

# **REQUEST FOR PROPOSALS**

## **RFP # 185/042/24**

### **OWNER'S PROJECT MANAGEMENT (OPM) SERVICES FOR THE INTERIM APPROACH FOR IMPROVEMENTS AT ANDOVER HIGH SCHOOL**

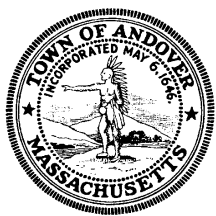
**Date May 9, 2024**

**Due Date: June 6, 2024 4:00 P.M.**

Late Proposals Will Be Rejected

**DELIVER COMPLETED SUBMISSIONS TO:**

Town of Andover, MA  
Central Purchasing Department  
Attn: Theresa Peznola  
397 Lowell St. Andover, MA 01810  
Phone: 978-623-8915  
e-mail: [theresa.peznola@andoverma.us](mailto:theresa.peznola@andoverma.us)



Andover

36 Bartlet St.  
Andover, MA 01810  
(978) 623-8200  
[www.andoverma.gov](http://www.andoverma.gov)

**TOWN OF ANDOVER  
MASSACHUSETTS**

**INVITATION**

**REQUEST FOR SERVICES**

Sealed proposals for furnishing the following will be received at the Office of Central Purchasing, Andover Water Treatment Plant, 397 Lowell Street, Andover, Massachusetts 01810 until the time specified below at which time the proposals will be opened. The time received will be stamped on each proposal and for a consistency of time, the time stamp clock in the Purchasing Office will be the determining time.

**ITEM**

**DUE DATE**

Proposal No. RFP 185/042/24  
Owner’s Project Management Services  
for the Interim Approach for Improvements at  
Andover High School, Andover, MA

June 6, 2024  
4:00 PM

The Town of Andover, MA (“Owner”) is seeking the services of a qualified OPM, “Owner’s Project Manager” as defined in Massachusetts General Laws Chapter 149, Section 44A1/2, and as further defined by the provisions of this RFP to provide Project Management Services for the interim approach for improvements at Andover High School, Andover, MA.

**An informational meeting and site inspection will take place on 5/23/24, at 10:00AM, at Andover High School, 80 Shawsheen Rd., Andover, MA. Meet at front entrance to the building.**

**The fee for this service will be negotiated and is Not to Exceed \$150,000.00.**

Specifications and bid forms may be obtained on the Central Purchasing Department webpage located at [www.andoverma.gov/bids](http://www.andoverma.gov/bids).

Andover is an affirmative action/equal opportunity purchaser. The Town reserves the right to accept or reject, in whole or in part, any or all proposals or take whatever other action may be deemed necessary to be in the best interest of the Town.

Theresa Peznola  
Purchasing Agent

ADV: Andover Townsman – May 16, 2024  
Central Register – May 15, 2024

RFP # 185/042/24

Town of Andover, Massachusetts  
Purchasing Department

COVER SHEET

The Town of Andover reserves the right to reject any or all Bids, to omit any item or items called for, or to accept the bids(s) deemed in the best interest of the Town. One Original and Four (4) copies of the bids must be submitted on or before June 6, 2024 at 4:00 PM to:

Terri Peznola, Purchasing Agent  
Purchasing Department  
Water Treatment Plant  
397 Lowell Street  
Andover, Massachusetts 01810

The envelope containing the Bid and required information must be sealed and marked with Proposer’s name, title of proposal, RFP number, and date of opening. The Proposer must sign all required signature pages in order for the proposal to be considered.

The Proposer acknowledges receipt of the following ADDENDA #

BUSINESS/INDIVIDUAL NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY, STATE, ZIP CODE \_\_\_\_\_

TELEPHONE \_\_\_\_\_

EMAIL \_\_\_\_\_

INDIVIDUAL/AUTHORIZED SIGNATURE \_\_\_\_\_

AUTHORIZED OFFICER NAME (print) \_\_\_\_\_

DATE \_\_\_\_\_

By signing above, the authorized officer is certifying that a complete examination of all bid/rfp documents has been made and that the goods/services will be delivered within the time specified and at the prices stated.

All bidders must sign and submit with their bid the attached Certificate of Good Faith and Tax Attestation Form. Failure to do so will result in the bid being unresponsive and rejected.

If bidder/proposer is a co-partnership, all partners must execute both copies of the bid/proposal, unless one partner has been authorized to sign for the co-partnership, in which case evidence of such authority shall be submitted.

If bidder/proposer is a corporation, the authorized agent shall execute both copies of the bid/proposal. Evidence of authority to sign must be submitted.

The Town of Andover reserves the right to reject any or all bids/proposals and waive any informalities deemed to be in the best interests of the Town.

**REQUEST FOR PROPOSALS FOR  
OWNER’S PROJECT MANAGEMENT SERVICES (“OPM RFP”)  
#185/042/24**

**1. Introduction**

The Town of Andover, (“Owner”) is seeking the services of a qualified OPM “Owner’s Project Manager” as defined in Massachusetts General Laws Chapter 149, Section 44A½ and as further defined by the provisions of this Request for Proposals (RFP), to provide Project Management Services for the Interim Approach for improvements at the Andover High School in Andover, Massachusetts (“Project”).

The Owner is requesting the services of an OPM to represent the Owner during design development and cost estimate phases of the project initially. Subject to the approval of the Andover School Committee and the Permanent Town Building Committee, and further subject to continued funding authorized by the Town of Andover, the contract between the Owner and the Owner’s Project Manager may be amended to include continued Project Management Services through construction documents, bid and award, construction and final closeout of the potential Project. A potential approved Project may include, but is not limited to, modular spaces and related utilities, renovation of the cafeteria servery, limited improvements and renovations of interior spaces, repair and reconstruction of existing sidewalks and roadways, construction of a new parking lot and on-site turf field. Additionally, the OPM will assist the Town with the management of other project elements of the Interim Approach that may include coordination of MEP improvements, security, and furniture. The estimated construction cost for the resulting Interim Approach for this project is \$40,000,000.00 to \$50,000,000.00. There is an RFQ process underway to select the Design Firm. This fee for this phase of OPM Services, which will be negotiated with the selected firm, is not to exceed \$150,000.00.

**2. Background**

Andover High School is a three-story, concrete-framed building constructed in 1966, with a steel-framed addition built in 1995 that allows for a total capacity of 1600 students. In recent years, enrollment has remained steady at approximately 1800 students, making existing conditions overcrowded. The development of in-house special education programs has further strained space needs, with nearly a quarter of our faculty teaching in spaces not originally designed as classrooms.

The Andover Public Schools developed an Education Plan as part of a design process for a new school in 2023. Voters chose to not go forward with funding a full building design at this time and the Andover High School Building Committee was dissolved. Town Meeting, however, voted to conduct a study for an Interim Approach for limited scope of repairs and improvements to address the most critical concerns at Andover High.

The intent of the Interim Approach is to alleviate overcrowding and improve access to and delivery of education and course offerings, attend to deferred maintenance items at Andover High School, and also evaluate some added improvements to the site such as parking and the addition of a turf athletic field. An added parking lot and turf field were evaluated as part of the original design and progress drawings will be provided to the selected architect.

### 3. Project Description, Objectives and Scope of Services

Project Objectives under consideration by the Owner include:

- Potential project be sensitive to the needs of the community, i.e. noise, traffic
- The Town expects to go to Annual Town Meeting for a vote for full project funds for the Interim Approach in the Spring of 2025, or will call a Special Town Meeting relative thereto;
- Life cycle costs of operating the School as it relates to future operational budgets;
- Coordinating with various Town and School officials
- Budget Level Estimations and Planning in order to prepare for expected Annual/Special Town Meeting in 2025.
- Oversight and coordination of the various professionals providing consulting services, such as Architects, MEP, Security and furniture in order to strategically identify deficiencies to be addressed along with associated budget level estimates.
- Coordinate internal and public meetings to inform and receive input.
- Meet with Andover Public Schools, the Andover School Committee, and the Permanent Town Building Advisory Committee (PTBAC) to report progress and identify priorities.

The work is divided into the Project. The durations of the Phases shown below are estimates only, based on the Owner’s experience. Actual durations may vary depending upon the Project agreed to by the Owner. The total duration of the Contract is estimated as follows:

1. Review of existing documents/plans ;	2 months*
2. Project Development Phase	3-4 months*
3. Project Refinement/Budget Estimation	2 months*
4. Public Meeting and Town Meeting Preparation	3 months*

(\*These ranges for scheduling timeframes may overlap and are provided as guidelines only and are based upon schedules established by other Owners.)

### 4. Minimum Requirements and Evaluation Criteria:

#### Minimum Requirements:

In order to be eligible for selection, each Respondent must certify that it meets the following minimum requirements. Any Response that fails to include such certification in its response, demonstrating that these criteria have been met, may be rejected without further consideration.

Each Respondent must designate an individual who will serve as the Project Director. The Project Director shall be certified in the Massachusetts Certified Public Purchasing Official Program (the “MCPPO”) as administered by the Inspector General of the Commonwealth of Massachusetts and must also meet the following minimum requirements:

- The Project Director shall be a person who is registered by the Commonwealth of Massachusetts as an architect or professional engineer and who has at least five years’ experience in the construction and supervision of construction and design of public buildings that include modular spaces;

or,

- if not registered as an architect or professional engineer, the Project Director must be a person who has at least seven years' experience in the construction and supervision of construction and design of public buildings that include modular spaces.

