

# Police Station Project

## West Boylston, Massachusetts



### REQUEST FOR QUALIFICATIONS

FOR

**DESIGNER SERVICES**

ISSUED: April 13, 2016

DUE: April 27, 2016

**CONTACT INFORMATION:**

**ANTHONY J DILUZIO**

**OWNER'S PROJECT MANAGER**

**CARDINAL CONSTRUCTION INC.**

**10 EAST WORCESTER**

**WORCESTER, MA 01604**

**PH: 508.831.4447**

**E-Mail: [Adiluzio@cardinalservices.net](mailto:Adiluzio@cardinalservices.net)**

**Legal Notice/Advertisement for Designer Services (G.L. c. 7C, §§ 44-58)**

**LEGAL NOTICE**

**TOWN OF WEST BOYLSTON  
REQUEST FOR QUALIFICATIONS  
ARCHITECTURAL AND ENGINEERING DESIGN SERVICES  
WEST BOYLSTON POLICE FACILITY**

The Town of West Boylston, acting through its Board of Selectmen and the Police Station Building Committee, pursuant to G.L., c. 7C, §§ 44-58, requests qualifications (RFQ) from registered and qualified firms for architectural and engineering design services for the design and construction, of a proposed Police Station building located at **141 Sterling Street, West Boylston, MA.**

The Town has previously conducted a needs assessment of its Police Department which will form the basis of the design program moving forward. The design services will focus on the development of final design; preparation of construction drawings, specifications, and bid documents; and construction administration. Estimated construction cost of the project is **\$2,000,000.00.** Respondents must be firms employing a person with, a current license and registration by the Commonwealth of Massachusetts as an architect or professional engineer. The selection will be a “Negotiated Fee Selection” with the selected designer. The RFQ will be available after 9:00 a.m. on **April 13, 2016** in the Town Administrator’s Office, West Boylston Town Hall, 140 Worcester Street, West Boylston, Massachusetts 01583, and Cardinal Construction Inc. 10 East Worcester Street, Worcester MA 01604. Email requests should be directed to Anthony DiLuzio at [Adiluzio@cardinalservices.net](mailto:Adiluzio@cardinalservices.net). Proposals, sealed and clearly marked “West Boylston Police Station Design Services,” are due no later than 2:00 p.m. on **April 27, 2016** in the Town Administrators office. **Pre-Proposal Conference will be held at the West Boylston Town Hall on April 20, 2016 at 10:00AM.**

Questions relative to this selection should be directed to the Owner’s Project Manager, Anthony DiLuzio, Cardinal Construction Inc. [Adiluzio@cardinalservices.net](mailto:Adiluzio@cardinalservices.net). Respondents are prohibited from contacting any other parties relative to the solicitation. Doing so may result in disqualification. The Town of West Boylston, through its awarding authority, reserves the right to reject any or all proposals, to waive any defects, informalities, and minor irregularities and to award contracts or cancel this RFQ if it is in the best interest of the Town to do so. The Town of West Boylston is an AA/EEO employer, and encourages MBE and WBE firms to apply

- Mailing to MBE/WBE firms
- The Telegram & Banner
- Town of West Boylston Webpage
- Posted at West Boylston Town Hall
- Central Register

**CRITICAL DATES**

Publish Date in Central Register	<u>April 13, 2016</u>
RFQ Publications and Availability	<u>April 13, 2016</u> – 10:00AM
Pre-proposal Conference	<u>April 20, 2016</u> – 10:00AM
Written Questions Accepted by	<u>April 21, 2016</u> – 02:00PM
Addenda Issued by	<u>April 22, 2016</u>
Deadline for Submissions	<u>April 27, 2016</u> – 2:00PM

**APPROXIMATE DATES**

FISP Completes Quals Review	<u>May 04, 2106</u>
Interviews (Optional)	<u>May 11, 2016</u>
Notice of Award	<u>May 12, 2016</u>
Contract Negotiated and Signed by	<u>May 19, 2016</u>
Design Project Start Date	<u>May 20, 2016</u>
Bid Documents Complete by	<u>July 29, 2016</u>

## 1.0 INTRODUCTION

The Town of West Boylston, MA (hereinafter “Town”) requests Statements of Qualifications and Technical Proposals from design firms interested in providing services as described below. By means of this Request, the Town invites proposals and will select one firm to perform design services for the new West Boylston Police Station. Joint ventures consisting of prime and supporting design firms are welcome, with the understanding the Town will only enter into a single contract with the prime firm.

Town has previously completed the process of selecting an Owner’s Project Manager (hereinafter “OPM”) to represent the Town throughout the duration of this project. The Town has selected Cardinal Construction Inc. as its OPM

The Town is an Equal Opportunity Employer.

### 1.1 Town and Project Description and Schedule

#### Town Background

The Town of West Boylston is a semi-rural community of 6,652 residents. West Boylston is governed through a Board of Selectmen, Town Administrator and Open Town Meeting format. At its annual town meeting voters authorized the Board of Selectmen to proceed with the design and construction of a new Police Department Facility on at Town owned parcel located at 141 Sterling Street.

#### Police Station Project

The “Project” involves design and construction to accommodate Town’s Police Department utilizing an existing open site utilized for the leach field of a previously demolished building. The Project is more particularly described below in Section 2.0 entitled “Scope of Services”.

The West Boylston Police Department has a current roster of thirteen (13) full time officers and zero (0) part time officers, Three (3) full-time dispatchers and five (5) per diem dispatchers. The Department’s current fleet of vehicles includes approximately 8 cruisers and SUV’s. West Boylston Police department covers 13.78 square miles.

Haynes Lieneck and Smith prepared a conceptual plan for the building and the site in 2014. The Conceptual plan is attached to this RFQ as a reference for the scope and size of the project. The selected firm will be responsible for all design considerations and confirming all programming and functionality with the West Boylston Police Department prior to continuing the design process.

The project schedule anticipates the selection of a Designer by May 20, 2016.

The commencement of the design and pre-construction services will begin immediately with an issuance of a Notice-to-Proceed.

Construction is anticipated to start in the fall of 2016 and to accommodate completion and relocation late summer 2017. In order to meet this schedule, the Designer should expect to have completed the design services necessary to allow for solicitation of construction bids late summer 2016.

The goal of this procurement process is to identify and to retain a Designer that will deliver design services necessary to ensure that the Project is of the highest quality possible given the available funding and required schedule.

1.2 Pre-Proposal Conference

A pre-proposal conference and site visit is scheduled for April 20, 2016 at 10:00AM at the West Boylston Town Hall. No tour of the existing Police Station will be conducted. A site visit will be conducted immediately following the meeting at Town Hall. There are no site plans or existing information available at this time for the proposed site.

1.3 Communications during Procurement Process

All respondents are advised that communication with Town personnel about the Project or this RFQ is prohibited, except as provided for in this RFQ. All questions concerning this RFQ shall be directed, **in writing**, to [Adiluzio@cardinalservcies.net](mailto:Adiluzio@cardinalservcies.net) To be considered, written questions must be received by the Town by 2:00 PM on April 21, 2016 The Town may issue responses, if any, in writing and will distribute such responses to all prospective respondents that have previously provided contact information as soon as practicably possible. Please note that the Town may decline to answer any question.

1.4 Miscellaneous

The Town reserves the right to modify this RFQ in any way prior to the deadline for submission of Statements of Qualifications and Proposals by issuing an addendum or addenda to all persons on record as having received a copy of the RFQ. The Town may extend the deadline for submission if, in the Town's sole judgment, it is necessary or desirable for any reason. The Town may also cancel this RFQ, in whole or in part, if the Town determines it to be in its best interest.

