

TOWN OF RICHMOND

TILDEN AVE STORMWATER  
IMPROVEMENTS

CONTRACT DOCUMENTS

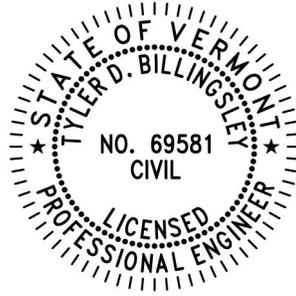
FEBRUARY 2025

ISSUED FOR: BID & CONSTRUCTION

PREPARED BY:







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Town of Richmond  
Tilden Ave Stormwater Improvements

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• Primary: Town of Richmond Public Improvement Standards & Specifications – 2016 (Under Separate Cover) <a href="http://www.richmondvt.gov/wp-content/uploads/2014/03/FINAL-Richmond-Public-Improvement-Standards-2016.pdf">http://www.richmondvt.gov/wp-content/uploads/2014/03/FINAL-Richmond-Public-Improvement-Standards-2016.pdf</a>	
• Supplement As Needed: VTrans Standard Specifications for Construction 2024 (Under Separate Cover)	
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• East Engineering plans: C-1.0, stamped "ISSUED FOR BID & CONSTRUCTION", dated May 13, 2024, 2 <sup>nd</sup> Revision.	

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**ADVERTISEMENT FOR BIDS  
TOWN OF RICHMOND  
TILDEN AVE STORMWATER IMPROVEMENTS**

**General Notice**

The **Town of Richmond** (Owner) is requesting Bids for the construction of the following Project:

**TILDEN AVE STORMWATER IMPROVEMENTS**

Bids for the construction of the Project will be received at the **Town Municipal Offices** located at **203 Bridge Street, 3<sup>rd</sup> Floor, Richmond, VT 05676**, until **March 19, 2025 at 11:00 a.m.** local time. At that time the Bids received will be publicly opened and read.

The Project includes the following Work:

**Drainage improvements including concrete headwall (CIP or Precast), drainage piping, precast catch basins, driveway reconstruction, trench paving, and associated roadway work. The Town has pre-purchased the piping and precast drainage structures.**

The Engineer's construction cost estimate range is **\$50,000 - \$80,000**. The Project must be completed on/before July 1, 2025

**Obtaining the Bidding Documents**

The Issuing Office for the Bidding Documents is:

**East Engineering, PLC  
PO Box 1047, Richmond, VT 05477**

Prospective Bidders may obtain or examine or purchase the Bidding Documents at the Issuing Office on Monday through Friday, by appointment only. Partial sets of Bidding Documents will not be available from the Issuing Office. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including addenda, if any, obtained from sources other than the Issuing Office.

Printed copies of the Bidding Documents may be obtained from the Issuing Office by paying \$100 for each set (non-refundable). PDF sets of the Bidding Documents are available free of charge.

**Pre-bid Conference**

A mandatory pre-bid conference for the Project will be held on **March 5, 2025 at 11:00 a.m.** at the **Project Site on Tilden Ave (at the Baker Street Intersection)**. Bids will not be accepted from Bidders that do not attend the mandatory pre-bid conference.

**Instructions to Bidders.**

For all further requirements regarding bid submittal, qualifications, procedures, and contract award, refer to the Instructions to Bidders that are included in the Bidding Documents.

**This Advertisement is issued by:**

Owner:           **Town of Richmond**  
Engineer:       **East Engineering, PLC**

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# INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

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## ARTICLE 1—BIDDING DOCUMENTS