### Evaluation Criteria

In addition to the minimum requirements set forth above, all Respondents must demonstrate that they have significant experience, knowledge and abilities with respect to public construction projects, particularly involving the construction and renovation of K-12 schools in Massachusetts. The Owner will evaluate Responses based on criteria that shall include, but not be limited to, the following:

- 1) Past performance of the Respondent, if any, with regard to public, private, Department of Education funded and, preferably, MSBA-funded school projects across the Commonwealth, as evidenced by:
  - a) Documented performance on previous projects as set forth in Appendix C, including the number of projects managed, project dollar value, number and percentage completed on time, number and dollar value of change orders, average number of projects per project manager per year, number of accidents and safety violations, dollar value of any safety fines, and number and outcome of any legal actions; **(Max. point value 10)**
  - b) Satisfactory working relationship with designers, contractors, Owner, the MSBA and local officials. **(Max. point value 10)**
- 2) Thorough knowledge of the Massachusetts State Building Code, regulations related to the Americans with Disabilities Act, and all other pertinent codes and regulations related to successful completion of the project. **(Max. point value 5)**
- 3) Thorough knowledge of Commonwealth construction procurement laws, regulations, policies and procedures, as amended by the 2004 Construction Reform laws. **(Max. point value 10)**
- 4) Management approach: Describe the Respondent's approach to providing the level and nature of services required as evidenced by proposed project staffing for the Interim Approach; proposed project management systems; effective information management; and examples of problem-solving approaches to resolving issues that impact time and cost. **(Max. point value 10)**
- 5) Key personnel: Provide an organizational chart that shows the interrelationship of key personnel to be provided by the Respondent for this project and that identifies the individuals and associated firms (if any) who will fill the roles of Project Director, Project Representative and any other key roles identified by the Respondent, including but not limited to roles in design review, estimating, cost and schedule control. Specifically, describe the time commitment, experience and references for these key personnel including relevant experience in the supervision of construction of several projects that have been either successfully completed or in process that are similar in type, size, dollar value and complexity to the project being considered. **(Max. point value 10)**
- 6) Capacity and skills: Identify existing employees by number and area of expertise (e.g. field supervision, cost estimating, schedule analysis, value engineering, constructability review, quality control and safety). Identify any services to be provided by sub-consultants. **(Max. point value 10)**
- 7) Identify the Respondent's current and projected workload for projects estimated to cost in excess of \$1.5 million. **(Max. point value 10)**
- 8) Thorough knowledge and demonstrated experience with life cycle cost analysis, cost estimating and value engineering with actual examples of recommendations and associated benefits to Owners. **(Max. point value 10)**

- 9) Knowledge of the purpose and practices of the services of Building Commissioning Consultants. **(Max. point value 5)**
- 10) Financial Stability: Provide current balance sheet and income statement as evidence of the Respondent's financial stability and capacity to support the proposed contract. **(Max. point value 10)**

In order to establish a short-list of Respondents to be interviewed, the Owner will base its initial ranking of Respondents on the above Evaluation Criteria. The Owner will establish its final ranking of the short-listed Respondents after conducting interviews. In addition, the Owner will conduct at least three reference checks for each short-listed firm.

The Owner reserves the right to consider any other relevant criteria that it may deem appropriate, within its sole discretion. The Owner may or may not, within its sole discretion, seek additional information from Respondents.

This RFP, any addenda issued by the Owner, and the selected Respondent's response, will become part of the executed contract. The key personnel that the Respondent identifies in its response must be contractually committed for the Project. No substitution or replacement of key personnel or change in the sub-consultants identified in the response shall take place without the prior written approval of the Owner.

The selected Respondent(s) will be required to execute a Contract for Project Management Services with the Owner in the form that is attached hereto as Appendix B and incorporated by reference herein. Prior to execution of the Contract for Project Management Services with the Owner, the selected Respondent will be required to submit to the Owner a certificate of insurance that meets the requirements set forth in the Contract for Project Management Services.

Prior to execution of the Contract for Project Management Services, the fee for services, not to exceed \$150,000.00, shall be negotiated between the Owner and the selected Respondent to the satisfaction of the Owner, within its sole discretion. The initial fee structure will be negotiated through the Interim Approach Study/Design Phase. The selected Respondent, however, will be required to provide pricing information for all Phases specified in the Contract at the time of fee negotiation.

## **5. Selection Process and Selection Schedule**

### **Process**

- 1) Representatives of the PTBAC, and the Town and School Administrations will be responsible for the initial review of the responses. The responses will be reviewed to determine if the minimum requirements as outlined in Section 4 above are met. Failure to meet the minimum requirements will disqualify the response from further consideration. Responses that meet the minimum criteria will be further evaluated using the evaluation criteria contained within. All scoring will be documented in writing.
- 2) The Selection Committee members will rank the responses based on the weighted criteria identified in the previous section of this RFP on individual scoring sheets, and will short-list a minimum of three Responses, provided that at least three Respondents have made it past the minimum requirements phase of this process. At least three reference checks from past school building projects will be checked for all short-listed firms. Those reference checks will be scored as outlined below, on a 0-5 scale, and included in the rankings of interviewees. The short-list firms will be invited for a presentation and interview by the Selection Committee members.

- 3) The invitation letter sent for a presentation and interview will include an agenda that describes the interview process. Interviewees will be ranked numerically, (0-5 scale), on the following categories: Key personnel, experience with past similar projects, references from past school building projects, and answers to specific questions asked by the Selection Committee.
- 4) The Owner will commence negotiations with the first-ranked selection.
- 5) The Owner will require the hourly rates for all proposed professional personnel assigned to the project by the first-ranked selection. The Owner will consider fee structures from similar projects from other awarded contracts.
- 6) If the Owner is unable to negotiate a contract with the first-ranked selection, the Owner will then commence negotiations with the second-ranked selection, and so on, until a contract is successfully negotiated and approved by the Owner.
- 7) The Selection Committee will then recommend a finalist to the Permanent Town Building Advisory Committee for approval.
- 8) The Owner reserves the right to re-advertise if less than three responses are received or to re-advertise if fee negotiations fail.

The following is a *tentative* schedule of the selection process, subject to change at the Owner's discretion.

<u>05/15/2024</u>	RFP appears in Central Register of the Commonwealth of Massachusetts and in the <i>Andover Townsman</i> .
<u>05/23/2024 10AM</u>	Informational meeting and site inspection
<u>05/30/2024 4PM</u>	Last day for questions from Respondents
<u>06/06/2024 4PM</u>	Responses due
<u>06/12/2024</u>	Respondents short-listed
<u>06/17-18/2024</u>	Interview short-listed Respondents
<u>06/24/2024</u>	Negotiate with selected Respondent
<u>06/30/2024</u>	Anticipated execution of contract

The RFP may be obtained from the Town's website at [www.andoverma.gov/bids](http://www.andoverma.gov/bids).

***On or after Wednesday, 05/15/2024***

Any questions concerning this RFP must be submitted in writing to:

Theresa Peznola, Purchasing Agent  
 Town of Andover  
 397 Lowell Street  
 Andover, MA 01810  
 978-623-8951  
[theresa.peznola@andoverma.us](mailto:theresa.peznola@andoverma.us)

***By 4PM on Thursday, 05/30/2024***

Sealed Responses to the RFP for OPM services must be clearly labeled “Owner’s Project Management Services for Andover High School” and delivered to:

Theresa Peznola, Purchasing Agent  
Town of Andover  
397 Lowell Street  
Andover, MA 01810  
978-623-8951

**no later than 4PM on June 6, 2024.** The Owner assumes no responsibility or liability for late delivery or receipt of Responses. All responses received after the stated submittal date and time will be judged to be unacceptable and will be returned unopened to the sender.

## **6. Requirements for content of response:**

Submit *four (4)* hard copies of the response to this RFP and one electronic version in PDF format on CD. All responses shall be:

- In ink or typewritten;
- Presented in an organized and clear manner;
- Must include the required forms in Attachments C and D;
- Must include all required Attachments and certifications;
- Must include the following information:
  1. Cover letter shall be a maximum of two pages in length and include:
    - a. An acknowledgement of any addendum issued to the RFP.
    - b. An acknowledgement that the Respondent has read the RFP. Respondent shall note any exceptions to the RFP in its cover letter.
    - c. An acknowledgement that the Respondent has read the Contract for Project Management Services. Respondent shall note any exceptions to the Contract for Project Management Services in its cover letter.
    - d. A specific statement regarding compliance with the minimum requirements identified in Item 4 of this RFP to include identification of registration, number of years of experience and where obtained (as supported by the resume section of Appendix C), as well as the date of the MCPPO certification. (A copy of the MCPPO certification must be attached to the cover letter).
    - e. A description of the Respondent’s organization and its history.
    - f. The signature of an individual authorized to negotiate and execute the Contract for Project Management Services, in the form that is attached to the RFP, on behalf of the Respondent.
    - g. The name, title, address, e-mail and telephone number of the contact person who can respond to requests for additional information.
  2. Selection Criteria: The response shall address the Respondent’s ability to meet the “Selection Criteria” Section including submittal of additional information as needed.

Respondents may supplement this proposal with graphic materials and photographs that best demonstrate its project management capabilities of the team proposed for this project. **Limit this additional information to a maximum of three 8½” x 11” pages, double-sided.**

***Response Appendix D shall include: MCPPO Certifications, OSHA 30 Certifications, Truth in Negotiations Certificate, Notice of Intent to Sign, Signature Page, Corporate Vote Page, Conflict of Interest Certificate, Certificate of Good Faith and Tax Compliance***

**7. Payment Schedule and Fee Explanation:**

The Owner will negotiate the fee for services, not to exceed \$150,000.00, dependent upon an evaluation of the level of effort required, job complexity, specialized knowledge required, estimated construction cost, comparison with past project fees, and other considerations. As construction cost is but one of several factors, a final construction figure in excess of the initial construction estimate will not, in and of itself, constitute a justification for an increased OPM fee.

**8. Other Provisions**

**A. Public Record**

All responses and information submitted in response to this RFP are subject to the Massachusetts Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7(26). Any statements in submitted responses that are inconsistent with the provisions of these statutes shall be disregarded.

**B. Waiver/Cure of Minor Informalities, Errors and Omissions**

The Owner reserves the right to waive or permit cure of minor informalities, errors or omissions prior to the selection of a Respondent, and to conduct discussions with any qualified Respondents and to take any other measures with respect to this RFP in any manner necessary to serve the best interest of the Owner and its beneficiaries.

