

# TOWN OF SCITUATE

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REQUEST FOR PROPOSALS

FACILITY ANALYSIS AND ASSESSMENT PLAN FOR  
ORIGINAL GATES SCHOOL

August, 2011

<b>Contact</b>	<b>Patricia A. Vinchesi</b>
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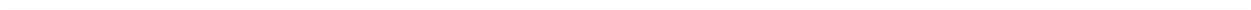
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## 1. Introduction

The Town of Scituate, Massachusetts ('Town') is soliciting this Request for Proposals (RFP) from qualified Architectural and/or Engineering firms to provide evaluation services for space needs associated with various municipal and school departments. The results of the study will become the basis for a long term facilities plan. This study will be overseen by the Scituate Public Building Commission (SPBC) appointed by the Board of Selectmen. Qualified vendors are requested to submit their proposals to the Town Administrator at the Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA in accordance with the instructions contained within this RFP.

Notice of this RFP is published in the Goods and Services Bulletin (which is a weekly publication of the Office of the Secretary of State), the Scituate Mariner (a newspaper of general circulation) and posted on the Town website ([www.town.scituate.ma.us](http://www.town.scituate.ma.us)) under "Available Bids, Quotes and Proposals"

The Town will accept proposals delivered in person or by mail. All proposals must be received by 2:00 p.m. on Wednesday, September 14, 2011 to be considered. Proposals submitted by fax or by electronic mail will not be considered. All proposals must be submitted to:

Ms. Patricia A. Vinchesi, Town Administrator  
Scituate Town Hall  
600 Chief Justice Cushing Highway  
Scituate, MA 02066

The Town of Scituate may cancel this RFP or reject in whole or in part any and all proposals, if they determine that cancellation or rejection serves the best interest of the Town of Scituate.

## 2. Pre-Proposal Conference/Briefing

There will be no pre-proposal submission conference/briefing for this project

## 3. Submission Deadline and Instructions

Qualified persons or firms are requested to submit proposals in a sealed envelope marked "Facility Analysis and Assessment Plan for Original Gates School" with the applicant's name and address on the front. Applicants should provide one (1) signed original proposal and four (4) copies. Fax or electronic submissions will not be accepted.

A complete and all-encompassing pricing proposal sheet is to be submitted in a separate sealed envelope marked "Pricing Proposal". The pricing proposal sheet is to list and document any and all proposed charges for the project.

Applicants must also execute and include in the sealed submission the Certificate of Non-Collusion and the Certificate of Tax Compliance. The Town of Scituate, through the Town Administrator, is the awarding authority and reserves the right to reject any and all proposals or

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parts of proposals; to waive any defects, information, and minor irregularities; to accept exceptions to these specifications; and to award contracts or to cancel this Invitation for Bids if it is in the Town of Scituate's best interest to do so.

Proposals must be signed as follows: a) if the bidder is an individual, by her/him personally; b) if the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; and c) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed.

All sealed proposals must be received and registered by the Town Administrator's office by Wednesday, September 14, 2011 at 2:00 p.m. All outer envelopes must be labeled "Facility Analysis and Assessment Plan for Original Gates School" and mailed or hand delivered to the following address:

Ms. Patricia A. Vinchesi, Town Administrator  
Scituate Town Hall  
600 Chief Justice Cushing Highway  
Scituate, MA 02066

No proposals will be accepted after the time and date noted. Late delivery of materials due to any type of delivery system shall be cause for rejection. If on the date and time of the submittal deadline the Town Hall is closed due to an uncontrolled event such as fire, snow, ice, wind or building evacuation, the submittal deadline will be postponed until 2:00 p.m. on the next normal business day.

All bidders must submit a list of a minimum of three references, with contact information, where they are performing or have, in the last three years, performed similar services.

#### 4. Questions or Addendum

Questions concerning this RFP must be submitted in writing to: Patricia A. Vinchesi, Town Administrator, Scituate Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA 02066 or emailed to Ms. Vinchesi at [pvinchesi@town.scituate.ma.us](mailto:pvinchesi@town.scituate.ma.us). All questions/ inquiries must be received by close of business on Wednesday, August 31, 2011 to be considered. Questions/inquiries may be delivered, mailed, emailed or faxed. Written responses will be posted on the Town's website ([www.town.scituate.ma.us](http://www.town.scituate.ma.us)) in "Available Bids, Quotes and Proposals" by close of business on Tuesday, September 6, 2011.

