

**Town of Lincoln
Request for Qualifications
for**

Designer Services for Town Offices Building Feasibility Project

The Town of Lincoln, Massachusetts, invites qualified applicants to submit proposals to provide Designer Services for a Town Offices Building Feasibility project – with potential of contract extension through construction. All applicants must submit in conformance with the Request for Qualifications documents which are available in the Town Administrator's Office at 16 Lincoln Road, Lincoln MA Mon – Thurs 8am to 4pm. This RFQ shall be governed by the designer selection law, M.G.L. c. 7, §§38A½-O. Proposals shall be received by 2:00 PM on Thurs. July 22, 2010 at this same address. AA/EOE. An on-site briefing will take place on July 12, 2010 at 10:00 AM at the Town Offices.



TOWN OF LINCOLN
Town Offices Feasibility Project
Designer Selection

I. INTRODUCTION

The Town of Lincoln is currently undergoing an open qualifications-based selection process to select an architectural firm experienced in conducting feasibility studies of municipal town office buildings, including programming, preparation of the conceptual and schematic designs and presentation materials needed to assist the town in obtaining town approval of allocation of full design and construction funds for the building rehabilitation project. The Town has chosen the firm of Bargmann, Hendrie + Archetype, Inc. (BH+A), of Boston, MA, to act as the OPM during this feasibility phase and the design and construction phases should the town allocate the funding for those phases of the project.

II. PROJECT BACKGROUND

In 2006, the Town of Lincoln (Town) hired the firm of McGinley, Kalsow and Associates (MK&A) to conduct a building needs analysis of eight (8) Town-owned buildings, one of which was the Town Offices building. The buildings were assessed for structural condition (inside and out, including assessment of roof, windows, doors, etc.), federal, state and local code compliance, accessibility, HVAC and utility systems, as well as reviewing all documentation of work previously performed on the buildings, understanding known deficiencies, completing on-site surveys, and conducting any necessary tests to assess structural integrity. MK&A prepared a report summarizing the basic status of each structure and identified issues, which required repair or maintenance – including a current day estimated cost, and some recommendation for the timing of said work.

In 2007, the Town hired the firm of The Offices of Michael Rosenfeld (OMR) to conduct a peer review of the MK&A report and to conduct a more in-depth study of the Town Offices building needs, develop an initial programmatic needs study, as well as provide a set of conceptual plans for space use with associated project cost estimates to be considered should a building rehabilitation project move forward. Both reports are available on the town web site for review at <http://www.lincolntown.org/depts/TownOfficeStudyComm.htm>. (While MK&A and OMR may submit proposals for this project, full and open consideration will be given to all qualified applicants and no decision has been made by the Town to engage or not engage MK&A or OMR). In addition to the work conducted by these firms, the Town is in the process of completing a detailed programmatic needs study to be provided to the designer. The Town is also undertaking completion of the site survey, geotechnical survey, and hazardous materials survey with the assistance of the OPM.

At this time, the Town wishes to complete any remaining studies, planning, design and cost analysis to fully describe the Town Offices Building Project in anticipation of March 2011 Annual Town Meeting. The intent of the resulting report is to inform the Town as to the recommended scope of work for the

Town Offices rehabilitation, and to educate the voters as to the amount of funds needed for design, bidding and construction of the project.

III. PROJECT DESCRIPTION

The project consists of assisting the Town with the following: a) peer review of two past building needs studies, b) review of updated programmatic needs study created by the Town, c) development of building renovation options, conceptual and schematic plans and cost estimates and d) preparation of presentation materials (and presentation thereof) that fully describe the project to the Town. Project may include possible expansion of the building footprint. If the Town allocated funds for full design of the project, and if the Town were pleased with the work of the designer to-date, the Town would reserve the right to extend the designer contract through the final design and bidding phases. Similarly, if funds were allocated for construction, the Town would reserve the right to extend the designer contract through the construction phase. The phases of the Project are more fully described below:

- Peer Review Existing Studies – Review, study and understand MK&A and OMR reports and make recommendations to the Town as to the acceptability of various recommendations and conclusions contained therein and make additional recommendations regarding the Town Offices as may be appropriate;
 - Deliver to the Town a Peer Review Report detailing the peer review analysis and conclusions;
- Programming – Review, study and understand existing programming information associated with Town Offices, its users and its intended uses and make recommendations to Town as to the acceptability of such information or recommendations for its modification;
 - Deliver to the Town a Final Program for the Town Offices incorporating all existing information as well as recommended and accepted modifications;
- Conceptual and Schematic Design – Verify existing conditions (including the designation of necessary and appropriate selective demolition, but not the cost or repair thereof), and prepare necessary plans and specifications to fully describe the scope of work required to renovate (and, possibly add on to) Town Offices to meet the agreed-upon Program including, without limitation, site improvements (including parking); building improvements; furniture, fixtures and equipment; and information technology;
 - Study necessary alternate solutions to meet Program requirements and make recommendations to Town regarding same, including architectural, site/civil, structural and MEP/FP disciplines;
 - Project design should meet the minimum requirements of LEED Silver certification;
 - Project design should conform to the requirements of the Lincoln Center Historic District and be historically sympathetic to the design of the existing 1908 building, including necessary consultation with Lincoln Historical Commission.
- The following elements of the Project will be performed by independent contractors to the Town
 - Owner’s Project Management;
 - Hazardous materials identification and abatement;
 - Selective demolition and repair associated with verification of existing conditions (scope to be determined by Designer)

- Design and construction of septic system (although Designer will verify the adequacy of such system(s));
 - Geotechnical site evaluation;
 - Site survey;
- Construction Cost Analysis – Prepare a detailed cost estimate with quantity take-off and unit pricing for all elements of the project for its construction;
 - Cost analysis should take into consideration the prevailing wage requirements of M.G.L. Chapter 149;
 - Cost analysis should take into consideration the filed sub-bid requirements of M.G.L. Chapter 149;
 - Cost analysis must be reconciled with independent cost estimate prepared by others on behalf of Town;
- Presentation Materials – Prepare necessary presentation materials fully describing the Project, including illustrated site plan(s), illustrated floor plans, exterior elevations, interior elevations, materials boards and project renderings of the front and rear of the building:
 - Presentation materials should be delivered in MS PowerPoint format (or similar presentation software) as well as mounted on appropriately sized presentation boards;
 - Without limitation, Project should be presented to:
 - Town Offices Study Committee
 - Board of Selectmen
 - Finance Committee
 - Community (including brief presentation of conceptual and schematic plans and existing cost estimates at the State of the Town meeting in late October); and
 - Town Meeting

IV. PROPOSED PROJECT SCHEDULE

June 30, 2010	First Advertisement of RFQ in Central Register
July 7, 2010	Revised Advertisement in Central Register
July 8, 2010	Advertisement of RFQ in local newspaper
July 12, 2010	On-site project briefing at 10:00 AM
July 15, 2010	Request for clarifications due 12:00 PM
July 22, 2010	Proposals due no later than 2:00 PM.
July 26, 2010	Selection Committee review and rank of proposals
July 28, 2010	Interview of short-listed applicants / Select designer
August 2, 2010	Selectmen award contract
August 5, 2010	Consultant begins work
September 7, 2010	Meet with designer to review scope and conceptual plan options
October 8, 2010	Draft conceptual and schematic plans presented
October 30, 2010	State of the Town presentation
March 2011	Annual Town Meeting

V. MINIMUM QUALIFICATIONS

The successful proposer must possess the following minimum qualifications:

- 1) Compliance with the submittal requirements (Section VII);
- 2) A minimum of five (5) references shall be provided from similar projects involving the development of feasibility studies for historic municipal office buildings in Massachusetts cities or towns (preference will be given to experience after 2004);
- 3) Team members shall hold Massachusetts registrations and licenses in all applicable disciplines required to provide the services as described above;
- 4) Staff acting as members of the project team must have each actively participated in the similar projects in the past;
- 5) Public Sector Knowledge - The project team shall have demonstrated experience of at least five (5) years in the evaluation of public building in Massachusetts, including review of all applicable requirements of the Massachusetts Building Code, the Architectural Access Board, and all other applicable codes and regulatory requirements; and
- 6) At least one member of the project team in each design discipline (architectural, site/civil, structural and MEP/FP) must be a LEED Accredited Professional.
- 7) Carry the following minimum insurances through a company licensed by the Commonwealth of Massachusetts:
 - **General Liability** of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit.
 - **Automobile Liability** (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident.
 - **Workers' Compensation Insurance** as required by law.
 - **Professional Errors and Omissions** coverage for architects of at least \$1,000,000 per occurrence/\$3,000,000 aggregate
 - **Umbrella Liability** of at least \$2,000,000 per occurrence

VI. EVALUATION CRITERIA

The Awarding Authority will make further review of all Applications found to be responsive and check such references as may be appropriate. This further review will be based upon the following comparative criteria:

- 1) Experience managing similar public renovation/addition projects involving historically significant public buildings in Massachusetts
- 2) Proposed approach to the Project which will minimize the Project Management costs while ensuring high quality standards and maximize efficiency
- 3) References from similar Massachusetts municipal projects
- 4) Reliability in cost estimating for public sector construction projects including the estimate to low bid price and bid price to final construction cost

- 5) Ability to work with multiple and varied Town committees, officers, architects and contractors
- 6) Depth and breadth of experience and qualifications for personnel to be assigned to the Project
- 7) Identity and qualifications of any engineers or other consultants whom the applicant proposes to employ to assist in the Project
- 8) Demonstrated capacity of the applicant in terms of staffing and resources to handle the proposed project schedule and deadlines
- 9) Financial stability of applicant

The Town may request that one or more applicants provide additional information during the process to permit it to complete the evaluation process. Based upon the minimum and comparative criteria contained in this RFQ, the Town will select and interview no fewer than three top-ranked finalists. The Town will rank the finalists and make a recommendation to the Town Administrator for award of the contract. If the Town is unable to negotiate a contract with the top-ranked finalist, the Town will then commence negotiations with the next ranked finalist and so on, until a contract is successfully negotiated, and approved by the Town.

VII. SUBMISSION REQUIREMENTS

Each submission must contain the following elements:

- a. Cover letter summarizing the salient experiences of the proposer, signed by the principal team member;
- b. Fully Completed Designer Selection Board form;
- c. A maximum two-page narrative describing the proposed project approach and timeline to be taken by the firm with estimated completion dates of key tasks;
- d. Financial records for the past two fiscal years; and
- e. Fully completed forms as follows:
 - i. Signature Authorization,
 - ii. Tax Compliance Certification, and
 - iii. Non Collusion Certification

Each submission must include **one original, ten (10) hard copies, and one electronic copy (in PDF format on CD) of the Proposal**. Proposal may not exceed 24 single-sided pages (or 12 double-sided pages) including cover letter and DSB form, but not including financial records and completed authorization forms.

Proposals must be submitted to Anita Scheipers, Asst. Town Administrator, Town of Lincoln, Town Offices, 16 Lincoln Rd, Lincoln, MA 01773 no later than 2:00 PM. on Thursday, July 22, 2010. Submittals must be marked as 'TOWN OF LINCOLN – 2010 TOWN OFFICES FEASIBILITY PROJECT'. Note: Town Offices summer hours are Mon – Thurs, 7am through 5pm.