**C. Communications with the Owner**

The Owner’s Procurement Officer for this RFP is:

Theresa Peznola, Purchasing Agent  
Town of Andover  
397 Lowell Street  
Andover, MA 01810  
978-623-8951  
[Theresa.peznola@andoverma.us](mailto:Theresa.peznola@andoverma.us)

Respondents that intend to submit a response are prohibited from contacting any of the Owner’s staff other than the Procurement Officer. An exception to this rule applies to Respondents that currently do business with the Owner, but any contact made with persons other than the Procurement Officer must be limited to that business, and must not relate to this RFP. In addition, such respondents shall not discuss this RFP with any of the Owner’s consultants, legal counsel or other advisors. ***FAILURE TO OBSERVE THIS RULE MAY BE GROUNDS FOR DISQUALIFICATION.***

**D. Costs**

The Owner will not be liable for any costs incurred by any Respondent in preparing a response to this RFP or for any other costs incurred prior to entering into a Contract between the OPM and the Town.

**E. Withdrawn/Irrevocability of Responses**

A Respondent may withdraw and resubmit their response prior to the deadline. No withdrawals or re-submissions will be allowed after the deadline.

**F. Rejection of Responses, Modification of RFP**

The Owner reserves the right to reject any and all responses if the Owner determines, within its own discretion, that it is in the Owner's best interests to do so. This RFP does not commit the Owner to select any Respondent, award any contract, pay any costs in preparing a response, or procure a contract for any services. The Owner also reserves the right to cancel or modify this RFP in part or in its entirety, or to change the RFP guidelines. A Respondent may not alter the RFP or its components.

**G. Subcontracting and Joint Ventures**

Respondent's intention to subcontract or partner or joint venture with other firm(s), individual or entity must be clearly described in the response.

**H. Validity of Response**

Submitted responses must be valid in all respects for a minimum period of ninety (90) days after the submission deadline.

**FURTHER INFORMATION**

**ATTACHMENTS:**

Appendix A: Education Plan

Appendix B: Contract for Owner's Project Management Services

Appendix C: OPM Application Form – March 2017

Appendix D: Required Certifications

APPENDIX A  
EDUCATION PLAN

SEE SEPARATELY ATTACHED PDF DOCUMENT

APPENIDX B  
**CONTRACT FOR OWNER'S PROJECT MANAGEMENT SERVICES**

**CONTRACT # 185/042/24**  
**OPM SERVICES FOR ANDOVER HIGH SCHOOL**

**DATE:** \_\_\_\_\_

This Contract is entered into on, or as of, this date by and between the Town of Andover (the "Town"), 36 Bartlet Street, Andover, MA 01810 and

**Contractor:**

**Address:**

—

**Telephone Number:**

**Fax Number:**

to provide the Project Management services required to complete the Basic and Extra Services described herein for the construction/reconstruction of Andover High School ("the Project").

The Owner's Project Manager is authorized to perform the services required by this Contract for Feasibility and Schematic Design Phases. The remainder of the project phases will be authorized by an amendment to this contract after funding is secured. The initial fee for this contract is \$\_\_\_\_\_ and includes estimation costs.

For the performance of the services required under this Contract for the Feasibility and Schematic Design Phases, including estimating services, the Owner's Project Manager shall be compensated by the Town for Basic Services in accordance with the Payment Schedule included as Attachment A.

IN WITNESS WHEREOF, the Town and the Owner's Project Manager have caused this Contract to be executed by their respective authorized officers.

THE TOWN

OWNER'S PROJECT MANAGER

\_\_\_\_\_  
Town Manager

Date

\_\_\_\_\_  
Signature

Date

\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Print Name & Title

Approved as to form:

CERTIFICATION OF AVAILABLE FUNDS

\_\_\_\_\_  
Town Counsel

\_\_\_\_\_  
Town Accountant

## **ARTICLE 1: DEFINITIONS**

**APPROVAL** – a written communication from the Town approving either the work of the current Phase, as identified on Attachment A, or authorizing the Owner’s Project Manager to proceed to the next Phase or approving the scope and compensation for either Extra Services or Reimbursable Expenses.

**ARCHITECT/ENGINEER** – herein also referred to as the **DESIGNER** -- the person or firm with whom the Town has contracted to perform the professional designer services for this Project.

**BASIC SERVICES** – the minimum scope of services to be provided by the Owner’s Project Manager under this Contract, unless the Contract is otherwise terminated pursuant to Article 12.

**CERTIFICATE OF FINAL COMPLETION** – the form which contains the certification of the Designer, OPM and the Town that the Project has reached Final Completion.

**COMMISSIONING CONSULTANT** – a person or firm which may be engaged by the Town to provide building commissioning services, including advisory services during design and construction.

**CONTRACT** – this Contract, inclusive of all Attachments, between the Town and the Owner’s Project Manager; all written amendments to this Contract; and all Approvals issued pursuant to this Contract.

**CONTRACTOR or GENERAL CONTRACTOR** – the person or firm with whom the Town has contracted to perform the construction for this Project pursuant to the provisions of G.L. c. 149, §§44A-44J.

**CONSTRUCTION MANAGEMENT AT RISK or CONSTRUCTION MANAGEMENT AT RISK SERVICES or CONSTRUCTION MANAGEMENT AT RISK DELIVERY METHOD or CM at RISK DELIVERY METHOD** – a construction method described in M.G.L. c. 149A wherein a Construction Management at Risk firm provides a range of preconstruction services and construction management services which may include cost estimation and consultation regarding the design of a building project, the preparation and coordination of bid packages, scheduling, cost control, and value engineering, acting as the general contractor during the construction, detailing the Trade Contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating Trade Contractors and subcontractors, and providing management and construction services, all at a Guaranteed Maximum Price, which shall represent the maximum amount to be paid by the public agency for the building project, including the cost of work, the general conditions and the fee payable to the Construction Management at Risk firm.

**CONSTRUCTION MANAGER AT RISK, CONSTRUCTION MANAGEMENT at RISK FIRM, or, CM at RISK-** a sole proprietorship, partnership, corporation, or other legal entity with which the Town has contracted pursuant to G.L. c. 149A, § 6(e), to provide Construction Management at Risk Services.

**EXTRA SERVICES** – services requested by the Town to be performed by the Owner’s Project Manager but which are additional (or “extra”) to the services performed as Basic Services.

**FEE FOR BASIC SERVICES** – the fee to be paid to the Owner’s Project Manager for satisfactorily performing, in the Town’s sole discretion, the Basic Services required under this Contract,

exclusive of the compensation to which the Owner's Project Manager is entitled pursuant to Articles 9 and 10.

**FINAL COMPLETION** – The work has been completed in accordance with the Construction Contract Documents.

**GENERAL LAWS** – the Massachusetts General Laws as amended, including any rules, regulations and administrative procedures implementing said laws.

**GUARANTEED MAXIMUM PRICE or GMP**- The agreed total dollar amount for the Construction at Risk Management Services, including the cost of work, the general conditions and the fees charged by the Construction Management at Risk Firm.

**NON-TRADE CONTRACTOR**- for the purposes of a project utilizing the Construction Management at Risk Delivery Method only, a subcontractor, as defined in M.G.L. c. 149A, § 8(j), who is not a Trade Contractor, as defined herein, and who has a direct contractual relationship with a CM at Risk whether or not the work exceeds the threshold sum as identified in M.G.L. c. 149A, § 44F(1).

**NOTICE to PROCEED** – the written communication issued by the Town to the Contractor or the CM at Risk authorizing him to proceed with the services specified in the construction contract or the CM at Risk contract and establishing the date for commencement of the contract time.

**OWNER'S PROJECT MANAGER** – the individual, corporation, partnership, sole proprietorship, joint stock company, joint venture or other legal entity identified as such on page one of this Contract performing the professional Project Management Services under this Contract.

**PHASE** – a distinct portion of the work of this Contract and its associated duration, as identified on Attachment A. Prior Approval to proceed for each Phase is required from the Town.

**PRINCIPALS** – the owners and/or officers of the Owner's Project Manager who are actively involved in the management of the Project.

**PROJECT** – all work that pertains to the study, planning, design, construction, reconstruction, installation, demolition, maintenance or repair, if any, as defined in the Project Contracts and/o Project Design/Construction Documents.

**PROJECT BUDGET** – a complete and full enumeration of all costs of the Project.

**PROJECT DIRECTOR** – the employee of the Owner's Project Manager who has been designated in writing by the Owner's Project Manager as its authorized representative, as approved by the Town, pursuant to the requirements of M.G.L. c.149 §44A½ or G.L. c. 149A, § 2, as the case may be, for an "owner's project manager" and 963 CMR 2.00 et seq., and shall be the person who shall oversee and be responsible for all Project Management Services provided under this Contract. The Project Director shall be certified in the Massachusetts Certified Public Purchasing Official Program as administered by the Inspector General of the Commonwealth of Massachusetts.

**PROJECT REPRESENTATIVE** – the employee or a Sub-consultant of the Owner's Project Manager, who shall be dedicated exclusively to the Project, on-site full-time during the Construction Phase in accordance with the requirements of Article 8.6.2.

**PROJECT SCHEDULE** – a complete list of all activities, time and sequence required to complete the Project.

**REIMBURSABLE SERVICES OR REIMBURSABLE EXPENSES** – the cost of services requested by the Town to be performed by the Owner’s Project Manager or the cost of expenses paid by the Owner’s Project Manager that are reimbursable pursuant to the provisions of Article 10.

**SUBCONTRACTOR** – for purposes of a project utilizing the design-bid-build construction delivery method pursuant to G.L. c. 149, a person or entity having a direct contractual relationship with the Contractor, who has the contract to perform the construction of the Project, except as otherwise specifically provided herein or as required by Law.

**SUBCONSULTANT** – any individual, company, firm, or business having a direct contractual relationship with the Owner’s Project Manager, who provides services on the Project.