If any changes are made to this RFP, an addendum will be posted on the Town's website in "Available Bids, Quotes and Proposals". It is the sole responsibility of the bidder to ascertain the existence of any addenda and/or modifications issued by the Town. As this RFP has been published on the Town's website ([www.town.scituate.ma.us](http://www.town.scituate.ma.us)) all bidders are responsible for checking the website for any addenda and /or modifications that are subsequently made to this RFP.

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The Town accepts no liability for and will provide no accommodations to bidders who fail to check for amendments and/or modifications to this RFP and subsequently submit inadequate or incorrect responses. Bidders may not alter (manually or electronically) the RFP language or any RFP component files. Modifications to the body of the RFP, Scope of Work, terms and conditions, or which change the intent of this RFP are prohibited and may disqualify a response.

All proposals submitted in response to this RFP shall remain firm for sixty (60) days following the submittal deadline. It is anticipated that the contract will be awarded within thirty (30) days after the submittal deadline.

Bidders are not to communicate directly with any employee of the Town of Scituate, except as specified in this RFP, and no other individual employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFP.

Bidders may contact the Contact Person for this RFP in the event this RFP is incomplete or the bidder is having trouble obtaining any part of the RFP electronically through the Town website ([www.town.scituate.ma.us](http://www.town.scituate.ma.us)), including, and without limitation the form and attachments.

Bidder with disabilities or hardships that seek reasonable accommodations, which may include the receipt of RFP information and/or addenda and/or modifications in an alternative format, must communicate such requests in writing to the contact person, and reasonable accommodation will be made by agreement with the contact person on behalf of the Town of Scituate.

#### 5. Modifications to Proposal

A vendor may correct, modify, or withdraw a proposal by written notice received by the Town prior to the time and date set for the proposal opening. Proposal modifications must be submitted in a sealed envelope clearly labeled "Modification No. \_\_\_\_." Each modification must be numbered in sequence, and must reference the original RFP.

#### 6. Background

The Town of Scituate has several municipal and school buildings that are in need of attention after years of budget cutbacks and lack of a rolling capital plan for building improvements. Foremost among these buildings is the Gates Middle School. Built in 1917, the building currently serves as the second largest of the Town's five educational buildings, housing 500 students. **The building has had several additions over the years; however, for purposes of this study, the primary focus will be on the original building and its façade.**

Prior to its current use, the Gates Middle School served as the focal point of town related activities for decades. Proximate to other historic buildings such as Lawson Tower and Cudworth House, and Cudworth Cemetery, the facade of the building remain a striking architectural element. Constructed in three phases, the 1917 first section, now known as "A" Wing has an angular roof and spire. In 1931 and auditorium was built. The "B" Wing was constructed in the 1940's and houses the gymnasium. The final section "C" Wing was built in the late 1950's.

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It is believed that the architectural firm of McLaughlin and Burr of Boston performed the design work for both the “A” and “B” wings. These architects constructed similar buildings to the Gates School that are now listed on the National Register.

Lack of routine and extraordinary maintenance, common among municipal budgets in recent years has taken its toll on the building both internally and externally. In recent years, dozens of suggested uses for this building have been proposed. However, a crucial piece of any future uses of the building have been stymied by the fact that there is not concrete information or data about the condition of the main buildings and whether it is structurally suitable or capable of accommodating other uses.

The overarching goal of the Town is to plan, fund, and implement a facilities improvements plan within its Capital Improvement Plan in order to provide well-designed, modern, convenient municipal and school buildings that meet current codes and are accessible to and usable by all persons. The underlying plan shall be based on comprehensive feasibility studies and include all relevant costs associated with design, construction, land acquisition and operations and maintenance increases associated with each facility. The plan shall provide alternatives analysis to determine the most effective program in terms of cost and benefits.