- 1.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a list of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 1.02 Plan rooms (including construction information subscription services, and electronic and virtual plan rooms) may distribute the Bidding Documents, or make them available for examination. Owner is not responsible for omissions in Bidding Documents or other documents obtained from plan rooms, or for a Bidder's failure to obtain Addenda from a plan room.
- 1.03 *Electronic Documents*
- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manner specified.
1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.
- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.
- C. After the Contract is awarded, the Owner will provide or direct the Engineer to provide for the use of the Contractor documents that were developed by Engineer as part of the Project design process, as Electronic Documents in native file formats.
1. Electronic Documents that are available in native file format include:
    - a. **AutoCAD Engineering Plans**
  2. Release of such documents will be solely for the convenience of the Contractor. No such document is a Contract Document.
  3. Unless the Contract Documents explicitly identify that such information will be available to the Successful Bidder (Contractor), nothing herein will create an obligation on the part of the Owner or Engineer to provide or create such information, and the Contractor is not entitled to rely on the availability of such information in the preparation of its Bid or pricing of the Work. In all cases, the Contractor shall take appropriate measures to

verify that any electronic/digital information provided in Electronic Documents is appropriate and adequate for the Contractor's specific purposes.

4. In no case will the Contractor be entitled to additional compensation or time for completion due to any differences between the actual Contract Documents and any related document in native file format.

## **ARTICLE 2—QUALIFICATIONS OF BIDDERS**

- 2.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within **10** days of Owner's request, Bidder may be required to submit the following information:
  - A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.
  - B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
  - C. Bidder's state or other contractor license number, if applicable.
  - D. Subcontractor and Supplier qualification information.
  - E. Other required information regarding qualifications.
- 2.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 2.03 No requirement in this Article 2 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

## **ARTICLE 3—PRE-BID CONFERENCE**

- 3.01 A mandatory pre-bid conference will be held at the time and location indicated in the Advertisement or invitation to bid. Representatives of Owner and Engineer will be present to discuss the Project. Proposals will not be accepted from Bidders who do not attend the conference. It is each Bidder's responsibility to sign in at the pre-bid conference to verify its participation. Bidders must sign in using the name of the organization that will be submitting a Bid. A list of qualified Bidders that attended the pre-bid conference and are eligible to submit a Bid for this Project will be issued in an Addendum.
- 3.02 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

## **ARTICLE 4—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE**

- 4.01 *Site and Other Areas*
  - A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of

materials and equipment, and any access needed for such additional lands, are to be legally obtained and paid for by Contractor.

4.02 *Existing Site Conditions*

A. *Subsurface and Physical Conditions; Hazardous Environmental Conditions*

1. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, as determined by the Owner, Engineer, and both private/public infrastructure owners.
2. *Hazardous Environmental Conditions:* Unknown.

**ARTICLE 5—INTERPRETATIONS AND ADDENDA**

- 5.01 Owner may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 5.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer in writing.
- 5.03 Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than three days prior to the date/time for opening of Bids may not be answered.
- 5.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

**ARTICLE 6—BID SECURITY**

- 6.01 Not required.

**ARTICLE 7—CONTRACT TIMES**

- 7.01 The number of days within which, or the dates by which, the Work is to be (a) substantially completed and (b) ready for final payment are to be achieved, are set forth in the Agreement.
- 7.02 Provisions for liquidated damages, if any, for failure to timely attain Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

**ARTICLE 8—SUBSTITUTE AND “OR EQUAL” ITEMS**

- 8.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or “or-equal” items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or “or-equal” item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.
- 8.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as

supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder’s sole risk.

#### **ARTICLE 9—SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

- 9.01 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the Subcontractors or Suppliers proposed for the Work within five days after Bid opening.
- 9.02 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder’s Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 9.03 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance.

#### **ARTICLE 10—PREPARATION OF BID**

- 10.01 The Bid Form is included with the Bidding Documents.
  - A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
- 10.02 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 10.03 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 10.04 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.
- 10.05 A Bid by an individual must show the Bidder’s name and official address.
- 10.06 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 10.07 All names must be printed in ink below the signatures.

- 10.08 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 10.09 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.
- 10.10 If Bidder is required to be licensed to submit a Bid or perform the Work in the state where the Project is located, the Bid must contain evidence of Bidder's licensure, or Bidder must certify in writing that it will obtain such licensure within the time for acceptance of Bids and attach such certification to the Bid. Bidder's state contractor license number, if any, must also be shown on the Bid Form.

#### **ARTICLE 11—BASIS OF BID**

##### **11.01 Lump Sum**

- A. Bidders must submit a Bid on a lump sum basis as set forth in the Bid Form.

