

REQUEST FOR PROPOSALS

ON-CALL CONSULTANT SERVICES
DEPARTMENT OF PUBLIC WORKS

TOWN of MAYNARD

MASSACHUSETTS

Michael Sullivan, Town Administrator/Chief Procurement Officer
195 Main Street
Maynard, MA 01754

Date of Issuance: December 3, 2012
Submission Deadline: December 27, 2012

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**REQUEST for PROPOSALS
ON-CALL ENGINEERING MANAGEMENT SERVICES**

The Town of Maynard, acting through its Board of Selectmen, seeks proposals from qualified consultants and consulting firms to advise the Town's Department of Public Works ("DPW") on an as needed basis. Such services shall extend for a period of six (6) months from the date the parties enter into an Agreement.

Proposers may view or documents and specifications after December 3, 2012 on the town website at www.townofmaynard.net , please make all questions via electronic mail to msullivan@townofmaynard.net

Proposals shall be received, no later than 11:00 am December 27, 2012 at the following:

Michael Sullivan
Chief Procurement Officer
195 Main Street
Maynard, MA 01754

All proposals must be endorsed with the name and business address of the Proposer and submitted in a sealed envelope clearly marked "**SEALED NON-PRICE PROPOSAL – ON-CALL CONSULTING SERVICES**". Price proposals must be submitted in a separate sealed envelope clearly marked "**SEALED PRICE PROPOSAL – ON-CALL CONSULTING SERVICES**". Sealed proposals will be received until 11 AM December 27, 2012. Any proposals received after the specified time will not be accepted.

The Town of Maynard reserves the right to accept or reject any or all proposals or to waive any informality in the proposals if it is judged by the Town that it is in the best interests of the Town.

The schedule for this solicitation is as follows:

December 3, 2012 Announce via website and advertisement in local paper (next available edition).

December 27, 2012 Proposals Due by 11 AM

Review and contract award (dates are approximate and subject to change):

January 4, 2013 Review of proposals and selection ranking of proposals.

January 8, 2013 Recommendation to Board of Selectmen to award

January 9, 2013 Notification to successful proposer(s)

February 1, 2013 Execute Contract

INTRODUCTION

Pursuant to MGL Chapter 30B, the Town of Maynard is inviting qualified candidates to submit proposals to serve as an on-call consultant to the Town of Maynard consistent with the Scope of Services in Section II.

I. GENERAL INFORMATION AND PROPOSAL SUBMISSION REQUIREMENTS

1. Proposal Submission

- a. All proposals must be received in the Town Administrator's Office, 195 Main Street, Maynard, MA on or before 11 AM December 27, 2012.
- b. If, at the time of the scheduled proposal submission deadline, the Town Offices at 195 Main Street are closed due to uncontrolled events such as fire, snow, ice, or building evacuation, the proposal deadline will be postponed until 11 AM on the next normal business day. Proposals will be accepted until that date and time.
- c. Each proposer must submit six (6) copies of their proposal.
- e. Each Technical Proposal must be clearly marked on the outside of the envelope "SEALED NON-PRICE PROPOSAL – ON-CALL CONSULTING SERVICES".
- f. Price Proposals must be submitted in a separate sealed envelope, clearly marked on the outside, "SEALED PRICE PROPOSAL – ON-CALL CONSULTING SERVICES"
- g. The submission of a proposal will be construed to mean that the proposer is fully informed as to the extent and character of the services required and a representation that the proposer can furnish services satisfactorily in complete compliance with the Scope of Services.
- h. Qualified minority and women owned business enterprises (M/WBE) consultants, HUD Section 3 businesses, or consultants using qualified M/WBE or HUD Section 3 businesses as subcontractors are strongly encouraged to apply.
- i. The Town accepts no financial responsibility for costs incurred by any proposer in responding to this Request for Proposals. All responses to the Request for Proposal will become the property of the Town and reasonable precautions will be taken to ensure the confidentiality of the material provided. The proposer is responsible for any and all risks and costs incurred in order to provide the Town with the required submission.

2. Required Submittals

Please use this checklist to ensure you have included all required submittals with your proposal.

