SECTION 4.00

SCOPE OF WORK

4.01 Intent of the Contract.

The intent of the Contract is to prescribe the complete work or improvement. The Contractor shall perform all the items of work stipulated in the Proposal in accordance with the lines, grades, typical cross sections and dimensions shown on the plans or supplemental plans, standards, or modifications of them as required by change conditions in the field, and as authorized or directed. The Contractor shall do all clearing and grubbing; make all excavations and embankments; do all shaping and surfacing; construct all drainage structures, bridges and other appurtenant structures, as indicated in the Contract; remove all obstructions from within the lines of the improvement; and shall do such additional, extra and incidental work as may be considered necessary to complete the work in a substantial and acceptable manner; and when it is so completed the Contractor shall leave the work in a neat and finished condition.

The Contractor shall do all the work and furnish all the materials, tools and appliances, except as otherwise specified, necessary or proper for performing and completing the work required by the Contract, in the manner and within the time specified. The Contractor shall complete the entire work to the satisfaction of the Engineer, and in accordance with the specifications and drawings for the work at the prices agreed upon.

All the work, labor and materials to be done and furnished under the Contract shall be done and furnished pursuant to, and in conformity with the specifications and the drawings for the work, which said specifications and drawings shall form part of the Contract. Further the Contractor shall follow the directions of the Engineer as given from time to time during the progress of the work under the terms of the Contract.

The Contract shall include grading outside the right-of-way together with the work of loaming surfaces, constructing walks, driveways, drains, and other miscellaneous work as shown on the plans and as directed.

The Contract shall, at the discretion of the Party of the First Part, be extended when the safety and convenience of the public necessitates the construction of access roads or approaches to existing roadways or bridges and the nature of such additional work bears a reasonable subsidiary relation to the original Contract.

Copies of all ASTM and AASHTO Specifications will be available for reference at the office of the Engineer.

4.02 Alterations.

Should it be found desirable by the Engineer to make alterations in the form, character, or detail of any of the work done or to be done, the Engineer may order such alterations to be made, defining them in writing, supplemented by drawings when in the judgment of the Engineer it is necessary, and the alterations shall be made accordingly.

The Contractor shall accept as full compensation for work performed under an alteration order the contract unit prices stipulated in the Contract for the actual quantity of work performed in an acceptable manner.

4.03 Extra Work (Also see Subsection 4.05).

The Contractor shall do any work not herein otherwise provided for when and as ordered in writing by the Engineer, such written order to contain particular reference to this Subsection and to designate the work to be done as Extra Work.

Unless specifically noted in the Extra Work Order, Extra Work will not extend the time of completion of the Contract as stipulated in Subsection 8.10, Part F.

The determination of the Engineer shall be final upon all questions concerning the amount and value of Extra Work (except as provided in Subsection 7.16).

Payment for Extra Work will be provided in Subsection 9.03.

4.04 Changed Conditions.

In accordance with Chapter 30, Section 39N of the General Laws, as amended, the following paragraph is included in its entirety:

If, during the progress of the work, the Contractor or the awarding authority discovers that the actual subsurface or latent physical conditions encountered at the site differ substantially or materially from those shown on the plans or indicated in the contract documents either the Contractor or the contracting authority may request an equitable adjustment in the contract price of the Contract applying to work affected by the differing site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible after such conditions are discovered. Upon receipt of such a claim from a Contractor, or upon its own initiative, the contracting authority shall make an investigation of such physical conditions, and, if they differ substantially or materially from those shown on the plans or indicated in the contract documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and contract documents and are of such a nature as to cause an increase or decrease in the cost of performance of the work or a change in the cost of performance of the work or a change in the construction methods required for the performance of the work which results in an increase or decrease in the cost of the work, the contracting authority shall make an equitable adjustment in the contract price and the Contract shall be modified in writing accordingly.

