



INVITATION FOR BID IFB # 450/018/26

**Ground Maintenance and Landscaping Services for the Water and
Sewer Division**

November 5, 2025

Bids Due: December 5, 2025 @ 11:30 AM

Late Proposals Will Be Rejected

DELIVER COMPLETED SUBMISSIONS TO:

Town of Andover, MA
Central Purchasing Department
Attn: Theresa Peznola
36 Bartlet St. Andover, MA 01810
Phone: 978-623-8951
e-mail: theresa.peznola@andoverma.us

IFB # 450/018/26

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 One (1) copy of the bids must be submitted **on or before December 5, 2025 at 11:30 AM to:**

Terri Peznola, Purchasing Agent
Purchasing Department
Town Office Building
36 Bartlet Street
Andover, Massachusetts 01810

The envelope containing the Bid and required information must be sealed and marked with Proposer's name, title of proposal, IFB 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.



TOWN OF ANDOVER

Town Offices
36 Bartlet St.
Andover, MA 01810
978-623-8200
www.andoverma.gov

MASSACHUSETTS INVITATION TO BID

Sealed bids for furnishing the following will be received at the Office of Central Purchasing, Andover Town Offices, 36 Bartlet St., Andover, Massachusetts 01810 until the time specified below at which time the bids will be publicly opened and read. The time received will be stamped on each bid and for a consistency of time, the time stamp clock in the Purchasing Office will be the determining time.

ITEM

IFB No. 450/018/26
Ground Maintenance and Landscaping Services
for the Water and Sewer Division

BID OPENING

December 5, 2025
11:30 AM

Bid Documents and bid forms may be obtained on the Central Purchasing Department webpage located at www.andoverma.gov/bids.

There is no Security required on this bid.

No bidder may withdraw his bid for a period of thirty (30) days after the date set for the opening thereof.

The bidding and award of this contract will be under the provisions of M.G.L. Chapter 30B.

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 bids 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 – November 20, 2025
COMM Buys – November 20, 2025

GROUNDS MAINTENANCE AND LANDSCAPING SERVICES FOR THE WATER AND SEWER DIVISION

Duration: **January 1, 2026, through December 31, 2026**. This contract is renewable for up to two additional one (1) year extensions at the discretion of the Town.

PROJECT DESCRIPTION

The Town of Andover is seeking proposals from qualified firms to provide Grounds Maintenance and Landscaping Services for water and sewer sites within the Town of Andover. The Project includes furnishing all tools, equipment, services, apparatus, facilities, transportation, labor, encroachment permits, disposal, and materials necessary and reasonably incidental to perform the specified items of work of all landscaping in an attractive and healthy condition, in strict accordance with these Specifications.

There are a total of nine (9) sites, including pumping stations, storage tanks, and a decommissioned well site. The sites, including addresses and approximate vegetated areas, are as follows:

PROJECT SITES/LOCATIONS

Map ID	Facility Name	Address	Acres	Sq. Ft.
1	Water Treatment Plant	397 Lowell Street	4.37	190,239
2	Abbot Well	58 Andover Street	0.11	4,909
3	Fish Brook Pumping Station	80 Brundrett Ave	0.63	27,494
4	Bancroft Pumping Station & Reservoir	15 Bancroft Road	3.34	145,635
5	Wood Hill Water Storage Tanks	163R Haggetts Pond Rd	0.85	37,022
6	Prospect Hill Water Storage Tanks	68 Prospect Road	0.81	35,103
7	Shawsheen Sewer Pumping Station	56 York Street	0.05	2,175
8	Morningside Sewer Pumping Station	9 Morningside Road	0.07	3,215
9	Salem Street Sewer Pumping Station	86 Salem Street	0.03	1,194
			10.26	446,986

Some facility addresses are approximate. Visual depictions of each site, including approximate vegetated areas are included herein. These quantities and figures are provided for reference only; interested bidders are encouraged to visit the sites, most of which are publicly accessible. To gain access to specific sites, please email Brian Pena at brian.pena@andoverma.us. Reasonable accommodations will be made to allow all prospective bidders an opportunity to visit all sites.

GENERAL CONDITIONS

The Contractor shall complete all the work required under the contract documents. All employees must be at least eighteen (18) years of age and thoroughly trained and qualified in the work assigned to them. Employees must also be physically capable of the duties assigned to them, including lifting/moving heavy items, climbing ladders, etc. Only authorized employees of the Contractor may perform any services. In the event of the absence of an employee, for any reason, only an authorized employee of the Contractor may act as a substitute. The use of unauthorized personnel on the part of the Contractor may result in immediate cancellation without notice.