All proposals shall include:

- _____ Six (6) copies of a completed Non-Price Proposal in a separate envelope labeled “**SEALED NON-PRICE PROPOSAL – ON-CALL CONSULTING SERVICES**”
- _____ Two (2) copies of the Price Proposal in a separate envelope labeled “**SEALED PRICE PROPOSAL – ON-CALL CONSULTING SERVICES**”
- _____ A completed and signed proposal signature and addenda acknowledgement page.
- _____ A completed and signed non-collusion affidavit.
- _____ A completed and signed affidavit of compliance.
- _____ A completed and signed attestation of taxes.
- _____ All other documentation as listed under Technical Proposal Requirements.

3. Questions Concerning Request for Proposals

Any prospective consultant requesting an interpretation of specifications or terms and conditions or any questions other clarification or inquiries related to this RFP must do so in writing no later the close of business December 20, 2012. Any request for interpretation of specifications, and any inquiries related to technical or contractual matters must be submitted in writing to:

Board of Selectmen Office
c/o Michael J. Sullivan Town Administrator
195 Main Street
Maynard, MA 01754
msullivan@townofmaynard.net

All questions, inquires and response will be posted on town website upon being answered.

4. Addenda

If any changes are made to this RFP, an addendum will be sent via electronic mail to all parties who have expressed interest in the bid, have presented their electronic mail address to the Town Administrator at msullivan@townofmaynard.net and have an electronic receipt of Michael J. Sullivan Town Administrator having received said inquiry. All addendums will be posted on the Town website adjacent to the original RFP. Failure to comprehensively address the elements in “Section II Scope of Services” and any subsequent addendums will result in automatic rejection of bid. All questions and replies will be posted as well.

5. Modifications by Proposer

- a. A proposer may correct, modify, or withdraw a proposal by written notice received by the Town prior to the time and date set for the proposal opening. Proposal modifications must be submitted in a sealed envelope clearly labeled “Modification No.2.” Each modification must be numbered in sequence, and must reference the original RFP.

- b. After the proposal opening, a proposer may not change any provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. Minor informalities will be waived or the proposer will be allowed to correct them. If a mistake and the intended correction are clearly evident on the face of the proposal document, the mistake will be corrected to reflect the intended correct proposal, and the proposer will be notified in writing; the proposer may not withdraw the bid. A proposer may withdraw a proposal if a mistake is clearly evident on the face of the proposal document, but the intended correct proposal is not similarly evident.

6. Cancellation of Request for Proposals

The Town of Maynard may cancel this Request for Proposals if the Town determines that cancellation or rejection serves the best interests of the Town.

7. Proposal Pricing

Each Price Proposal should include a total price for the proposed work including a breakdown of hourly rates for on-site services and off-site services.

Failure to submit the Price proposal in an envelope separate from the Non-Price proposal will result in rejection of the proposal.

8. Signatures for Proposal

Proposals must be signed as follows:

- a. If the proposer is an individual, by her/him personally;
- b. If the proposer is a partnership, by the name of the partnership, followed by the signature of each general partner;
- c. If the proposer is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed.

9. Assignment of Contract/ Primary Consultant and Key Personnel

The Consultant shall not assign, transfer, sublet, convey or otherwise dispose of any contract which results from this Request for Proposals, or its right, title or interest herein or its power to execute the same to any other person, firm, partnership, company or corporation without the previous consent in writing to the Town. Should the consultant attempt any of the above without written consent of the Town, the Town reserves the right to declare the Consultant in default and terminate the contract for cause.

The Consultant shall dedicate the Primary Consultant and key personnel (“team members”) presented in the Non-Price Proposal to provide the Scope of Services. Consultant may not change or substitute the key personnel without the prior written approval of the Town of Maynard.

II. SCOPE OF SERVICES

The Town of Maynard has issued this Request for Proposals (RFP) to select a Consultant, to serve on an as needed basis, to the Town of Maynard Department of Public Works for a period of six (6) consecutive months. The selected Consultant will be expected to provide the following services to the Town.