##### **11.02 Unit Price**

- A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity", which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices"; such total will be used by Owner for Bid comparison purposes.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

#### **ARTICLE 12—SUBMITTAL OF BID**

- 12.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.
- 12.02 A Bid must be received no later than the date and time prescribed and at the place indicated in the Advertisement or invitation to bid and must be enclosed in a plainly marked envelope with the Project title, and, if applicable, the designated portion of the Project for which the Bid is submitted, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement. It is the Contractor's sole responsibility to ensure that the delivery was successfully received by the Owner prior to the date and time that bids are due.
- A. Bids may not be submitted any earlier than three days prior to the due date and time indicated.

- 12.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

#### **ARTICLE 13—MODIFICATION AND WITHDRAWAL OF BID**

- 13.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 13.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 13.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

#### **ARTICLE 14—OPENING OF BIDS**

- 14.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. A tabulation of the Bids will be made available to Bidders after the opening of Bids.

#### **ARTICLE 15—BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

- 15.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

#### **ARTICLE 16—EVALUATION OF BIDS AND AWARD OF CONTRACT**

- 16.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities, in their sole opinion.
- 16.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 16.03 If Owner awards the contract for the Work, such award will be to a responsible Bidder submitting a responsive Bid. Price will also be considered, however, the Owner reserves the right to award the project to the Contractor they believe, in their sole opinion, will be in the best interest of the Project (not necessarily the lowest bid).
- 16.04 *Evaluation of Bids*
- A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.

- B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.
- 16.05 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- 16.06 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

#### **ARTICLE 17—BONDS AND INSURANCE**

- 17.01 Payment and Performance Bonds are not required.
- 17.02 Insurance requirements are noted in subsequent sections of the bidding documents.

#### **ARTICLE 18—SIGNING OF AGREEMENT**

- 18.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 10 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder.

#### **ARTICLE 19—SALES AND USE TAXES**

- 19.01 Owner is exempt from **Vermont** state sales and use taxes on materials and equipment to be incorporated in the Work. (Exemption No. shall be provided to the selected Contractor). Said taxes must not be included in the Bid.

END OF C-200

# BID FORM FOR CONSTRUCTION CONTRACT

## ARTICLE 1—OWNER AND BIDDER

- 1.01 This Bid is submitted to: **Town of Richmond, 203 Bridge Street, Richmond, VT 05477**
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

## ARTICLE 2—ATTACHMENTS TO THIS BID

- 2.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security;

## ARTICLE 3—BASIS OF BID—UNIT PRICES

- 3.01 *Unit Price Bids*
- A. Bidder will perform the following Work at the indicated unit prices:

Item No.	Description	Unit	Estimated Quantity	Bid Amount
1.0	Tilden Ave. Stormwater Improvements	LS	1	

- B. Bidder acknowledges that:
- each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
  - estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents, and
  - Any unbalanced unit pricing, or "pennied" items, will be honored by the Contractor, regardless of the final quantity constructed as part of the project, and
  - Owner reserves the right to reject any and all bids, at their sole discretion, and

## ARTICLE 4—BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

- 4.01 *Bid Acceptance Period*
- A. This Bid will remain subject to acceptance for 30 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

4.02 *Instructions to Bidders*

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

4.03 *Receipt of Addenda*

- A. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date

**ARTICLE 5—BIDDER’S REPRESENTATIONS AND CERTIFICATIONS**

5.01 *Bidder’s Representations*

- A. In submitting this Bid, Bidder represents the following:
  - 1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
  - 2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - 3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - 4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
  - 5. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; and the Bidding Documents on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder’s (Contractor’s) safety precautions and programs.
  - 6. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  - 7. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
  - 8. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies

between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

9. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
10. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

5.02 *Bidder's Certifications*

A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract.

BIDDER hereby submits this Bid as set forth above:

Bidder:

\_\_\_\_\_  
*(typed or printed name of organization)*

By:

\_\_\_\_\_  
*(individual's signature)*

Name :

\_\_\_\_\_  
*(typed or printed)*

Title:

\_\_\_\_\_  
*(typed or printed)*

Date:

\_\_\_\_\_  
*(typed or printed)*

END OF C-410



# CONTRACT FOR CONSTRUCTION OF A SMALL PROJECT

This Contract is by and between Town of Richmond (Owner) and \_\_\_\_\_ (Contractor).

