warranty is made that the coverage and limits listed herein are adequate to cover and protect the interests of the CONTRACTOR and any SUBCONTRACTOR for the CONTRACTOR's and any SUBCONTRACTOR'S operations. These are solely minimums that have been established to protect the interests of the OWNER. The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, insurances as hereinafter specified:

22.3.1 Workers Compensation Insurance. With respect to all operations performed the CONTRACTOR shall carry Workers Compensation Insurance in accordance with the laws of the State of Vermont, 21 V.S.A. Chapter 9. The CONTRACTOR shall also ensure that all SUBCONTRACTORS carry Workers Compensation Insurance in accordance with 21 V.S.A. Chapter 9 for all work performed by them.

22.3.2 Commercial General Liability Insurance. With respect to all operations performed by the CONTRACTOR and SUBCONTRACTORS, the CONTRACTOR shall carry Commercial General Liability Insurance on an occurrence form providing all major divisions of coverage, including but not limited to:

- Premises - Operations
- Independent CONTRACTOR's Protective
- Products and Completed Operations
- Personal Injury Liability

22.3.3 CONTRACTOR's General Liability and Property Damage Insurance will be obtained by the CONTRACTOR protecting him from all claims for personal injury, including death, and all claims for destruction of or damage to property arising out of or in connection with any operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under him, or anyone directly or indirectly employed by the CONTRACTOR or by a SUBCONTRACTOR under him. Contractual Liability applying to the CONTRACTOR's obligations, unless this requirement is waived in writing by the OWNER, shall have Limits of Coverage not less than:

- \$1,500,000 Each Occurrence
- \$2,000,000 General Aggregate applying, in total, to this project only

\$2,000,000 Products/Completed Operations Aggregate
\$ 250,000 Fire Damage Legal Liability

22.3.4 Automobile Liability Insurance. The CONTRACTOR shall carry Automobile Liability Insurance covering all motor vehicles, including owned, hired, borrowed, and non-owned vehicles, used in connection with the project. Limits of Coverage shall be not less than:

Bodily Injury: \$1,000,000 Each Person, \$1,000,000 Each Occurrence
Property Damage: \$ 500,000 Each Occurrence, OR
Combined Single Limit: \$1,500,000 Each Occurrence

22.3.5 Railroad Protective Liability Insurance. When the CONTRACT involves work on, over or under the right-of-way of any railroad, the CONTRACTOR shall carry, with respect to operations performed by the CONTRACTOR and/or by the CONTRACTOR'S SUBCONTRACTORS, Railroad Protective Liability Insurance in a form and amount as required by the railroad company and as specified in the Special Conditions and/or Supplemental Specifications for the project. If not available from insurance companies registered and licensed to do business in the State of Vermont, this insurance may be procured from Eligible Surplus Lines Companies approved by the Vermont Department of Banking, Insurance, Securities, & Health Care Administration (BISHCA). The CONTRACTOR shall file the original Railroad Protective Policy and one duplicate policy with the OWNER. The OWNER will transmit the original Railroad Protective Policy to the railroad concerned. The CONTRACTOR shall cooperate with and allow the railroad company or its agents free and full access to the project during construction along with all materials and equipment necessary in order that their duly authorized employees or agents may do any and all railroad construction, inspection, flagging and watching. The CONTRACTOR shall defend, indemnify, and save harmless the railroad and all of its officers, employees, and agents against any claim or liability arising from or based on any delay to the CONTRACTOR as a result of railroad construction or maintenance, whether by the railroad company, its employees, or agents.

22.3.6 General Insurance Conditions. The insurance specified under paragraphs 22.3.1, 22.3.2, 22.3.3 and 22.3.4 above shall be maintained in force until acceptance of the project by the OWNER. Under paragraph 22.3.3 above, Products and Completed Operations Coverage shall be maintained in force for at least one year from the date of acceptance of the project. Under paragraph 22.3.5 above, the Railroad Protective Policy shall remain in force until all work required to be performed on railroad property is completed to the satisfaction of the Railroad and the OWNER. The contractual liability insurance requirements detailed in the Contract Documents are to indemnify, defend, and hold harmless the OWNER, and railroad(s), as applicable, and their officers, agents, representatives, and employees, with respect to any and all claims, causes of actions, losses, expenses, or damages that arise out of, relate to, or are in any manner connected with the CONTRACTOR'S work or the supervision of the CONTRACTOR'S work on this project. Each policy, except the Workers Compensation Policy, shall name the OWNER, and railroad(s), as additional insured for actions, losses, expenses or damages that arise out of, relate to, or are in any manner connected with the CONTRACTOR'S work or the supervision of the CONTRACTOR'S work on this project. Umbrella Excess Liability Policies may be used in conjunction with primary policies to comply with any of the limit requirements specified above. "Claims-made" coverage forms are not acceptable without the prior written consent of the OWNER. The CONTRACTOR shall investigate and the CONTRACTOR and/or insurance company shall either adjust or defend all claims against the insured for damages covered, even if groundless. Each policy furnished shall contain a rider or non-cancellation clause reading in substance as follows:

Anything herein to the contrary notwithstanding, no cancellation, termination, or alteration of this policy by the company or the assured shall become effective unless and until notice of cancellation, termination, or alteration has been given by registered mail to the OWNER, at least 30 calendar days before the effective cancellation, termination, or alteration date unless all work required to be performed under the terms of the CONTRACT is satisfactorily completed as evidenced by the formal, final acceptance of the project by the OWNER. There shall be no directed compensation allowed the CONTRACTOR on account of any premium or other charge necessary to take out and keep in effect such insurance or bond; the cost thereof shall be considered included in the general cost of the work.

22.3.7 The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and SUBCONTRACTORS as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.

22.4 The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, in accordance with the provision of the laws of the state in which the WORK is performed, Workmen's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the PROJECT and in case any WORK is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous WORK under this CONTRACT at the site of the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR shall provide, and shall cause, each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

22.5 The CONTRACTOR shall secure "All Risk" type Builder's Risk Insurance for WORK to be performed. Unless specifically authorized by the OWNER, the amount of such insurance shall not be less than the CONTRACT PRICE totaled in the BID. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, water and smoke during the CONTRACT TIME, and until the WORK is accepted by the OWNER. The policy shall name as the insured the CONTRACTOR, the ENGINEER, and the OWNER.

23. REMEDIES: Unless otherwise provided in this CONTRACTOR, all claims, counterclaims, disputes, and other matters in question between the OWNER and the CONTRACTOR arising out of or relating to this CONTRACTOR or the breach thereof will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Vermont.

24. AUDIT AND ACCESS TO RECORDS: For all negotiated Contracts, the OWNER, or any of its duly authorized representatives, shall have access to any books, documents, papers, and records of the CONTRACTOR, which are pertinent to the Contract, for the purpose of making audits, examinations, excerpts and transcriptions. The CONTRACTOR shall maintain all required records for three years after final payment is made and all other pending matters are closed.

25. If the CONTRACTOR was not required to obtain OWNER approval of the SUBCONTRACTOR(s) prior to Award of the CONTRACT, the CONTRACTOR shall provide written notification to the OWNER within 10 working days of the CONTRACTOR's intent to employ SUBCONTRACTOR(s) on site. The notification shall list the name, address and telephone number of the SUBCONTRACTOR(s); estimated dollar amounts of SUBCONTRACT(s); estimated start and completion dates of the SUBCONTRACTOR(s) work.

SUPPLEMENTAL GENERAL CONDITIONS

SC1: SPECIAL CARE – HAZARDOUS SUBSTANCES

CONTRACTOR shall take special care with all hazardous materials that may exist at a work site or be used in the performance of the WORK.

There shall be no dumping of motor oil, salt, form oils, etc. on the site. All hazardous materials shall be disposed of in accordance with Federal, State, or local codes, laws, ordinances, or regulations then in effect.

SC2: PERMITS

It is a requirement of these Contract Documents that the CONTRACTOR conforms with all conditions of individual and general permits that apply to the project.

SC3: PARTIAL PAYMENT

- A. Partial Payments shall be made monthly as the work progresses. All partial invoices and payments shall be subject to correction in Contractor's Final Pay Request.
- B. No monthly payment may be made when, in the judgment of the Engineer, Work is not in accordance with the Contract Documents, or when in his/her judgment, the total value of Work performed since the last payment amounts to less than \$1,000.
- C. Contractor shall submit updated draft record drawings (as-builts) with every partial payment request. Processing of the payment request shall not occur until the requested drawings are received.
- D. When itemizing the value of each item of Work on the Applications for Payment, the following limitations shall be applied to the unit prices as bid, or to the approved schedule of value where no unit prices exist.