- Assist in filing all state and federal required documents. This “assistance” should include, but not be limited to completing applications or reports, reviewing previous filings and cooperating with other party’s filings which are normally related to a DPW Superintendent.
- Provide advice when needed to staff as necessary and appropriate in relation to DPW actions or responsibilities. Assist in creating strategies based on best practices and professional standards.
- Provide on-site office hours at the Maynard Town Hall two mornings a week for four (4) hours during normally scheduled Town Hall business hours. Office hours shall be primarily to provide the Town Administrator, Highway Superintendent, Water Superintendent and the DPW Administrative Assistant with technical and professional direction and support in connection with the functions of the DPW. There will be a total of eight (8) onsite hours per week, any adjustment to scheduled hours must be agreed to by the Town Administrator and the “contractor”.
- Attend evening meetings on occasion, at the request of the Town Administrator. Attendance at an evening meeting shall replace one of the four (4) hour office hour sessions for that week.
- Provide the Town Administrator with a monthly report reviewing and outlining projects and issues in which the Consultant has been engaged in Maynard.
- Provide the Town Administrator with a report prior to final payment under the Agreement. The report shall include suggestions as to skill sets desired for the new manager of the DPW, organizational strengths and weaknesses and “best practice” or other observations which may improve performance of the DPW.

III. TECHNICAL PROPOSAL REQUIREMENTS

Non-Price Proposal:

The non-price proposal shall be formatted as follows:

Title Page

Show the Request for Proposal number, subject, and the name of the principal consulting firm, address, telephone number, name of contact and date.

Table of Contents

Clearly identify material by section and page number.

Statement of Project Requirements

State in succinct terms the Consultant's understanding of what is required by this RFP. A duly authorized individual who may bind the firm shall sign this cover letter.

Response to RFP

Describe in narrative form the Consultant's approach and technical plan for accomplishing the services listed above. The Consultant shall provide a detailed summary of.

Deliverables

Identify specific products to be delivered and when. All documents should be provided in both paper and digital format compatible with Microsoft Word.

Team

Provide names and complete résumés for all professional members of the Consultant's team. Each member's educational background and professional experience shall be provided. Special skills should be summarized, including recent seminars and relevant courses. Identify the person(s) who will be the Primary Consultant(s) with ultimate responsibility for the work. Team members must be available throughout the duration of the project to actively participate.

Similar Experience

The proposal shall provide details of experience and past performance of the Consultant and members of the team on comparable work for government entities. This section should cover, as a minimum, the substantive nature of comparable engagements, the experience of members of the team in working successfully in matters of similar complexity and the record of the members of the Consultant's team for timely performance. Consultants are requested to give sufficient information of their experience to permit the Town to understand and verify the exact nature of contribution to other projects and entities.

Competing Commitments

Consultants shall discuss the means by which adequate and timely attention to this engagement will be assured.

References

Provide the names, titles and telephone numbers of three persons who can substantiate the Consultant's summary of qualifications and the Primary Consultant's and team members' experience relevant to this project. Indicate the linkage between the persons listed and the professional work of the Consultant.

Writing Samples

At least two writing samples (not to exceed 10 pages) prepared solely by the Primary Consultant and team members within the last five years, which reflects the respondent's services. Please redact all information identifying the community for which the writing sample was drafted. If the respondent does not have a writing sample of this length please include an excerpt from a longer writing.

Detailed Cost Proposal

The Consultant shall provide a detailed cost proposal identifying the work to be performed and the contractor or team member responsible for said work.

Additional Forms

The following forms must be completed and submitted with the non-price proposal:

- Proposal Signature and Addenda Acknowledgement
- Non-Collusion Affidavit
- Affidavit of Compliance
- Attestation of Taxes

Proposal Submission

All proposers shall submit the required information formatted and delivered as follows:

1. All interested parties responding to this RFP must submit an original non-price proposal document and six (6) complete copies, along with a certification signed by the respondent's authorized representative under the pains and penalties of perjury that the information provided in the proposal is correct
2. The non-price proposal must be submitted in a loose-leaf binder, spiral binder, or other fully bound edge booklet;
3. The size of the pages should not exceed the standard 8.5" x 11.0", unless they are folded to a maximum size of 8.5" x 11";
4. The six (6) non-price proposal documents must be submitted in one sealed package with a label marked as follows: **"SEALED NON-PRICE PROPOSAL – ON-CALL CONSULTING SERVICES"**, along with the name, address, and telephone number of the proposer.
5. The two (2) price proposals must be submitted in a separate sealed envelope with a label marked as follows; **"SEALED PRICE PROPOSAL – ON-CALL CONSULTING SERVICES"** along with the name, address, and telephone number of the proposer.

