

SHORT FORM AGREEMENT
CONTRACT NO. [REDACTED]
BETWEEN TOWN AND CONTRACTOR
(M.G.L. 30, 39M)

THIS AGREEMENT for [REDACTED] (hereinafter the **Project**) is made the ____ day of [REDACTED], 2014, by and between [REDACTED], a company organized under the laws of the Commonwealth of Massachusetts, with a usual place of business [REDACTED], (hereinafter called the **Contractor**), and the Town of Needham, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, acting through its Town Manager, (hereinafter referred to as the **Town**).

WITNESSETH that the **Contractor** and the **Town**, for the consideration hereinafter named, agree as follows:

In all respects, this Contract shall be governed by and performed consistently with all laws of the Commonwealth of Massachusetts for public construction contracts including but not limited to Mass. Gen. Laws ch. 7, 10, 30, 44 and 149. The provisions of the Massachusetts General Laws regarding public construction shall take precedence over any and all other Contract provisions or documents. Any conflicts among provisions and/or between documents shall be resolved and/or interpreted according to the Massachusetts General Laws. The **Contractor** warrants that it is familiar with and agrees to abide by all laws of the Commonwealth of Massachusetts.

ARTICLE 1. CONTRACT DOCUMENTS

The Contract Documents consist of the following, and in the event of conflicts or discrepancies among them, they shall be interpreted on the basis of the following priorities:

- FIRST** This Agreement;
- SECOND** The **Contractor's** Proposal, dated [REDACTED];
- THIRD** The Invitation for Bids, Bid Specifications, Proposals and Request for Proposals with purchase description;
- FOURTH** Drawings required for the project, if applicable;
- FIFTH** Copies of all required bonds, certificates of insurance, and licenses required under the contract;

EACH OF WHICH IS ATTACHED HERETO. These documents form the entire agreement between the parties and there are no other agreements between the parties. Any amendment or modification to this agreement must be in writing and signed by an official with the authority to bind the **Town**.

ARTICLE 2. SCOPE OF THE WORK

The **Contractor** shall furnish all materials, labor and equipment, and perform all work shown on the contract documents, and the **Contractor** agrees to do everything required by this Agreement and the contract documents.

ARTICLE 3. TERM OF AGREEMENT

This Agreement shall be for a term commencing [REDACTED] and ending on [REDACTED], unless sooner completed and subject to annual appropriation. This Agreement shall not be renewed or extended unless provisions for renewal or extension were contained in the Request for Proposals, in which event the Agreement may be extended or renewed at the sole option of the **Town**, and upon the terms described therein. The maximum term of this contract is four months.

ARTICLE 4. THE CONTRACT SUM

The **Town** shall pay the **Contractor** for the performance of this Agreement a sum NOT TO EXCEED \$ [REDACTED] ([REDACTED] Dollars), including all reimbursable expenses.

ARTICLE 5. PAYMENT

a) The **Town** shall make payment as follows:

On a monthly basis, thirty days after receipt of an invoice for work performed or materials supplied the previous month the **Town** shall pay the **Contractor** ninety percent of the invoice. Upon completion of the work, thirty days after receipt of an invoice for final payment, the **Town** shall pay the **Contractor** all amounts due under the contract, including the retainage.

b) With any invoice the **Contractor** shall submit evidence satisfactory to the **Town** that the goods or supplies have been delivered, or that the work has been completed and that all payrolls, material bills and other indebtedness connected with the work has been paid. The billings shall include, if applicable, all charges for consultants, subcontractors, plans, equipment, models, renderings, travel, reproductions, postage and delivery, and all other expenses. There shall not be any markup for overhead, administration or profit for any of the above-listed services.

c) If for any reason the **Town** makes a payment under this Contract in error, the **Town** may recover the amount overpaid or, if applicable, may apply any overpayment to a future installment payment.

d) Invoices for services procured under this contract are to be sent to:
Attn: Carys Lustig
Title: Supervisor of Administration
Public Works Department
500 Dedham Avenue
Needham, Massachusetts 02492

e) The **Town** is not responsible for payment of invoices sent to an address other than specified in 5.d of this Agreement.