<u>Stage (as applicable)</u>	<u>Maximum Value Approved for Payment</u>
Any Status:	
Required submittals not made or not Approved by Engineer.....	0%
Upon completion of installation	
Surfaces not restored.....	75%
Surfaces restored.....	85%
Upon satisfactorily passing tests	
Surfaces not restored.....	90%
Surfaces restored.....	100%

The percentages shall be applied to the full unit price or schedules value of the item, as a whole, and the appropriate value will be retained by Owner in the form of "additional retainage".

No more than 75% payment will be made on equipment items which require operation and maintenance manuals, spare parts or other similar materials but which have not yet been submitted and accepted by Engineer.

- E. Engineer may refuse to recommend approval of the whole or any part of any payment if, in his/her opinion, it would be incorrect to make such representations to Owner. Engineer may also refuse to recommend approval of any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in his/her opinion to protect Owner from loss because:
 - 1. Work is defective, or completed Work has been damaged requiring correction or replacement,
 - 2. Claims or liens have been filed or there is reasonable cause to believe such may be filed,

3. Contract Price has been reduced because of modifications,
4. Owner has been required to correct defective Work or complete the Work,
5. Unsatisfactory prosecution of the Work, including failure to furnish acceptable submittals or to clean up, or
6. Failure of Contractor to make payments properly to subcontractors for labor, material or equipment.

SC4: FINAL PAYMENT

- A. After work is 100% complete, Contractor shall submit a Final Pay Request to Engineer for review. After review and acceptance by Engineer, the Final Pay Request will be submitted to Owner for payment. Owner will pay the entire amount due within thirty (30) days, after deducting all previous payments and, if applicable, Owner will also deduct the following:
 1. Liquidated damages.
 2. Charges that are specified in the General Conditions and Special Conditions.
- B. Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by Engineer, nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Project by Owner nor any failure to do, nor any correction of defective Work by Owner shall constitute an acceptance of Work not in accordance with the Contract Documents.

SC 5: PROJECT SCHEDULE (& SCHEDULE OF VALUES WHERE APPLICABLE)

- A. Submit printed schedule on Contractor's standard form or electronic media printout.
- B. Revise project schedule to list approved Change Orders.

SC6: APPLICATIONS FOR PAYMENT

- A. Submit two (2) copies of each application on Contractor's electronic media driven form.
- B. Content and Format: Utilize Bid Schedule for listing items in Application for Payment.
- C. Payment Period: Submit at intervals stipulated in the Agreement (monthly unless otherwise noted).
- D. Submit with transmittal letter.
- E. Substantiating Data: When Engineer requires substantiating information, submit data justifying dollar amounts in question. Include the following with Application for Payment:
 1. Partial release of liens from major subcontractors and vendors.
 2. Record documents, for review by Owner/Engineer which will be returned to Contractor.
 3. Affidavits attesting to off-site stored products.
 4. Construction progress schedules, revised and current.

SC7: ITEM PAYMENTS

The following Bid Item descriptions are to assist bidders/contractors and are not, nor are intended to be, a complete list of components, quantities, etc., required to complete Work under the respective contracts in accordance with the Plans and Specifications. Bidders/contractors must use the Plans and Specifications to assure completeness of bids and work on the Project.

Item 1 – Underdrain Pipe (solid and perforated regardless of size/material)

This Item includes all labor, materials, equipment, and services necessary to install the perimeter underdrain, perforated or solid, as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not necessarily limited to, shop drawing submittals; saw cutting; removal and disposal of existing pavement where required; excavation; miscellaneous rock removal; sheeting; trench box; disposal of spoil; dewatering; repair of damaged utilities reasonably shown on plans or otherwise identified in field; pipe; fittings; bedding; clean sand and/or stone envelope; backfilling; compaction; filter fabric; end section; vermin screen; marking tape; cleanouts; cleanout caps; flushing; erosion control; dust control; site restoration (including pavement and surface stone); pavement gravel; support steel edging; clean-up; record documents; and all other associated Work required for a complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for the linear feet of Underdrain piping installed, and accepted by Engineer, measured horizontally only along the centerline of the pipe including fittings, and shall be full compensation for all Work included under this Item.
Payment for vertical piping (cleanouts, etc.) shall be subsumed to the horizontal piping associated. Payment shall not be made for vertical piping.

Item 2 – Rigid Foam Board Insulation

This Item includes all labor, materials, equipment, and services necessary to install rigid foam board insulation over piping with less than minimum cover and/or as directed by the Engineer, as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not limited to, rigid insulation; record documents; and all other Work necessary for a complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for the square feet of 2 inch thick by 2 foot wide (or wider) rigid insulation installed, and accepted by Engineer; and shall be full compensation for all Work included under this Item.