***To be considered, Submissions must be received by the Town no later than 2:00 PM on April 27, 2016.***

## **2.0 SCOPE OF SERVICES**

2.1 General the Scope of Design Services for this phase of the project is as defined below.

Based on the existing site and proposed building layout the Designer will develop drawings and construction bid documents for the proposed building and related construction and site amenities. The Project services shall include preparation of drawings and other documents illustrating the means for substantially meeting the programmatic needs established during informational session with the Police Department and the direction of the FISP in meeting the Estimated Construction Cost. Conceptual design documents and drawings should show compliance with all applicable program elements, building and zoning codes, and environmental requirements, and include provisions for any required permits and variances.

2.2 Use of an Owner's Project Manager

The Designer will coordinate its efforts with that of the OPM to insure that there will not be a duplication of effort.

- 2.3 Design Services; The Designer’s Basic Services are described in detail in the Town’s standard form of Designer Services Agreement attached hereto as *Exhibit B*.

The Designer’s contract will require early and continued coordination with the OPM for this project. All project dealings with contractors and subcontractors; documents for construction, identifying, as necessary, the scope of work for each trade; preparing drawings and specifications for subcontractor bid packages; and will require close adherence to established budget and schedule performance conditions and timelines. The contract will require the Designer to perform any necessary redesign services as required to meet the Town’s budget and program, at no additional cost to the Town.

- 2.4 Contract Forms; The Designer will be required to enter into the Town’s standard form of Designer Services Agreement, attached, subject to modification of the final scope of services approved by the Town.

### **3.0 PROCUREMENT PROCESS**

- 3.1 Building Committee; The Town Administrator shall designate a “Facility Implementation and Strategic Planning” to oversee the project in an advisory capacity to the Board of Selectmen.

- 3.2 Evaluation Process Responses will be evaluated by the Town’s FISP Committee.

Based upon the evaluation of submissions, the FISP Committee will rank the proposals submitted in order of “Most Advantageous” to “Least Advantageous”. The Committee may select and interview at least three (3) finalists prior to making the final selection if enough qualified proposers are available. Finalists may be required to appear for an interview and may be asked to provide additional information to the Committee. Should the Designer fail to timely execute a contract for the set fee as advertised, the Town may, at its sole discretion, notify the Designer of its intention to revoke its award of the contract and procure design services from the next highest ranked firm. No person or firm, including a respondent’s listed third party consultant(s), debarred pursuant to G.L. c. 149, § 44C shall be included as a finalist.

### **4.0 CONTENT OF RESPONSES TO THE RFQ**

- 4.1 Submissions shall include the following:

- a. A cover letter identifying the contact individual for the firm and an executive summary detailing the key elements and factors that differentiate the proposer from other respondents. The cover letter shall include acknowledgement of any addenda issued during the submission process, specifically accept adherence to the project timeline, and any exceptions or suggested modifications to the Contract for Designer Services Agreement.

- 4.2 Contents of Statements of Qualifications and Technical Proposal/Form of Submittal:

Additionally, the submitted proposal must correspond exactly to the format and required content listed in the chart below. Firms are required to clearly tab proposals in order to promote the fairness and efficiency of the review process. Responses that do not meet the required format may be rejected outright, or may be subjected to a lower rating when evaluated. Please also note the suggested lengths of

each section - excessively large proposals with unnecessary extra content are discouraged.

Tab	Section	Topics to be Included
A	The current Massachusetts Designer Selection Board “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction.” (Form A included)	<ul style="list-style-type: none"> <li>• The Application Form may be amended to include additional information on a project-specific basis.</li> <li>• For the five most recent and similar police station projects, include in the Application for Design Services form the budget for the project, the final construction cost estimate, the design fee, and the actual construction cost, including Bid amount and Change Order amount.</li> </ul>
B	Previous Project Experience 1 to 2 page introduction Some pictures of projects are requested	<ul style="list-style-type: none"> <li>• Begin this section with a one to two page text overview of firm’s recent project history, and include mention of firm’s on-time and on-budget record, and describe any experience firm has with sustainable building methods and LEED certification. Also describe firm's thorough knowledge of the MA State Building Code, Americans with Disabilities Act (ADA), MA Architectural Barriers/Handicapped Access Standards, MA public construction laws and all other pertinent codes and regulations pertaining to Police Station buildings (local, state), and familiarity and experience with public projects constructed under G.L. Chapter 149.</li> <li>• Specific Project Profile sheets of a minimum of 5 Police Station projects of similar size and scope completed in the past 5 years. You may also include up to 5 other non-police station projects at the end of this section if you feel they are illustrative of the quality and aesthetic character of firm's work.</li> <li>• Project Profiles included in this section should include:</li> </ul>

		<ol style="list-style-type: none"> <li>1. Name and location;</li> <li>2. Building Use;</li> <li>3. Client;</li> <li>4. Completion date;</li> <li>5. Dollar value of total project (approx.);</li> <li>6. Dollar value of construction (approx.);</li> <li>7. New construction or renovation or both;</li> <li>8. Size in GSF, w/ size of renovation vs. new;</li> <li>9. Public Aspects if applicable.</li> </ol>
C	References and Reputation 1 to 2 pages	<ul style="list-style-type: none"> <li>• Project references to be provided in conjunction with projects listed in the section above.</li> <li>• Contact names and telephone numbers for at least five previous, similar projects, preferably all police station projects if possible.</li> <li>• The Town shall have permission to contact, either in person, by phone, or by correspondence, the references listed.</li> <li>• Please note any awards or other recognition awarded to your firm.</li> </ul>
D	Project Approach Limit to 2 to 4 pages	<ul style="list-style-type: none"> <li>• Describe your firm's approach to meeting this projects timeline for design and bid documents and why your firm is the most advantageous.</li> <li>• Discuss firm's methods of communicating with your clients throughout a project.</li> <li>• Provide three examples of instances when your firm's experience and knowledge helped a client to achieve a goal or avoid a large problem.</li> <li>• Describe any IT or other tools used to increase effectiveness.</li> <li>• Describe any advantages your sub-consultants experiences have with similar projects that distinguish your team from others.</li> </ul>
E	Proposed Staffing No more than 2 pages per person, and no more than 2 pages for general	<ul style="list-style-type: none"> <li>• Describe the proposed project organization, describing levels of involvement and responsibility for</li> </ul>

	material per consultant firm	<p>specific individuals. An organizational chart may be used. (Note that the identified primary contact(s) shall not be changed during the engagement without permission of the FISP Committee.);</p> <ul style="list-style-type: none"> <li>• Introduce in-house team members assigned to this project, with sufficient information about their skills and professional licenses, including resumes;</li> <li>• Provide credentials and qualifications of suggested third party consultants, with specific reference to personnel who will work on the project, including information about their experience and professional licenses</li> </ul> <p>NOTE: Town retains the right to recommend changes to the team prior to award.</p>
F	Schedule 1 page	Note any suggested changes from tentative schedule included in the RFQ, and explain your reasons for the changes.
G	General Firm Information; Firm Stability and Capacity 1 to 2 pages plus any financial documents	<ul style="list-style-type: none"> <li>• Describe the firm’s history and ownership;</li> <li>• Include a copy of the most recent audited financial statements or other alternative evidence (including credit rating report) sufficient to demonstrate the firm’s financial stability.</li> <li>• Include a list of civil and criminal lawsuits, administrative legal proceedings, and arbitrations to which the firm has been or is a party within the last three (3) years, including a list of all convictions or fines for violations of state or federal law;</li> <li>• Include information on any projects where the firm was terminated or failed to complete the work;</li> <li>• Divulge any past financial problems which were the subject of a public proceeding such as any voluntary or involuntary bankruptcy filings;</li> <li>• Describe the firm’s workload currently and firm’s ability to</li> </ul>