**TRADE CONTRACTOR**- for purposes of a project utilizing the CM at Risk construction delivery method only, subcontractors having a direct contractual relationship with a CM at Risk pursuant to M.G.L. c. 149A § 8(a)-(i), to perform one or more so-called sub-bid classes of work listed in M.G.L. c. 149 § 44F and all other sub-bid classes of work selected by the public agency for the Project, provided the sub-bid work meets or exceeds the threshold sum identified in M.G.L. c. 149 § 44F(1).

## **ARTICLE 2: RELATIONSHIP OF THE PARTIES**

- 2.1 The Owner’s Project Manager shall act as an independent contractor of the Town in providing the services required under this Contract.
- 2.2 The Owner’s Project Manager warrants and represents to the Town that it has fully, completely and truthfully represented the qualifications and skills of the Owner’s Project Manager, its Sub-consultants, agents, servants and employees in the proposal submitted by the Owner’s Project Manager, the Contract documents and in all communications with the Town relative to this Contract and the services to be performed hereunder by the Owner’s Project Manager, its Sub-consultants, agents, servants and employees.
- 2.3 The Owner’s Project Manager shall perform its services under this Contract with no less than that degree of skill and care ordinarily exercised by similarly situated members of the Owner’s Project Manager’s profession on projects of similar size, scope and complexity as is involved on the Project. The Owner’s Project Manager’s services shall be rendered in accordance with this Contract.
- 2.4 The Parties hereto agree that the Designer is solely responsible for the design requirements and design criteria for the Project (except to the extent specifically delegated to others) and for performing in accordance with the contract between the Town and Designer.
- 2.5 The Parties hereto agree that the Contractor or CM at Risk, as the case may be, shall be solely responsible for construction means, methods, techniques, sequences and procedures, the Contractor or CM at Risk’s schedules, and for safety precautions and programs in connection with the Project and for performing in accordance with the Town-Contractor or Town-CM at Risk Agreement.. The Owner’s Project Manager shall be responsible for the Owner’s Project Manager’s negligent acts or omissions but shall not have control over or charge over acts or omissions of the Contractors, Subcontractors, or the agents or employees of the Contractor, CM

at Risk, Subcontractors, Trade Contractors or Non-Trade Contractors, the Designer, the Town or the Commissioning Consultant.

- 2.6 Nothing in this Contract shall be construed as an assumption by the Owner's Project Manager of the responsibilities or duties of the Contractor, or the CM at Risk, or the Designer. The Owner's Project Manager's services shall be rendered compatibly and in coordination with the services provided by the Designer. It is not intended that the services of the Owner's Project Manager and Designer be competitive or duplicative, but rather complementary. The Owner's Project Manager shall be entitled to rely upon the Designer and Contractor or CM at Risk for the proper performance of their obligations pursuant to their respective contracts with the Town.

### **ARTICLE 3: RESPONSIBILITIES OF THE TOWN**

- 3.1 The Town shall designate an individual or individuals who shall have the authority to act on behalf of the Town under this Contract and who shall be responsible for day-to-day communication between the Town and the Owner's Project Manager. The Town shall provide the necessary general direction and broad management coordination required to execute the Project.
- 3.2 Upon satisfactory completion of services performed, the Town shall make payments to the Owner's Project Manager as provided in Articles 7,8,9 and 10.
- 3.3 The Town shall be responsible for requiring the Contractor or CM at Risk and/or the Designer to comply with their respective contract obligations and to cooperate with the Owner's Project Manager.
- 3.4 The Town shall provide timely information with respect to its requirements relative to the Project Schedule and the Project Budget, and shall further give timely notice to the Owner's Project Manager of any changes or modifications to the same.
- 3.5 To the extent such data is available, the Town shall furnish to the Owner's Project Manager existing surveys of the Project site, building plans, borings, test pits, structural, mechanical, chemical or other test data, tests for air and water pollution and for hazardous materials, photographs and utility information. The Owner's Project Manager shall be entitled to reasonably rely upon the sufficiency and accuracy of the information furnished under this Article 3, provided that the Owner's Project Manager shall notify the Town in writing of any deficiencies in such data that the Owner's Project Manager becomes aware of.

### **ARTICLE 4: RESPONSIBILITIES OF THE OWNER'S PROJECT MANAGER**

- 4.1 The Owner's Project Manager shall provide project management services to monitor procurement procedures, design, construction and other related activities and to facilitate, coordinate and manage the Project with respect to timely performance in accordance with the Project Schedule and monitor the quality of services and workmanship and shall recommend courses of action to the Town when respective contractual requirements are not being fulfilled. If the Owner's Project Manager is authorized to proceed with services beyond the Schematic Design Phase services shall continue through substantial use and occupancy by the Town, and Project closeout.
- 4.2 The Owner's Project Manager shall perform the services required under this Contract in conformance with applicable federal, state, and local laws, by-laws and regulations.

- 4.3 The Owner's Project Manager shall report to the Town any act or inaction in connection with the Project which the Owner's Project Manager believes creates a substantial health or safety risk. Notwithstanding the immediately preceding sentence, the Owner's Project Manager shall not assume responsibility for safety precautions and programs in connection with the Project, which shall remain the sole responsibility of the Contractor.
- 4.4 The Owner's Project Manager acknowledges the importance that the Owner attributes to the abilities and qualifications of the key members of the Owner's Project Manager's team, including Sub-consultants, and the continuity of key members' participation in the services to be provided under this Contract. This Contract has been entered into on the representation of the Owner's Project Manager that the individuals, consultants, assignments and responsibilities will be maintained throughout the duration of this engagement. No substitution or replacement of individuals or change in the Sub-consultants shall take place without the prior written approval of the Town, except when necessitated by causes beyond the Owner's Project Manager's control. If the Owner's Project Manager proposes to replace one of the key members of the Owner's Project Manager's team, the Owner's Project Manager shall propose a person or consultant with qualifications at least equal to the person or firm the Owner's Project Manager proposes to replace. The Town shall have the right to approve any substitution or replacement or change in status for the persons or Sub-consultants listed in Appendix B and such approval shall not be unreasonably withheld. At the request of the Town, the Owner's Project Manager shall consult with the Town to resolve any situation in which the Town determines that a member of the Owner's Project Manager's team is failing to perform services in an acceptable manner to the Town. The Town shall have the right to direct the removal of any such person or consultant. No act or omission of the Town made or permitted under this Section shall relieve the Owner's Project Manager of its responsibility for the performance of the services specified in this Contract.
- 4.5 The Owner's Project Manager shall employ at all times professional and support personnel with requisite expertise and adequate numbers to assure the complete, timely and high-quality performance of the obligations of the Owner's Project Manager.
- 4.6 The Owner's Project Manager shall be and shall remain liable to the Town for all damages incurred by the Town as a result of the failure of the Owner's Project Manager to perform in conformance with the terms and conditions of this Contract.

#### **ARTICLE 5: SUBCONSULTANTS**

- 5.1 The Owner's Project Manager shall not employ consultants, sub-consultants, sublet, assign or transfer any part of its services or obligations under this Contract without the prior approval of and written consent of the Town. The employment of Sub-consultants shall not in any way relieve the Owner's Project Manager from its responsibilities under this Contract. Nor shall the Town's approval of a Sub-consultant in any way relieve the Owner's Project Manager from its responsibilities under this Contract.
- 5.2 Upon request, the Owner's Project Manager shall provide the Town copies of its agreements with Sub-consultants, including amendments thereto, and shall consult with the Town with respect to the inclusion therein of appropriate terms and conditions to assure timely, efficient and competent performance of the Sub-consultants.
- 5.3 The OPM shall be responsible for all compensation to be paid to a sub-consultant. No Sub-consultant shall have recourse against the Town for payment of monies alleged to be owed to the

Sub-consultant by the Owner's Project Manager, and the Owner's Project Manager shall include in all contracts with its Sub-consultants' language so providing.

- 5.4 All contracts between the Owner's Project Manager and its Sub-consultants shall include a provision in which the Town's rights to initiate corrective action shall be stipulated.

#### **ARTICLE 6: TERM AND TIMELY PERFORMANCE**

- 6.1 The Owner's Project Manager acknowledges that expeditious completion of the Owner's Project Manager's services and the Project is of the utmost importance to the Town. The term of this Contract shall commence on the date stipulated in an Approval to proceed from the Town. The Owner's Project Manager shall complete the services required under this Contract in a prompt and continuous manner. The Owner's Project Manager shall perform its services in a timely manner and shall not delay the work of the Designer or Contractor or CM at Risk.. The Owner's Project Manager shall monitor the performance of the Designer and the Contractor or CM at Risk in accordance with schedules of performance that are established under their contracts with the Town. The Owner's Project Manager shall immediately advise the Town, as well as the Designer or the Contractor or CM at Risk, in writing, any time the Owner's Project Manager determines that either the Designer or the Contractor or the CM at Risk's performance is jeopardizing the Project Schedule or the Project Budget.
- 6.2 Time is of the essence in the performance of the Owner's Project Manager's obligations under this Contract and under any amendment. The Owner's Project Manager agrees that no other work in its organization will be permitted to interfere with its timely performance of the work required under this Contract or any amendment.
- 6.3 The Owner's Project Manager's services are to be provided in accordance with the time schedule set forth in this Contract. If the schedule changes causing the need for revisions to the Owner's Project Manager's services, the Owner's Project Manager shall notify the Town of the revisions to its services. The Town shall have the right to extend the term of this Contract by amendment. All the rights and obligations of the parties for such extended periods shall be as set forth in this Contract or in the amendment.