Item 3 – Sheet-Applied Waterproofing

This item includes all labor, materials, equipment, and services necessary to install sheet-applied waterproofing as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not limited to, show drawing submittals; excavation; sheeting; trench box; disposal of spoil; dewatering; repair of damaged utilities reasonably shown on plans or otherwise identified in field; surface cleaning and preparation; membrane delivery; drainage composite; termination bar; corner guards; storage and installation coordination with underdrain; backfilling; compaction; erosion control; dust control; site restoration; clean-up; record documents; and all other associated Work required for complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for the square feet of waterproofing installed, and accepted by Engineer; and shall be full compensation for all Work included under this Item.

Item 4 – Cut Off Wall

This Item includes all labor, materials, equipment, and services necessary to install the cut off wall as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not necessarily limited to, shop drawing submittals; excavation; miscellaneous rock removal; sheeting; trench box; disposal of spoil; dewatering; repair of damaged utilities reasonably shown on plans or otherwise identified in field; impermeable material; sheet and sheet anchorage; backfilling; compaction; erosion control; dust control; site restoration; clean-up; record documents; and all other associated Work required for a complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for the linear feet of cut off wall installed, and accepted by Engineer, measured horizontally only along the centerline of the drain, and shall be full compensation for all Work included under this Item.

Item 5 – French Drain

This Item includes all labor, materials, equipment, and services necessary to install the French drain as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not necessarily limited to, excavation; miscellaneous rock removal; sheeting; trench box; disposal of spoil; dewatering; repair of damaged utilities reasonably shown on plans or otherwise identified in field; clean, washed stone; geotextile; backfilling; compaction; transition to trench drain; erosion control; dust control; site restoration; clean-up; record documents; and all other associated Work required for a complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for the linear feet of French drain installed, and accepted by Engineer, measured horizontally only along the centerline of the drain, and shall be full compensation for all Work included under this Item.

Item 6 – 12 inch HDPE Trench Drain Pipe (solid and perforated)

This Item includes all labor, materials, equipment, and services necessary to install trench drain pipe, perforated or solid, and associated construction as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not necessarily limited to, shop drawing submittals; excavation; sheeting; trench box; disposal of spoil; dewatering; repair of damaged utilities reasonably shown on plans or otherwise identified in field; bedding; pipe; soil tight joints on perforated pipe; watertight joints on solid pipe; fittings; fasteners; thrust blocking/retainers; pipe dams; end section; vermin screen; clean crushed stone or sand envelope; backfilling; compacting; marking tape; flushing; erosion control; dust control; site restoration; clean-up; record documents; and all other associated Work required for a complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for the linear feet of trench drain pipe installed, and accepted by Engineer, measured horizontally along the centerline of the pipe including the length of the fittings and regardless of joint type; and shall be full compensation for all Work included under this Item.

Item 7 – Window Well

This Item includes all labor, materials, equipment, and services necessary to install the window well as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not necessarily limited to, shop drawing submittals; delivery; excavation; sheeting; trench box; disposal of spoil; dewatering; repair of damaged utilities reasonably shown on plans or otherwise identified in field; bedding; installation of window well; drainage stone; connection of stone to underdrain below; geotextile; backfilling; compacting; erosion control; dust control; site restoration; clean-up; record documents; and all other associated Work required for a complete installation.
- B. Payment for this Item shall be made at the Contract Unit Price for each window well installed, and accepted by Engineer; and shall be full compensation for all Work included under this Item.

Item 8 – Miscellaneous Site Work

This Item includes all labor, materials, equipment, and services necessary to complete the Town Office Grading and Drainage Improvements not otherwise accounted for in Items 1 through 7 as described and shown in the Contract Documents, and as follows:

- A. This Work includes, but is not necessarily limited to, installation of and removal of erosion control; adherence to the wetland and other permits applicable to the project; miscellaneous site grading; saw cutting; removal and disposal of existing pavement where required; excavation; base gravels; bituminous concrete walkway and parking lot restoration; topsoil; seeding; mulching; erosion control fabric; stone surfacing; record documents; and all other associated Work required for a complete installation.

- B. Payment of the Lump Sum Price for this Item shall be full compensation for all work included in this Item. It shall be based upon a Schedule of Values submitted to the Engineer by the Contractor.