Owner and Contractor hereby agree as follows:

## ARTICLE 1 - THE WORK

### 1.01 Work

- A. Work includes all labor, materials, equipment, services, and documentation necessary to construct the Project defined herein. The Work may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
- B. The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:
  - 1. **Tilden Ave Stormwater Improvements** which includes new stormdrain, structures, concrete inlet wall, and associated improvements.

## ARTICLE 2 - CONTRACT DOCUMENTS

### 2.01 Intent of Contract Documents

- A. It is the intent of the Contract Documents to describe a functionally complete project. The Contract Documents do not indicate or describe all of the Work required to complete the Project. Additional details required for the correct installation of selected products are to be provided by the Contractor and coordinated with the Owner and Engineer. This Contract supersedes prior negotiations, representations, and agreements, whether written or oral. The Contract Documents are complementary; what is required by one part of the Contract Documents is as binding as if required by other parts of the Contract Documents.
- B. During the performance of the Work and until final payment, Contractor and Owner shall submit all matters in question concerning the requirements of the Contract Documents, or relating to the acceptability of the Work under the Contract Documents to the Engineer. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- C. Engineer will render a written clarification, interpretation, or decision on the issue submitted, or initiate a modification to the Contract Documents.
- D. Contractor, and its subcontractors and suppliers, shall not have or acquire any title to or ownership rights to any of the Drawings, Specifications, or other documents (including copies or electronic media editions) prepared by Engineer or its consultants.

### 2.02 Contract Documents Defined

- A. The Contract Documents consist of the following documents:
  - 1. This Contract.
  - 2. Specifications listed in the Table of Contents.

3. Drawings as listed on the Drawing Sheet Index.
4. Addenda.

### **ARTICLE 3 - ENGINEER**

#### 3.01 Engineer

- A. The Engineer for this Project is **East Engineering, PLC.**

### **ARTICLE 4 - CONTRACT TIMES**

#### 4.01 Contract Times

- A. The Work will be substantially completed by November 15, 2024.

#### 4.02 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence in the performance of the Contract, and that Owner will incur damages if Contractor does not complete the Work according to the requirements of Paragraph 4.01. Because such damages for delay would be difficult and costly to determine, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner **\$500** for each day that expires after the Contract Time for substantial completion.

#### 4.03 Delays in Contractor's Progress

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor or their subcontractors or suppliers.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times.
- D. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor or Contractor's subcontractors or suppliers.

#### 4.04 Progress Schedules

- A. Contractor shall develop a progress schedule and submit to the Engineer for review and comment before starting Work on the Site. The Contractor shall modify the schedule in accordance with the comments provided by the Engineer.
- B. The Contractor shall update and submit the progress schedule to the Engineer each month. The Owner may withhold payment if the Contractor fails to submit the schedule.

**ARTICLE 5 - CONTRACT PRICE**

5.01 Payment

A. Owner shall pay Contractor in accordance with the Contract Documents at the following unit prices for each unit of Work completed:

- 1. Per approved Bid Form.

Payment will be made in an amount equal to the total of all extended prices for actual Work completed. The extended price is determined by multiplying the unit price times the actual quantity of that Work item completed. Actual quantities installed will be determined by the Engineer.

**ARTICLE 6 - BONDS AND INSURANCE**

6.01 Bonds

A. Not required.

6.02 Insurance

1. Contractor shall provide coverage for not less than the following amounts, or greater where required by Laws and Regulations:

a. Workers' Compensation:

State:	<u>Statutory</u>
Employer's Liability:	
Bodily Injury, each Accident	\$ <u>1,000,000</u>
Bodily Injury By Disease, each Employee	\$ <u>1,000,000</u>
Bodily Injury/Disease Aggregate	\$ <u>1,000,000</u>

b. Commercial General Liability:

General Aggregate	\$ <u>2,000,000</u>
Products - Completed Operations Aggregate	\$ <u>2,000,000</u>
Personal and Advertising Injury	\$ <u>1,000,000</u>
Each Occurrence (Bodily Injury and Property Damage)	\$ <u>1,000,000</u>

c. Automobile Liability herein:

Combined Single Limit of:	\$ <u>1,000,000</u>
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B. All insurance policies required to be purchased and maintained will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the insured and additional insured.