#### **ARTICLE 7: COMPENSATION**

- 7.1 For the satisfactory performance of all services required pursuant to this Contract, excluding those services specified under Articles 9 and 10, the Owner's Project Manager shall be compensated by the Town in an amount up to the Not-to-Exceed Fee for Basic Services, identified on Attachment A. The Owner's Project Manager shall submit invoices on a monthly basis in accordance with the Payment Schedule included as Attachment A. The Town shall make payments to the Owner's Project Manager within 30 days of the Town's approval of the invoice, which approval shall not be unreasonably withheld or delayed.
- 7.2 The Fee for Basic Services shall include, but not necessarily be limited to, all labor, overhead, profit, insurance, legal services, transportation, communication expenses, reasonable printing and copying necessary for completion of the Project. The fee for Basic Services also shall include (a) the costs of rebidding and re-solicitation of proposals, bids, or qualifications if due to the fault of the Owner's Project Manager, and (b) assisting the Town in litigation or resolution of claims or other administrative proceedings associated with a bid protest arising out of the Designer contract or the construction contract and for assistance if such litigation or claims are due

to the fault of the Owner's Project Manager. The OPM shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the OPM in the preparation of the bid documents as reasonably determined by the Town.

- 7.3 When the Owner's Project Manager receives payment from the Town, the Owner's Project Manager shall promptly make payment to each Sub-consultant whose work was included in the work for which such payment was received. The Town shall have the contractual right to investigate any breach of performance of a Sub-consultant and to initiate corrective measures it determines are necessary and in the best interest of the Town. All contracts between the Owner's Project Manager and its Sub-consultants shall include a provision in which the Town's rights to initiate corrective action shall be stipulated.
- 7.4 The Owner's Project Manager shall be paid the remainder of the Fee for Basic Services, less previous payments, upon acceptance by the Town of the Certificate of Final Completion and submission of evaluations.

## **ARTICLE 8: BASIC SERVICES**

The Owner's Project Manager shall perform the following Basic Services:

### 8.1 Project Management (For All Phases)

8.1.1 The Owner's Project Manager shall prepare a communication and document control procedure during the Design Phase and continue to update it as specified for the duration of the Project. This procedure shall detail the responsibilities and lines of communication among all Project participants (Town, Owner's Project Manager, Designer, Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors and other consultants, vendors or suppliers) and establish the procedure for correspondence, document control, designer and contractor or CM at Risk submittal logs, change order reporting logs and other tracking logs, as needed. A draft of the communication plan shall be submitted to the Town for approval within 30 days of the Approval to proceed with the Contract and be further updated (a) as needed to include the award of Construction Contract(s) and no later than 30 days after approval to proceed to the Construction Phase of the Project. The Owner's Project Manager shall include the Designer in its distribution of the Project Budget, Schedule, Monthly Progress Report and other reports as appropriate and as outlined in the Communications Plan.

8.1.2 The Owner's Project Manager shall attend meetings with representatives of the Town, municipal administration and the school department, and attend neighborhood or other public meetings relating to the Project, and participate as a member of the Town's Prequalification Committee. The Owner's Project Manager shall take minutes of all of the above-referenced meetings and promptly distribute minutes of these meetings to the Town.

8.1.3 The Owner's Project Manager shall review all applications for payments, requisitions and invoices relating to the Project as submitted by the Designer, equipment vendors and all other contractors and supplier and make recommendations to the Town relative to amounts due.

### 8.1.4 Project Control

During the Design Phase of this Contract, the Owner's Project Manager shall monitor and report to the Town any changes to the Design Budget, Scope and Schedule.

### 8.1.5 Project Budget

The Owner's Project Manager shall prepare a detailed baseline Project Budget in a form acceptable to the Town, which will be submitted to the Town for approval. The Owner's Project Manager shall monitor and compare all Designer estimates, contractor bids, and other cost information to this Project Budget and identify and report all variances to the Town. The Owner's Project Manager shall maintain and update the baseline Project Budget throughout the term of this Contract. The Owner's Project Manager shall report any variances to the baseline Project Budget as part of the Monthly Progress Report.

The Owner's Project Manager shall prepare revisions to the baseline Project Budget, as needed, and submit them to the Town for approval.

### 8.1.6 Cost Estimating

The Owner's Project Manager shall prepare detailed independent cost estimates at each Design phase, when required by the Town, or, at the request of the Town, shall review the Designer's cost estimates at each Design Phase. If the Town requires the Owner's Project Manager to prepare an independent cost estimate, the Town's Project Manager shall compare its cost estimate to that prepared by the Designer to identify and notify the Town of any variances.

In the event that the cost as estimated by the Designer exceeds the construction cost in the Project Budget at any of the Design phases, the Owner's Project Manager shall consult with the Designer and recommend to the Town appropriate revisions to the scope of work.

The Owner's Project Manager shall provide cost estimating services, as may be required, to develop cash flows, and provide updated cash flows with its Monthly Progress Report described in Article 8.1.8.

During the schematic design Phase, the Owner's Project Manager shall prepare a construction cost estimate with aggregated unit rates and quantities supporting each item.

### 8.1.7 Project Schedule

The Owner's Project Manager shall prepare a Project Schedule in a form acceptable to the Town, which shall be submitted to the Town for approval.

The Owner's Project Manager shall prepare revisions to the Project Schedule, as needed, and submit them to the Town for approval.

### 8.1.8 Monthly Progress Report

The Owner's Project Manager shall submit to the Town a written Monthly Progress Report summarizing activity during the preceding calendar month. The Monthly Progress Report shall be submitted in a format acceptable to the Town and shall describe work performed by all project participants (OPM, Designer, and Contractor or CM at Risk) during the reporting period and work planned for the next reporting period. The report shall also address matters of

schedule adherence (Project Schedule as well as individual completion percentages for design and construction), costs to date (updated Project Budget and actual expenses incurred), change orders and potential change orders, cash flow projections, Contractor or CM at Risk's safety performance, Designer or CM at Risk's QA/QC, Contractor's compliance, community issues, Designer and Contractor or CM at Risk's MBE/WBE activities, any issues that could result in additional time and/or additional costs and any anticipated problems/concerns together with recommended solutions.

#### 8.1.9 MBE/WBE Compliance Monitoring (All Phases)

The Owner's Project Manager shall monitor and report on the Designer's and Contractor or CM at Risk's compliance with MBE/WBE requirements.

#### 8.1.10 Site Investigations and Environmental Testing

The Owner's Project Manager as required and at the request of the Town shall review previously completed existing site evaluations and test reports including but not limited to site surveys, wetland evaluation, environmental evaluations, hazardous materials evaluations, subsurface testing (percolation tests, test pits, borings, etc.), destructive testing and other investigative work related to a potential renovation option. The determination that any additional services or testing need to be performed shall rest with the Town or the Designer.

#### 8.1.11 Project Records and Reports (All Phases)

The Owner's Project Manager shall maintain a complete Project file including, but not necessarily limited to, a copy of the executed agreements of the Town-Owner's Project Manager, Town-Architect/Engineer and the Town-Contractor or Town-CM at Risk including copies of performance and payment bonds, a master list of permits, certificates of insurance, licenses and approvals for the Project, correspondence, daily reports, payment records, shop drawings, submittals, project schedules, requests for information, change orders/amendments, change directives and meeting minutes. The Owner's Project Manager shall assist the Town in responding to any public records request received by the Town.

#### 8.1.12 Construction Delivery Method

The Owner's Project Manager shall assist the Town in determining the appropriate construction delivery method for the Proposed Project. In providing such assistance, the Owner's Project Manager, in conjunction with the Designer, shall advise the Town on the relative advantages and disadvantages associated with each of the construction delivery methods provided on M.G.L. Chapters 149 and 149A. The services provided by the Owner's Project Manager in assisting and advising the Town in its determination of the appropriate construction delivery methodology shall be included in Basic Services.

If the Town elects to proceed with the CM at Risk construction delivery method, when directed the by the Town, the Owner's Project Manager shall, in a timely manner, assist and advise the Town in properly preparing and submitting to the Office of the Inspector General, the application to proceed with the CM at Risk construction delivery method and in obtaining notice to proceed, in accordance with M.G.L. c. 149A § 4, and the applicable regulations and procedures promulgated by the Inspector General. The Owner's Project Manager shall assist the Town in correcting and resubmitting the application to proceed, as necessary, and in

responding to any requests for additional information from the Office of the Inspector General. The services provided by the Owner's Project Manager in assisting and advising the Town with the preparation and submission of the application to proceed with the CM at Risk construction delivery method shall be included in Basic Services.

If the Inspector General issues a notice to proceed with the CM at Risk construction delivery method, and if the Town, at its option, authorized the Owner's Project Manager to perform services for subsequent design phases and/or the Construction Phases and Completion Phase, the Parties will enter into a mutually agreed upon amendment to this Contract using the amended Contract language for CM at Risk delivery method. In the event that the Inspector General does not issue a notice to proceed with the CM at Risk delivery method, the Town, at its option, may elect to construct the project in accordance with the provisions of M.G.L. c. 149.

## 8.2 Feasibility Study/Schematic Design Phase

### 8.2.1 Design

The Owner's Project Manager shall monitor the activities and responsibilities of the Designer during this phase and assist the Town in the review of the proposed scope, schedule and budget, developed by the Designer, including the review of the Designer's preliminary drawings. The Owner's Project Manager shall:

- a. Review Designer's cost estimates and, if required by the Town, prepare independent construction cost estimates as provided in to Section 8.1.6 of this Contract for comparison with the Designer's cost estimates.
- b. Work with the Town and Designer to prepare the Project Schedule.

8.2.1.1 The Owner's Project Manager shall review the design to recommend Value Engineering Changes (VEC) to the Town. A Value Engineering Change shall include an analysis of the constructability, cost, quality and schedule impact. The Designer will be responsible for a thorough review and recommendation on the technical merit of any VEC.

8.2.1.2 The Owner's Project Manager shall lead design coordination meeting between the Designer and the Town to provide for review and discussion of design/engineering related issues. The Owner's Project Manager shall provide technical assistance to the Town.

8.2.1.3 The Owner's Project Manager shall assist in the implementation of additional site evaluation and testing as required by the Designer, including, but not necessarily limited to, site surveys, wetlands evaluation, environmental evaluations, hazardous materials evaluation, subsurface testing (percolation tests, test pits, borings, etc.), destructive testing and other investigative work in the case of renovation projects.