		<p>undertake and commit to the Project;</p> <ul style="list-style-type: none"> <li>• Provide information on and evidence of the firm's compliance record with respect to minority business enterprise and women business enterprise inclusion goals on recent projects.</li> </ul>
H	Required Forms	<ul style="list-style-type: none"> <li>• Executed affidavit and Notary form (Form B included);</li> <li>• Executed Certification and Non-Collusion statement (Form C included);</li> <li>• Executed Certificate of Corporate Authority (Form D included);</li> <li>• Executed Tax Certification form; (Form E included);</li> <li>• Insurance certificates from Massachusetts licensed insurance companies evidencing coverages including: (i) professional liability insurance of not less than \$3,000,000; (ii) comprehensive general liability (“CGL”) insurance of not less than \$1,000,000; automobile liability insurance of not less than \$1,000,000; (iv) statutory workers’ compensation insurance coverage; (v) employer’s liability insurance of not less than \$1,000,000; and (vi) umbrella or excess liability insurance of not less than \$5,000,000 covering over the CGL, automobile liability and employer’s liability coverages; and all of such coverages shall be provided on the terms set forth in the Designer Services Agreement</li> </ul>

**5.0 CRITERIA FOR SELECTION**

5.1 Threshold Criteria

In order for proposals to be considered, they must comply with the submission requirements in Section 4 above.

5.2 Evaluation Criteria for Statement of Qualifications and Technical Proposal

Each proposal will be reviewed by the FISP Committee to determine if it is complete prior to actual evaluation. The Town reserves the right, but shall have no obligation, to eliminate from further

consideration any proposal deemed to be substantially or materially nonresponsive to the RFQ. The Town reserves the right to request clarification of any aspect of any submitted proposal or to request additional information that might be required to evaluate a proposal. Submissions shall be evaluated by the Committee according to the following criteria:

- a. Design Excellence- Ability to demonstrate a high degree of qualifications and experience in performance of services on projects of a similar nature, and to demonstrate design excellence in similarly built projects in regard to aesthetic quality, building organization, appropriate materials and details, and the relationship of building to the site.
- b. Police Station Experience- Experience and past, successful performance in Police Station Projects. (MUST HAVE A MINIMUM OF 3 COMPLETED POLICE STATION PROJECTS IN THE PAST 5 YEARS.)
- c. Public Sector Experience- Thorough knowledge of the Massachusetts State Building Code, Americans with Disabilities Act (ADA), Commonwealth of Massachusetts Architectural Barriers/Handicapped Access Standards, Massachusetts public construction laws and all other pertinent codes and regulations pertaining to police station buildings (local, state and federal). Demonstrated familiarity and experience of firm with public bidding, including bid challenges, and history of previous and successful experiences with construction administration of projects constructed under G.L. Chapter 149.
- d. Schedule and Budget- History of projects that maintained the client's budget and schedule and demonstration of the capacity to complete the scope of services within the stated timeframe.
- e. Design Responsiveness- Past examples of the Designer's ability to translate a project's program into a design that enhances the site and addresses the community's concept of the design goals. Designer's experience with energy conservation and environmentally sensitive design will also be evaluated.
- f. Team Work and Approach- Ability to work with the OPM, contractors, subcontractors, consultants, Town staff, municipal officials, state officials, and Building Committee members, and ability to provide relevant information and facilitate decisions and actions with the goal of advancing the progress of the Project on a timely basis. Any special qualities about a firm's approach to design and construction that is superior to that of competitors.
- g. Capacity to Perform- The qualifications, professional registrations and educational backgrounds of those assigned to the project, including past relevant experience in all phases of design and construction work. Capacity to complete the job on schedule, including: firm size, appropriate and available staffing, CADD equipment, financial stability of firm, and other major project commitments.
- h. References- Evaluation of references for similar projects.
- g. Additional Building Committee Criteria- Any other criteria that the Building Committee considers relevant to the Project.

## 6.0 SUBMISSION REQUIREMENTS

## 6.1 Rule of Award

The FISP Committee may make such further investigations as it deems necessary and the proposers shall furnish to the Town all such information and data for this purpose as the Town requests.

All proposals must comply with the submission requirements of Section 4 above or will not be considered further. The proposals will then be ranked by the members of the Building Committee using a 4-point scale (4 = Most Advantageous, 3 = Highly Advantageous, 2 = Less Advantageous, 1 = Least Advantageous) for each of the criteria listed above in Section 5.

The Committee may select at least three (3) finalists, if enough qualified applicants are available. Finalists may be required to appear for an interview and may be asked to provide additional information to the Building Committee.

It is requested that any key personnel who will be assigned to the project, including the Principal-In-Charge and Project Designer be available to participate in the interview.

The Committee shall rank the finalists in order of qualification and transmit the list of ranked finalists to the Town Administrator. No person or firm, including applicants' listed consultants, that is debarred pursuant to G.L. c. 149, §44C shall be included as a finalist on the list.

The contract for designer services shall include a provision that neither the Designer nor its consultants shall be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the designer in the preparation of the bid documents, as reasonably determined by the Town.

The highest ranked proposer will be the responsive and responsible proposer who satisfies the Threshold Criteria set forth in Section 5.1 and scores the highest with respect to the Preference Criteria set forth in Section 5.2. The Committee will make the recommendation to the Board of Selectmen, and the Town will enter into contract negotiations with the selected proposer. If the Town is not able to reach an agreement with the highest ranked proposer with respect to the scope of services, or for any other reason, the Town may select and begin negotiations with the next highest ranked proposer.

The Town may, at its sole discretion, reject proposals which are incomplete, conditional, obscure or not responsive or which contain elements not outlined in the RFQ, erasures not properly initialed, alterations or similar irregularities. The Town's judgment as to what shall be considered to be a minor irregularity shall be final. The Town reserves the right to waive any informality or to reject any or all proposals or to make the award deemed in its own discretion to be in the best interest of the Town of West Boylston, Massachusetts.

## 6.2 Submission Location Responses to this RFQ must be submitted to:

**NANCY LUCIER  
INTERIM TOWN ADMINSTRATOR  
WEST BOYLSTON TOWN HALL  
140 WORCESTER STREET  
WEST BOYLSTON, MA 01583**

Submissions are due on the date and no later than the time indicated in Section 1, above. All respondents are cautioned to allow ample time for transmittal of their responses. Respondents are solely responsible for delivery to and receipt by the Town prior to the deadline for receipt of responses. A register will be maintained of those respondents submitting timely Responses.

- 6.3 Submission Form and Completeness Responses shall clearly identify the name and number of the Project, the full name of the responding entity, and its office mailing address, telephone number, and facsimile number. Responses must identify and prominently display the name, title, and telephone number of the individual who will serve as the contact for all communications with the Town with respect to this Request for Qualifications during the evaluation process.

Responses shall be printed on both sides of 8 ½” by 11” paper. Respondents shall submit one signed original, twelve (12) copies, and one electronic version (CD/DVD format) of their responses. **No submission nor any modification of or supplement to previously submitted material made by telephone, facsimile, or e-mail will be received or recognized.** All respondents are encouraged to be selective and to only provide the relevant information necessary to convey their experience and qualifications for the required scope of services. Excessive materials of a general nature should not be submitted.