VIII. MISC. PROVISIONS

- 1) The Town of Lincoln reserves the right to cancel this procurement of services process at any time, to waive informalities, or to reject any and all bids if it is determined to be in the best interest of the Town.
- 2) All submittals and response to submittals shall be at no cost to the Town of Lincoln.
- 3) The Town of Lincoln retains the rights to all documents prepared in the process of this project.
- 4) A not-to-exceed budget of \$135,000 has been established for this project, which includes the existing OPM contract, any necessary testing or surveys, and the designer contract for this feasibility study phase.
- 5) The Town has set a fixed fee of \$55,000 for this contract, which fee includes all reimbursable expenses except the reasonable cost of printing presentation materials.
- 6) Any request for clarifications to this RFQ must be submitted in writing to Anita Scheipers, Asst. Town Administrator, Town of Lincoln, Town Offices, 16 Lincoln Rd, Lincoln, MA 01773; or faxed to 781-258-1677; or e-mailed to scheipersa@lincolntown.org prior to Noon on July 15, 2010.
- 7) A sample contract is attached. The Town will negotiate the final contract language with the chosen designer.

AUTHORIZATION OF SIGNATURE

COMPANY: _____

ADDRESS: _____

CITY and STATE: _____

TELEPHONE NO.: () _____

AUTHORIZED PARTY FOR PROPOSER MUST SIGN THE FOLLOWING IN INK:

BY: _____
(Signature)

PLEASE PRINT NAME AND TITLE OF SIGNER BELOW:

NAME: _____

TITLE: _____

NAME, SIGNATURE AND COMPANY MUST BE THE SAME ON EACH OF THE FOLLOWING PAGES OF THE PROPSAL AS THEY APPEAR ABOVE.

INDICATE WHICH TYPE OF ORGANIZATION BELOW:

INDIVIDUAL _____ PARTNERSHIP _____ CORPORATION _____ OTHER _____

TOWN OF LINCOLN CERTIFICATIONS

1. **Certification of Good Faith.** The following certificate must be completed and attached to the bid or proposal:

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

SIGNED: _____
Name of person signing bid or proposal

TYPED: _____

DATE: _____

2. **Certification that State Taxes are Filed and Paid:** Pursuant to section forty-nine A of Chapter sixty-two C of the General Laws, the following certification must be completed and attached to the bid or proposal:

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required by law. My social security number (voluntary) or Federal Identification number is: _____.

By: _____
Signature of Individual/Corporate Name (Mandatory)

By: _____
Corporate Officer (Mandatory, if applicable)

Date: _____

Approval of a contract or other contract or other agreement will not be granted unless this certification clause is signed by the applicant(s). Your Social Security Number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filings or tax payment obligations. Providers who fail to correct non-filing or delinquency will not have a contract or other agreement issued, renewed or extended.

3. **Certificate of Non-Conflict of Interest:**

The undersigned certifies under penalties of perjury that no official or employee of the governmental body for which the attached solicitation is proposed is peculiarly interested in this proposal or bid or in the contract which it offers to execute or in expected profits to arise there from; and further that no official or employee of said governmental body will receive an commission, discount, bonus, gift, contribution, or received from or share in the profits of any person making or performing such contract. As used in this certification, the word "person: shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

Signed: _____
Name of Person signing bid or proposal

Date: _____

Typed: _____
Name of Business

TOWN OF LINCOLN
SAMPLE
Contract for Designer Services

PROJECT TITLE: Town Offices Designer Services – Feasibility Study Phase

PROJECT TYPE: Building Study

This AGREEMENT is made under seal the ___ day of _____, 2010, between the Town of Lincoln, to be called the “Town” or “Awarding Authority”, and _____, acting as the project architect/engineer, to be called the “DESIGNER”.

ARTICLE 1: DEFINITION OF TERMS

- 1.1 GENERAL LAWS -- the General Laws of the Commonwealth of Massachusetts as amended, including any rules, regulations and administrative procedures implementing said laws.
- 1.2 DESIGNER -- the individual or firm performing professional services under this AGREEMENT.
- 1.3 PRINCIPALS -- the registered professional Architects or Engineers listed.
- 1.4 NOTICE TO PROCEED -- written communication from the Awarding Authority, constituting an essential condition of this AGREEMENT, authorizing the Designer to perform services for the project phase to which such Notice shall relate. The Notice to Proceed shall include the basis for compensation, the fixed limit construction cost, if any, and may include the time of submittal. Subsequent written communications amending the Notice to proceed are required to change either a submittal date or the fixed limit construction cost. Proceeding with various phases of contract work is contingent upon the Awarding Authority or its designees' satisfaction with and acceptance of services performed for each phase.
- 1.5 SUBMITTAL DATES -- those dates referred to in the Notice to Proceed or any subsequent amendment thereto.
- 1.6 AWARDING AUTHORITY -- The board, commission, agency or department of the Town having authority to award design and construction contracts in connection with the Project.
- 1.7 PROJECT -- the building project for which designer services have been procured under this AGREEMENT, and which is identified on Page 1 (Project Title).

