

REQUEST FOR PROPOSALS

**ARCHITECTURAL SERVICES
FOR AN ADDITION AND RENOVATIONS
TO THE GRAFTON PUBLIC LIBRARY
TOWN OF GRAFTON, MASSACHUSETTS**

Proposals due by: July 15 at 10:00 A.M.

**PLEASE REGISTER AS A PLAN HOLDER AT THIS [LINK](#)
TO OBTAIN ANY AMENDMENTS OR ADDITIONAL INFORMATION.**

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OVERVIEW

The Town of Grafton is seeking architectural services for an addition and renovations to the Grafton Public Library, located at 35 Grafton Common. The selected Architect shall work directly with the Library Building Committee to provide design services for planned additions and renovations.

The Town of Grafton intends on applying for the Massachusetts Public Library Construction Grant (<http://mbic.state.ma.us/grants/construction>). Familiarity with this grant process is highly favorable. The Town applied for this grant several years ago, but Town Meeting declined to appropriate the remaining construction funds. The grant materials and design drawings from the previous application are available from the Library Director, Beth Gallaway. She can be contacted at gallawayb@graftonlibrary.org.

The Architect Design Team will be evaluated and selected based on technical competence, capacity and capability, and past record of performance. Preference will be given to those firms with specific experience in the design of **public library additions and renovation projects** completed in the last five years. The Architect must be licensed in Massachusetts. Firms responding to this request should be of adequate size and sufficiently staffed to perform the assignment described above. The Fee for services is subject to negotiations not to exceed \$75,000.

All questions concerning this Request for Proposals (RFP) should be directed in writing to Doug Willardson, Assistant Town Administrator via email at willardsond@grafton-ma.gov.

All proposals shall be submitted in the order stipulated on the RFP and in a clearly marked, sealed envelope. All proposals must be received by the Town Administrator's Office, Town of Grafton, 30 Providence Road, Grafton, MA 01519 **no later than the date and time specified**. Responses received after this date will not be considered.

The Town of Grafton reserves the right to waive any defect or any irregularity in the RFP and reserves the right to reject any or all proposals or any part thereof.

Date: June 22, 2016

Grafton, Massachusetts

**ARCHITECTURAL SERVICES
FOR ADDITION AND RENOVATIONS
GRAFTON PUBLIC LIBRARY**

PROJECT DESCRIPTION

The Town of Grafton is requesting proposals to provide architectural services for an addition and renovation to the Grafton Public Library, 35 Grafton Common, Grafton, Massachusetts. The Grafton Public Library is approximately 7,000 square feet. The Town estimates that the new addition will be approximately 15,000 square feet.

SCOPE OF SERVICES

The Architect, in connection with the Scope of Services described herein, shall perform in a satisfactory and proper manner in accordance with standard architectural practices as used in the industry and as determined by the Town of Grafton.

A. General

Built in 1927, the Grafton Public Library is a public municipal library serving Grafton and the surrounding area. The Library has always served an important role in the community. Grafton is a community of approximately 18,000 people located in south-central Massachusetts. The town is proud of its history and has maintained a balance between historic significance and contemporary lifestyle. Therefore, designs shall be sensitive to the historical ambiance of the Town Common. Citizens benefit from a dynamic library, which acts not only as a community information center, but also as a social and cultural hub. The Grafton Public Library is staffed by skilled professionals, committed volunteers, and a Board of Trustees who are intent on providing quality service to the community. The Grafton Public Library is located on a historic town common and any addition to the Library will need approval from Grafton’s Historic District Commission as well as Mass. Historical Commission.

B. Proposed Project Scope

The Architect will be required to provide the services as described below.

1. Meet with Town Officials to discuss the overall plan, alternative concepts and reach an understanding of the goal and objectives for the project.
2. Provide all drawings required by MBLC for grant application. These schematic drawings include floor plans, roof plan, sections and elevations as further described below.
 - o Floor plan(s) with a complete furnishing and equipment layout
 - o Elevations as appropriate
 - o Structural narrative and MEP narrative of systems

- Tabulation of square footages called for in the library building program and comparison to the square footages shown on the architectural plans
 - Tabulations of the number of books, magazines, and audiovisual materials called for in the library building program in comparison to the square footages shown on the architectural plans
 - Tabulations of the number of seats and staff work spaces called for in the library building program in comparison to the numbers shown on the architectural plans
3. Estimated project budget, prepared independently by an experienced professional cost estimator, based on the site plan, building plans, and construction budget.
 4. Site plan with parking, grading, building location, and designation of utilities (1" = 40 feet or larger).
 5. Geotechnical survey, including soil boring and percolation tests (as appropriate) certified by a licensed professional providing a thorough subsurface soil analysis to document the appropriateness of the site for construction and existing special conditions.
 6. Coordinate execution of the hazardous materials survey report.
 7. Stamped topographic land survey delineating boundary lines for entire site to be included in the library building project.
 8. Map showing existing library site.