8.2.1.4 The Owner's Project Manager shall monitor the status of the Designer contract including monitoring the schedule of the Designer, provide review and comment of Designer's work product and make recommendations to the Town when, in the opinion of the Owner's Project Manager, requirements of the Designer's contract with the Town are not being fulfilled.

8.2.1.5 The Owner's Project Manager shall meet with the Town, Designer and other project participants as necessary.

8.2.1.6 The Owner's Project Manager shall assist the Town with the completion of grant applications for funding for the study of green design strategies and assist by identifying green strategies, as appropriate, for study during this phase.

**INTENTIONALLY LEFT BLANK FOR INSERTION OF ARTICLES 8.3 THROUGH 8.8 FOR EITHER DBB OR CM AT RISK CONSTRUCTION DELIVERY METHOD AT THE ELECTION OF THE OWNER AND BY AMENDMENT TO THE CONTRACT**

**ARTICLE 9: EXTRA SERVICES**

9.1 General

9.1.1 Extra Services are those services requested by the Town to be performed by the Owner's Project Manager but which are additional (or "extra") to the services performed as Basic Services. Such services are not included in the Fee for Basic Services and shall be invoiced and paid for separately. Extra services shall not be deemed authorized until a written Approval is received from the Town and funds have been formally encumbered.

9.1.2 The proposed cost, scope and schedule of all Extra Services shall be presented to and approved by the Town in writing prior to the performance of any Extra Services.

9.1.3 Cost proposals for Extra Services shall be computed in accordance with the Hourly Rate Schedule established in Attachment A.

9.2 Unless specifically prohibited elsewhere and with the prior written Approval of the Town, the Owner's Project Manager shall perform any of the following services as Extra Services:

9.2.1 Preparing special studies, reports, or applications at the written direction of the Town, other than those specifically required herein as part of Basic Services;

9.2.2 Assisting in the appeals process of permitting boards or commissions;

9.2.3 Rebidding, re-solicitation, or re-advertising for bids, proposals, or qualifications unless made necessary by the fault of the Owner's Project Manager, in which events such rebidding shall be deemed part of Basic Services, and subject to the limitation in Article 7.2;

9.2.4 Furnishing services in connection with a bid protest filed in court or with the Office of the Attorney General, provided such activities did not arise due to the fault of the Owner's Project Manager;

9.2.5 Furnishing services in excess of Basic Services made necessary by the termination of the General Contractor or CM at Risk;

9.2.6 Providing consultation with respect to replacement of work damaged by fire or other casualty during construction;

9.2.7 Assisting the Town in litigation, claims resolution or non-binding mediation arising out of the Designer contract or the construction contract, provided such litigation or claims did not arise due to the fault of the Owner's Project Manager; and

9.2.8 Providing other services requested by the Town that are not included as Basic Services pursuant to this Contract.

9.3 Invoices for Extra Services shall be accompanied by a complete breakdown listing the name, payroll title, date, number of hours by day, hourly rate and extended amount, per specified task of Extra Services performed. Hourly rates shall be in accordance with the Hourly Rate Schedule in Attachment A.

#### **ARTICLE 10: REIMBURSABLE EXPENSES**

10.1 For coordination and responsibility for the work described in the following paragraphs 10.1.1 and 10.1.2, the Owner's Project Manager shall be reimbursed its actual costs and those of its Sub-consultants, supported by invoices or receipts, plus (Percent to be negotiated). The following are reimbursable expenses:

10.1.1 Certain out of pocket expenses paid by the Owner's Project Manager such as filing fees, and permit fees that are normally paid by the Town; travel to fabrication or manufacturing locations to identify completed, identified, and stored materials or equipment specifically for the Project; field office furnishings.

10.1.2 Any other specially authorized reimbursement deemed essential by the Town, in the Town's sole discretion, in writing.

10.2 Non-Reimbursable Items: The Town shall not reimburse the Owner's Project Manager or its Sub-consultants for travel expenses, sustenance, telephone, facsimiles, electronic mails, postage and delivery expenses, unless specifically required elsewhere in this Contract.

10.3 The Owner's Project Manager shall not be entitled to compensation under this Article for the services of Sub-consultants hired to perform Basic Services under this Contract. If a Sub-consultant hired to perform Basic Services performs Extra Services approved by the Town, compensation for such Extra Services shall be made under Article 9.

#### **ARTICLE 11: RELEASE AND DISCHARGE**

11.1 The acceptance by the Owner's Project Manager of the last payment under the provisions of Article 7 or Article 12 in the event of termination of the Contract, shall in each instance, operate as and be a release to the Town and their employees and agents, from all claims of the Owner's Project Manager and its Sub-consultants for payment for services performed and/or furnished, except for those written claims submitted by the Owner's Project Manager to the Town with, or prior to, the last invoice.

#### **ARTICLE 12: ASSIGNMENT, SUSPENSION, TERMINATION**

12.1 Assignment:

The Owner's Project Manager shall not assign or transfer any part of its services or obligations under this Contract (other than as specified in Article 5), without the prior written approval of the Town.

Likewise, any successor to the Owner's Project Manager must first be approved by the Town before performing any services under this Contract. Such written consent shall not in any way relieve the Owner's Project Manager or its assignee from its responsibilities under this Contract.

## 12.2 Suspension

The Town may, at any time, upon seven (7) days written notice to the Owner's Project Manager, suspend this Contract. If the Town provides such written notice, the Owner's Project Manager shall be compensated for work satisfactorily performed in accordance with the Contract terms prior to the effective date of such suspension for which invoices have been properly submitted.

## 12.3 Termination

12.3.1 By written notice to the Owner's Project Manager, the Town may terminate this Contract at any time with or without cause. If such termination shall occur through no fault of the Owner's Project Manager, all compensation and reimbursement due to the Owner's Project Manager in accordance with the Contract terms, for work satisfactorily performed up to the date of termination, including proportionate payment for portions of the work started but incomplete at the time of termination, shall be paid to the Owner's Project Manager, provided no payment shall be made for work not yet performed or for anticipated profit on unperformed work. If such termination is for cause then no further payment shall be due to the Owner's Project Manager beyond the date of termination.

12.3.1 By written notice to the Town, the Owner's Project Manager may terminate this Contract:

- a) If the Town, within thirty (30) days following written notice from the Owner's Project Manager of any material default by the Town under the Contract, shall have failed to cure such default; or
- b) if, after the Owner's Project Manager has performed all services required during any phase prior to construction, at least six (6) months have elapsed without receipt by the Owner's Project Manager of Approval to proceed with the next Phase of the Project, provided the delay was not the fault of the Owner's Project Manager. This provision shall not apply to an Owner's Project Manager who has received a notice of suspension pursuant to Article 12.2.
- c) Upon a proper termination by the Owner's Project Manager, the Owner's Project Manager shall be compensated as provided in 12.3.1 above regarding termination without cause.

## **ARTICLE 13: NOTICES**

13.1 Any notice required to be given by the Town to the Owner's Project Manager, or by the Owner's Project Manager to the Town, shall be deemed to have been so given, whether or not received, if mailed by certified or registered mail to the Owner's Project Manager or the Town at the addresses indicated on page one.

## **ARTICLE 14: INDEMNIFICATION OF TOWN**

14.1 With respect to professional services rendered by Owner's Project Manager, to the fullest extent permitted by law, Owner's Project Manager shall defend, indemnify and hold harmless the Town, and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Town to the extent caused by the negligence of or the breach of any of the provisions of this Contract by the Owner's Project Manager, a person employed by the Owner's Project Manager, or any of its Sub-consultants.

- 14.2 For all other claims, to the fullest extent permitted by law, Owner's Project Manager shall defend, indemnify and hold harmless the Town, and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Town arising out of or resulting from the performance of its services provided that such claims, damages, liabilities, injuries, costs, fees, expenses, or losses are attributable to bodily injury or death or injury to or destruction of tangible property caused by an act or omission of the Owner's Project Manager, a person employed by the Owner's Project Manager, or any person or Sub-consultants for whom the Owner's Property Manager is responsible under this Contract.
- 14.3 The indemnification obligation in this Article shall be in addition to, and not a limitation of, any other rights and remedies available to the Town under this Contract or at law.

### **ARTICLE 15: INSURANCE**

- 15.1 The Owner's Project Manager shall obtain and maintain at its sole expense all insurance required by law and as may be required by the Town under the terms of this Contract. The insurance required hereunder shall be provided at the sole expense of the Owner's Project Manager or its Sub-consultant, as the case may be, and shall be in full force and effect for the full term of this Contract between the Town and the Owner's Project Manager or for such longer period as otherwise required under this Contract.
- 15.2 All policies shall be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts with a financial strength rating of "A" or better as assigned by A.M. Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the Town.
- 15.3 The Owner's Project Manager and its sub-consultants, shall submit to the Town original certificates of insurance evidencing the coverage required hereunder, together with evidence that all premiums for such insurance have been fully paid simultaneously with the execution of this Contract. Certificates shall show each type of insurance, insurance company, policy number, amount of insurance, deductibles/self-insured retentions, and policy effective and expiration dates. The Owner's Project Manager shall submit updated certificates to the Town prior to the expiration of any of the policies referenced in the certificates so that the Town shall at all times possess certificates indicating current coverage. Failure by the Owner's Project Manager to obtain and maintain the insurance required by this Section, to obtain all policy renewals, or to provide the respective insurance certificates as required shall constitute a material breach of the Contract and shall be just cause for termination of the services of the Owner's Project Manager under this Contract.
- 15.4 Termination, cancellation, or material modification of any insurance required by this Contract, whether by the insurer or the insured, shall not be valid unless written notice thereof is given to the Town at least thirty days prior to the effective date thereof, which shall be expressed in said notice.
- 15.5 The Owner's Project Manager shall require by contractual obligation, and shall ensure by the exercise of due diligence, that any Sub-consultant hired in connection with the services to be provided under this Contract shall obtain and maintain all insurance required by law and as may be required by the Town under the terms of this Contract.
- 15.6 The Owner's Project Manager or its Sub-consultant, as the case may be, is responsible for the payment of any and all deductibles under all of the insurance required by this Contract. The Town

shall not be responsible for the payment of deductibles, self-insured retentions or any portion thereof.