- C. Automobile liability insurance provided by Contractor shall provide coverage against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- D. Contractor's commercial general liability policy shall include the following coverages and endorsements:
  - 1. Products and completed operations coverage maintained for three years after final payment;
  - 2. Blanket contractual liability coverage to the extent permitted by law;
  - 3. Broad form property damage coverage; and
  - 4. Severability of interest; underground, explosion, and collapse coverage; personal injury coverage.
- E. The Contractor's commercial general liability and automobile liability, and umbrella or excess, shall include and list Owner and Engineer and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each as additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis.
- F. Umbrella or excess liability insurance shall be written over the underlying employer's liability, commercial general liability, and automobile liability insurance. Subject to industry-standard exclusions, the coverage afforded shall be procured on a "follow the form" basis as to each of the underlying policies. Contractor may demonstrate to Owner that Contractor has met the combined limits of insurance (underlying policy plus applicable umbrella) specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policies and an umbrella or excess liability policy.
- G. The Contractor shall provide property insurance covering physical loss or damage during construction to structures, materials, fixtures, and equipment, including those materials, fixtures, or equipment in storage or transit.
- H. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 15.

## **ARTICLE 7 - CONTRACTOR'S RESPONSIBILITIES**

### **7.01 Supervision and Superintendence**

- A. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, safety, and procedures of construction.
- B. Contractor shall assign a competent resident superintendent who is to be present at all times during the execution of the Work. This resident superintendent shall not be replaced without

written notice to and approval by the Owner and Engineer except under extraordinary circumstances.

- C. Contractor shall at all times maintain good discipline and order at the Site.
- D. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours (7:00 a.m. to 6:00 p.m.), Monday through Friday. No work is allowed on any Federal holiday dates.

#### 7.02 Other Work at the Site

- A. In addition to and apart from the Work of the Contractor, other work may occur at or adjacent to the Site. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.

#### 7.03 Services, Materials, and Equipment

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be new, of good quality and shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable supplier, except as otherwise may be provided in the Contract Documents.

#### 7.04 Subcontractors and Suppliers

- A. Contractor may retain subcontractors and suppliers for the performance of parts of the Work. Such subcontractors and suppliers must be acceptable to Owner.

#### 7.05 Quality Management

- A. Contractor is fully responsible for the managing quality to ensure Work is completed in accordance with the Contract Documents.

#### 7.06 Licenses, Fees and Permits

- A. Contractor shall pay all license fees and royalties and assume all costs incident to performing the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others.
- B. Contractor shall obtain and pay for all construction permits and licenses unless otherwise provided in the Contract Documents.

#### 7.07 Laws and Regulations; Taxes

- A. Contractor shall give all notices required by and shall comply with all local, state, and federal Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.

- B. Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages if Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations.
- C. Contractor shall pay all applicable sales, consumer, use, and other similar taxes Contractor is required to pay in accordance with Laws and Regulations.

#### 7.08 Record Documents

- A. Contractor shall maintain one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved shop drawings in a safe place at the Site. Contractor shall annotate them to show changes made during construction. Contractor shall deliver these record documents to Engineer upon completion of the Work.

#### 7.09 Safety and Protection

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work.
- B. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. All persons on the Site or who may be affected by the Work;
  - 2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.
- C. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, or anyone for whose acts the Contractor may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Contract Documents or to the acts or omissions of Owner or Engineer and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor).
- D. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.
- E. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor shall act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

#### 7.10 Shop Drawings, Samples, and Other Submittals

- A. Contractor shall review and coordinate the shop drawing and samples with the requirements of the Work and the Contract Documents and shall verify all related field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information.
- B. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
- C. With each submittal, Contractor shall give Engineer specific written notice, in a communication separate from the submittal, of any variations that the shop drawing or sample may have from the requirements of the Contract Documents.
- D. Engineer will provide timely review of shop drawings and samples.
- E. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs.
- F. Engineer's review and approval of a separate item does not indicate approval of the assembly in which the item functions.
- G. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of shop drawings and submit, as required, new samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
- H. Shop drawings are not Contract Documents.