SUPERVISION

Work performed by employees within the scope shall be directly employed and supervised by the Contractor. The Contractor shall perform management and technical supervision required to complete the work according to the specifications provided by the Town. Employee(s) assigned to supervise the work shall be readily available, responsive to the Town's representative(s), and have the authority to make decisions related to the management of the activities performed by the Contractor's employees.

CONTRACTOR QUALIFICATIONS

The firm shall have been licensed as an operating business in the Commonwealth of Massachusetts.

The firm shall have successful experience (with satisfactory references) for maintenance of grounds similar in acreage, scope of services and/or contract dollar value.

The firm must own or lease sufficient equipment to complete the tasks as described in a timely and efficient manner. A listing of all equipment to be used in the completion of contract tasks must be provided with the bid proposal. If the firm does not own sufficient equipment to provide backup services in the case of equipment breakdown, plans for equipment access must be clearly stated on that submission.

The firm must designate an employee/representative who shall oversee and be responsible for the satisfactory completion of all work. Should this person be unsatisfactory or non-responsive in the determination of the Town of Andover's Department of Public Works Director he may request that another responsible party be designated, and this request will be granted. The credentials and performance of any designee must be satisfactory to the Director.

OTHER TERMS

This contract is subject to an annual operating budget appropriation by the Town. The contract will be awarded to the responsive and responsible bidder offering the lowest total price for all required services. For the purpose of calculating lowest total price, the Year 1 Grand Total will be used.

SCOPE OF WORK – GENERAL

The below Scope of Work shall apply to all sites. Site-specific provisions are further detailed in the Scope of Work – Site-Specific Provisions section. The cost for complying with site-specific provisions shall be included in the unit prices for Bid Items 1 through 3.

Ground maintenance and landscaping operations shall be scheduled Monday through Friday. Initial schedule must be submitted to the Town prior to commencing work. Any changes must be approved by the Town prior to implementation.

Item 1: Spring Cleanup and WTP Mulching

Spring Cleanup

During the month of April and prior to the first mowing, all areas are to be cleared of all debris (twigs, branches, litter, sand, etc.) and thoroughly raked free of all leaves and dead grass. A sweeper shall be used for thorough cleanup of debris on lawn.

WTP Mulching

Mulch shall be removed and replaced once per year, as specified herein. All areas to receive mulch shall be free of weeds and litter.

A minimum three (3) inch layer of approved mulch shall be maintained in all shrubs, and groundcover areas, as specified herein. Mulch shall be placed in such a manner as to present a neat appearance, cover all bare soil, and do not cover plant material or the bases of trees or shrubs.

Mulching operation shall be accomplished in a timely manner, so that all material is removed, and stock-pile site is left clean and level, all to the satisfaction of the Town.

Item 2: Routine Services

The following services are to be provided on a routine basis, beginning on or around May 1st, and ending on or around October 31st, each year.

Mowing

Mowing frequency shall be as outlined in the schedule below, unless otherwise directed by the Town.

Mowing operations shall be scheduled at times of low public use. Failure to provide mowing per the approved schedule shall result in a performance deduction unless adverse weather impedes normal maintenance.

Mowing operations shall be performed in a workmanlike manner that ensures a smooth surface appearance without scalping or allowing excessive cuttings to remain.

Care shall be exercised during the mowing operation to prevent damage to trees and other obstacles located within the turf areas such as manhole covers, valve boxes, electrical boxes, lampposts, or fixtures. Do not mow areas that are wet. Alternate mowing patterns whenever possible to prevent wheel ruts. If ruts are made, or damages incurred, Contractor will immediately schedule repairs at its expense.

Turf shall be mowed with a mower appropriate to the turf type and area being mowed. Equipment shall be properly maintained, clean, adjusted, and sharpened. All mowing equipment shall be thoroughly washed following each mowing operation and prior to being transported to any other site.

Mow to the heights directed by the Town.

All mowing missed due to inclement weather or ground conditions from such weather shall be rescheduled and completed within three working days. If adverse weather or ground conditions persist, the Town may change schedule.

Missed mowings that are not rescheduled shall be deducted at the contracted unit price.