ARTICLE 5A. PROMPT PAYMENT DISCOUNTS

The **Vendor** will allow a [REDACTED]% prompt payment discount for payment made by the **Town** within [REDACTED] days from the date of receipt of the invoice, or the date of the receipt of the

product or services, whichever occurs later. Prompt Payment Discounts are not required but if not offering a discount, indicate by writing "zero". Payment terms for the Town of Needham are net 30 days.

ARTICLE 6. PAYMENT OF SUBCONTRACTORS

In accordance with Mass. Gen. L. Ch. 30, Sec. 39F, the following subparagraphs (a) through (i) are binding between the general **Contractor** and each subcontractor:

- (a) Forthwith after the general **Contractor** receives payment on account of a periodic estimate, the general **Contractor** shall pay to each subcontractor the amount paid for the labor performed and the materials furnished by that subcontractor, less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general **Contractor**.
- (b) Not later than the sixty-fifth day after each subcontractor substantially completes his work in accordance with the plans and specifications, the entire balance due under the subcontract less amounts retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work shall be due the subcontractor; and the awarding authority shall pay that amount to the general **Contractor**. The general **Contractor** shall forthwith pay to the subcontractor the full amount received from the awarding authority less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general **Contractor**.
- (c) Each payment made by the awarding authority to the general **Contractor** pursuant to subparagraphs (a) and (b) of this paragraph for the labor performed and the materials furnished by a subcontractor shall be made to the general **Contractor** for the account of that subcontractor; and the awarding authority shall take reasonable steps to compel the general **Contractor** to make each such payment to each such subcontractor. If the awarding authority has received a demand for direct payment from a subcontractor for any amount which has already been included in a payment to the general **Contractor** or which is to be included in a payment to the general **Contractor** for payment to the subcontractor as provided in subparagraphs (a) and (b), the awarding authority shall act upon the demand as provided in this section.
- (d) If, within seventy days after the subcontractor has substantially completed the subcontract work, the subcontractor has not received from the general **Contractor** the balance due under the subcontract, including any amount due for extra labor and materials furnished to the general **Contractor**, less any amount retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work, the subcontractor may demand direct payment of that balance from the awarding authority. The demand shall be by a sworn statement delivered to or sent by certified mail to the awarding authority, and a copy shall be delivered to or sent by certified mail to the general **Contractor** at the same time. The demand shall contain a detailed breakdown of the balance due under the subcontract and also a statement of the status of completion of the subcontract work. Any demand made after substantial completion of the subcontract work shall be valid even if delivered or mailed prior to the seventieth day after the subcontractor has substantially completed the subcontract work. Within ten days after the subcontractor has delivered or so mailed the demand to the awarding authority and delivered or so mailed a copy to the general **Contractor**, the general **Contractor** may reply to the demand. The reply shall be by a sworn statement delivered to or sent by certified mail to the awarding authority and a copy shall be delivered to or sent by certified mail to the subcontractor at the same time. The reply shall contain a detailed breakdown of the balance due under the subcontract

including any amount due for extra labor and materials furnished to the general **Contractor** and of the amount due for each claim made by the general **Contractor** against the subcontractor.