6. Sealed proposals are to be submitted to Michael Sullivan, Chief Procurement Office, 195 Main Street, Maynard, Massachusetts 01754 by 11 am on December 27, 2012 at which time the non-price proposals will be opened in front of one or more witnesses. The price proposal will be opened after the non-price proposals are evaluated and ranked according to the criteria identified in this RFP. The contract will be awarded to the most advantageous proposer(s) with a responsible and responsive proposal within forty-five (45) days after the proposal opening. If a contract is not executed within sixty (60) days after notification by the Board of Selectmen of the selection, the Town reserves the right to designate another proposer(s) as the consultant.
7. If any changes are made to this RFP, an addendum will be issued. Addenda will be mailed or faxed to all proposers on record as having picked up the RFP.
8. A proposer may correct, modify, or withdraw a proposal by written notice received by the Town prior to the time and date set for the proposal opening. Proposal modifications must be submitted in a sealed envelope clearly labeled "Modification No. ___ (if necessary) together with the name, address and telephone number of the respondent." A proposer may not change any provision of the proposal in a manner prejudicial to the interests of the Town or fair competition.
9. The Town reserves the right to reject any and all proposals if it is determined to be in the public interest to do so.

VI. PRICE PROPOSAL REQUIREMENTS

Price proposals must be submitted in a separate sealed envelope, clearly marked "**SEALED PRICE PROPOSAL – ON-CALL CONSULTING SERVICES**".

The price proposal shall contain the following:

- The fee for the entirety of all services proposed in the non-price proposal;
- A detailed breakdown of the professional service fees by task and by team member; and
- The hourly rates to be charged by the consultant for services performed by each team member for on-site and off-site services.

VII. EVALUATION CRITERIA

1. Minimum Evaluation Criteria

The proposal includes all of the items listed under both Required Submittals and Technical Proposal Requirements, and meets all submission requirements set forth in the Request for Proposals.

2. Comparative Evaluation Criteria

The purpose of the comparative evaluation is to weigh the relative merits of all the competing proposals that have been determined to be responsive and responsible. The evaluators will review all of the responsive and responsible submissions against each of the comparative criteria and assign one of three values, as follows; "Highly Advantageous" (the highest value), "Advantageous" (the middle value), and "Not Advantageous" (the lowest value). Once the evaluator(s) have completed their review of the proposals against all of the comparative criteria they will review all of the values; assign a weight for the various criteria and then assign an "overall value" that they feel best represents that proposal's evaluation against all of the comparative criteria. If two or more proposals are determined to have the same overall value, the Town Administrator shall determine which of these proposals is the most advantageous to the Town. The Town may choose to interview one or more Consultants to make this determination.

Table of Comparative Evaluation Criteria

Comparative Evaluation Criteria	Highly Advantageous	Advantageous	Not Advantageous
The experience of the Proposer in successfully carrying out services of similar size and scope.	The Proposer has provided verifiable evidence of having successfully delivered similar services to at least five (5) or more communities in the past ten (10) years.	The Proposer has provided verifiable evidence of having successfully delivered similar services to at least three (3) or more communities in the past ten (10) years.	The Proposer has not provided verifiable evidence of having successfully delivered similar services to at least three (3) communities in the past ten (10) years.
The number of years that the Proposer has operated in providing the requested services.	The Proposer has ten (10) years or more of experience consulting with municipalities for similar services.	The Proposer has five (5) to nine (9) years of experience consulting with municipalities for similar services.	The Proposer has fewer than four (4) years of experience consulting with municipalities for similar services.
The quality and depth of the Proposal and technical approach to the "Scope of Services" in response to the Request for Proposal.	All tasks are thoroughly addressed within the Proposal. Proposer's responses to tasks are clear, thorough, and timely.	All tasks are addressed in the Proposal. Proposer's responses to tasks are minimal.	All tasks are not thoroughly addressed within the Proposal. Proposer's responses to tasks are not clear, thorough, and timely.
Proposer has demonstrated their ability to complete projects on a timely basis and to provide excellent deliverables.	All three of the Proposer's references indicate that the project was completed on schedule or with minimum, insignificant, delays attributable to the Proposer and that the Proposer provided excellent deliverables.	Two of the Proposer's references indicate that the project was completed on schedule or with minimum, insignificant, delays attributable to the Proposer and that the Proposer provided excellent deliverables.	Less than two of the Proposer's references indicate that the project was completed on schedule or with minimum, insignificant, delays attributable to the Proposer or that the Proposer provided excellent deliverables.