All trash and paper products shall be removed before mowing begins and will not be run over by mowing equipment. All grass, leaves, and other debris shall be removed and disposed of in a lawful manner, at the completion of mowing.

All portable obstructions, such as picnic tables and trash containers shall be moved, if required, to mow all portions of turf.

Walkways, roadways, trails, or other areas dirtied by mowing operations shall be cleaned immediately following each mowing and all debris disposed of off-site prior to the completion of that day's mowing operations or the end of the day, whichever occurs first.

Trimming/Edging

All grass and ground cover borders shall be neatly and uniformly edged or trimmed on the same schedule as the mowing operations, unless otherwise specified. All edging is to be completed with a fixed blade edger. No chemical weed killer will be permitted to edge or trim. All grass invasions into adjacent areas shall be eliminated.

Trimming/edging shall be performed along fences, guard rails, trees, signposts, hydrants, buildings etc.

Mechanical methods shall be used except where physically impossible or impractical.

All groundcover and flower bed areas shall be kept neatly edged and free of grass invasion.

Walkways, roadways, trails, or other areas dirtied by trimming/edging operations shall be cleaned immediately following each mechanical edging and all debris disposed of off-site prior to the completion of that day's edging operations or by the end of the day, whichever occurs first.

Weed Control

All areas shall receive diligent control of weeds by mechanical removal (trimming) where mowing is not possible.

All ground cover beds, shrub beds, planters, walkways, asphalt, sidewalk expansion joints, cracks in paved areas, curbs, areas covered with ornamental rock, and other landscaped and hardscaped areas shall be always maintained weed and grass free. Manual pulling of weeds may be needed. Chemical treatment of weeds is not permitted unless express written authorization is received from the Town.

Routine Services Schedule

Site	Schedule	Avg. Number of Services per Season
Water Treatment Plant	Four (4) times per month between May 1 and October 31.	24
Abbot Well	Two (4) times per month between May 1 and October 31.	24
Fish Brook Pumping Station	Two (4) times per month between May 1 and October 31.	24
Bancroft Pumping Station and Reservoir	Two (4) times per month between May 1 and October 31.	24
Wood Hill Water Storage Tanks	Two (2) times per month between May 1 and October 31.	12
Prospect Hill Water Storage Tanks	Two (2) times per month between May 1 and October 31.	12
Shawsheen Sewer Pumping Station	Two (2) times per month between May 1 and October 31.	12
Morningside Sewer Pumping Station	Two (4) times per month between May 1 and October 31.	24
Salem Street Sewer Pumping Station	Two (4) times per month between May 1 and October 31.	24

Average Number of Services per Season are based on calendar year beginning January 1 and ending on December 31.

Item 3: Fall Cleanup and WTP Shrub Pruning

During the latter part of November and after the last mowing, all sites are to be cleared of all debris (twigs, branches, litter, sand, etc.) and thoroughly raked free of all leaves and dead grass. A sweeper shall be used for thorough cleanup of debris on lawn.

WTP Shrub Pruning

Prune shrubs to encourage healthy growth habits, natural form, and proportion. Restrict growth of shrubbery to area behind curbs and within planter beds by pruning. All shrubs and hedges shall be pruned in such a manner that they present a pleasing and natural appearance and do not obstruct the vision from building windows or the vision of vehicle drivers. All shrubs, hedges, and ground vegetation shall be maintained so the vegetation does not overgrow its designated growth perimeter.

Formally sheared shrub hedges shall be continually maintained in their formal design by shearing and trimming. These shall be specifically designated by the Town and shall not infer that any other shrub shall be sheared or trimmed.

Shrubs designed to be grown full size shall not be sheared or trimmed. Selective pruning may be necessary to remove dead, diseased, or intertwining material. Exact shrubs to be pruned shall be coordinated with the Town.

Material Disposal

Inorganic debris and litter shall be disposed of in the Town's dumpster located at the Water Treatment Plant. Disposal of debris from other customers is prohibited at this site. Disposal of organic material shall be provided by Contractor. Organic material shall be removed and disposed of in a lawful manner, at the completion of all services herein.

Documentation and Invoicing

Contractor shall complete and submit a log of all services rendered, by date and location. These logs shall be submitted to the Town as backup to their respective invoices. Invoices shall be submitted on a monthly basis, for the period covering the previous month.