- (e) Within fifteen days after receipt of the demand by the awarding authority, but in no event prior to the seventieth day after substantial completion of the subcontract work, the awarding authority shall make direct payment to the subcontractor of the balance due under the subcontract including any amount due for extra labor and materials furnished to the general **Contractor**, less any amount (i) retained by the awarding authority as the estimated cost of completing the incomplete or unsatisfactory items of work, (ii) specified in any court proceedings barring such payment, or (iii) disputed by the general **Contractor** in the sworn reply; provided, that the awarding authority shall not deduct from a direct payment any amount as provided in part (iii) if the reply is not sworn to, or for which the sworn reply does not contain the detailed breakdown required by subparagraph (d). The awarding authority shall make further direct payments to the subcontractor forthwith after removal of the basis for deductions from direct payments made as provided in parts (i) and (ii) of this subparagraph.
- (f) The awarding authority shall forthwith deposit the amount deducted from a direct payment as provided in part (iii) of subparagraph (e) in an interest-bearing joint account in the names of the general **Contractor** and the subcontractor in a bank in Massachusetts selected by the awarding authority or agreed upon by the general **Contractor** and the subcontractor, and shall notify the general **Contractor** and the subcontractor of the date of the deposit and the bank receiving the deposit. The bank shall pay the amount in the account, including accrued interest, as provided in an agreement between the general **Contractor** and the subcontractor or as determined by decree of a court of competent jurisdiction.
- (g) All direct payments and all deductions from demands for direct payments deposited in an interest-bearing account or accounts in a bank pursuant to subparagraph (f) shall be made out of amounts payable to the general **Contractor** at the time of receipt of a demand for direct payment from a subcontractor and out of amounts which later become payable to the general **Contractor** and in the order of receipt of such demands from subcontractors. All direct payments shall discharge the obligation of the awarding authority to the general **Contractor** to the extent of such payment.
- (h) The awarding authority shall deduct from payments to a general **Contractor** amounts which, together with the deposits in interest-bearing accounts pursuant to subparagraph (f), are sufficient to satisfy all unpaid balances of demands for direct payment received from subcontractors. All such amounts shall be earmarked for such direct payments, and the subcontractors shall have a right in such deductions prior to any claims against such amounts by creditors of the general **Contractor**.
- (i) If the subcontractor does not receive payment as provided in subparagraph (a) or if the general **Contractor** does not submit a periodic estimate for the value of the labor or materials performed or furnished by the subcontractor and the subcontractor does not receive payment for same when due less the deductions provided for in subparagraph (a), the subcontractor may demand direct payment by following the procedure in subparagraph (d) and the general **Contractor** may file a sworn reply as provided in that same subparagraph. A demand made after the first day of the month following that for which the subcontractor performed or furnished the labor and materials for which the subcontractor seeks payment shall be valid even if delivered or mailed prior to the time payment was due on a periodic estimate from the general **Contractor**.

Thereafter the awarding authority shall proceed as provided in subparagraphs (e), (f), (g) and (h).

ARTICLE 7. ADJUSTMENT OF CONTRACT PRICE WHERE SITE CONDITIONS DIFFER SUBSTANTIALLY OR MATERIALLY FROM CONDITIONS INDICATED IN PLANS OR CONTRACT DOCUMENTS

As required by G.L. Ch. 30, Section 39N, the parties hereby agree:

If, during the progress of the work, the contractor or the awarding authority discovers that the actual subsurface or latent physical conditions encountered at the site differ substantially or materially from those shown on the plans or indicated in the contract documents either the contractor or the contracting authority may request an equitable adjustment in the contract price of the contract applying to work affected by the differing site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible after such conditions are discovered. Upon receipt of such a claim from a contractor, or upon its own initiative, the contracting authority shall make an investigation of such physical conditions, and, if they differ substantially or materially from those shown on the plans or indicated in the contract documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and contract documents and are of such a nature as to cause an increase or decrease in the cost of performance of the work or a change in the construction methods required for the performance of the work which results in an increase or decrease in the cost of the work, the contracting authority shall make an equitable adjustment in the contract price and the contract shall be modified in writing accordingly.