Proposer's submittal of a quality writing sample.	The Proposer's writing sample is clear, organized, thoroughly covers the topic, and contains little to no grammatical errors.	The Proposer's writing sample is fairly clear, has a few organizational problems, covers the topic, and contains minor grammatical errors.	The Proposer's writing sample is unclear, unorganized, does not cover the topic, and contains many grammatical errors.
Qualifications of key staff.	Résumés demonstrate exceptional qualifications of key staff.	Résumés demonstrate moderate qualifications of key staff.	Résumés demonstrate very minimal qualifications of key staff.
The immediate availability of key personnel to begin 6 month services contract.	The Proposer's key personnel are immediately available to begin 6 month services contract.	The Proposer's key personnel will soon be available to begin the 6 month services contract.	The Proposer's key personnel are not available any time soon to begin the 6 month services contract.
The Proposer is a State Certified Minority or Women Owned Business Enterprise (M/WBE) or a HUD Section 3 Business.	The Proposer is a State Certified M/WBE or a HUD Section 3 Business.		The Proposer is not a State Certified M/BWE or HUD Section 3 business.
Quality of Interview	The Primary Consultant and team members demonstrated a thorough knowledge and understanding of accomplishing the tasks and gave an excellent oral and visual presentation which demonstrated their ability to effectively communicate with municipal officials and the general public.	The Project Manager and team members demonstrated an adequate knowledge and understanding of accomplishing the tasks and gave a satisfactory oral and visual presentation which demonstrated their ability to effectively communicate with municipal officials and the general public.	The Project Manager and team members did not demonstrate an adequate knowledge and understanding of accomplishing the tasks or did not give a satisfactory oral and visual presentation.

3. Post Submittal Interview/Presentation

The Town reserves, at its option, the right to select any number of qualified proposers to interview and/or to make a presentation further explaining the submitted proposal. The Town also reserves the right to contact any proposer in order to clarify any aspect of the submitted proposal. If invited to be interviewed the number of proposer team members participating will be limited to three.

4. Award of Contract

The contract for will be awarded within sixty (60) days after the proposal opening. The time for award may be extended for up to 30 additional days by mutual agreement between the Town and the apparent lowest responsive and responsible bidder. The selected consultant will be expected to enter into a contract in the form attached as Attachment B.

VIII. INSURANCE REQUIREMENTS

1. Consultant's Public Liability and Property Damage Insurance

The Consultant shall at all times during the Contract maintain in full force and effect Employer's Liability, Worker's Compensation, Bodily Injury Liability, and Property Damage and General Liability Insurance, including contractual liability coverage. All insurance shall be by insurers and for policy limits acceptable to the Town and before commencement of work hereunder the Contractor agrees to furnish the Town certificates of insurance or other evidence satisfactory to the Town to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certificate holder."

For the purpose of the Contract, the Contractor shall carry the following types of insurance in at least the limits specified below:

COVERAGES	LIMITS OF LIABILITY
Worker's Compensation	Statutory
Employer's Liability	\$500,000.00
Automobile Liability	\$5,000.00 each person \$1,000,000.00 each accident
General Liability	\$1,000,000.00 each occurrence \$3,000,000.00 aggregate
Professional Liability	\$1,000,000.00 each occurrence \$3,000,000.00 aggregate
Excess/Umbrella	\$1,000,000.00

The TOWN OF MAYNARD shall be named as an additional insured under the liability and automobile insurance. The general liability insurance policy should contain a broad form general liability endorsement.

2. Indemnification

The Consultant will indemnify and hold the Town, its officials, agents, servants and employees harmless from and against any and all liability including suits, actions, legal proceedings, claims, demands, costs, expenses, and attorney fees for damage to persons or property of any kind whatsoever arising out of any and all activities to be conducted by the Consultant pursuant to this Agreement.

IX. EQUAL OPPORTUNITY COMPLIANCE

The Consultant shall carry out the obligations of this Contract in compliance with all of the requirements imposed by or pursuant to Federal, State, and local ordinances, statutes, rules, and regulations prohibiting discrimination in employment, including, but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973, and M.G.L. c. 151B, Massachusetts Executive Order 74, as amended by Executive Orders 116, 143, and 227, and any other executive orders, rules, regulations, and requirements relating thereto enacted by the Commonwealth of Massachusetts as they may from time to time be amended. The Consultant shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation.