Additional Services

On occasion, the Town may need additional landscaping services not included in this Invitation for Bid. Contractors are requested to provide a labor rate (per hour, per person) for all additional landscaping work not included in their bid. Hourly rates shall be inclusive of standard vehicles, equipment, fuel, and tools covered under this IFB.

SCOPE OF WORK – SITE-SPECIFIC PROVISIONS

Site	Specific Provisions
Water Treatment Plant	Mulch replacement in spring; shrub pruning in fall. Trimming along driveway, at least 3 feet past guardrail to avoid encroachment. Trimming along perimeter/tree line shall be maintained to avoid encroachment. Brush attachment shall be used for areas of thicker growth, such as rear parking area. Vines on retaining walls and along both sides of fence line shall be removed and trimming operation shall ensure that growth does not re-occur.
Abbot Well	
Fish Brook Pumping Station	Vines on building and along both sides of fence line shall be removed and trimming operation shall ensure that growth does not re-occur.
Bancroft Pumping Station and Reservoir	Embankments shall be mowed and/or trimmed in their entirety, to avoid unwanted growth from encroaching on water tank. Flat areas shall be mowed and/or trimmed as close to property line as possible.
Wood Hill Water Storage Tanks	Vines along fence line shall be removed and trimming operation shall ensure that growth does not re-occur.
Prospect Hill Water Storage Tanks	This site has limited turf areas. Contractor may forgo mowing and maintain this site through trimming/edging operations, as described herein. Area inside fence surrounding steel tank to be trimmed. Fenceline shall be trimmed.
Shawsheen Sewer Pumping Station	This site has limited turf areas. Contractor may forgo mowing and maintain this site through trimming/edging operations, as described herein. Trimming behind building, including around electrical transformer to maintain access. Trimming/weeding around sidewalk/curbing, graveled areas, to maintain neat appearance.
Morningside Sewer Pumping Station	
Salem Street Sewer Pumping Station	

BID ITEMS PRICE SHEET

Bid quantities are estimates based on a contract duration of January 1, 2026, through December 31, 2026, and may be subject to change based on actual contract duration. In the event of a discrepancy between the bid quantities and the actual quantity of services performed, the Extended Price shall be prorated accordingly.

For the purposes of calculating subsequent year pricing, subsequent year price escalations, expressed as a percent increase over the base price, will be applied evenly across all bid items.

Item 1 - Spring Cleanup and WTP Mulching (April, each year)

Site	QTY.	UOM	Unit Price	Extended Price
Water Treatment Plant	1	ea.	\$	\$
Water Treatment Plant - Mulching	1	ea.	\$	\$
Abbot Well	1	ea.	\$	\$
Fish Brook Pumping Station	1	ea.	\$	\$
Bancroft Pumping Station and Reservoir	1	ea.	\$	\$
Wood Hill Water Storage Tanks	1	ea.	\$	\$
Prospect Hill Water Storage Tanks	1	ea.	\$	\$
Shawsheen Sewer Pumping Station	1	ea.	\$	\$
Morningside Sewer Pumping Station	1	ea.	\$	\$
Salem Street Sewer Pumping Station	1	ea.	\$	\$
Item 1 – Spring Cleanup			Subtotal	\$

Item 2 – Routine Services (July 1, through June 30, each year)

Site	QTY.	UOM	Unit Price	Extended Price
Water Treatment Plant	24	ea.	\$	\$
Abbot Well	24	ea.	\$	\$
Fish Brook Pumping Station	24	ea.	\$	\$
Bancroft Pumping Station and Reservoir	24	ea.	\$	\$
Wood Hill Water Storage Tanks	12	ea.	\$	\$
Prospect Hill Water Storage Tanks	12	ea.	\$	\$
Shawsheen Sewer Pumping Station	12	ea.	\$	\$
Morningside Sewer Pumping Station	24	ea.	\$	\$
Salem Street Sewer Pumping Station	24	ea.	\$	\$
Item 2 – Routine Services			Subtotal	\$

Item 3 - Fall Cleanup (November, each year)