#### 7.11 Warranties and Guarantees

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

#### 7.12 Correction Period

- A. If within one year after the date of substantial completion, any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly and without cost to Owner, correct such defective Work.

#### 7.13 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage 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 but only to the extent caused by any negligent act or omission of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts they may be liable.

## **ARTICLE 8 - OWNER'S RESPONSIBILITIES**

### **8.01 Owner's Responsibilities**

- A. Except as otherwise provided in the Contract Documents, Owner shall issue all communications to Contractor through Engineer.
- B. Owner shall make payments to Contractor as provided in this Contract.
- C. Owner shall provide Site and easements required to construct the Project.
- D. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, unless stated elsewhere in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.
- E. The Owner shall be responsible for performing inspections and tests required by applicable codes.
- F. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- G. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- H. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

## **ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION**

### **9.01 Engineer's Status**

- A. Engineer will be Owner's representative during construction. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in this Contract.
- B. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any subcontractor, any supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- C. Engineer will make visits to the Site at intervals appropriate to the various stages of construction. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work.
- D. Engineer has the authority to reject Work if Contractor fails to perform Work in accordance with the Contract Documents.

- E. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work.
- F. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

## **ARTICLE 10 - CHANGES IN THE WORK**

### 10.01 Authority to Change the Work

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work.

### 10.02 Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
  1. Changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  2. Changes in the Work which are: (a) ordered by Owner or (b) agreed to by the parties or (c) resulting from the Engineer's decision, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
  3. Changes in the Contract Price or Contract Times or other changes which embody the substance of any final binding results under Article 12.
- B. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

## **ARTICLE 11 - DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS**

### 11.01 Differing Conditions Process

- A. If Contractor believes that any subsurface or physical condition including but not limited to utilities or other underground facilities that are uncovered or revealed at the Site either differs materially from that shown or indicated in the Contract Documents or is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. After receipt of written notice, Engineer will promptly:
  - 1. Review the subsurface or physical condition in question;
  - 2. Determine necessity for Owner obtaining additional exploration or tests with respect to the condition;
  - 3. Determine whether the condition falls within the differing site condition as stated herein;
  - 4. Obtain any pertinent cost or schedule information from Contractor;
  - 5. Prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and
  - 6. Advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

## **ARTICLE 12 - CLAIMS AND DISPUTE RESOLUTION**

### **12.01 Claims Process**

- A. The party submitting a claim shall deliver it directly to the other party to the Contract and the Engineer promptly (but in no event later than 10 days) after the start of the event giving rise thereto.
- B. The party receiving a claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the claim through the exchange of information and direct negotiations. All actions taken on a claim shall be stated in writing and submitted to the other party.
- C. If efforts to resolve a claim are not successful, the party receiving the claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the claim within 45 days, the claim is deemed denied.
- D. If the dispute is not resolved to the satisfaction of the parties, Owner or Contractor shall give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction unless the Owner and Contractor both agree to an alternative dispute resolution process.

## **ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION OF DEFECTIVE WORK**

### **13.01 Tests and Inspections**

- A. Owner and Engineer will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access.

- B. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- C. If any Work that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense.

#### 13.02 Defective Work

- A. Contractor shall ensure that the Work is not defective.
- B. Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. The Contractor shall promptly correct all such defective Work.
- E. When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. If the Work is defective or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

### ARTICLE 14 - PAYMENTS TO CONTRACTOR

#### 14.01 Progress Payments

- A. The Contractor shall prepare a schedule of values that will serve as the basis for progress payments. The schedule of values will be in a form of application for payment acceptable to Engineer. The unit price breakdown submitted with the bid will be used for unit price work. Break lump sum items into units that will allow for measurement of Work in progress.