ARTICLE 8. AWARDING AUTHORITY MAY ORDER GENERAL CONTRACTOR TO SUSPEND, DELAY, ETC. WORK; ADJUSTMENT IN CONTRACT PRICE; SUBMISSION OF CLAIMS

Pursuant to G.L. c. 30, Section 39O:

- (a) The awarding authority may order the general contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the awarding authority; provide however, that if there is a suspension, delay or interruption for fifteen days or more or due to a failure of the awarding authority to act within the time specified in this contract, the awarding authority shall make an adjustment in the contract price for any increase in the cost of performance of this contract but shall not include any profit to the general contractor on such increase; and provided further, that the awarding authority shall not make any adjustment in the contract price under this provision for any suspension, delay, interruption or failure to act to the extent that such is due to any cause for which this contract provides for an equitable adjustment of the contract price under any other contract provisions.
- (b) The general contractor must submit the amount of a claim under provisions (a) to the awarding authority in writing as soon as practicable after the end of the suspension, delay, interruption or failure to act and, in any event, not later than the date of final payment under this contract and, except for costs due to a suspension order, the awarding authority shall not approve any costs in the claim incurred more than twenty days before the general contractor notified the awarding authority in writing of the act of failure to involved in the claim.
- (c) In the event a suspension, delay, interruption or failure to act of the awarding authority increases the cost of performance to any subcontractor, the subcontractor

shall have the same rights against the general contractor for payment for an increase in the cost of his performance as provisions (a) and (b) give the general contractor against the awarding authority, but nothing in provisions (a) and (b) shall in any way change, modify or alter any other rights which the general contractor or the subcontractor may have against each other.

ARTICLE 9. EMPLOY COMPETENT PEOPLE

The **Contractor** shall employ only competent people to do the work. Whenever the **Town** shall notify the **Contractor** in writing that any person under the **Contractor's** employ is, in the **Town's** opinion, incompetent, unfaithful, disorderly or otherwise unsatisfactory, or not employed in accordance with the provisions of this Agreement, such person shall be discharged from the work and shall not again be employed on the Project, except with the consent of the **Town**.

ARTICLE 10. NONPERFORMANCE

In the case of any default on the part of the **Contractor** with respect to any of the terms of this Agreement, the **Town** shall give written notice thereof, and if said default is not made good within such time as the **Town** shall specify in writing, the **Town** shall notify the **Contractor** in writing that there has been a breach of the Agreement and thereafter the **Town** shall have the right to secure the completion of the work remaining to be done on such terms and in such manner as the **Town** shall determine, and the **Contractor** shall pay for the completion of such work and reimburse the **Town** for all expenses incurred by reason of said breach. The **Contractor** in case of such breach shall be entitled to receive payment only for work completed satisfactorily prior to said breach, so long as the total paid hereunder does not exceed the Contract sum, and the amount of any balance due the **Contractor** shall be determined by the **TOWN** and certified to the **Contractor**. The **Town** shall be reimbursed by the **Contractor** for the cost of additional services required by the **Town** in the case of a breach.

ARTICLE 11. TERMINATION

This Agreement may be terminated by either party upon not less than seven days written notice should the other party substantially fail to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

ARTICLE 12. SUBCONTRACTING

The **Contractor** shall not subcontract any of the work, which it is required to perform under this Contract to any corporation, entity or person without the prior written approval of the **Town**.

ARTICLE 13. NOTICE

All notices required to be given under this Agreement shall be given in writing and shall be effective upon receipt by hand delivery or certified mail to:

The Town of Needham: Richard P. Merson, Director
Public Works Department
500 Dedham Avenue, PO Box 920364
Needham, MA 02492-0005

The Town of Needham: Kate Fitzpatrick, Town Manager
1471 Highland Avenue
Needham, MA 02492

* Notices to the Town of Needham must be sent to BOTH of the above in order to be effective *

The Contractor:

Name: _____
Company: _____
Address: _____

ARTICLE 14. CONTRACT CONDITIONS SPECIFICALLY REQUIRED BY LAW

- a) Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.
- b) Pursuant to Mass. Gen. L. Ch. 30, § 39M, an item shall be considered equal to the item so named or described if, in the opinion of the awarding authority: (1) it is at least equal in quality, durability, appearance, strength and design, (2) it will perform at least equally the function imposed by the general design for the public work being contracted for or the material being purchased, and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the said specifications.
- c) Pursuant to Mass. Gen. L. Ch. 149, § 26, the employment of mechanics and apprentices, teamsters, chauffeurs and laborers in the construction of public works by the Commonwealth, or by a county, town, authority or district, or by persons contracting or subcontracting for such works, preference shall first be given to citizens of the commonwealth who have been residents of the commonwealth for at least six months at the commencement of their employment who are veterans as defined in clause Forty-third of section seven of chapter four, and who are qualified to perform the work to which the employment relates; and secondly, to citizens of the commonwealth generally who have been residents of the commonwealth for at least six months at the commencement of their employment, and if they cannot be obtained in sufficient numbers, then to citizens of the United States; and preference in employment shall be given to veterans and citizens who are residents of the Town of Needham.
- d) Pursuant to Mass. Gen. L. Ch. 149, § 34, no laborer, workman or mechanic, foreman or inspector employed under this contract shall be required or permitted to work more than eight hours in any one-day or more than forty-eight hours in any one week, or more than six days in any one week, except in cases of emergency.
- e) If funding for this Project is provided by the Commonwealth of Massachusetts, in whole or in part (such as reimbursements, grants and the like), then the TOWN shall incorporate into this Contract the current applicable minority-owned business enterprise (MBE) and women-owned business enterprise (WBE) participation goals, as determined by DCAM. Reductions or waivers of these goals may be permitted by the TOWN where the size, nature or location of the project makes achieving such levels of MBE or WBE participation unfeasible.
- f) This Contract is subject to the Supplemental Equal Opportunity Anti-Discrimination and Affirmative Action Program (EEO/AA).

ARTICLE 15. INSURANCE

- a) The **Contractor** shall, at its own expense, obtain and maintain general liability and motor vehicle liability insurance policies protecting the **Town** in connection with any operations included in this Contract, and shall have the **Town** as an additional insured on the policies. General liability coverage shall be in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury liability and \$1,000,000 per occurrence and \$2,000,000 aggregate for property damage liability. Motor vehicle coverage shall include coverage for owned, hired and non-owned vehicles and shall be in the amount of at least \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury liability and \$1,000,000 per occurrence for property damage liability.
- b) All insurance coverage shall be in force from the time of the Agreement to the date when all work under the contract is completed and accepted by the **Town**. Since this insurance is normally written on a year-to-year basis, the **Contractor** shall notify the **Town** should coverage become unavailable or if its policy should change.
- c) The **Contractor** shall, before commencing performance of this contract, provide for the payment of compensation and the furnishing of other benefits by an insurance company duly licensed to do business in accordance with Massachusetts General Laws, Chapter 152, as amended, to all employed under the contract and shall continue such insurance in full force and effect during the term of the contract.
- d) Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the contract. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the **Town** at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice.

ARTICLE 16. INDEMNIFICATION

The **Contractor** shall indemnify, defend, and save harmless the **Town** and all of the **Town's** officers, agents and employees from and against all suits and claims of liability of every name and nature, including costs of defending any action, for or on account of any injuries to persons or damage to property of the **Town** or any person, firm, corporation or association arising out of or resulting from any act, omission, or negligence of the **Contractor**, subcontractors and its and their agents or employees in the performance of the work covered by this Agreement and/or failure to comply with terms and conditions of this Agreement, but only in respect of such injuries or damages sustained during the performance and prior to the completion and acceptance of the work covered by this Agreement. The foregoing provisions shall not be deemed to be released, waived or modified in any respect by reason of any surety or insurance provided by the **Contractor** under the Contract.

ARTICLE 17. PERFORMANCE BOND

- a. In accordance with Massachusetts General Laws Chapter 149, Section 44E, prior to execution of a contract, the CONTRACTOR shall furnish to the OWNER such performance bond of a surety company qualified to issue bonds in the Commonwealth and satisfactory to the OWNER in the amounts requested by the OWNER in the bid specifications. Any performance bond shall remain in full force and effect for at least one year after the project's completion, and longer if required covering guarantees and/or pending claims.