Site	QTY.	UOM	Unit Price	Extended Price
Water Treatment Plant	1	ea.	\$	\$
Water Treatment Plant – Shrub Pruning	1	ea.	\$	\$
Abbot Well	1	ea.	\$	\$
Fish Brook Pumping Station	1	ea.	\$	\$
Bancroft Pumping Station and Reservoir	1	ea.	\$	\$
Wood Hill Water Storage Tanks	1	ea.	\$	\$
Prospect Hill Water Storage Tanks	1	ea.	\$	\$
Shawsheen Sewer Pumping Station	1	ea.	\$	\$
Morningside Sewer Pumping Station	1	ea.	\$	\$
Salem Street Sewer Pumping Station	1	ea.	\$	\$
Item 3 – Fall Cleanup			Subtotal	\$

YEAR 1 GRAND TOTAL (Sum of Items 1, 2, 3 Subtotals)	\$
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Year 2 Price Escalation (as a percentage increase): _____%

Year 3 Price Escalation (as a percentage increase): _____%

Hourly rate for additional landscaping services not included in bid \$ _____ per hour

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.

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.

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

Town of ANDOVER

Contract

(GOODS / SERVICES)

DATE: _____

This Contract is entered into on, or as of, this date by and between the Town of Andover (the “Town”), and

1. This is a Contract for the procurement of the following:
2. The Contract price to be paid to the Contractor by the Town of Andover is:
3. Payment will be made as follows: Within thirty (30) days upon receipt of a detailed invoice.
4. Definitions
 - 4.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town of Andover. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to ensure that the goods or services are complete and are as specified in the Contract.
 - 4.2 Contract Documents: All documents relative to the Contract including (where used) Invitation to Bid, Request for Proposals, Instructions to Bidders/Proposers, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, and all Addenda issued during the bidding period or proposal. The Contract documents are complementary, and what is called for by anyone shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment, and transportation necessary for the proper performance of the Contract.
 - 4.3 The Contractor: The “other party” to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the Contract. Use of the term “Contractor” shall be understood to refer to any other such label used. The Contractor’s relationship to the Town is that of an independent contractor and not that of an agent or employee of the Town. There is no relationship of employment or agency between the Town and the Contractor and neither party shall have or exercise any control or direction over the method by which the other performs its work or functions aside from such control or directions as provided in this Contract which the parties view as consistent with their independent contractor relationships.
 - 4.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
 - 4.5 Goods: Goods, Supplies or Materials.
 - 4.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work but does not include one who merely furnishes material not so worked.
 - 4.7 Work: The services or materials contracted for, or both.

5. Term of Contract and Time for Performance

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before xxxxxxxxxx, unless extended pursuant to a provision for extension contained in the Contract documents at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. The time limits stated in the Contract documents are of the essence of the Contract.

6. Subject to Appropriation

Notwithstanding anything in the Contract documents to the contrary, all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. The Town may immediately terminate or suspend this Agreement without liability on the part of the Town for damages, penalties, or other charges in the event the appropriation(s) funding this Agreement is terminated or reduced to an amount which will be insufficient to support anticipated future obligations under this Agreement.

7. Permits and Approvals

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

8. Termination and Default

8.1 Without Cause. The Town may terminate this Contract at its sole discretion on seven (7) calendar days' notice when in the best interests of the Town by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

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

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

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

9. The Contractor's Breach and the Town's Remedies

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Andover shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including damages and specific performance, and the right to select among the remedies available to it by all of the above.

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

10. Statutory Compliance

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

M.G.L. Chapter 30B – Procurement of Goods and Services.

M.G.L. Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

M.G.L. Chapter 149, Section 44A, *et seq.* Public Buildings Contracts.

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

10.3 The Contractor shall give all notices and comply with all laws and regulations bearing on the performance of the Contract. If the Contractor performs the Contract in violation of any applicable law or regulation, the Contractor shall bear all costs arising therefrom.

10.4 The Contractor shall keep itself fully informed of all existing and future State and National Laws and Municipal By-laws and Regulations and of all orders and decrees of any bodies or tribunals having jurisdiction in any manner affecting those engaged or employed in the work, of the materials used in the work or in any way affecting the conduct of the work. If any discrepancy or inconsistency is discovered in the Drawings, Specifications, Scope of Business or Contract for this work in violation of any such law, by-law, regulation, order, or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town of Andover, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

11. Conflict of Interest

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

12. Certification of Tax Compliance

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

13. Affirmative Action: Non-Discrimination

The Contractor will conduct the obligations of this Contract in full compliance with all the requirements imposed by or pursuant to General Laws Chapter 151B (Law Against Discrimination) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended.

The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law.