#### 14.02 Applications for Payments:

- A. Contractor shall submit an application for payment in a form acceptable to the Engineer, no more frequently than monthly, to Engineer. Applications for payment will be prepared and signed by Contractor. Contractor shall provide supporting documentation required by the Contract Documents. Payment will be paid for Work completed as of the date of the application for payment.
- B. Beginning with the second application for payment, each application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior applications for payment.

#### 14.03 Retainage

- A. The Owner shall retain **10** % of each progress payment until the Work is substantially complete.

#### 14.04 Review of Applications

- A. Within 10 days after receipt of each application for payment, the Engineer will either indicate in writing a recommendation for payment and present the application for payment to Owner or return the application for payment to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. The Contractor will make the necessary corrections and resubmit the application for payment.
- B. Engineer will recommend reductions in payment (set-offs) which, in the opinion of the Engineer, are necessary to protect Owner from loss because the Work is defective and requires correction or replacement.
- C. The Owner is entitled to impose set-offs against payment based on any claims that have been made against Owner on account of Contractor's conduct in the performance of the Work, incurred costs, losses, or damages on account of Contractor's conduct in the performance of the Work, or liquidated damages that have accrued as a result of Contractor's failure to complete the Work.

#### 14.05 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

#### 14.06 Substantial Completion

- A. The Contractor shall notify Owner and Engineer in writing that the Work is substantially complete and request the Engineer issue a certificate of substantial completion when Contractor considers the Work ready for its intended use. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Engineer will make an inspection of the Work with the Owner and Contractor to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor and Owner in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete or upon resolution of all reasons for non-issuance of a certificate identified in 14.06.B, Engineer will deliver to Owner a certificate of substantial completion which shall fix the date of substantial completion and include a punch list of items to be completed or corrected before final payment.

#### 14.07 Final Inspection

- A. Upon written notice from Contractor that the entire Work is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 14.08 Final Payment

- A. Contractor may make application for final payment after Contractor has satisfactorily completed all Work defined in the Contract, including providing all maintenance and

operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents and other documents.

- B. The final application for payment shall be accompanied (except as previously delivered) by:
  - 1. All documentation called for in the Contract Documents;
  - 2. Consent of the surety to final payment;
  - 3. Satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any liens or other title defects, or will so pass upon final payment;
  - 4. A list of all disputes that Contractor believes are unsettled; and
  - 5. Complete and legally effective releases or waivers (satisfactory to Owner) of all lien rights arising out of the Work, and of liens filed in connection with the Work.
- C. The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

#### 14.09 Waiver of Claims

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted.

### **ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION**

#### 15.01 Owner May Suspend Work

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 60 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension.

#### 15.02 Owner May Terminate for Cause

- A. Contractor's failure to perform the Work in accordance with the Contract Documents or other failure to comply with a material term of the Contract Documents will constitute a default by Contractor and justify termination for cause.
- B. If Contractor defaults in its obligations, then after giving Contractor and any surety ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
  - 1. Declare Contractor to be in default, and give Contractor and any surety notice that the Contract is terminated; and
  - 2. Enforce the rights available to Owner under any applicable performance bond.

- C. Owner may not proceed with termination of the Contract under Paragraph 15.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- D. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- E. In the case of a termination for cause, if the cost to complete the Work, including related claims, costs, losses, and damages, exceeds the unpaid contract balance, Contractor shall pay the difference to Owner.

#### 15.03 Owner May Terminate for Convenience

- A. Upon seven days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for, without duplication of any items:
  - 1. Completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. Other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

#### 15.04 Contractor May Stop Work or Terminate

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, either stop the Work until payment is received, or terminate the Contract and recover payment from the Owner.

### **ARTICLE 16 - CONTRACTOR'S REPRESENTATIONS**

#### 16.01 Contractor Representations

- A. Contractor makes the following representations when entering into this Contract:
  - 1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on:
  - a. The cost, progress, and performance of the Work;
  - b. The means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
  - c. Contractor's safety precautions and programs.
5. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
6. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
7. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
9. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that, without exception, all prices in the Contract are premised upon performing and furnishing the Work required by the Contract Documents.