- b. It is distinctly agreed and understood that any changes made in the drawings and specifications for this work, whether such changes increase or decrease the amount of work required, or any change in the manner or time of payments made by the OWNER to the CONTRACTOR, shall in no way void, release or affect the liability and surety on the bond given by the CONTRACTOR

ARTICLE 18. LABOR & MATERIALS PAYMENT BOND

- a) The Contractor shall furnish a payment bond from a surety company qualified to do business under the laws of the Commonwealth of Massachusetts and satisfactory to the Town, in an amount of one half of the total contract price for payment for labor performed or furnished and materials used or employed therein, when the contract is executed.
- b) It is distinctly agreed and understood that any changes made in the specifications for this work, whether such changes increase or decrease the amount of work required, or any change in the manner or time of payments made by the Town to the **Contractor**, shall in no way void, release or affect the liability and surety on the bond given by the **Contractor**.

ARTICLE 19. WAGE RATES

- a) If the work under this Agreement involves the construction of public works, the **Contractor** agrees to pay the prevailing wage and comply with M.G. L. c. 149, §§ 26 - 27D and a Statement of Compliance is included in the Contract Documents. Pursuant to M.G.L. c. 149 §§ 26 & 27B, the **Contractor** (and every Subcontractor) shall file weekly certified payroll records with the **Town** for all employees who have worked on the project. The **Town** and the **Contractor** must preserve said records for a period of not less than three years.
- b) Pursuant to Mass. Gen. L. Ch. 149, § 34B, the **Contractor** shall pay any Reserve Police Officer employed by it the prevailing wage of regular Police Officers in the Town of Needham.

ARTICLE 20. TIME RECORDS

The **Contractor** shall cause to be maintained complete, accurate, and detailed records of all time devoted to the project by the **Contractor** and each consultant or subcontractor employed by the **Contractor**. The TOWN may at all reasonable times audit such records. The **Contractor** shall comply with Mass. Gen. Laws, Chapter 30, Section 39R, which requires the **Contractor** to:

- i) maintain accurate and detailed accounts for a six-year period after the final payment [(b)(1)].
- ii) file regular statements of management concerning internal auditing controls [(c)].
- iii) file an annual audited financial statement [(d)].
- iv) submit a statement from an independent certified public accountant that such CPA has examined management's internal auditing controls and expresses an opinion as to their consistency with management's statement in (b) above and whether such statements are reasonable with respect to transactions and assets that are substantial in relation to the CONTRACTOR'S financial statement [(c)(4)(1)-(2)].

ARTICLE 21. MATERIALS AND WORKMANSHIP

Unless otherwise specified, all materials and equipment incorporated in the work under the Contract shall be new. All workmanship shall be first class and by persons qualified in the respective trades.

ARTICLE 22. GUARANTEE OF WORK

- a) Except as otherwise specified, all work shall be guaranteed by the **Contractor** against defects resulting from the use of inferior materials, equipment, or workmanship for one year from the date of final completion of the Contract.
- b) If, within any guarantee period, repairs or changes are required in connection with guaranteed work, which in the opinion of the **Town** are rendered necessary as a result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the Contract, the **Contractor** shall, promptly upon receipt of notice from the **Town** and at its own expense:
 - 1) Make goods and services conform to this Agreement;
 - 2) Make good all damage to the **Town**, or equipment or contents thereof, which, in the opinion of the **Town**, is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the Agreement; and
 - 3) Make good any work or material, or the equipment or site, which is disturbed in fulfilling any such guarantee.

ARTICLE 23. GOVERNING LAW

This Agreement and performance hereunder are governed in all respects by the laws of the Commonwealth of Massachusetts and all other applicable by-laws and administrative rules, regulations and orders.