C. Proposal Document

The Architect shall be required to submit the following information with their proposal, assembled in the order presented:

1. A Letter of Transmittal which shall indicate the firm's interest in the project and a brief summary of their related experience.
2. Complete the [Standard Designer Application Form for Municipalities and Public Agencies not within the DSB Jurisdiction \(Updated 5/2014\)](#). The link above contains a fillable form Word Document.
3. A detailed statement of the firm's technical approach to provide the services as specified.
4. Evidence of proper registration(s), licenses(s) and insurance coverage.

Architects are requested to limit the information contained in the proposal to only that information as above requested. Proposals containing superfluous information will not be considered.

D. Method of Selection/Criteria for Award

The Library Building Committee will evaluate qualifications and proposals based on the following criteria:

- Firm's experience on similar library addition and renovation projects;
- Firm's qualifications and experience of key personnel;
- Technical competence of the firm;
- Reputation of the firm based on references;
- Technical approach, i.e., the firm's responsiveness to meet or exceed the specifications;
- Professional qualifications of the designated architect;
- Professional qualifications of the design team;
- Firm's knowledge of building codes and work with historic buildings;
- Firm's knowledge and experience with MA Public Library Construction Grants; and
- Firm's ability to furnish the required Certificates of Insurance.

After review of all factors, terms and conditions, including price, the Town of Grafton reserves the right to reject any and all proposals, or any part thereof, or waive defects in same, or accept any proposal deemed to be in the best interest of the Town of Grafton.

PROPOSED SCHEDULE

Prebid Meeting at 10:00 am	June 29, 2016
Questions due in writing by 3:00 pm	July 7, 2016
Submission of Proposals by 10:00 am	July 15, 2016
Review Committee review of qualifications	TBD
Candidate interviews	TBD
Selection of architect and notice to proceed	August 8, 2016
Completion of Preliminary Design	October 1, 2016
Completion of Design phase	Dec 16, 2016
Completion of Documents for MA MPLCP Application	January 13, 2017
Completion of General Construction	TBD

ADDITIONAL INFORMATION

A. Prebid Meeting

A prebid meeting is scheduled for **Wednesday June 29 at 10:00 A.M.**

Bidders may attend the prebid meeting to familiarize themselves with existing conditions and the scope of this project.

Bidders should become acquainted with conditions, including concealed conditions, relating to construction and labor so that they may fully understand the facilities, difficulties and restrictions of this project.

The failure or omission of any bidder to examine any addendum or other documents shall in no way relieve any bidder from any obligation with respect to their bid or the contract.

B. Questions

No oral interpretations shall be made to any respondent as to the meaning of any of these documents or to be effective to modify any of the provisions of this request. Every request for an interpretation shall be made in **writing. Questions shall be sent via email to willardsond@graffton-ma.gov.**

To receive consideration, such questions shall be submitted in writing no more than five (5) working days after the prebid meeting. **The last day for questions is July 7, 2016 by 3:00 pm.**

The Town of Grafton will arrange an addenda, which shall become a part of the proposal, all questions received as above provided and the decision regarding each. At least three (3) days prior to the receipt of bid proposals, the Town will send a copy of these addenda to each of those who have registered as plan holders.

Non-receipt of said addenda shall not excuse compliance with said addenda. It is the responsibility of each respondent to determine whether any addenda have been issued, and if so, whether he/she has received a copy of each.

C. Receipt of Proposals

Firms shall be required to submit one electronic file on thumb drive, plus **(1) original and three (3) copies** of their proposals for these services to the Town Administrator's Office, Grafton Municipal Center by **July 15, 2016 at 10:00 am.**

Proposals must be signed and submitted in a sealed envelope. Proposals will be stamped with date and time when received by the Town Administrator's Office at the

Grafton Municipal Center. Proposals will be stored securely until the Review Committee sets special meeting dates for proposal opening and review.

D. Evaluation and Selection

The Review Committee shall review all proposal documents received and short list or reduce the number to the most qualified firms to interview for the project. Selected firms shall then be notified in writing. Proposers who are not invited to participate in this interview process will be notified in writing.