ARTICLE 2: CONSULTANTS, SUBCONTRACTING, SUCCESSORS AND ASSIGNS

- 2.1 The Designer shall not employ additional consultants, not named in the proposal(s) nor sublet, assign or transfer any part of his services or obligations under this AGREEMENT without the prior approval and written consent of the Awarding Authority. The Awarding Authority shall not unreasonably withhold such approval.

Written consent shall not in any way relieve the Designer from his responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specifications, estimates and other work or materials furnished.

2.2 Except as otherwise provided in this AGREEMENT or authorized by the Awarding Authority, the Designer shall employ within the basic fee for this project the following consultants where their specific services are required: Architect, Structural Engineer, Civil Engineer, Sanitary Engineer, Mechanical Engineer, Landscape Architect, Cost Estimator, and Electrical Engineer, or any other consultant specifically listed in the proposal. Consultants must be registered in their respective disciplines if registration is required under the applicable General Laws.

2.3 When the Designer receives payment from the Awarding Authority, the Designer shall promptly make payment to each consultant whose work was included in the work for which payment was made by the Town. The Awarding Authority shall have the contractual right, but not the obligation, to require corrective measures necessary for the best interests of the Town.

ARTICLE 3: SURVEYS, TESTS, PHOTOGRAPHS

3.1 The Awarding Authority shall furnish to the Designer available documents indicating any past work or noted issues associated with the buildings included in this study

3.2 The Awarding Authority does not guarantee the accuracy of information furnished and the Designer must satisfy himself as to the correctness of data, except in instances where written exception to the contrary is specifically indicated by the Awarding Authority. If the above data are not available or they are in the opinion of the Designer insufficient, the Designer, upon request, may be given authorization to obtain the services of a consultant or perform the work with his own employees. In no case shall the Designer commence such work without prior written authorization of the Awarding Authority.

3.4 Drawings and/or specifications which may be needed to obtain survey or subsoil information, and any other soils engineering shall be prepared by the Designer as part of the basic fee. The Designer shall then analyze and evaluate such surveys and tests and make his design conform to the results of such evaluation.

3.6 The Awarding Authority will compensate and reimburse the Designer as provided herein for the cost of consultant services performed under this Article. For responsibility, coordination inspection, analysis and evaluation of consultant services retained under this ARTICLE, the Designer shall similarly be compensated as provided herein.

ARTICLE 4: COMPLIANCE WITH LAWS

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

ARTICLE 5: PROFESSIONAL RESPONSIBILITY

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

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

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

under the AGREEMENT or any cause of action arising out of the performance of the AGREEMENT.

ARTICLE 6: DESIGNER SERVICES

6.1 STUDIES, PROGRAMS, MASTER PLANS, REPORTS

Upon receipt of a Notice to Proceed from the Awarding Authority acceptable to the Designer, the Designer shall meet as necessary with the Awarding Authority and shall prepare and submit preliminary reports, studies, sketches, structural and building systems evaluation criteria and preliminary upgrades and repairs estimates in accordance with the Scope of Services set forth in the Request For Qualifications attached to this AGREEMENT. Monthly progress reports shall be submitted by the Designer to the Awarding Authority. The Designer shall furnish to the Awarding Authority eight (8) copies of the report for final approval on or before the date set forth in the Notice to Proceed or any supplement thereto.

ARTICLE 7: DESIGNER'S BASIC FEE

7.1 For the performance of all services required under the terms of this AGREEMENT and excluding those services specified under ARTICLES 8, 9 and 10, the Designer shall be compensated by the Awarding Authority in accordance with the lump sum fee for this project. The fee for this project is a lump sum of \$ _____.