6.4 Further Information

- a. The Town of West Boylston reserves the right to reject any or all proposals or any parts thereof or to solicit new proposals and to award contracts as it deems in the best interest of the Town.
- b. All proposals must be unconditional and by submission of a proposal, each respondent acknowledges and agrees that all documentation and/or materials submitted with its proposal shall become and remain the property of the Town. The Town shall have the right to use all or any portions of any proposal, as it considers necessary or desirable, in connection with the Project.
- c. The selected Designer shall be expected to comply with all applicable state and federal laws in the performance of services.
- d. All plans, schematic proposals, various design alternatives, specifications, and other documents resulting from this RFQ and the Agreement for Design Services shall become the property of the Town of West Boylston and by the submission of a proposal, the respondent thereby grants to the Town an unrestricted royalty-free license to use the proposal and all materials submitted therewith in connection with the Project.
- e. The selection of the successful proposer shall be made without regard to race, color, sex, age, religion, political affiliation, or national origin. Women and minority owned businesses are encouraged to apply.

Proposers shall examine all information and materials contained in and with this RFQ - failure to do so is at the proposer's risk.

All expenses and costs, including but not limited to legal costs, associated with developing or submitting a

proposal in response to this RFQ, or associated with oral or written clarification thereof, including all presentation materials and related costs and travel expenses, shall be borne solely by the responding firm, and under no circumstances shall the Town be responsible for any such cost or expense incurred by any responding firm. The Town assumes no responsibility for these costs and expenses.

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**REQUEST FOR QUALIFICATIONS  
FOR  
DESIGNER SERVICES**

**EXHIBIT B**

**AGREEMENT**

**TOWN OF WEST BOYLSTON, MA**

**Contract for Designer Services**

**PROJECT TITLE:** West Boylston Police Station

**PROJECT TYPE:** TYPE 2, as defined below

This AGREEMENT is made under seal as of the \_\_\_ day of \_\_\_\_\_ in the year Two Thousand and \_\_\_\_\_, between the Town of West Boylston, Massachusetts, by and through its Town Administrator, the AWARDING AUTHORITY, and \_\_\_\_\_, with an address of \_\_\_\_\_ acting as PROJECT ARCHITECT (the DESIGNER).

The scope of services is set forth in Attachment A. The Designer will cooperate with and coordinate its services with those of the Owner's Project Manager acting on behalf of the Awarding Authority.

**ARTICLE 1: DEFINITION OF TERMS**

- 1.1 GENERAL LAWS -- the General Laws of the Commonwealth of Massachusetts as amended, including any rules, regulations and administrative procedures implementing said laws.
- 1.2 DESIGNER -- the individual or firm performing professional services under this AGREEMENT.
- 1.3 PRINCIPALS -- the registered professional Architects or Engineers listed in ARTICLE 16.
- 1.4 NOTICE TO PROCEED -- written communication from the Awarding Authority, constituting an essential condition of this AGREEMENT, authorizing the Designer to perform services for the project phase to which such Notice shall relate. The Notice to Proceed shall include the basis for compensation, the fixed limit construction cost, if any, and may include the time of submittal. Subsequent written communications amending the Notice to proceed are required to change either a submittal date or the fixed limit construction cost. Proceeding with various phases of contract work is contingent upon the Awarding Authority or its designees' satisfaction with and acceptance of services performed for each phase.
- 1.5 SUBMITTAL DATES -- those dates referred to in the Notice to Proceed or any subsequent amendment thereto.

- 1.6 CONSTRUCTION CONTRACT -- contract for construction of a whole or part of the project, including all change orders.
- 1.7 TOTAL CONSTRUCTION COST -- the sum of the actual construction contract award price and each authorized change order revising the construction contract award price. The construction contract award price shall be the same as the construction price of the lowest responsible and eligible bidder.
- 1.8 AWARDING AUTHORITY -- The board, commission, agency or department of the Town having authority to award design and construction contracts in connection with the Project.
- 1.9 PROJECT -- the building project for which designer services have been procured under this AGREEMENT, and which is identified on Page 1 (Project Title).

## **ARTICLE 2: CONSULTANTS, SUBCONTRACTING, SUCCESSORS AND ASSIGNS**

- 2.1 The Designer shall not employ additional consultants not named in the proposal(s) nor sublet, assign or transfer any part of his services or obligations under this AGREEMENT without the prior approval and written consent of the Awarding Authority. The Awarding Authority shall not unreasonably withhold such approval. Written consent shall not in any way relieve the Designer from his responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specifications, estimates and other work or materials furnished.
- 2.2 Except as otherwise provided in this AGREEMENT or authorized by the Awarding Authority, the Designer shall employ within the basic fee for this project the following consultants where their specific services are required: Architect, Structural Engineer, Civil Engineer, Sanitary Engineer, Mechanical Engineer, Landscape Architect, Cost Estimator, and Electrical Engineer, and any other consultant specifically listed in the proposal. Consultants must be registered in their respective disciplines if registration is required under the applicable General Laws.
- 2.3 When the Designer receives payment from the Awarding Authority, the Designer shall promptly make payment to each consultant whose work was included in the work for which payment was made by the Town. The Awarding Authority shall have the contractual right, but not the obligation, to require corrective measures necessary for the best interests of the Town.

## **ARTICLE 3: SURVEYS, BORINGS, TESTS, LABORATORIES, PHOTOGRAPHS**

- 3.1 The Awarding Authority shall furnish to the Designer available surveys of the project building site, showing the grades and lines of streets, pavements and adjoining properties; the rights, restrictions, easements, boundaries and controls of the site, or sites; reports from any borings, test pits, chemical, mechanical or other tests, any photographs and information as to water, sewer, electricity, steam, gas, telephone and other services.
- 3.2 The Awarding Authority does not guarantee the accuracy of information furnished and the Designer must satisfy himself as to the correctness of data, except in instances where written exception to the contrary is specifically indicated by the Awarding Authority. If the above data are not available or they are in the opinion of the Designer insufficient, the Designer, upon request, may be given authorization to obtain the services of a consultant or perform the work

with his own employees. In no case shall the Designer commence such work without prior written authorization of the Awarding Authority.

- 3.3 During the construction phase of this contract, the Designer may retain the services of a photographer, a qualified testing laboratory, and special field inspectors when required by the project, subject to the prior approval of the Awarding Authority or its designee.
- 3.4 If a consultant's services estimated to cost more than \$25,000 are required, including the services of a qualified testing laboratory functioning under the jurisdiction of both a Massachusetts registered Engineer and licensed inspectors, a detailed description of the proposed services shall be prepared by the Designer and approved by the Awarding Authority. Consultant fee proposals shall be received by the Designer and accompanied with recommendations of approval submitted to the Awarding Authority before any work is authorized. Such consultants shall carry adequate Liability Insurance. When a consultant's services are estimated to cost \$25,000 or less, the Designer shall use established standard rates for such services.
- 3.5 Drawings and/or specifications needed to obtain survey or subsoil information, and any other soils engineering shall be prepared by the Designer as part of the basic fee. The Designer shall then analyze and evaluate such surveys and tests and make his design conform to the results of such evaluation.
- 3.6 The Awarding Authority will compensate and reimburse the Designer as provided in ARTICLE 9 for the cost of consultant services performed under this Article. For responsibility, coordination inspection, analysis and evaluation of consultant services retained under this ARTICLE, the Designer shall similarly be compensated as provided by ARTICLE 9.