14. Condition of Enforceability Against the Town

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

15. Corporate Contractor

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

16. Liability of Public Officials

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

17. Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and save harmless the Town, its officers, attorneys, agents and employees from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses costs, expenses, recoveries and judgments of every nature and description (including reasonable attorneys' fees) brought or recovered against them that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective or unsuitable material or equipment regardless of whether or not it is caused in part by any party indemnified hereunder. The existence of insurance shall in no way limit the scope of the Contractor's indemnification under this Contract.

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

The duty to defend, indemnify and hold harmless shall immediately accrue and be owing upon the utterance of such a claim by any person or entity regardless of merit and shall not be dependent upon a finding of negligence or any other finding of fact at trial. The duty to defend shall be absolute and shall not be defeated or in any way undermined by the utterance of claims not covered by this Contract.

The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses, and expenses resulting from exposure to any casualty liability in the performance of the

Work.

18. Workers Compensation Insurance

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

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

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

18.1 The Contractor further understands and agrees that in rendering services to the town under this Contract that the Contractor is an independent contractor and not an employee of the Town, that the Contractor is not covered by the Town's Workers' Compensation, or liability insurance, that the Contractor shall not make any claim against the Town, its officers, agents and employees and that the Contractor indemnifies, holds harmless, and releases the Town from any claims of the Contractor or of any other party that may arise in whole or in part out of or in connection with the work being performed by the Contractor.

19. Documents, Materials, Etc.

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

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

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town. The Contractor shall always, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

20. Confidentiality

The Contractor shall comply with M.G.L. Ch. 66A if the Contractor becomes a “holder” of “personal data”. The Contractor shall also protect the physical security and restrict any access to personal or other Town data in the Contractor’s possession, or used by the Contractor in the performance of this Contract, which shall include, but is not limited to the Town’s public records, documents, files, software, equipment or systems.

21. Record-Keeping and Retention, Inspection of Records

The Contractor shall maintain records, books, files and other data as specified in this Contract and in such detail as shall properly substantiate claims for payment under this Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under this Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. The Town shall have access during the Contractor’s regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

22. Assignment

The Contractor shall not assign or delegate, in whole or in part or otherwise transfer any liability, responsibility, obligation, duty or interest under this Contract without the written approval of the Town.

23. Subcontracting By Contractor

Any subcontract entered by the Contractor for the purposes of fulfilling the obligations under this Contract must be in writing, authorized in advance by the Town and shall be consistent with and subject to the provisions of this Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility, or liability arising under this Contract. The Town is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

24. Risk of Loss

The Contractor shall bear the risk of loss for any Contractor materials used for this Contract and for all deliveries, Town personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of this Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Town.

25. Minimum Wage/Prevailing Wage

The Contractor will conduct the obligations of this Contract in full compliance with all the requirements imposed by or pursuant to General Laws Chapter 151, §1, *et seq.* (Minimum Wage Law) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended. The Contractor will always comply with the wage rates as determined by the Commissioner of the Department of Labor and Industries, under the provisions of General Laws Chapter 149, 26 to 27D (Prevailing Wage Law), as shall be in force and as amended. The Contractor will, in addition to any other submissions required by the Prevailing Wage Law, submit certified weekly payrolls to the Town with the information described in General Laws Chapter 149, §27B.

26. Audit, Inspection and Recordkeeping

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

27. Payment

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

28. Waiver and Amendment

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

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

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

29. Forum and Choice of Law

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

30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth in the Contract and to the Town of Andover by being sent to the Town Manager, Town Hall, 36 Bartlet Street, Andover, Massachusetts 01810.

31. Binding on Successors

This Contract shall be binding upon the Contractor, its assigns, transferees, and/or successors in interest (and where not corporate, the heirs and estate of the Contractor).

32. Complete Contract

This instrument, together with its endorsed supplements, and the other components of the contract documents, constitutes the entire contract between the parties, with no agreements other than those incorporated herein.

33. Contractor Certifications

33.1 By signing this contract, the Contractor certifies under the penalties of perjury that pursuant to General Laws Chapter 62C sec. 49A, the Contractor has filed all state tax returns, paid all taxes and complied with all laws of the Commonwealth relating to taxes; and that pursuant to General Laws Chapter 151A, sec. 19A, the Contractor has complied with all laws of the Commonwealth relating to contributions and payments in lieu of contributions.

33.2 By signing this contract, the Contractor certifies under the penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As such in this

certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, client or other organization, entity, or group of individuals.