X. PRE-AWARD CONFERENCE

The selected Consultant shall attend a pre-award conference with municipal officials after selection as the successful Proposer. Contract documentation and the selected consultant's proposal shall be reviewed to assure precise understanding of contract requirements and to review the selected Consultant's proposal to accomplish all tasks.

XI. OWNERSHIP OF INFORMATION

All information, documents and materials — whether draft, incomplete or final — developed by the consultant in the performance of the tasks under this “Scope of Services”, shall be considered the property of the Town of Maynard and shall be delivered upon request. All required information, documents and materials shall be delivered to the Town of Maynard before the Town makes final payment. No information, documents or materials developed by the Consultant exclusively for this project is to be used by the Consultant for other purposes, or released to others, without the express written consent of the Town.

XII ADDITIONAL TERMS AND CONDITIONS

The Town may terminate, in writing, this Agreement for nonperformance of the services required under this Agreement including the progress of work for such services. The Town may also terminate the contract for convenience with 30 days written notice.

Upon receipt of written notification from the Town to the Consultant that the Agreement or any portion thereof is to be terminated, the Consultant shall immediately cease operations on the work stipulated, and assemble all material that has been prepared, developed, furnished or obtained under the terms of the Agreement that may be in the possession or custody of the Consultant and shall transmit the same to the Town on or before the fifteenth (15th) day following the receipt of the written notice of termination together with his/her evaluation of the cost of the work performed. The Consultant shall be entitled to complete payment for any satisfactorily completed uncompensated work performed prior to such notice and for the cost of assembling the material to be transmitted to the Town.

Attachment A
REQUIRED FORMS

PROPOSAL SIGNATURE AND ADDENDA ACKNOWLEDGEMENT

Having fully examined, read, and in understanding of the specifications for this job and being familiar with all of the conditions surrounding the proposed work, including any addenda for which receipt of is acknowledged below, the undersigned proposes to complete all work as specified in this request for proposals.

This proposal includes addenda numbered: _____

Signature for Individual

Name of Company

Telephone Number

Name and Title of Individual Authorized to Sign

Fax Number

Signature

Date

Signature for Partnerships (must be signed by ALL general partners)

Name of Partnership

Date

Name and Title of Partner

Signature

Name and Title of Partner

Signature

Name and Title of Partner

Signature

Telephone Number of Company Offices

Fax Number of Company Offices

Use additional sheet if necessary

PROPOSAL SIGNATURE AND ADDENDA ACKNOWLEDGEMENT - CONTINUED

Signatures for Corporation

Name of Corporation

Date

Name and Title of Duly Authorized Company
Officer

Signature

Corporate Seal (affix below)

Telephone Number

Fax Number

Signature of Clerk

Please furnish the following additional information:

Incorporated in what state? _____

President: _____

Treasurer: _____

Secretary: _____

If you are a foreign (out of state) corporation, are you registered with the Secretary of the Commonwealth in accordance with the provisions of M.G.L. Chapter 181? _____

If you are selected for this work, you are required, under M.G.L. Chapter 30 §391, to obtain from the Secretary of State, Foreign Corporation Section, a certificate stating that your corporation is registered, and to furnish said certificate to the Town of Maynard before award.

NON-COLLUSION AFFIDAVIT

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of individual submitting bid or proposal

Name of Company

Date

AFFIDAVIT OF COMPLIANCE

_____ Massachusetts Corporation

_____ Foreign Corporation

_____ Non-Profit Corporation

_____ Partnership

_____ Sole Proprietorship *

Name of Corporation _____

Address _____

As President, or authorized company officer, of the above named corporation, I do hereby certify that the above named corporation has filed with the State Secretary all certificates and annual reports required by M.G.L. Chapter 156B §109 and by Chapter 181 §4

Signed under the penalties of perjury this _____ day of _____,

Signature and Title of Authorized Company Officer

Corporate Seal (affix below):

*If a sole proprietorship, you must indicate your status as a sole proprietorship; the person signing this bid shall be deemed to be the sole proprietor and legal entity for the purpose of this bid and contract.