#### **ARTICLE 4: COMPLIANCE WITH LAWS**

- 4.1 The Designer shall perform the work required under this AGREEMENT in conformity with all requirements and standards of the Awarding Authority, all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders of the Commonwealth and its political subdivisions, and the Federal Government. The Construction Documents shall comply with all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders. The Designer, including all approved consultants and subcontractors, shall comply with all applicable provisions of the rules and regulations of the President's Committee on Equal Employment Opportunity and Procedures promulgated by the Governor of Massachusetts or his designees, insuring equal opportunity for employees and minority and women-owned business enterprises.

#### **ARTICLE 5: PROFESSIONAL RESPONSIBILITY**

- 5.1 The Designer shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work furnished by him or his consultants and subcontractors. The Designer shall staff his office with sufficient personnel to complete the services required under this contract in a prompt and continuous manner, and shall meet the approval schedule and submittal dates established during the course of this AGREEMENT.

The Designer shall commence work under this AGREEMENT upon written notice to proceed issued by the Awarding Authority in conformance with the provisions of Section 1.4 of this AGREEMENT. The Designer shall complete the services required under this AGREEMENT in a prompt and continuous manner, and to meet such time limits as are established during the course of the AGREEMENT and stated in each Notice to Proceed. If the completion of the scope of work is delayed through no fault of the Designer, the time limit may be extended upon written approval of the Awarding Authority.

- 5.2 The Designer shall furnish appropriate competent professional services for each of the phases to the point where detail checking and reviewing by the Awarding Authority will not be necessary. Any changes, corrections, additions or deletions made by the Awarding Authority shall be incorporated in the design of the Project unless detailed objections thereto are received from the Designer and approved by the Awarding Authority.
- 5.3 The Designer shall thoroughly acquaint his employees and consultants with all provisions of the General Laws governing the conduct of public construction projects, including but not limited to M.G.L. c.149, and c.30, and in particular, M.G.L. c.30, §39M, wherein the description of material specifications and proprietary items in construction bid documents is governed.
- 5.4 Neither the Awarding Authority's review, approval or acceptance of, nor payment for any of the services furnished shall be construed to operate as a waiver of any rights under the AGREEMENT or any cause of action arising out of the performance of the AGREEMENT.

## **ARTICLE 6: DESIGNER SERVICES**

### **6.1 TYPE 1 CONTRACTS; STUDIES, PROGRAMS, MASTER PLANS, REPORTS**

1. Upon receipt of a Notice to Proceed from the Awarding Authority, the Designer shall meet as necessary within the Awarding Authority and shall prepare and submit programs, preliminary reports, master plans, studies, sketches, space utilization criteria and estimates in accordance with the Scope of Services set forth in Attachment A to this AGREEMENT. Monthly progress reports shall be submitted by the Designer to the Awarding Authority. The Designer shall prepare and submit concept sketches of various design ideas to determine a workable plan solution in terms of the programs, funds available, and as complete an overall design concept as possible, including cost estimates. The Designer shall furnish to the Awarding Authority eight (8) copies of the report for final approval on or before the date set forth in the Notice to Proceed or any supplement thereto.

### **6.2 TYPE 2 CONTRACTS -- DESIGN AND CONSTRUCTION**

#### **1. Phase 1. - Schematics**

Upon receipt of a Notice to Proceed from the Awarding Authority, the Designer shall meet as necessary with the Awarding Authority for the purpose of arriving at a mutual understanding of the Awarding Authority's project needs. Thereafter, the Designer shall prepare and submit to the Awarding Authority single line schematic drawings including floor plans, elevations and space criteria to establish basic design ideas and respective cost estimates as set forth in the scope of services included as Attachment A. The Designer shall submit to the Awarding Authority for approval six (6) copies of said schematic plans, outline specifications and cost estimates, on or

before the date or time for submission specified in the Notice to Proceed or any supplement thereto, unless the Designer shall have obtained from the Awarding Authority an extension of time in writing.

Estimated construction cost and fee as set forth in the original Notice to Proceed will not be changed by the Awarding Authority without the agreement of the Designer.

## 2. Phase 2. - Design Development

Upon receipt of a Notice to Proceed the Designer shall prepare from the approved Phase 1 documents complete design development documents consisting of plans, outline specifications, and cost estimates and other documents to fix and describe the size and character of the project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate to enable the Awarding Authority to study and understand the progress and development of the Project. Such plans outline specifications and cost estimate shall be subject to the written approval of the Awarding Authority. The Designer shall submit to the Awarding Authority for approval six (6) copies of said design development documents on or before the date or time for submission specified in the Notice to Proceed or any supplement thereto, unless the Designer shall have obtained from the Awarding Authority an extension of time in writing.

## 3. Phase 3. - Construction Documents

Upon receipt of a Notice to Proceed from the Awarding Authority for Phase 3 of the Project, the Designer shall meet as necessary with the Awarding Authority, and shall prepare and submit to the Awarding Authority on or before the date or time specified in the Notice to Proceed or any supplement thereto, complete working plans and specifications in sufficient detail to permit firm bids in open competition for construction of the project, and a detailed cost estimate. Said plans and specifications shall be based on the design development, outline specifications and construction cost estimate approved in Phase 2 of the Project, the Notice to Proceed with Phase 3, or any subsequent modification thereto. The detailed estimate of the cost of the Project shall include quantities of all materials and unit prices of labor and materials as well as cost estimates for each item of work. Such working plans and specifications and cost estimates shall be subject to the written approval of the Awarding Authority. The Designer shall furnish to the Awarding Authority for approval six (6) sets of the said plans, specifications and construction cost estimates.

Following the approval of the plans, specifications and construction cost estimates, the Designer shall incorporate all changes required by the Awarding Authority in the working drawings and specifications and shall prepare and transmit to the Awarding Authority one set of Construction Contract Documents for approval.

## Phase 4. - Bidding Phase

Upon written approval of Construction Contract Documents, and a Notice to Proceed, the Designer shall prepare the final Construction Contract Documents, including advertisements for receipt of proposals for construction contractors, shall assist in distributing the bidding

documents to prospective bidders, and shall prepare and transmit all addenda. The Designer shall assist the Awarding Authority in pre-qualifying bidders, shall conduct a pre-bid conference with potential bidders, shall assist in obtaining bids, shall conduct a qualification review of the low bidder and transmit his recommendations as to the award of the construction contract to the Awarding Authority, and shall prepare all notices required to be published in the Central Register. All services shall be in accordance with the requirements of the General Laws relating to public construction projects.

If the bid of the lowest responsible and eligible bidder exceeds the Fixed Limit of Construction Cost, if any, the Awarding Authority shall have the option to (a) give written approval of an increase in such Fixed Limit, (b) re-bid the Contract within a reasonable period of time, or (c) instruct the Designer in writing to provide such revised Construction Contract Documents as the Awarding Authority may require to bring the cost within the Fixed Limit. In the case of (c), the Designer may in connection with such revisions make reasonable adjustments in the scope of the Construction Contract or quality of the work allowed therein subject to the written approval of the Awarding Authority, which approval shall not be unreasonably withheld. The Designer shall not be entitled to any additional compensation for such services.

The Designer shall review all construction bids for the purpose of advising the Owner on whether the bids are based upon the payment of the prevailing wage rates established for the project by the Massachusetts Department of Labor and Workforce Development. The Designer shall inform the Owner of any bid which, because of its amount, does not realistically appear to contemplate the actual payment of said prevailing wage rates to laborers to be employed on the project.