33.3 Qualifications. The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract, that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability, and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the Secretary of State’s website as licensed to do business in Massachusetts, as required by law.

33.4 Business Ethics and Fraud, Waste and Abuse Prevention. The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

33.5 Debarment. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulations including, Executive Order 147, M.G.L. Ch. 29, §29F, M.G.L. Ch. 30, §39R, M.G.L. Ch. 149, §27C, M.G.L. Ch. 149, §44C, M.G.L. Ch. 149, §148B and M.G.L. Ch. 152, §25C.

34. Additional Provisions:

34.1 Applicable to Contracts for the Procurement of Goods

34.1.1 “Goods” shall mean Goods, Supplies, or Materials, as described in the Contract.

34.1.2 Change Orders:

Change orders may not increase the quantity of services by more than twenty-five (25.0%) percent, in compliance with Massachusetts General Laws Chapter 30B, §13.

This Contract for purchase includes the following delivery, installation, or setup requirements:

34.2 Applicable to Contracts for Services

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

34.2.2 Change Orders:

Change orders for contracts subject to Massachusetts General laws Chapter 30B may not increase the total contract price by more than twenty-five (25%) per cent and shall be, in compliance with General Laws Chapter 30B, §13.

34.2.3 Minimum Wage/Prevailing Wage:

The Contractor will conduct the obligations of this Contract in full compliance with all the requirements imposed by or pursuant to General Laws Chapter 151, §1, *et seq.* (Minimum Wage Law) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended. The Contractor will always comply with the wage rates as determined by the Commissioner of the Department of Labor and Industries, under the provisions of General Laws Chapter 149, 26 to 27D (Prevailing Wage Law), as shall be in force and as amended. The Contractor will, in addition to any other submissions required by the Prevailing Wage Law, submit certified weekly payrolls to the Town with the information described in General Laws Chapter 149, §27B.

34.2.4 Insurance:

The Contractor shall obtain and maintain the following insurance:

34.2.4.1 Workers Compensation Insurance of the scope and amount required by the laws of the Commonwealth of Massachusetts.

34.2.4.2 Broad Form Commercial General Liability coverage with limits of at least \$1 Million per occurrence and \$2 Million aggregate, and which shall cover bodily injury, death, or property damage arising out of the work.

34.2.4.3 Automobile Liability Coverage, including coverage for owned, hired, or borrowed vehicles with limits of at least \$1 Million per person, or \$1 Million combined single limit.

34.2.4.4 The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability. acceptable under the Contract. However, it shall be the Contractor’s responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses, and expenses resulting from exposure to any casualty liability in the performance of the

work.

- 34.2.4.5 All required insurance shall be certified by a duly authorized representative of the insurers on the Certificate of Insurance form incorporated into and made a part of this agreement. Properly executed certificates and endorsements acceptable to the Town signifying adequate coverage in effect in accordance with the requirements of this Contract for the duration of the contract must be submitted to the Town prior to execution of this Contract by the Town, with renewal certificates and endorsements issued not less than 30 days prior to expiration of a policy period. The Contractor shall submit copies of all policies to the Town within 7 days of such a request. The Massachusetts Commissioner of Insurance shall authorize all insurance carriers to do business in the Commonwealth of Massachusetts.
- 34.2.4.6 The Town and its employees and officials shall be named as an additional insured on the above referenced liability policies, except for Workers Compensation, and the Contractor's insurance shall be primary and non-contributory with respect to any other coverage available to additional insureds. The cost of such insurance, including required endorsements or amendments, shall be the sole responsibility of the Contractor.
- Contractual liability must recognize the indemnities contained in this Agreement.
- 34.2.4.7 Coverages are to be maintained for a period of 3 years after final payment.
- 34.2.4.8 The Contractor shall maintain all required insurance in full force and effect as required by this Contract or the Contractor shall be in material breach hereof.
- 34.2.4.9 The above referenced liability policies shall include a Waiver of Subrogation in favor of the Town.

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands the day and year first above written.

THE TOWN

THE CONTRACTOR

Purchasing Agent Date

Company Name

Division/Department Head Date
Contract Manager

Signature Date

Town Manager Date

Print Name & Title

Federal Identification No:

APPROVED AS TO FORM:

Town Counsel Date

CERTIFICATION AS TO AVAILABILITY OF FUNDS:

Town Accountant Date