

**SECTION 00490**

**ADDENDUM NO. 4**

This Addendum modifies, amends, and supplements designated parts of the Bidding Documents and are hereby made a part thereof by reference. It shall be the responsibility of each Bidder to be familiar with the contents of this addendum and to notify, if necessary any Subcontractors and Suppliers they propose to use for various parts of the services of any changes or modifications contained in this Addendum. No claims for compensation, due to lack of knowledge of the contents hereof, will be considered. Bidders must acknowledge receipt of this Addendum in the Bid Form and comply with the requirements for submission of Bids as set forth in the Bidding Documents.

**REMINDER:** Per Addendum No. 2, the deadline to submit bids is May 15<sup>th</sup>, 2014 at 10:00 AM prevailing local time.

**NOTICE is hereby given that the Bidding Documents have been modified and replacement pages are issued herewith.**

Replacement pages have an Issue Date of **May 13, 2014**, contain reference to “ADDENDUM NO. 4” in the footer, and text changes identified by double-underline for additions and ~~Strikeout~~ for deletions.

<b>Replacement pages (with text changes)</b>	<b>Provided for purposes of double-sided printing only - no changes (front or back of replacement page)</b>
00210-1 through 4	

This Addendum is provided to Bidders in a single Portable Document Format (.PDF) posted on the City’s website and will be available for examination at the Issuing Office. It is each Bidder’s responsibility to check the website for Addenda per the Instructions to Bidders.

Bidders must comply with the requirements for submission of Bids in the Instructions to Bidders and the Bidding Documents remain unchanged except as indicated above.

**Prepared and Issued by Woodard & Curran (Engineer) on behalf of:**  
*City of Marlborough, MA (Owner)*  
*Department of Public Works*

**END OF SECTION**

## SECTION 00210

### SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

The following supplement shall modify the Instructions to Bidders pursuant to Article 27 therein. This section does not represent or reflect all applicable Laws and Regulations and may only include excerpts, portions, and para-phrasing of certain Laws and Regulations. Bidders are solely responsible to determine, obtain, review and interpret the full text of applicable Laws and Regulations.

#### 1.01 Supplements and Modifications to the Instructions to Bidders

Add the following to Article 3 – Qualifications of Bidders.

- 3.03 The Owner may reject any Bid where Bidder's reference projects listed in Section 00451 have water meters with a demonstrated failure rate of 5 percent or greater during the first year of use. "Failure" shall be deemed to be any meter stoppage, failure to record, under-register, or over-register. In determining the failure rate of any meter, the Owner may consider its own experience with specific meters in lieu of any reference supplied by the Bidder, or both.

Replace paragraph 11.01 in Article 11- Substitute and "Or-Equal" Items with the following.

11.01 Bidders may furnish items that are equal to the specified items. Under M.G.L., an item is considered equal if it: 1) is at least equal in quality, durability, appearance, strength and design; 2) will perform the intended function at least equally; and, 3) conforms substantially, even with deviations, to the detailed requirements contained in the specifications.

Add the following to Article 11- Substitute and "Or-Equal" Items.

11.02 On a separate sheet attached to the Bid submission, the Bidder shall direct attention to any deviations, including minor limitations and variations, from the Bid Documents. (1) The Bidder shall submit to the Owner for consideration of any or-equal substitution a written point-by-point comparison containing the name and full particulars on the proposed product and the product named or described in the bid submission. (2) The Bidder shall be completely responsible for submission of supporting documentation. (3) Upon receipt of a written approval of an or-equal substitution, the Engineer shall investigate whether the proposed item shall be considered equal to the item named or described in the Bid Documents and in accordance with the provisions of MGL c.30, §39M. (4) Upon conclusion of the investigation, Engineer shall promptly advise the City with written notice that the item is, or is not, considered acceptable as an Or-Equal substitution with documentation to support the determination. (5) Should the Engineer determine that the submitted product substitution is not equal to the specified standard, the Engineer shall send written notice of this to the Bidder. (6) This determination shall be made within thirty (30) days of the bid submission in accordance with the provisions of MGL c.30, §39P.

#### ADDENDUM NO. 4

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WOODARD & CURRAN

SUPPLEMENTARY  
INSTRUCTIONS TO BIDDERS  
00210-1

Add the following to Article 12 – Subcontractors, Suppliers and Others

12.05 Bidders must obtain pricing for proprietary meters directly from the manufacturer, Metron Farnier, by contacting Nisveta Karajkovic, Distribution Manager at (303) 449-8833 (phone), 303-449-1464 (fax) or nisvetak@metronfarnier.com. Bidders shall submit meter pricing from the manufacturer as part of the Bid.

### **1.02 Applicable Laws for Bid and Award; General**

A. This Contract is being bid under the provisions of Massachusetts General Law (MGL) Chapter 30, Section 39M, *Contracts for construction and materials; manner of awarding*.