The filing, investigation and settlement of all claims made under said Chapter and Section shall be as follows:

(a) The Contractor shall promptly, and before such conditions are disturbed notify the Engineer in writing describing in full detail the subsurface or latent physical conditions at the site which the Contractor maintains differ substantially or materially from those shown on the plans or indicated in the contract documents. The Engineer shall promptly investigate the conditions, and shall promptly submit a written report of his/her findings and determinations to the Commission with a copy of the same to the Contractor, and if the Contractor finds that such conditions as have been described in detail by the Contractor do exist and in fact do so differ materially or substantially, an equitable adjustment shall be made and the Contract modified in writing accordingly. No such claim of the Contractor shall be allowed unless the Contractor has given the detailed notice specified, nor shall it be allowed if such conditions are disturbed prior to their investigation by the Engineer.

(b) No adjustment or allowance of any kind except as provided in Subsection 8.10 will be made to the Contractor on account of any delay or suspension of work or any portion thereof where the actual subsurface or latent physical conditions encountered at the site differ substantially and materially from those shown on the plans or indicated in the contract documents.

(c) No claim will be approved or any adjustment or allowance made on account of encountering subsurface or latent physical conditions at that site that differ substantially and materially from those shown on the plans or indicated in the contract documents unless such conditions were in existence at the time of the award of the Contract.

(d) Any dispute concerning a question of fact under this Subsection which is not disposed of by agreement shall be decided by the Chief Engineer.

(e) If as provided in (a) of this Subsection an equitable adjustment is to be made or contemplated, the Contractor shall submit promptly in writing to the Engineer an itemized statement of the details and amount of work together with his/her estimated costs for the same and the Engineer shall require the Contractor to keep actual costs and certify the same to the Department in writing.

If the Contractor and the Department fail to agree on an equitable adjustment to be made under this Subsection, then the Contractor shall accept as full payment for the work in dispute an amount equal to the following:

(1) The actual cost for direct labor, materials and use of equipment, plus 10 percent of this total for overhead.

(2) Plus actual cost of Workmen's Compensation and Liability Insurance, Health, Welfare and Pension benefits, Social Security deductions, Employment Security Benefits and such additional fringe benefits which the Contractor is required to pay as a result of Union Labor Agreements and/or is required by authorized governmental agencies.

(3) Plus 10 percent of the total of (1) and (2).

(4) Plus the estimated proportionate cost of surety bonds. For work performed by a Subcontractor, the Contractor shall accept as full payment therefor an amount equal to the actual cost to the Contractor of such work as determined by the Engineer plus 10 percent of such cost.

No allowance shall be made for general superintendence and the use of small tools and manual equipment.

The Contractor shall, when requested by the Engineer, furnish itemized statements of the cost of the work ordered and give the Engineer access to all accounts, bills and vouchers relating thereto, and unless the Contractor shall furnish all such itemized statements, access to all accounts, bills and vouchers, the Contractor shall not be entitled to payment for any items of extra work for which such information is sought by the Engineer.

Pending final decision of any dispute hereunder unless otherwise ordered by the Chief Engineer, the Contractor

shall proceed diligently with the performance of the Contract and in accordance with the Chief Engineer's decision.

The Contract shall be considered modified in writing by the processing of an Extra Work Order.

The Contractor shall be estopped to rely on and deemed to waive under said Section 39N and this Subsection his/her right to have an equitable adjustment of a unit price bid by him/her which, in the opinion of the Chief Engineer, is an unrealistic unit price, abnormally low for the unit item priced and which does not reflect the actual cost of performing such unit item of work. It shall be the obligation of the Chief Engineer to notify the Contractor prior to award of the Contract of any unit price that has been determined to be abnormally low for the unit item priced and that the unrealistic low unit price not reflecting the actual cost of performing such unit item of work would bar the Contractor from an equitable adjustment under said Section 39N and this Subsection.

Any unit item price determined by the Chief Engineer to be an unrealistically high unit price not reflecting the actual cost of performing such unit item of work is subject to the provisions of said Section 39N and this Subsection.

The provisions of Section 39N of Chapter 30 of the General Laws, as amended, do not apply to:

(1) Construction Contracts entered into on behalf of the Commonwealth which provide that payments for the work be made on a lump sum basis.

(2) Construction Contracts entered into on behalf of a municipality under the provisions of Section 34, Chapter 90 of the General Laws.

4.05 Validity of Extra Work.

The Engineer shall be authorized to issue Extra Work Orders for such additional work outside the scope of the original Contract as in his/her judgment is reasonably necessary for the satisfactory completion of the project provided that the work to be done under such an Extra Work Order, either standing alone or in conjunction with any previously authorized Extra Work Order, shall not result in a change of such magnitude as to be incompatible with the provisions of Chapter 29, Section 20A and Chapter 149, Section 44J of the General Laws.