#### 15.7 Workers' Compensation, Commercial General Liability, Automobile Liability, and Valuable Papers

The Owner's Project Manager shall purchase and maintain at its own expense during the life of this Contract, or such other time period as provided herein, the following types and amounts of insurance, at a minimum:

15.7.1 Workers' Compensation Insurance in accordance with MGL c152. The policy shall be endorsed to waive the insurer's rights of subrogation against the Town.

15.7.2 Commercial General Liability Insurance (including Premises/Operations; Products/Completed Operations; Contractual; Independent Contractors; Broad Form Property Damage; and Personal Injury) with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 aggregate. The Owner's Project Manager shall maintain such insurance in full force and effect for a minimum period of one year after final payment and shall continue to provide evidence of such coverage to the Town. The Town shall be added as an additional insured on this policy. The policy shall be endorsed to waive the insurer's rights of subrogation against the Town.

15.7.3 Comprehensive Automobile Liability Insurance (including owned, non-owned and hired vehicles) at limits of not less than:

- \$1,000,000 Each Person for Bodily Injury;
- \$1,000,000 Each Accident for Bodily Injury; and
- \$1,000,000 Each Accident for Property Damage.

15.7.4 Valuable Papers insurance in an amount sufficient to assure the restoration of any plans, drawings, computations, field notes, or other similar data relating to the work covered by this Contract or by the Contract between the Town and the Designer in the event of loss or destruction while in the custody of the Owner's Project Manager until the final fee payment is made or all data is turned over to the Town, and this coverage shall include coverage for relevant electronic media, including, but not limited to, documents stored in computer-aided design drafting (CADD) systems.

#### 15.8 Professional Liability

The Owner's Project Manager shall maintain professional liability insurance covering errors and omissions and negligent acts of the Owner's Project Manager and of any person or entity for whose performance the Owner's Project Manager is legally liable at all times while services are being performed under this Contract. Certificates of professional liability insurance evidencing such coverage shall be provided to the Town on or before the effective date of this Contract and for a period of at least six years after the earlier of: (1) the date of official acceptance of the completed Project by the Town; (2) the date of the opening of the Project to public use; (3) the date of the acceptance by the general contractor of a final pay estimate prepared by the Town pursuant to M.G.L. chapter 30; or (4) the date of substantial completion of the Construction Contract and the taking of possession of the Project for occupancy by the Town. The certificates shall indicate a retroactive date that is no later than the effective date of this Contract and a limit of not less than \$1,000,000.

In the event that the Town terminates this Contract at or before the completion of the Design Phase “without cause” as provided in Article 12.3.1; or the Contract term ends pursuant to its own provisions at the completion of the Design Phase and the Contract is not amended to authorize the Owner’s Project Manager to perform services for subsequent design phases, Construction Phases and/or Completion Phase; or the Town otherwise elects not to proceed with the Project beyond the Design Phase, either because the Town lacks sufficient funding for the Project or for any other reason, the Town may, amend this Article 15.8.

#### 15.9 Liability of the Owner’s Project Manager

Insufficient insurance shall not release the Owner’s Project Manager from any liability for breach of its obligations under this Contract. Without limitation, the Owner’s Project Manager shall bear the risk of any loss if its’ valuable papers insurance coverage is insufficient to cover the loss of any work product covered by this Contract.

#### 15.10 Waiver of Subrogation

To the extent damages are covered by property insurance, the Owner and the Owner’s Project Manager waive all rights against each other and against the General Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors, consultants, agents, and employees of the other for damages caused by fire or other causes of loss, except such rights as they may have to the proceeds of such insurance as set forth in the Owner-Contractor Agreement or the Owner-CM at Risk Agreement. The Owner shall require of the General Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors Owner’s Project Manager, consultants, Subconsultants, and agents and employees, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

### **ARTICLE 16: OWNERSHIP OF DOCUMENTS**

16.1 Unless provided otherwise by law, ownership and possession of all information, data, reports, studies, designs, drawings, specifications, materials, documents, models, and any other documentation, product or tangible materials authored or prepared, in whole or in part, or purchased, obtained, created by the Owner’s Project Manager pursuant to this Contract (collectively, the “Materials”), other than the Owner’s Project Manager’s administrative communications, records, and files relating to this Contract, shall be the sole property of, and shall vest in, the Town as “works made for hire” or otherwise. The Town will own the exclusive rights, worldwide and royalty-free, to and in all Materials prepared and produced by the Owner’s Project Manager pursuant to this Contract, including, but not limited to, United States and International patents, copyrights, trade secrets, know-how and any other intellectual property rights, and the Town shall have the exclusive, unlimited and unrestricted right, worldwide and royalty-free, to publish, reproduce, distribute, transmit and publicly display all Materials prepared by the Owner’s Project Manager. At the completion or termination of the Owner’s Project Manager’s services, all original Materials shall be promptly turned over to the Town.

## **ARTICLE 17: REGULATORY AND STATUTORY REQUIREMENTS**

- 17.1 Truth-in-Negotiations Certificate: If the Owner's Project Manager's fee is negotiated, by signing this Contract, the Owner's Project Manager hereby certifies to the following:
- 17.1.1 Wage rates and other costs used to support the Owner's Project Manager's compensation are accurate, complete, and current at the time of contracting; and
  - 17.1.2 The Contract price and any additions to the Contract may be adjusted within one year of completion of the Contract to exclude any significant amounts if the Town determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.
- 17.2 The person signing this Contract certifies, as a principal or director of the Owner's Project Manager, that the Owner's Project Manager 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 Contract; no consultant to or Sub-consultant for the Owner's Project Manager has given, offered or agreed to give any gift, contribution or offer of employment to the Owner's Project Manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the Owner's Project Manager or Sub-consultant of a contract by the Owner's Project Manager; and no person, corporation or other entity, other than a bona fide full-time employee of the Owner's Project Manager, has been retained or hired by the Owner's Project Manager to solicit for or in any way assist the Owner's Project Manager in obtaining this Contract 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 Contract .
- 17.3 Revenue Enforcement and Protection Program (REAP): Pursuant to Massachusetts General Laws, Chapter 62C, §49A, the undersigned certifies under the penalties of perjury that to the best of his/her knowledge and belief that the Owner's Project Manager and the principals thereof are in compliance with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.
- 17.4 Interest of Owner's Project Manager: The Owner's Project Manager hereby certifies that it is in compliance with the provisions of General Laws Chapter 268A whenever applicable. The Owner's Project Manager covenants that 1) he/she presently has no financial interest and shall not acquire any such interest direct or indirect, which would conflict in any manner or degree with the services required to be performed under this Contract or which would violate M.G.L. Chapter 268A, as amended from time-to-time; 2) in the performance of this Contract, no person having any such interest shall be employed by the Owner's Project Manager; and 3) no partner or employee of the firm is related by blood or marriage to any officer, official, or employee of the Town, unless approved by the State Ethics Commission.
- 17.5 Equal Opportunity: The Owner's Project Manager shall not discriminate in employment against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, ancestry, disability, marital status, veteran status, membership in the armed forces, presence of children, or political beliefs. The Owner's Project Manager shall comply with all provisions of Title VI of the Civil Rights Act of 1964 and M.G.L c.151B.
- 17.6 Certification of Non-Collusion: The Owner's Project Manager certifies under penalties of perjury that its proposal has been made in 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.

- 17.7 Governing Law: This Contract shall be governed by the laws of the Commonwealth of Massachusetts.
- 17.8 Dispute Resolution: If a dispute arises between the parties related to this Contract, the parties agree to use the following procedures to resolve the dispute: (a) Negotiation. A meeting shall be held between representatives of the parties with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute; such meeting shall be held within fourteen calendar days of a party's written request for such a meeting; (b) Mediation. If the parties fail to negotiate a resolution of the dispute, they shall submit the dispute to mediation as a condition precedent to litigation and shall bear equally the costs of the mediation. The parties shall jointly appoint a mutually acceptable mediator; they shall seek assistance from an independent third party in such appointment if they have been unable to agree upon such appointment within 30 days of the meeting just noted in (a) above; (c) Litigation. If the parties fail to resolve the dispute through mediation, or are unable to convene mediation within 90 days of first attempting to do so, then either party may file suit in accordance with Article 17.9; and (d) This paragraph of dispute resolution provisions shall survive termination of this Contract.
- 17.9 Venue: Any suit by either party arising under this Contract shall be brought only in a court of competent jurisdiction in the county where the Project is located. The parties hereto waive any argument that this venue is improper or that the forum is inconvenient.