## **ARTICLE 17 - MISCELLANEOUS**

### **17.01 Cumulative Remedies**

- A. The duties and obligations imposed by this Contract and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.02 Limitation of Damages

- A. Neither Owner, Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

17.03 No Waiver

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

17.04 Survival of Obligations

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

17.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract.

17.06 Controlling Law

- A. This Contract is to be governed by the law of the state in which the Project is located.

IN WITNESS WHEREOF, Owner and Contractor have signed this Contract.

This Contract will be effective on \_\_\_\_\_ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Town of Richmond

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

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

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

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

## MEASUREMENT AND PAYMENT TERMS

1. General
  - a. This document is used to define bid items listed in the Bid Form and on the Agreement.
2. Lump Sum and Unit Price Items
  - a. Lump sum items will be paid on a percentage complete basis. Unit price items will be paid based on the actual quantities installed and verified by the Owner and Engineer. Unit price items installed outside of the limits shown on the plans and noted herein will not be paid for, unless otherwise approved by the Owner/Engineer. The items listed below are all-inclusive items for the complete installation of the proposed infrastructure improvements.

### Tilden Ave. Stormwater Improvements

Item 1.0 – Tilden Ave. Stormwater: Items listed below cover the full scope of the project. Scope items listed below include the main construction tasks, but are not intended to be a comprehensive list of all required activities. Contractor shall include all required work items to complete the project in the items listed below.

#### Item 1.1 – General Conditions and Mobilization/Demobilization

- Payment: Once Completed.
- Mobilization of all equipment and materials to site,
- General conditions of the Contract Documents,
- Contractor insurance,
- Project coordination, communication, and administrative tasks,
- Temporary facilities including power, water, storage, and sewer/sanitary facilities,
- Maintenance and protection of site features in the construction area including utilities, vegetation, mailboxes, driveways, and other site features,
- Site security,
- Site safety including temporary fencing, barricades, plates, and signage,
- Construction layout for all components,
- Coordination with utility company for required pole hold,
- Dewatering as needed,
- Excavation to the lines/grades shown on plans,
- Removal of vegetation and debris as needed,
- Concrete headwall, including base stone, formwork, reinforcing steel, ties, chairs, bracing, chamfers, Class A concrete, and all finishing to exposed concrete areas. This includes trash/debris grate (rebar) bent and epoxied to face of wall over pipe inlet. Contractor may complete project with a precast concrete headwall of same dimensions.
- Type 2 stone armor and channel excavation/grading,
- Excavation/backfill/Installation of pipe (Town supplied) and precast concrete structures (Town supplied). Contractor shall adjust final grade of

frame/cover with inframes to make smooth transitions to surrounding features (pavement, gravel drive, etc.).

- Core and boot of existing concrete structure on Tilden Ave. Cast-in-place concrete/forms around/adjacent to existing structure where inlet pipes go into structure.
- Abandon existing drainage pipe adjacent to new concrete wall. Cutoff pipe, filter fabric end, backfill with clean drainage stone.
- Top-dress gravel driveway and parking area with fine-crushed gravel.
- Trench pavement (4" thickness), including apron at driveway entrance.
- Site cleanup and removal of all temporary facilities,
- Restore lawn/grass areas. Topsoil, rake smooth, seed, mulch.
- Erosion prevention and sediment control devices including silt fences, and rolled erosion blankets,
- Demobilization of all equipment and materials to site.

## **END MEASUREMENT AND PAYMENT SECTION**

# CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: Town of Richmond  
Engineer: East Engineering Engineer's Project No.: 006-29  
Contractor: Contractor's Project No.: N/A  
Project: Tilden Ave. SW Improvements

This  Preliminary  Final Certificate of Substantial Completion applies to:

All Work  The following specified portions of the Work:

Date of Substantial Completion:

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, insurance, and warranties upon Owner's use of the Work must be as provided in the Contract, except as amended as follows:

Amendments to Owner's Responsibilities:  None  As follows:

Amendments to Contractor's Responsibilities:  None  As follows:

The following documents are attached to and made a part of this Certificate:

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract Documents.

Engineer

By (signature): \_\_\_\_\_

Name (printed): Tyler Billingsley \_\_\_\_\_

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