#### 5. Phase 5 - Designer's Services During Construction

Upon the award of the construction contract the Designer and his consultants shall, for the purpose of protecting the Awarding Authority against defects and deficiencies in the work of the Project: (1) be charged with general administration of the construction contract, including review and processing of the General Contractor's applications for payment and change order proposals; preparation of a monetized "punch list" of remaining work following substantial completion of the project work, and subsequent inspection to determine completion of such punch list work; review and processing of the General Contractor's final completion and close out documentation and assistance to the Awarding Authority in the close out process; (2) furnish the General Contractor with information for establishing lines and grades and such large scale drawings and full sized detailed drawings as the Awarding Authority may require; (3) promptly check and approve samples, schedules, shop drawings and other submissions by the General Contractor; (4) make weekly visits to the site or sites of the Project; (5) conduct semi-final and final inspections of the construction project and report the results of such inspections in writing to the Awarding Authority; (6) require each consultant employed in accordance with ARTICLE 2 above to make visits when necessary, and more often if requested by the Awarding Authority, for the same purposes during the progress of that portion of the said construction to which the consultant's services relate and to report in writing thereon to the Designer; (7) report to the Awarding Authority weekly in writing on the progress of construction including whether or not the contractor is keeping record drawings; (8) recommend rejection of all project work observed by the Designer which fails to conform to the Contract Documents; (9) decide all questions regarding interpretation of or compliance with the Contract Documents, except as the Awarding Authority may in writing otherwise determine; (10) review and act on all requests for changes in

plans, specifications, work, or contracts for the Project; and (11) upon written instructions from the Awarding Authority, furnish working plans and specifications for any such change.

The Designer shall be familiar with the provisions of the General Laws for payment to contractors and shall submit to the Awarding Authority all requisitions for payment submitted by the general contractor. With respect to each such requisition, he or she shall certify to the best of the Designer's knowledge that the percentage of work included in the requisition is accurate and the work performed conforms to the contract documents. In the event the Designer does not approve the requisition exactly as submitted by the General Contractor, said Designer shall forward it for payment to the Awarding Authority dated but unsigned with an accompanying letter of explanation setting forth objections and recommended changes. The Designer shall coordinate the required weekly visit to the construction site in such a manner to be able to return to his office with the contractor's payment bearing the Designer's approval or letter of exceptions. Timely payments of general contractors is required by General Laws Chapter 30, section 39K; therefore, the Designer shall establish office procedures assuring either immediate mail or messenger delivery of the requisition for payment to the Awarding Authority, and shall process requisition for payment within forty-eight hours of receipt.

The Designer's responsibility to provide basic services for the construction phase under this agreement commences with the award of the contract for construction and terminates upon the issuance to the Awarding Authority of the final certificate of payment and the Awarding Authority's acceptance of the completed project.

The Designer will exercise the utmost care and diligence in discovering and promptly reporting to the Awarding Authority any defects or deficiencies in the work of the General Contractor or any of its subcontractors, or their agents or employees, or any other person performing any of the Work in the construction of the Project. The Designer represents that it will follow the highest professional standards in performing all architectural services under this Agreement. Any defective Designs or Specifications furnished by the Architect will be promptly corrected by the Designer at no cost to the Awarding Authority, and the Designer will promptly reimburse the Awarding Authority for all damages, if any, resulting from the use of such defective Designs or Specifications. The Awarding Authority's approval, acceptance, use of or payment for all or any part of the Designer's services hereunder or of the Project itself shall in no way alter the Designer's obligations or the Awarding Authority's rights hereunder.

#### Phase 6. - Record Drawings, Reports, Calculations

Before examining the requisition for final payment submitted to the Awarding Authority by the General Contractor and making any certification in response thereto, the Designer shall obtain from the General Contractor record drawings showing the actual installation of the plumbing, heating, ventilating and electrical work under the construction contract and all variations, if any. The Designer shall ascertain by his review that changes authorized by change orders are shown on the contractor's record drawings and on the applicable original reproducible and shall submit to the Awarding Authority the complete set as revised, which reproducible shall become the property of the Awarding Authority.

Two suitably bound legible copies of all original design and quantity calculations including those pertinent to change orders and shop drawings if applicable shall be furnished by the Designer to the Awarding Authority at the conclusion of the construction contract and prior to the expiration of the construction period.

As-Built Record Drawings shall be furnished to the Awarding Authority by the Designer.

**ARTICLE 7: DESIGNER'S BASIC FEE**

- 7.1 For the performance of all services required under the terms of this AGREEMENT and excluding those services specified under ARTICLES 8, 9 and 10, the Designer shall be compensated by the Awarding Authority in accordance with the negotiated fee for this project. The negotiated fee for this project is \_\_\_\_\_.
- 7.2 If there is a material change in the scope of services provided in this agreement, the Designer and the Awarding Authority will mutually agree to an adjustment in the Designer's Basic Fee. Delay of one year or more by the Awarding Authority plus a significant change in the estimated construction cost of the project will be considered a material change in scope of services.
- 7.3 The basic fee shall be paid to the Designer in accordance with the following schedule.

Schematic Design	10%
Design Development	40%
Contract Documents	25%
Bidding Services	05%
Construction Admin	20%

Billings for services shall be made monthly and shall be in proportion to the amount of work completed.

**ARTICLE 8: ADDITIONAL COMPENSATION**

- 8.1 With the formal written approval of the Awarding Authority, the Designer shall perform all or any of the following services in addition to the services performed pursuant to ARTICLE 6 above: (1) revising previously approved drawings, specifications or other documents to accomplish changes authorized by the Awarding Authority, and preparation of change orders related thereto; (2) preparing documents for alternate bids requested by the Awarding Authority except alternates prepared by the Designer to adjust the fixed limit construction cost, if any; (3) providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing professional services of the type set forth in ARTICLE 6 as may be required in connection with the replacement of such work; (4) providing services after final payment to the contractor; (5) revising working plans and specifications submitted in their final and complete form for which bids were not received within six months after submission; (6)

making studies other than those normally required and preparing applications and reports to assist the Awarding Authority in obtaining federal and/or state aid; (7) preparing operating and maintenance manuals; (8) assisting the Awarding Authority in litigation arising out of the construction contract; and (9) performing any other professional services not otherwise required under this Contract.

8.2 For the services provided pursuant to paragraph 1 of this ARTICLE, the Designer shall be compensated by the Awarding Authority at the rates set forth in Attachment B.

8.3 Notwithstanding anything contained in this Agreement to the contrary, including without limitation those provisions contained in Article 7 and this Article 8, the Designer and/or its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the Designer in the preparation of any bid documents, as reasonably determined by the Awarding Authority.

### **ARTICLE 9: REIMBURSEMENT**

9.1 The Designer shall be reimbursed by the Awarding Authority:(a) at one and one tenth (1.1) times the actual cost to the Designer of consultants hired to obtain any data in accordance with ARTICLE 3 above, provided, however, that no reimbursement for such expense shall be made unless the rates of compensation for said consultant services have been approved by the Awarding Authority or its designee, which may approve a lump sum fee; (b) at one and one tenth (1.1) times the actual cost to the Designer of special consultants not specified in ARTICLE 2, and approved by the Awarding Authority or its designee, provided, however, that no reimbursement for such expense shall be made unless the rates of compensation for said consultant services shall have been approved in writing by the Awarding Authority or its designee, which may approve a lump sum fee; (c) any other specially authorized reimbursement, including special printing; and (d) for all printing and reproduction costs.