The plan would be a guide for making decisions based upon a comprehensive evaluation of Town needs and the feasibility of each identified and required project.

The Town of Scituate has long considered various options for providing permanent space for different existing municipal and school departments. The Town is a municipality of approximately 180,000 residents (30,000 in summer) located in Plymouth County. The Town operates with a Board of Selectmen and Open Town Meeting form of government with a Town Administrator. The Town’s annual operating budget is approximately \$68M.

In 2004, the Town conducted a building needs assessment study of all schools (Habeeb Report). In 2010, the process of conducting a review of all existing municipal space needs began in earnest with the intent of providing an assessment of the programmatic needs of various departments and a brief summary of existing Town properties and facilities.

The only projects that have been completed in the past xx years include a new elementary school and a new Maritime Center, along with improvements to a second elementary school.

School project enrollment data shows static growth but there is a lack of an overall long-term plan to adequately address current and future facility needs.

## 7. Objectives

The overall objective of the “Facility Analysis and Assessment Plan for Original Gates School” is:

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- 1.) To engage an architect to conduct a feasibility study to determine if the original building footprint is structurally sound or just the historic façade, or a determination made that this portion of the building be razed. This will be accomplished through an evaluation of the building's condition and structural integrity to determine if further investment is warranted.
  - 2.) If the building is worth maintaining, to provide recommendations, guidance, direction and cost estimates as needed to repair and maintain the buildings as well as provide space and use requirements for identified future potential alternative public uses either for school or municipal purposes.
- A. Review prior studies, plans and reports (will be provided to successful respondent). Gather data about current conditions and assessing the physical needs of the original buildings, and overall town and school space needs.
  - B. Perform a structural/architectural analysis of the original Gates Middle School facility to determine its condition and opportunity for redevelopment as use for municipal space, school space, or other purpose
  - C. Develop a needs assessment which would include efficient operations, location and adequate office space. This assessment will also include energy efficient mechanical and electrical system recommendations, reconfigured spaces needs for recommended functional uses, and analysis of life safety and code limitations.
  - D. Present feasible solutions with justification, including schematic designs, capital and operating cost estimates, and timelines
  - E. Manage the dissemination of information to the various boards and the public

Upon completion, the written report should have helped establish a clear set of priorities (mater plan) that take into consideration universal accessibility, cost and programmatic needs of modern space needs.

With this information, and the information obtained through prior studies and plans, the Town can evolve options with regard to Town held properties and potential real estate transactions which will enable assessment of current and future needs and/or the disposition of future Town assets and departments.

## 8. Scope of Work/Deliverables

The general scope is to:

- Review potential space/building options to meet current and identified needs
  - Prioritize each option based on the needs of the Town.
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The data must be presented in a document that lists, for each option, the following:

- Importance/urgency of each of the identified program needs.
- Feasibility of each alternative.
- Pros and cons of each alternative.
- Projected cost of each alternative.
- Schematic Designs for each alternative

At the completion of the needs assessment, the consultant will present its findings to various Town boards and departments.

#### A. Needs Assessment

Some departments require assessment, particularly municipal departments. School assessment data will be made available. One component of the Facility Analysis and Assessment Plan for Original Gates School will be to assemble and evaluate the needs of the departments, such as efficient operations, location and adequate office space and if Gates will meet some of those needs.

- 1) Middle School – Gates Middle School has an enrollment of 500 students. Determining whether the original school portion is adequate to house the school population permanently is a need that must be addressed by this Facilities Plan for the Original Gates School. With regard to the schools, the Facilities Plan for the Original Gates School should review enrollment projections, existing and projected town demographics (using 2010 Census if feasible).
- 2) Senior Center – The Town’s Senior Center is located in a converted former Fire House. The Department has witnessed an increase in services and will continue to over the next ten years. Using the most available census data, project space needs and determine alternatives if current senior center cannot accommodate future needs.
- 3) Recreation Department – The Recreation Department is located in space provided at Scituate High School. Space needs at the high school may necessitate relocation of this department elsewhere.
- 4) Town Hall – Scituate Town Hall employ 32 staff members. The offices are currently located at 600 Chief Justice Cushing Highway where they are housed in approximately xxx square feet of space. Town Hall includes the departments of Accounting, DPW administration, Building, Assessing, Board of Health, Veteran, Treasurer/Collector, Planning, Conversation, Selectmen and Town Administrator.