7.2 If there is a material change in the scope of services provided in this agreement, the Designer and the Awarding Authority will mutually agree to an adjustment in the Designer's Basic Fee. Delay of one year or more by the Awarding Authority plus a significant change in the estimated construction cost of the project will be considered a change in scope of services.

7.3 The basic fee shall be paid to the Designer in accordance with Attachment B of this agreement. Billings for services shall be made monthly and shall be in proportion to the amount of work completed.

ARTICLE 8: ADDITIONAL COMPENSATION

8.1. With the formal written approval of the Awarding Authority, the Designer shall perform all or any of the following services in addition to the services performed pursuant to ARTICLE 6 above.

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

ARTICLE 9: REIMBURSEMENT

9.1 The Designer shall be reimbursed by the Awarding Authority:(a) at one and one tenth (1.1) times the actual cost to the Designer of consultants hired to obtain any data in accordance with ARTICLE 3 above, provided, however, that the cost shall be part of

the original fee for service, unless otherwise agreed to as an extra by the Awarding Authority.

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

ARTICLE 10: TERMINATION, NO AWARD

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

ARTICLE 11: RELEASE AND DISCHARGE

The acceptance by the Designer of the last payment for services paid under the provisions of ARTICLES 10 and 11 in the event of contract termination shall in each instance operate as and be a release to the Awarding Authority, and every member or agent thereof, from all claims and liability to the Designer for payment on account of services performed or reimbursable expenses incurred under this AGREEMENT, except for those written claims submitted by the Designer to the Awarding Authority with the last payment requisition.

ARTICLE 12: NOTICES, APPROVALS, INVOICES

- 12.1 Any notice required under this contract to be given by the Awarding Authority to the Designer, or by the Designer to the Awarding Authority, shall be deemed to have been so given, whether or not received, if mailed by prepaid postage by, respectively, the Awarding Authority to the Designer at the address specified for the Designer on Page 1, or the Designer to the Awarding Authority.

- 12.2 Written approval by the Awarding Authority for Extra compensation as provided under ARTICLES 8 and 9, Reimbursements, shall be in the form of a letter issued by the Awarding Authority.
- 12.3 All invoices may be submitted monthly and subject to contract terms and proper documentation will be promptly processed by the Awarding Authority or returned to the Designer.
- 12.4 Invoices for services under ARTICLE 6 where such invoices pertain to design services during construction shall also describe the names, payroll titles, and dates of site visits required for construction-phase services.
- 12.5 Invoices submitted for services which have not been previously authorized in writing shall be returned to the Designer.
- 12.6 Requests for previously authorized expenses of any nature must be accompanied by a billing or receipt from the source of the expense.

ARTICLE 13: INSURANCE

- 13.1 The Designer shall at his own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts arising out of the performance of this AGREEMENT in a minimum amount of one million dollars per occurrence. The Town shall be named as an additional insured. The Designer shall also carry a general commercial liability insurance policy in a minimum amount of two million dollars per occurrence. The Town shall be named as an additional insured.
- 13.2 The coverage shall be in force from the time of the agreement to the date when all construction work designed under the contract is completed and accepted by the Awarding Authority. If, however, the policy is a claims-made policy, it shall remain in force for a period of six (6) years after substantial completion.
- Since this insurance is normally written on a year-to-year basis, the Designer shall notify the Awarding Authority should coverage become unavailable.
- 13.3 The Designer shall, before commencing performance of this contract, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with M.G.L. c.152, as amended, to all employed under the contract and shall continue such insurance in full force and effect during the term of the contract. The Designer shall also maintain broad public liability insurance to protect against damage or injury to persons or property.
- 13.4 The Designer shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this contract in event of loss or destruction until the final fee payment is made or all data are turned over to the Awarding Authority.