### **ARTICLE 10: DESIGN FEES AND CHANGE ORDERS**

10.1 The Designer shall be compensated in accordance with the rates specified in ARTICLE 8 for the services of its employees or any consultant listed in ARTICLE 2 for services associated with changes and change orders described in ARTICLE 8. The Designer shall not be compensated for any services involved in preparing change orders required to make unit price adjustments due to existing conditions. Changes for which the Designer receives no compensation under this ARTICLE shall be "no fee modifications" or "no fee change orders." The fact that the Designer receives no fee shall not limit the Town's legal remedies regarding such changes.

Any services in connection with change orders and change directives which are necessitated by a lack of reasonable clarity, deficiencies or conflicts in the Construction Documents or other errors or omissions of the Designer, or which result from existing conditions encountered in the building which should have been anticipated by the Designer based on reasonable investigation of said building as required herein, shall not qualify as additional services and shall be performed within the scope of Basic Services.

10.2 Payments for modifications or change orders to the Designer shall be made upon completion of the Designer's work under such modifications or change orders.

## **ARTICLE 11: TERMINATION, NO AWARD**

- 11.1 By written notice to the Designer, the Awarding Authority may terminate this contract at any time. If any such termination shall occur without the fault of the Designer, all compensation and reimbursement due to the Designer up to the date of termination, in accordance with all contract terms, shall be paid to the Designer by the Awarding Authority. Such payment shall not exceed the fair value of the work, as the Awarding Authority shall determine.
- 11.2 By written notice to the Awarding Authority, the Designer may terminate this contract (1) if the Awarding Authority, within sixty (60) days following written notice from the Designer of any default by the Awarding Authority under the AGREEMENT, shall have failed to remove such default or (2) if, after the Designer shall have performed all services required of the Designer in Phase 1, Phase 2, or Phase 3 of the Project, if applicable, at least six (6) months shall have lapsed without receipt by the Designer of Notice to Proceed with the next phase of the Project. Upon any such termination by the Designer all compensation and reimbursement payable to the Designer in accordance with the AGREEMENT up to and including the date of termination shall be paid to the Designer by the Awarding Authority.

## **ARTICLE 12: RELEASE AND DISCHARGE**

- 12.1 The acceptance by the Designer of the last payment for services paid under the provisions of ARTICLES 11 and 12 in the event of contract termination shall in each instance operate as and be a release to the Awarding Authority, and every member or agent thereof, from all claims and liability to the Designer for payment on account of services performed or reimbursable expenses incurred under this AGREEMENT, except for those written claims submitted by the Designer to the Awarding Authority with the last payment requisition.

## **ARTICLE 13: NOTICES, APPROVALS, INVOICES**

- 13.1 Any notice required under this contract to be given by the Awarding Authority to the Designer, or by the Designer to the Awarding Authority, shall be deemed to have been so given, whether or not received, if mailed by prepaid postage by, respectively, the Awarding Authority to the Designer at the address specified for the Designer on Page 1, or the Designer to the Awarding Authority.
- 13.2 Written approval by the Awarding Authority for Extra compensation as provided under ARTICLES 8 and 9, Reimbursements, shall be in the form of a letter issued by the Awarding Authority.
- 13.3 All invoices may be submitted monthly and subject to contract terms and proper documentation will be promptly processed by the Awarding Authority or returned to the Designer. No invoice, however, shall be required to be submitted or processed when the net amount due is less than \$100.00.
- 13.4 Invoices for services under ARTICLE 6 where such invoices pertain to design services during construction shall also describe the names, payroll titles, and dates of site visits required for construction-phase services.

- 13.5 Invoices submitted for services which have not been previously authorized in writing shall be returned to the Designer.
- 13.6 Requests for previously authorized expenses of any nature must be accompanied by a billing or receipt from the source of the expense.

#### **ARTICLE 14: INSURANCE**

- 14.1 The Designer shall at his own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts arising out of the performance of this AGREEMENT in a minimum amount of \$3,000,000.
- 14.2 The coverage shall be in force from the time of the agreement to the date when all construction work designed under the contract is completed and accepted by the Awarding Authority. If, however, the policy is a claims made policy, it shall remain in force for a period of six (6) years after substantial completion.
- Since this insurance is normally written on a year-to-year basis, the Designer shall notify the Awarding Authority should coverage become unavailable.
- 14.3 The Designer shall, before commencing performance of this contract, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with M.G.L. c.152, as amended, to all employed under the contract and shall continue such insurance in full force and effect during the term of the contract. The Designer shall also maintain broad public liability insurance to protect against damage or injury to persons or property.
- 14.4 The Designer shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this contract in event of loss or destruction until the final fee payment is made or all data are turned over to the Awarding Authority.
- 14.5 Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the Town at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice. The Designer shall indemnify, defend, and hold the Awarding Authority harmless from and against any and all claims, demands, liabilities, and actions, causes of action, costs and expenses arising out of the Designer's breach of the Agreement or the negligence or misconduct of the Designer or the Designer's agents or employees.
- 14.6 Upon request of the Designer, the Awarding Authority reserves the right to modify any conditions of this Article.

#### **ARTICLE 15: SUPPLEMENTAL CONTRACT DATA; LEGAL REQUIREMENTS**

- 15.1 The Designer hereby certifies:
- (i) if an individual, the individual is a registered architect;

- (ii) if a partnership, a majority of all the partners are persons who are registered architects;
- (iii) if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are registered architects, and the person to have the project in his or her charge is a registered architect;
- (iv) if a joint venture, each joint venture satisfies the requirements of this section.

(Statutory reference: G.L. c.7C, §§ 44-57)

15.2 The Designer hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with the award of this Agreement. (Statutory reference: G.L. c.7C, § 51)

15.3 The Designer hereby certifies that no consultant to or subcontractor for the Designer has given, offered or agreed to give any gift, contribution or offer of employment to the Designer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Designer. (Statutory reference: G.L. c.7C, § 51)

15.4 The Designer hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of the Designer, has been retained or hired by the Designer to solicit for or in any way assist the Designer in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to the Designer. (Statutory reference: G.L. c.7C, § 51)

15.5 The Designer hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that the Designer filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R. (Statutory reference: G.L. c.7C, § 51)

15.6 The Designer shall maintain all books, records, and accounts related to the Project in compliance with the following:

1. The Designer shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Designer.
2. Until the expiration of six years after final payment, the Awarding Authority, the office of the inspector general and the deputy commissioner of capital planning and operations shall have the right to examine any books, documents, papers or records of the Designer or of its consultants that directly pertain to, and involve transactions relating to, the Designer or its consultants.
3. The Designer shall describe any change in the method of maintaining records or recording transactions which materially affects any statements filed with the Awarding Authority, including in the Designer's description the date of the change and reasons therefore, and shall accompany said description with a letter from the Designer's

independent certified public accountant approving or otherwise commenting on the changes.

4. The Designer has filed a statement of management on internal accounting controls as set forth in Paragraph (6) below prior to the execution of this Agreement.
5. The Designer has filed prior to the execution of this Agreement and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in subparagraph 15.6.8 below.
6. The Designer shall file with the Awarding Authority a statement of management as to whether the system of internal accounting controls of the Designer and its subsidiaries reasonably assures that:
  - (a) transactions are executed in accordance with management's general and specific authorization;
  - (b) transactions are recorded as necessary:
    - i. to permit preparation of financial statements in conformity with generally accepted accounting principles; and
    - ii. to maintain accountability for assets;
  - (c) access to assets is permitted only in accordance with management's general or specific authorization; and
  - (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any difference.
7. The Designer shall also file annually with the Awarding Authority a statement prepared and signed by an independent certified public accountant, stating that such accountant has examined the statement of management on internal accounting controls, and expressing an opinion as to:
  - (a) whether the representations of management in response to this paragraph and paragraph 15.6.6(b) above are consistent with the result of management's evaluation of the System of internal accounting controls; and
  - (b) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the Designer's financial statements.
8. The Designer shall annually file with the Awarding Authority during the term of this Agreement a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by accountant's report.