### **1.03 Additional Defined Terms**

A. *Bid security* – Also “bid deposit” as used in MGL Chapter 30, Section 39M.

B. *Lowest Responsible and Eligible Bidder* – the Successful Bidder, whose Bid is the lowest of those Bidders possessing the skill, ability and integrity necessary for the faithful performance of the Work; who shall certify its ability to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the Work; who shall certify that all employees to be employed at the Work Site will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins Work, and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee (if awarded a Contract); and who obtains within 10 days of the Notice of Award, the bonds required by the Standard General and Supplementary Conditions and the Additional Supplementary Conditions (consistent with the security by bond required under MGL Chapter 149 Section 29), provided that for the purposes of this Section the term “security by bond” shall mean the bond of a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the Owner and if there is more than 1 surety company, the surety companies shall be jointly and severally liable, in accordance with the provisions of Chapter 30, Section 39M.

### **1.04 Other Requirements of the MGL Applicable to the Project**

A. **Foreign Corporations:** The provisions of MGL Chapter 30, Section 39L, *Public construction work by foreign corporations; restrictions and reports*, apply to this Project. If a Bidder is a foreign corporation, it shall provide with its Bid, a certificate of the state secretary stating that the corporation has complied with requirements of Section 15.03 of subdivision A of Part 15 of MGL Chapter 156D and the date of compliance, and further has filed all annual reports required by Section 16.22 of subdivision B of Part 16 of said Chapter 156D, and further, will provide such certificate for each Subcontractor that is a foreign corporation if it receives a Notice of Award. See Section 00450 of the Bidding Requirements.

- B. **Taxes:** Bidder shall submit with its Bid, a Certificate of Good Standing with respect to all returns due and taxes from the Commonwealth of Massachusetts Department of Revenue certifying Bidder has complied with all laws relating to taxes, reporting of employees and contractors, and withholding and remitting of child support. Bidder will provide such certificate for each Subcontractor if it receives a Notice of Award. See explanation at the end of this Section.
- C. **Debarment:** Bidders shall not be debarred from bidding on or entering into a public contract in the Commonwealth of Massachusetts under the provisions of MGL Chapter 29, Section 29F, *Debarment from bidding; definitions; lists; notice; affiliates; mitigating circumstances*, or any other applicable debarment provisions of any other chapter of the MGL or any rule or regulations promulgated thereunder.
- D. **Financial Statements:** If Bidder receives a Notice of Award, the following shall be submitted prior to execution of the Agreement in accordance with MGL Chapter 30, Section 39R *Definitions; contract provisions; management and financial statements; enforcement*.
- A statement by management on internal accounting controls;
  - A statement prepared by an independent certified public accountant regarding management's statement; and
  - An audited financial statement for the most recent completed fiscal year.

**E. Labor Preferences and Work Hours**

1. The provisions of MGL Chapter 149, Section 26, *Public works; preference to veterans and citizens; wages*, apply to this Project whereby employment in the construction of public works is subject to preference being given to citizens of the Commonwealth of Massachusetts, citizens of the town or city where the Project is located, veterans and service-disabled veterans, and citizens of the United States, and the provisions of MGL Chapter 149, Section 179A, *Preference to citizens in awarding public work contracts, violations*, apply to this Project whereby award of contracts for public work is subject to preference being given to persons who are citizens of the United States.
2. The provisions of MGL Chapter 149, Sections 26, 27, and 27A through 27D, as amended, covering minimum wage rates as determined by the Commissioner of Department of Workforce Development, apply to this Project. It is the responsibility of the Bidders, before Bid opening, to request if necessary, any additional information on Minimum Wage Rates for those trades people who may be employed for the proposed Work under the resulting Contract. See Additional Supplementary Conditions.
3. The provisions of MGL Chapter 149, Section 30, *Eight hour day and six day week; emergencies; work on highways*, and Section 34, *Public contracts; stipulation as to hours and days of work; void contracts*, apply to this Project which regulate work hours for public construction.

**F. Sales Tax Exemption:** MGL Chapter 64H, Section 6, *Exemptions*, subsection (f), exempts from Commonwealth of Massachusetts sales tax, building materials and supplies to be used in the Project, and Bidder shall not include any amount therefor. The words “building materials and supplies” shall include all materials and supplies consumed, employed or expended in the construction, reconstruction, alteration, remodeling or repair of any building, structure, public highway, bridge, or other such public work, as well as such materials and supplies physically incorporated therein. Said words shall also include rental charges for construction vehicles, equipment and machinery rented specifically for use on the Project Site, or while being used exclusively for the transportation of materials for the Project.

**G. Safety and Health:** This Project is subject to Massachusetts Department of Labor and Industries, Division of Occupational Safety 454 CMR 10.00 et seq. “*Construction Industry Rules and Regulations*”; Massachusetts Department of Public Safety 520 CMR 14.00 et seq. “*Excavation and Trench Safety*”; MGL Chapter 82, *The Laying Out, Alteration, Relocation and Discontinuance Of Public Ways and Specific Repairs Thereon*; MGL Chapter 82A, *Excavation and Trench*

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