ATTESTATION OF TAXES

Any person failing to sign the Attestation of Taxes shall not be allowed to obtain, renew, or extend a license, permit, or public contract.

Pursuant to M.G.L. Chapter 62C, §49A, I hereby certify, under the penalties of perjury, that, to the best of my knowledge and belief, I am in compliance with all the laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature and Title of Authorized Company Officer

Date

Corporate Seal (affix below):

Attachment B

Contract and Related Documents

Please note that contact will be executed upon award, along with the attached supplement “S”. The execution of agreement may not be limited to these statements, however “Attachment B” should serve as notification of the terms of such an agreement between the Town of Maynard and the awardee.

Town of MAYNARD

Contract

DATE: _____

This Contract is entered into on, or as of, this date by and between the Town of Maynard, 195 Main Street, Maynard, MA 01754 (the “Town”), and

[“Contractor”]

[Address of the Contractor]

_____ [Telephone Number] _____ [FAX Number]

1. This is a Contract for the procurement of the following:

If this Contract is for the purchase of goods it shall include the following delivery, installation or setup requirements:

2. The Contract price to be paid to the Contractor by the Town is:

3. Payment will be made as follows:

3.1

3.1.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an

estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s).

3.2 Fees and Reimbursable Costs combined shall not exceed \$_____ as more fully set forth in the Contractors Response to the RFP.

3.3 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing in an Amendment hereto. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.4 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

4. Security: *(Surety is not required for contracts for the purchase of goods and most services. Surety in the form of a 100% performance bond; 100% payment bond and 5% bid surety is ALWAYS required for construction contracts)*

4.1 In the event the contract price exceeds the sum of \$10,000.00, the Contractor must provide security in the form of a bond or otherwise, conditioned upon the faithful performance of this Contract.

5. Definitions:

5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.

5.2 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.

5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.

- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before _____, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

9. Termination and Default:

- 9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon

termination without cause, Contractor will be paid for services rendered to the date of termination.

9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.

9.3 Default. The following shall constitute events of a default under the Contract:

any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Maynard shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

12. Statutory Compliance:

12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30B – Procurement of Goods and Services.

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

General Laws Chapter 149, Section 44A, *et seq.* Public Buildings Contracts.

12.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.

12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

The following provisions will not apply if the contract price is less than \$10,000.00 or where the Contractor employs fewer than six (6) persons. [The Town may, on a case by case basis, determine that the following provisions apply to contracts for less than \$10,000.00 or where the Contractor employs less than six (6) employees.]

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;

- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

- 15.2 The Contractor shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency's practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.
- 15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.
- 15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.
- 15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Maynard unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Maynard shall be individually or personally liable on any obligation of the Town under this Contract.

21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages,

losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.

.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.

21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

22. Insurance

22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

22.2 Professional Liability Insurance

Liability of \$1 million per claim and \$3 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

22.3 Other Insurance Requirements

- a. **Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of Maynard as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.**
- b. **Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.**
- c. **The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.**
- d. **All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the**

expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination. Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.

- e. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town

before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach of a similar or different matter.

28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Maynard shall be a party.

If this Contract is for Construction, the following provisions will apply:

See SUPPLEMENT S attached hereto.

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SUPPLEMENT “S”

This form supplements the general provisions of the Contract between the Town of Maynard, and _____, which Contract is a contract for the procurement of services.

“Services” shall mean furnishing of labor, time, or effort by the Contractor. This term shall not include employment agreements, collective bargaining agreements, or grant agreements.

Change Orders:

Change orders may not increase the contract price by more than twenty-five (25%) per cent, in compliance with General Laws Chapter 30B, §13.

Security Requirement:

If this Contract is in excess of \$10,000.00, the Contractor must provide security in the form of a bond or otherwise, conditioned upon the faithful performance of the Contract terms.

Minimum Wage/Prevailing Wage:

The Contractor will carry out the obligations of this Contract in full compliance with all of the requirements imposed by or pursuant to General Laws Chapter 151, §1, *et seq.* (Minimum Wage Law) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended. The Contractor will at all times comply with the wage rates as determined by the Commissioner of the Department of Labor and Industries, under the provisions of General Laws Chapter 149, 26 to 27D (Prevailing Wage), as shall be in force and as amended.

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and signed this as an instrument under seal this the day and year first above written.

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