The Review Committee will schedule the time and location of the interviews. Firms selected to interview shall prepare an oral presentation not to exceed thirty (30) minutes followed by a question and answer period. The Review Committee may opt to hold second interviews with two or more finalists. Once the top-ranked firm has been identified, the Town and firm will negotiate a fee not to exceed \$75,000.

All finalists will be notified in writing of the final Architect selection following Board of Selectmen approval.

SAMPLE CONTRACT

Attached hereto is a sample contract with terms and conditions that the successful firm will be expected to abide by. Please make special note of the insurance requirements.

TOWN OF GRAFTON¹

CONTRACT # _____

STATE CONTRACT # (if applicable) _____

DATE: _____

This Contract is entered into on, or as of, this date by and between the Town of Grafton, 136 Elm Street, North Grafton, MA 02356 (the "Town"), and

["Contractor"]

[Contact Name for Responsible Person]

[Address of the Contractor]

[Telephone Number]

[FAX Number]

[email address]

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

(Describe the work to be performed)

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

3. Payment will be made as follows:

3.1

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

¹ Contract Long Form_Engineer and Architect Services.

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

3.2 Fees and Reimbursable Costs combined shall not exceed \$_____as more fully set forth in the Contractor Documents.

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

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

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

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

5. Definitions:

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

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

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

Use of the term "Contractor" shall be understood to refer to any other such label used.

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

6. Term of Contract and Time for Performance:

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

7. Subject to Appropriation:

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

8. Permits and Approvals:

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

9. Termination and Default:

- 9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or

when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

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

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

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

10. Suspension or Delay

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

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

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Grafton shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other

proceedings with respect to a breach of this Contract, including “Damages” including but not limited to costs, attorney’s fees or other damages resulting from said breach (“Damages”) as well as specific performance, and the right to select among the remedies available to it by all of the above.

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

12. Statutory Compliance:

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

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

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

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

- 12.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

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

violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

13. Conflict of Interest:

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

14. Certification of Tax Compliance

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

15. Non-Discrimination/Affirmative Action

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

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

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

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;

- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

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

16. Assignment:

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

17. Condition of Enforceability Against the Town:

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

18. Corporate Contractor:

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

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

19. Contractor's Personnel:

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

20. Liability of Public Officials:

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

21. Indemnification:

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

21.2 With respect to non-professional services rendered by the Contractor, to the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Owner arising out of or resulting from the performance of its services provided that such claims, damages, liabilities, injuries, costs, fees, expenses, or losses are attributable to bodily injury or death or injury to or destruction of tangible property and to the extent caused by an act or omission of the Contractor, a person employed by the Contractor, or any of its Subcontractors.

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

22. Insurance

22.1 Workers Compensation Insurance:

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

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

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

22.2 Professional Liability Insurance

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

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

22.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of Grafton as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.
- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. Failure to provide the necessary notice required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination. Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be

written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.

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

23. Documents, Materials, Etc.

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

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

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

24. No Employment

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

25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials,

payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

26. Payment

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

27. Waiver and Amendment

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

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

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

28. Severability

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

29. Forum and Choice of Law

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

30. Notices

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

31. Binding on Successors:

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

32. Entire Agreement:

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

CERTIFICATION OF GOOD FAITH

The undersigned certifies under pains and penalties of perjury that this contract has been obtained 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.

The Contractor by:

Print Name

Title/Authority

CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

_____, authorized signatory for
name of signatory

_____, whose
name of contractor

principal place of business is at _____,

_____ does hereby certify under the pains and penalties of perjury
that _____ has paid all

name of contractor

Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature

Date

EXAMPLE CLERK'S CERTIFICATE

Action of Shareholders
Written Consent

(Date)

The undersigned, being the Shareholders of _____, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all contract documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, _____ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on _____, 20__.

Clerk of Corporation

SEAL

CONTRACT CHECKLIST

Initials

- | | |
|--|-------|
| 1. Certification of Signatures | _____ |
| <ul style="list-style-type: none">• For Corporation: need President’s signature or Clerk’s Certificate dated no more than 2 yeas ago With Corporate Seal affixed (see attached form)• For LLC: need Manager signature or signed vote of the LLC | |
| 2. Certificate of Non-collusion | _____ |
| 3. Insurance Certificate
(showing Town as additional insured) | _____ |
| <ul style="list-style-type: none">• Matches amount of insurance required under contract | |
| 4. Certificate of Good Faith | _____ |
| 5. Certificate of Tax Compliance | _____ |
| 6. Signed by Contractor | _____ |
| <ul style="list-style-type: none">• Matches certification by Corp officer of authority. | |
| 7. Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC both from the Secretary of State | _____ |

Contract Reviewed by: _____
Signature

Name, Title