- 13.5 Certificates and any and all renewals substantiating that required all insurance coverage required as stated above and as stated in Section V, Item 7 of the Request For Qualifications is in effect and shall be filed with the Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the Town at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice. The Designer shall indemnify, and hold the Awarding Authority harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses arising out of the Designer's breach of the Agreement or the negligence or misconduct of the Designer or the Designer's agents or employees.
- 13.6 Upon request of the Designer, the Awarding Authority reserves the right to modify any conditions of this Article.

ARTICLE 14: SUPPLEMENTAL CONTRACT DATA; LEGAL REQUIREMENTS

- 14.1 The Designer hereby certifies:
- (i) if an individual, the individual is a registered architect;
 - (ii) if a partnership, a majority of all the partners are persons who are registered architects;
 - (iii) if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are registered architects, and the person to have the project in his or her charge is a registered architect;
 - (iv) if a joint venture, each joint venturer satisfies the requirements of this section. (Statutory reference: M.G.L. c.7, §38A½)
- 14.2 The Designer hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with the award of this Agreement. (Statutory reference: M.G.L. c.7, §38H(e)(i))
- 14.3 The Designer hereby certifies that no consultant to or subcontractor for the Designer has given, offered or agreed to give any gift, contribution or offer of employment to the Designer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Designer. (Statutory reference: M.G.L. c.7, §38H(e)(ii))
- 14.4 The Designer hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of the Designer, has been retained or hired by the Designer to solicit for or in any way assist the Designer in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be

paid a fee or other consideration contingent upon the award of this Agreement to the Designer. (Statutory reference: M.G.L. c.7 §38H(e)(iii))

14.5 The Designer hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that the

Designer filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R. (Statutory reference: M.G.L. c.7, §38H(e)(iv))

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

1. The Designer shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Designer.
2. Until the expiration of six years after final payment, the Awarding Authority, the office of the Inspector General shall have the right to examine any books, documents, papers or records of the Designer or of its consultants that directly pertain to, and involve transactions relating to, the Designer or its consultants.
3. The Designer shall describe any change in the method of maintaining records or recording transactions which materially affects any statements filed with the Awarding Authority, including in the Designer's description the date of the change and reasons therefore, and shall accompany said description with a letter from the Designer's independent certified public accountant approving or otherwise commenting on the changes.
4. The Designer has filed prior to the execution of this Agreement and will continue to file annually, an audited financial statement for the most recent completed fiscal year.
5. Records and statements required to be made, kept or filed in compliance with the provisions of this paragraph 15.6 shall not be public records and shall not be open to public inspection, except as provided in subparagraph 15.6.2. (Statutory reference: M.G.L. c.30, §39R)

14.7 The Designer hereby certifies under penalties of perjury that the Designer has complied with all laws of the Commonwealth of Massachusetts relating to taxes. (Statutory reference: M.G.L. c.62C, §49A)

ARTICLE 15: MISCELLANEOUS PROVISIONS

15.1 One (1) reproducible copy of all Drawings and Specifications furnished by the Designer and all other documents prepared by the Designer shall become the property of the Awarding Authority. Ownership of the stamped drawings and specifications shall not include the Designer's certification or stamp. Any re-use of such Drawings and/or Specifications without the Designer's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to the Designer or to the

Designer's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as an act in derogation of the Designer's rights under this AGREEMENT.

- 15.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and personal representatives.
- 15.3 This Agreement represents the entire agreement between the Awarding Authority and the Designer, and supersedes any prior agreements whether oral or written. This Agreement may be amended only by written instrument executed by both the Awarding Authority and the Designer.
- 15.4 The Designer agrees that the Awarding Authority and any of its officer or employee assumes no personal liability under this Agreement.
- 15.5 This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
- 15.6 In the event any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid or unenforceable any other provision of this Agreement.

Accepted by Designer

By: _____
Title: _____
Date: _____

Accepted by Awarding Authority

By: _____
Title: _____
Date: _____

I hereby certify that there is an appropriation available for the amount of the Agreement and that the Town Administrator is authorized to execute this Agreement and approve all requisitions and change orders.

Town Accountant

INSERT DSB FORM HERE