<b>Owner's Project Manager Application Form – March 2017</b>		
1. Project Name/Location for Which Firm is Filing:		
1a. MSBA Project Number:		
2a. Respondent, Firm (Or Joint-Venture) - Name And Address Of Primary Office To Perform The Work:	2b. Name And Address Of Other Participating Offices Of The Prime Applicant, If Different From Item 3a Above:	
2c. Date Present And Predecessor Firms Were Established:	2d. Name And Address Of Parent Company, If Any:	
2e. Federal ID #:	2f. Name of Proposed Project Director:	
3. Personnel From Prime Firm Included In Question #2 Above By Discipline (List Each Person Only Once, By Primary Function -- Average Number Employed Throughout The Preceding 6 Month Period. Indicate Both The Total Number In Each Discipline):		
Admin. _____	Cost Estimators _____	Other _____
Architects _____	Electrical Engrs. _____	_____
Acoustical Engrs. _____	Environmental _____	_____
Civil Engrs. _____	Licensed Site _____	_____
Code Specialists _____	Mechanical _____	_____
Construction _____		Total _____
4. Has this Joint-Venture previously worked together? <input type="checkbox"/> Yes <input type="checkbox"/> No		

- List **ONLY** Those Prime and Sub-Consultant Personnel identified as Key personnel in the Response to Request for Services. This Information
5. Should Be Presented Below In The Form Of An Organizational Chart modified to fit the firm's proposed management approach. Include Name of Firm And Name Of The Person:

<p>6. Brief Resume for Key Personnel <b>ONLY</b> as indicated in the Request for Services. Resumes Should Be Consistent With The Persons Listed On The Organizational Chart In Question # 5. Additional Sheets Should Be Provided Only As Required For The Number Of Key Personnel And They Must Be In The Format Provided. By Including A Firm As A Subconsultant, The Prime Applicant Certifies That The Listed Firm Has Agreed To Work On This Project, Should The Team Be Selected.</p>	
a. Name And Title Within Firm:	a. Name And Title Within Firm:
b. Project Assignment:	b. Project Assignment:
c. Name And Address Of Office In Which Individual Identified In 6a Resides:	c. Name And Address Of Office In Which Individual Identified In 6a Resides:
d. Years Experience: With _____ With Other Firms: _____ This Firm:	d. Years Experience: With _____ With Other Firms: _____ This Firm:
e. Education: Degree(s) /Year/Specialization	e. Education: Degree(s) /Year/Specialization
f. Date of MCPPO Certification:	f. Date of MCPPO Certification:
g. Applicable Registrations and Certifications :	g. Applicable Registrations and Certifications:
h. Current Work Assignments And Availability For This Project (availability should be identified as a percentage: eg: "As of 5/30, 50% available"):	h. Current Work Assignments And Availability For This Project (availability should be identified as a percentage: eg: "As of 5/30, 50% available"):

i. Other Experience And Qualifications Relevant To The Proposed Project: (Identify OPM Firm By Which Employed, If Not Current Firm. Please distinguish between OPM work and any design work performed by the firm.):

i. Other Experience And Qualifications Relevant To The Proposed Project: (Identify OPM Firm By Which Employed, If Not Current Firm. Please distinguish between OPM work and any design work performed by the firm.):

7a Past Performance: List all Completed Projects, in excess of \$1.5 million, for which the Prime Applicant has performed, or has entered into a contract to perform Owner's Project Management Services for all Public Agencies within the Commonwealth within the past 10 years.										
a. Project Name And Location Project Director	b. Brief Description Of Project And Services (Include Reference To Areas Of Similar Experience)	c. Project Dollar Value	d. Completion Date (Actual Or Estimate)	e. On Time (Yes Or No)	f. Original Construction Contract Value	g. Change Orders	h. Number of Accidents and Safety Violations	i. Dollar Value of any Safety fines	j. Number And Outcome Of Legal Actions	
(1)										
(2)										
(3)										

(4)									
(5)									

7b. Past Performance: Provide the following information for those completed Projects listed above in 7a for which the Prime Applicant has performed, or has entered into a contract to perform Owner's Project Management Services for all Public Agencies within the Commonwealth within the past 10 years.

a. Project Name And Location Project Director	b. Original Project Budget	c. Final Project Budget	d. If different, provide reason(s) for variance	e. Original Project Completion	e. Actual Project Completion On Time (Yes or No)	f. If different, provide reason(s) for variance.
(1)						
(2)						
(3)						

(4)						
(5)						

8. **Capacity:** Identify all current/ongoing Work by Prime Applicant, Joint-Venture Members or Sub-consultants. Identify project participants and highlight any work involving the project participants identified in the response.

Project Name And Location Project Director	b. Brief Description Of Project And Services (Include Reference To Areas Of Similar Experience)	c. Original Project Budget	d. Current Project Budget	d. Project Completion Date	e. Current forecast completion date On Time (Yes Or No)	f. Original Construction Contract Value	g. Number and dollar value of Change Orders	h. Number and dollar value of claims
1.								
2.								
3.								

4.								
5.								
6.								
7.								
8.								

9.	References: Provide the following information for completed and current Projects listed above in 7 and 8 for which the Prime Applicant has performed, or has entered into a contract to perform Owner's Project Management Services for all Public Agencies within the Commonwealth within the past 10 years.					
a.	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person

1)		5)		9)	
2)		6)		10)	
3)		7)		11)	
4)		8)		12)	

9. Use This Space To Provide Any Additional Information Or Description Of Resources Supporting The Qualifications Of Your Firm And That Of Your Sub-consultants. If Needed, Up To Three, Double-Sided 8 ½” X 11” Supplementary Sheets Will Be Accepted. **APPLICANTS ARE REQUIRED TO RESPOND SPECIFICALLY IN THIS SECTION TO THE AREAS OF EXPERIENCE REQUESTED.**

10. I hereby certify that the undersigned is an Authorized Signatory of Firm and is a Principal or Officer of Firm. The information contained in this application is true, accurate and sworn to by the undersigned under the pains and penalties of perjury.

Submitted By \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_  
(Signature) \_\_\_\_\_ And Title \_\_\_\_\_  
\_\_\_\_\_



APPENDIX D  
Required Certifications

*MCPPO Certifications*  
*OSHA 30 Certifications*  
*Truth in Negotiations Certificate*  
*Notice of Intent to Sign*  
*Signature Page*  
*Corporate Vote Page*  
*Conflict of Interest Certificate*  
*Certificate of Good Faith and Tax Compliance*

**Truth in Negotiations Certificate**

The OPM hereby certifies and agrees to the following:

- a) The OPM certifies that the wage rates and other costs, if any, used to support the OPM’s compensation are accurate, complete, and current at the time of contracting; and
- b) The OPM agrees that the Basic Fee, fees for Additional Services, and reimbursements for costs and expenses specified in this Contract as it may be modified from time to time may be adjusted within one year of completion of the Contract to exclude any significant amounts if the Owner determines that the fee was increased by such amounts due to inaccurate, incomplete, or noncurrent wage rates or other costs.

OPM: \_\_\_\_\_

By: \_\_\_\_\_  
duly authorized

Print Name: \_\_\_\_\_

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

**Notice of Intent to Sign**

To be considered for award of this Contract, it is required that all Bidders/Proposers agree to sign and execute the Town of Andover's Contract, which is included in this IFB/RFP. The terms of this Contract are non-negotiable and must be accepted without modification.

By signing below, the authorized official of the Bidder/Proposer acknowledges this requirement and agrees to accept the terms of the Town of Andover Contract and all related Exhibits, Supplements and Contract Documents included in the IFB/RFP without modification.

Failure to sign this Notice of Intent to Sign will result in disqualification from further consideration for award of this Contract.

\_\_\_\_\_  
(Print) Name of Authorized Individual

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print) Title of Authorized Individual

\_\_\_\_\_  
(Original Signature) Authorized Individual Signature

\_\_\_\_\_  
Legal Name of Firm

**SIGNATURES**

**(IF AN INDIVIDUAL)**

Date \_\_\_\_\_, 20\_\_\_\_

Signature of Bidder \_\_\_\_\_ (SEAL)  
(Owner and Proprietor)

Business Name D/B/A

Business Address

-----

-

**(IF A CO-PARTNERSHIP)**

Date \_\_\_\_\_, 20\_\_\_\_

Firm Name \_\_\_\_\_ (SEAL)

By \_\_\_\_\_ (SEAL)

Business Address

Names and Addresses

of all

Members of Firm

-----

**(IF A CORPORATION)**

Date \_\_\_\_\_, 20\_\_\_\_

Corporate Name

By \_\_\_\_\_  
President or Authorized Agent\*

Business Address

**\*Statement of authorization, duly signed by proper authority, to be attached hereto.**

**CORPORATE VOTE**

At a duly authorized meeting of the Board of Directors of \_\_\_\_\_  
\_\_\_\_\_ held on \_\_\_\_\_ at which all the Directors  
were present or waived notice, it was voted that \_\_\_\_\_,  
\_\_\_\_\_ of this company, be and he/she 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 or obligation in this company's name on its behalf by  
\_\_\_\_\_, shall be binding upon this company.

A TRUE COPY ATTEST:

\_\_\_\_\_  
Clerk,

Date of this Contract  
  
\_\_\_\_\_

I hereby certify that I am the Clerk of \_\_\_\_\_, that  
\_\_\_\_\_ is duly elected \_\_\_\_\_ 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.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Corporate Seal

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,

\_\_\_\_\_  
Notary Public

If a corporation, complete above or attach to each signed copy of the bid/written request/quotation, a  
notarized copy of vote of corporation authorizing the signatory to sign this bid/written request/quotation  
form. If attesting clerk is the same person as the individual executing this contract, have signature  
notarized above.

**CERTIFICATION REGARDING CONFLICT OF INTEREST**

The Respondent hereby certifies that it is in compliance with the provisions of General Laws Chapter 268A whenever applicable. The Respondent covenants that (1) he/she presently has no financial interest and shall not acquire any such interest direct or indirect; which would conflict in any manner or degree with the services required to be performed under the Contract with the Owner or which would violate M.G.L. Chapter 268A, as amended from time to time; (2) in the performance of the Contract with the Owner no person having such interest shall be employed by the Respondent; and (3) no partner or employee of the Respondent is related by blood or marriage to any officer, official, or employee of the Owner, unless approved by the State Ethics Commission.

\_\_\_\_\_  
Signature of Respondent

**CERTIFICATION OF GOOD FAITH & NON-COLLUSION**

The undersigned certifies under pains and penalties of perjury that this bid 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.

**CERTIFICATE OF STATE TAX COMPLIANCE**

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

\_\_\_\_\_  
Signature of authorized individual submitting bid/proposal

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Name of Business (if applicable)

\_\_\_\_\_  
Social Security or Federal Tax Identification Number

ATTACHMENT A  
**PAYMENT SCHEDULE**

Will be negotiated but will not exceed \$150,000.00