9. Records and statements required to be made, kept or filed in compliance with the provisions of this paragraph 15.6 shall not be public records and shall not be open to public inspection, except as provided in subparagraph 15.6.2. (Statutory reference: M.G.L. c.30, §39R)
- 15.7 The Designer and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the Designer in the preparation of bid documents, as reasonably determined by the Awarding Authority. (Statutory reference: G.L. c.7C, § 51)
- 15.8 Life-cycle cost estimates for the Project shall be obtained at an initial stage and as a regular part of the services to be performed under this Agreement. (Statutory reference: M.G.L. c.149, §44M)
- 15.9.1 The Designer hereby certifies under penalties of perjury that the Designer has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. (Statutory reference: M.G.L. c.62C, §49A)

#### **ARTICLE 16: MISCELLANEOUS PROVISIONS**

- 16.1 One (1) reproducible copy of all Drawings and Specifications furnished by the Designer and all other documents prepared by the Designer shall become the property of the Awarding Authority. Ownership of the stamped drawings and specifications shall not include the Designer's certification or stamp. Any re-use of such Drawings and/or Specifications without the Designer's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to the Designer or to the Designer's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as an act in derogation of the Designer's rights under this AGREEMENT.
- 16.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and personal representatives.
- 16.3 This Agreement represents the entire agreement between the Awarding Authority and the Designer, and supersedes any prior agreements whether oral or written. This Agreement may be amended only by written instrument executed by both the Awarding Authority and the Designer.
- 16.4 The Designer agrees that the Awarding Authority and any of its officer or employee assume no personal liability under this Agreement.
- 16.5 This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
- 16.6 In the event any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid or unenforceable any other provision of this Agreement.

**SIGNATURES**

**IN WITNESS WHEREOF**, on the day and year hereinabove first written, the Designer has caused this agreement to be signed and sealed in its name and behalf, and its corporate seal to be hereto affixed by the signatory below authorized to do so, and the \_\_\_\_\_ has signed this agreement on behalf of the Awarding Authority.

Accepted by Designer

Accepted by Awarding Authority

\_\_\_\_\_

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

\_\_\_\_\_

Printed Name:

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

\_\_\_\_\_

\_\_\_\_\_

Approved as to Form

\_\_\_\_\_

Town Counsel

**REQUEST FOR QUALIFICATIONS  
FOR  
DESIGNER SERVICES**

**REQUIRED FORMS: FORM A**

STANDARD DESIGNER APPLICATION FORM FOR MUNICIPALITIES  
AND PUBLIC AGENCIES NOT WITHIN DSB JURISDICTION

**REQUEST FOR QUALIFICATIONS  
FOR  
DESIGNER SERVICES**

**REQUIRED FORMS: FORM B**

AFFIDAVIT AND NOTARY FORM

**AFFIDAVIT AND NOTARY**  
*THIS MUST BE SIGNED AND INCLUDED  
WITH THE PROPOSAL*

The undersigned, \_\_\_\_\_ hereby certifies that he/she  
(type or print name)

is a principal of \_\_\_\_\_  
(company name)

and that all answers and all statements contained herein are true and correct and that I am familiar with the Massachusetts State Building Code and also Massachusetts General Laws, Chapter 149, Section 44A-44H, Section 44M, and Chapter 30, Section 39M. I also certify that undersigned is an Authorized Signatory of the Firm.

Signed and sworn under the pains and penalties of perjury this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: (signature): \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title or Position: \_\_\_\_\_  
Name of firm: \_\_\_\_\_

\_\_\_\_\_  
(STATE) -- \_\_\_\_\_ SS.  
(COUNTY)

BEFORE ME, \_\_\_\_\_, PERSONALLY APPEARED THE  
(NOTARY PUBLIC)

ABOVE- NAMED, \_\_\_\_\_, AND ACKNOWLEDGED THAT  
(NAME OF OFFICER)

HE/SHE IS AUTHORIZED TO EXECUTE THE FOREGOING AND THAT ITS EXECUTION IS HIS/HER  
FREE ACT AND DEED AND THE FREE ACT AND DEED OF THE FIRM.

\_\_\_\_\_  
(NOTARY PUBLIC SIGNATURE)

\_\_\_\_\_ MY COMMISSION EXPIRES:

\_\_\_\_\_  
(PRINT NAME)

**REQUEST FOR QUALIFICATIONS  
FOR  
DESIGNER SERVICES**

**REQUIRED FORMS: FORM C**

CERTIFICATE OF NON-COLLUSION

The undersigned hereby certifies, on behalf of the named proposer, under penalties of perjury, that this proposal has been made and submitted in good faith and without collusion or fraud with any other person, and that the proposer has not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the contract. 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. Furthermore, the undersigned certifies under the penalties of perjury that throughout the duration of any contract made in connection with the proposal, it will not have any financial relationship with any materials manufacturer, distributor or vendor. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the Securities and Exchange Commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

NAME OF PROPOSER: \_\_\_\_\_

**REQUEST FOR QUALIFICATIONS  
FOR  
DESIGNER SERVICES**

**REQUIRED FORMS: FORM D**

CERTIFICATE OF AUTHORITY

**CERTIFICATE OF AUTHORITY  
(For Corporations/LLC's/LLP's/Entities Only)**

At a duly authorized meeting of the Board of Directors/Members/Partners of the \_\_\_\_\_  
(Name of Entity)  
held on \_\_\_\_\_ (Date) at which all the Directors/Members/Partners were present or  
waived notice, it was voted that \_\_\_\_\_  
\_\_\_\_\_(Name) (Officer/Title)  
of this company be and he hereby is authorized to execute contracts and bonds in the name and behalf of said  
company, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this  
company's name on its behalf of such \_\_\_\_\_ under seal of the  
(Officer) company, shall be valid and binding upon this company.

**A TRUE COPY,  
ATTEST:** \_\_\_\_\_  
(Signature/Title)  
Place of  
Business: \_\_\_\_\_

I hereby certify that I am the \_\_\_\_\_ of the \_\_\_\_\_  
(Title) (Name of Corporation)  
that \_\_\_\_\_ is duly elected \_\_\_\_\_  
(Officer, Name) (Title)  
of said company, and the above vote has not been amended or rescinded and remains in full force and effect as  
of the date of this contract.

\_\_\_\_\_  
(Signature/Title)  
\_\_\_\_\_  
(Typed Name/Title)  
\_\_\_\_\_  
(Date)

-----  
Subscribed and sworn to before me (Corporate Seal)  
If applicable (i.e., not necessary for sole proprietorships or *partnerships*)  
this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_(Notary Seal)  
Notary Public

My Commission Expires \_\_\_\_\_

**REQUEST FOR QUALIFICATIONS  
FOR  
DESIGNER SERVICES**

**REQUIRED FORMS: FORM E**

TAX CERTIFICATION

Pursuant to M.G.L. Chapter 62C, Sec. 49A, the undersigned, acting on behalf of the Contractor, certifies under the penalties of perjury that the Contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support\*.

\_\_\_\_\_  
\*\*Signature of Individual

\_\_\_\_\_  
\*\*\*Contractor's Social Security Number  
Or Corporate Contractor Federal Identification Number

By: \_\_\_\_\_  
Corporate Officer  
(Mandatory, if applicable)

Date: \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_