#### B. Building and Site Assessment

- 1) Building
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Perform a structural/architectural analysis of the below of the Original Gates Middle School to determine its condition and opportunity for redevelopment as use for current school, or future municipal space, or other purpose, including an evaluation of programmatic requirements, physical conditions, suitability of current use and building code issues.

## 2) Site Assessment

- Review and identify potential building uses for use by schools or town for the needs identified in the needs assessment.
- Determine if the Original Gates Middle School will accommodate programs.
- Recommend detailed site assessment beyond the scope of this Facilities Plan.

## C. Alternatives, Scenarios, and Facilities Master Plan Development

With the needs established and the site analyzed the Town, working through it Public Building Commission, will require a range of alternatives to consider. Each alternative should include:

- Pros and cons;
- Schematic building design concepts;
- Effect on other Town infrastructure elements;
- Projected design, development, and construction costs;
- Projected capital cost and operating cost;
- Impact on Town or School departmental operations;
- Consideration of health, safety, or legal requirements;
- Timelines for projects, both individually and collectively; and
- General public accessibility

D. Outline opportunities that may arise with purchases/swap of town real estate assets that may provide improved solutions to department/facility relocations to include potential opportunities for public/private collaborations.

E. Assist and facilitate the dissemination of information to the various interested parties including, but not limited to, the preparation and printing of material. One (1) unbound and nine (9) bound color copies of the final report are to be provided as well as one (1) electronic copy.

## 9. Minimum Criteria/Qualifications

Each applicant must demonstrate that it meets the following minimum qualifications:

- A. Vendor shall have a minimum of three (3) years experience in performing the work described in this RFP.
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- B. Vendor shall submit a complete list of all contracts performed in the past five (5) years that are similar in scope to this project with contact names and telephone numbers.
- C. Vendor shall submit a minimum of three (3) references of contracts performed that are similar in scope to this project with contact names and telephone numbers.
- D. Vendor includes a project manager who has a minimum of five (5) years experience in performing the work described in this RFP and is a registered professional architect or engineer.
- E. Submission of separate and sealed proposal and pricing sheet.
- F. Submission of required statements and forms.

10. Comparative Evaluation Criteria

All proposals meeting the minimum criteria/qualifications will then be evaluated based upon the specific comparative evaluation criteria. The following point schedule will be utilized:

<i>Highly advantageous</i>	5 points	Response excels on the specific criterion
<i>Advantageous</i>	3 points	Response meets evaluation standard for the criterion
<i>Least Advantageous</i>	1 point	Response does not fully meet the criterion or leaves a question or issue not fully addressed
<i>Does Not Meet</i>	0 points *	Does not address the criterion

\* Proposal is automatically eliminated from further consideration if “0 points” is received in any category.

- A. Vendor’s experience working on similar projects
  - ◆ Vendor having experience working on five (5) or more projects similar to the work described in this RFP will be considered Highly Advantageous (5 points)
  - ◆ Vendor having experience working on three (3) or more but less than five (5) projects similar to the work described in this RFP will be considered Advantageous (3 points)
  - ◆ Vendor having experience working on one (1) or more but less than three (3) projects similar to the work described in this RFP will be considered Least Advantageous (1 point)
  - ◆ Vendor having no experience working on projects similar to the work described in this RFP will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)

- B. Vendor’s understanding of the State Building Code
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- ◆ Vendor has managed the design and/or construction of ten (10) or more municipal buildings in Massachusetts will be considered Highly Advantageous (5 points)
- ◆ Vendor has managed the design and/or construction of less than ten (10) but more than five (5) municipal building in Massachusetts will be considered Advantageous (3 points)
- ◆ Vendor has managed the design and/or construction of less than six (6) but more than one (1) municipal building in Massachusetts will be considered Least Advantageous (1 point)
- ◆ Vendor has managed the design and/or construction of less than two (2) will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)