ARTICLE 24. CONSENT TO VENUE

The **Contractor** agrees that it shall commence and litigate all actions or proceedings arising in connection with this Agreement exclusively in the Dedham District Court or in the Norfolk Superior Court, both of which are located in the County of Norfolk, Commonwealth of Massachusetts. The aforementioned choice of venue is intended to be mandatory and not permissive in nature, thereby precluding the possibility of the **Contractor** commencing or prosecuting any litigation against the Town, with respect to or arising out of this Agreement, in any court or forum other than those specified in this paragraph. It is further agreed that the parties to this Agreement hereby waive their rights to a jury trial.

ARTICLE 25. CONFLICT OF INTEREST

By execution of this Agreement with the TOWN, the **Contractor** acknowledges that the TOWN is a municipality for the purposes of Massachusetts General Law Chapter 268A (the Massachusetts conflict of interest statute), and agrees, as circumstances require, to take actions and to forbear from taking actions so as to be in compliance at all times with the obligations of the **Contractor** based on said statute.

ARTICLE 26. INDEPENDENT CONTRACTOR

All of the services to be performed under the terms of this Agreement will be rendered by the **Contractor** as an independent contractor. None of the terms of this Agreement shall create a principle-agent, master-servant or employer-employee relationship between the **Town** and the **Contractor**.

ARTICLE 27. LAWS, PERMITS AND REGULATION

The **Contractor** shall obtain and pay for all licenses and permits and shall pay for all fees and charges for connection to outside service and use of property other than the site of the work for storage of materials or any other purpose.

ARTICLE 28. BINDING AGREEMENT AND ASSIGNMENT OF INTEREST

This Agreement shall be binding upon the **Town** and the **Contractor** and the partners, successors, heirs, executors, administrators, assigns and legal representatives of the **Town** and the **Contractor**. Neither the **Town** nor the **Contractor** shall assign, sublet or transfer any interest in this Agreement without the written consent of each other, and such consent shall not be unreasonably withheld.

ARTICLE 29. SEVERABILITY

If a court declares one or more of the provisions of this Agreement invalid, the validity of the remaining provision of this Agreement shall not be affected thereby.

ARTICLE 30. CERTIFICATE OF COMPLIANCE WITH MASSACHUSETTS TAX LAWS

Pursuant to M.G.L., Ch. 62C, Sec. 49A, the undersigned, acting on behalf of the **Contractor** , certifies under the pains and penalties of perjury, to the best of the undersigned’s knowledge and belief that the **Contractor** is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Social Security Number or
Federal Identification Number

Signature of Individual
or Corporate Name

BY: _____
Corporate Officer (if applicable)

IN WITNESS WHEREOF the parties hereto have executed THREE (3) copies of this Agreement the day and year first above written.

CONTRACTOR: _____

By: * _____

Title: _____

**If a Corporation, attach to each signed copy of this Contract an attested copy of the vote of the Corporation on authorizing the said signing and sealing.*

TOWN OF NEEDHAM: _____
Kate Fitzpatrick, Town Manager

This is to certify that the funds have been appropriated by the Town of Needham for the purposes set forth in the Contract herein. A/C# _____

Town Accountant

Date: _____

Approved As To Form:

David S. Tobin, Town Counsel
Date: _____

Finance Department - Internal Use Only			
Purchase Order			
Account Number			
Date		initials	

DRAFT

CERTIFICATE OF AUTHORITY
CORPORATE

1. I hereby certify that I am the Clerk/Secretary of _____
(insert full name of Corporation)
2. corporation, and that _____
(insert the name of officer who signed the contract and bonds.)
3. is the duly elected _____
(insert the title of the officer in line 2)
4. of said corporation, and that on _____
(insert a date that is **ON OR BEFORE** the date
the officer signed the **contract and bonds.**)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. _____ the _____
(insert name from line 2) (insert title from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: _____ AFFIX CORPORATE
(Signature of Clerk or Secretary)* SEAL HERE
7. Name: _____
(Please print or type name in line 6)*
8. Date: _____
(insert a date that is **ON OR AFTER** the date the
officer signed the **contract and bonds.**)

The name and signature inserted in lines 6 & 7 must be that of the Clerk or Secretary of the corporation.