4.06 Increased or Decreased Contract Quantities.

The Department reserves the right to increase or decrease the quantity of any particular item of Work.

Where the quantity of a Unit Price pay item in this Contact is an estimated quantity and where the actual quantity of such pay item varies more than twenty-five (25) percent above or below the estimated quantity stated in this Contract, an equitable adjustment in the Contract Price for that pay item shall be negotiated upon demand of either party. The equitable adjustment shall be strictly based upon any increase or decrease due solely to the variation above one hundred twenty-five (125) percent or below seventy-five (75) percent of the estimated quantity. In this regard, no allowances will be made for loss of anticipated profits suffered or claimed by the Contractor resulting directly or indirectly from such increased or decreased quantities or from unbalanced allocation among the contract items from any other cause.

4.07 Maintenance of Detours.

A. Where the Department authorizes or directs general traffic from a travelled way to be detoured over Town or City streets, the Department will be responsible for maintenance of such detours and placing them in the equivalent condition they were in prior to general traffic being detoured over same. The Contractor shall do all work required hereunder as directed by the Engineer.

Payment for such work shall be made as specified in Subsection 9.03, Payment for Extra Work.

B. Where a Contractor uses public roads or streets as haul roads, unless the road is properly posted for tonnage limitations, the Contractor has a legal right to use such roads or streets if his/her vehicles are properly registered.

C. Inferred or alleged overloading, causing either excessive mass beyond registered capacity, or spillage is a Police matter for the local authorities.

D. Where a Contractor uses a private way for hauling, it is a matter between the Contractor and the owners of the private way.

E. It shall be the Contractor's responsibility to ascertain whether haul routes are over accepted public or private ways prior to using same for hauling purposes and it is his/her further responsibility to ascertain if any have posted legal mass limitations or other restrictions and to abide by them.

4.08 Removal and Disposal of Structures and Obstructions.

Existing structures such as bridges, culverts or drainage pipes found within the location lines, which are to be replaced or rendered useless by new construction shall be removed by the Contractor at his/her own expense unless otherwise provided in these specifications or in the Special Provisions. When their location is such as not to interfere with the work, the removal shall not be done until the new structures replacing them are ready for traffic or other purpose for which the replaced structures are designed, or until the Engineer shall permit.

All material in the above mentioned types of existing structures requiring removal shall remain the property of the owner. The material shall be removed without damage, in sections which will permit easy handling and disposal, to locations within the limits of the project, and convenient for their subsequent removal by the owner, or as directed by the Engineer.

Unless otherwise provided the material from any existing structure may be used temporarily by the Contractor during construction. Such material may not be cut, bent, broken or otherwise damaged. All discarded material, rubbish, or debris shall be removed from the work and disposed of as directed. No foreign material or debris shall be permitted to remain or move in a waterway.

4.09 Rights in the Use of Materials Found on the Work.

The Contractor, with the prior written approval of the Engineer, may take suitable ledge, gravel, sand, loam, clay or other material from within the location lines of the project under construction and use it on the same project for other purposes than for forming embankments. If such use necessitates securing additional material for forming embankments, the Contractor shall replace at his/her own expense material of a satisfactory quality. (See Section 120.) The Contractor shall not excavate or remove any material which is not within the excavation as indicated by the slope stakes and grade lines without written approval. No excavated material for use shall be wasted unless otherwise directed.

Nothing in the Contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil; but all such materials shall, upon being so attached or affixed, become the property of the Party of the First Part.

4.10 Final Cleaning Up.

Upon completion of the work and before acceptance and final payment, the Contractor shall remove and dispose of in an approved manner, at his/her own expense, from the right-of-way, construction site, dredging site and adjoining property, all temporary structures and all surplus materials and rubbish which the Contractor may have accumulated during the prosecution of the work, and shall leave the areas in a neat and orderly condition.

No equipment or material shall be left within any of the aforementioned areas after acceptance of the Contract without the written permission of the Engineer. The Contractor shall not abandon any material at or near the site regardless of whether or not it has any value.