C. Assigned Project Manager's years of experience

- ◆ Assigned Project Manager having a minimum of five (5) years experience in performing the work described in this RFP and is a registered professional architect or engineer will be considered Highly Advantageous (5 points)
- ◆ Assigned Project Manager having less than five (5) years but more than three (3) years experience in performing the work described in this RFP and is a registered professional architect or engineer will be considered Advantageous (3 points)
- ◆ Assigned Project Manager having less than three (3) years but more than one (1) years experience in performing the work described in this RFP and is a registered professional architect or engineer will be considered Least Advantageous (1 point)
- ◆ Assigned Project Manager has less than one year experience in performing the work described in this RFP will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)

D. Assigned Staff

- ◆ Number of staff assigned to this project from engineering and/or architectural disciplines totals four (4) or more will be considered Highly Advantageous (5 points)
  - ◆ Number of staff assigned to this project from engineering and/or architectural disciplines totals three (3) will be considered Advantageous (3 points)
  - ◆ Number of staff assigned to this project from engineering and/or architectural disciplines totals two (2) will be considered Least Advantageous (1 point)
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- ◆ Number of staff assigned to this project from engineering and/or architectural disciplines totals one (1) will be considered as Does Not Meet minimum requirements (0 points and elimination from further consideration)

#### 11. Timeline

The consultant will be expected to commence activities immediately upon award of the contract and to have available a preliminary report for review by January 2012, in anticipation of presenting to the April 2012 Town Meeting. The consultant is expected to meet with the Scituate Public Building Commission (SPBC) to discuss findings and options on a regular basis. Upon awarding of the contract, the consultant and the SBPC will develop and agree to a scheduled plan that includes milestones and dates for completing reports, presentations, and other related activities.

#### 12. Method for Award

The contract will be awarded to the responsible and responsive vendor submitting the most advantageous proposal taking into consideration all evaluation criteria as well as price. The fee for the work will be negotiated with the highest ranked firm, however not to exceed \$60,000.

PAV;7/11

**Contract**



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

This Contract is entered into on, or as of, this date by and between the Town of Scituate (the "Town"), and

**Contractor:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**Fax Number:** \_\_\_\_\_

- 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 Scituate is:
  
- 3. Payment will be made as follows:
  
- 4. Definitions:
  - 4.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town of Scituate. 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.

- 4.2 Contract Documents: All documents relative to the Contract including (where used) Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, and all Addenda issued during the bidding period. 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.
- 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 particular Contract. Use of the term “Contractor” shall be understood to refer to any other such label used.
- 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 \_\_\_\_\_, 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, 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, this

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Contract shall be immediately terminated without liability for damages, penalties or other charges.

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 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 state law and/or regulations, and Town bylaw and/or regulations.

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

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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 Scituate 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 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.

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 or Contract for this work in violation of

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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 Scituate, 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 or 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. Discrimination

The Contractor will carry out the obligations of this Contract in full compliance with all of 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.

14. Assignment:

Assignment of this Contract is prohibited, unless and only to the extent that assignment is provided for expressly in the Contract documents.

15. 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; 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.

16. Corporate Contractor:

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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 Scituate unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall comply with the provisions of the General Laws, Chapter 181, Sections 3 and 5, and any Acts and Amendments thereof, and in addition thereto, relating to the appointment of the Commissioner of Corporations as its attorney, 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.

17. Liability of Public Officials:

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

18. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, 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) 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, and 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 the 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, unless the damage is caused by the Town's gross negligence or willful misconduct. The existence of insurance shall in no way limit the scope of the Contractor's indemnification under this contract.

19. 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.

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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 evidence of 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.

20. 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.

21. 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.

22. Payment

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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.

23. 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.

24. 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.

25. 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 Scituate by being sent to the Town Administrator, Scituate Town Hall, 600 Chief Justice Cushing Highway, Scituate, Massachusetts 02066.

26. 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).

27. Complete Contract:

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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.

28. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Scituate shall be a party. One of the following "Supplements" *must* be "checked" as applicable to this Contract, shall be attached hereto, and shall in any event apply as the nature of the Contract requires. The Supplement contains additional terms governing the Contract:

GOODS

SUPPLEMENT "G" - Applicable to Contracts for the procurement of Goods (governed by the provisions of General Laws Chapter 30B)

SERVICES

SUPPLEMENT "S" - Applicable to Contracts for the procurement of Services (governed by the provisions of General Laws Chapter 30B)

CONSTRUCTION

SUPPLEMENT "C" - Applicable to Contracts for Construction

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## SUPPLEMENT "S"

This form supplements the general provisions of the Contract between the Town of Scituate, and \_\_\_\_\_, which Contract is a contract for the procurement of services.

“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.

### Change Orders:

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

### Minimum Wage/Prevailing Wage;

The Contractor will carry out the obligations of this Contract in full compliance with all of 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 at all times 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), as shall be in force and as amended.

### Insurance:

The Contractor shall obtain and maintain the following insurance:

- 5.1 Workers’ Compensation Insurance of the scope and amount required by the laws of the Commonwealth of Massachusetts.
  - 5.2.1 Broad Form Commercial General Liability coverage with limits of at least \$1 Million per occurrence and \$3 Million aggregate, and which shall cover bodily injury, death, or property damage arising out of the work.
  - 5.3 Automobile Liability Coverage, including coverage for owned, hired, or borrowed vehicles with limits of at least \$1 Million per person, and \$1 Million per accident.
  - 5.4 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.
  - 5.5 All required insurance shall be certified by the Town, incorporated into and made a part of this Agreement. Properly executed certificates signifying adequate coverage in effect for the duration of the contract with renewal certificates issued not less than 30 days prior
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to expiration of a policy period, must be submitted to the Town prior to commencement of this Agreement.

5.6 The Town shall be named as an additional insured on the above referenced liability policies, and the Contractor's insurance shall be the primary coverage. The cost of such insurance, including required endorsements or amendments, shall be the sole responsibility of the Contractor.

6. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, its officers, 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, and 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 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, unless the damage is caused by the Town's gross negligence or willful misconduct. The existence of insurance shall in no way limit the scope of this indemnification.

APPROVED AS TO FORM ONLY:

TOWN OF SCITUATE

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

\_\_\_\_\_  
Chairman, Board of Selectmen

I CERTIFY THAT FUNDS ARE AVAILABLE  
IN ACCOUNT NO \_\_\_\_\_:

\_\_\_\_\_  
Chief Procurement Officer

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

THE CONTRACTOR:

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

\_\_\_\_\_

\_\_\_\_\_

**CERTIFICATIONS**

**CERTIFICATE OF NON-COLLUSION**

The undersigned certifies under 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 word “person” shall mean natural person, business, partnership, corporation, committee, union, club or other organization, entity, or group of individuals.

Signature \_\_\_\_\_

Date \_\_\_\_\_

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

\_\_\_\_\_  
Company Name

**CERTIFICATE OF TAX COMPLIANCE**

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A (b), I

\_\_\_\_\_, authorized signatory for \_\_\_\_\_

*Name of individual*

*Name of contractor*

do hereby certify under the pains and penalties of perjury that said contractor has complied with all laws of the Commonwealth of Massachusetts, and the Town of Scituate, relating to taxes, permit or other fees, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_

**CERTIFICATE OF VOTE**

At a duly authorized meeting the Board of Directors of the \_\_\_\_\_  
held on \_\_\_\_\_ it was

VOTED, THAT

\_\_\_\_\_ (Name) \_\_\_\_\_ (Officer)  
of \_\_\_\_\_ be and hereby is authorized to execute contracts and bonds in  
the name and on behalf of said \_\_\_\_\_, and affix its corporate seal hereto;  
and such execution of any contract or obligation in the name of \_\_\_\_\_ on  
its behalf by such officer under seal of \_\_\_\_\_, shall be valid and binding  
upon \_\_\_\_\_.

I hereby certify that I am the clerk of the above named \_\_\_\_\_ and  
that \_\_\_\_\_ is the duly elected officer as above of said  
\_\_\_\_\_, and that the above vote has not been amended or rescinded and  
remains in full force and effect as the date of this contract.

\_\_\_\_\_ (Date) \_\_\_\_\_ (Clerk)

\_\_\_\_\_