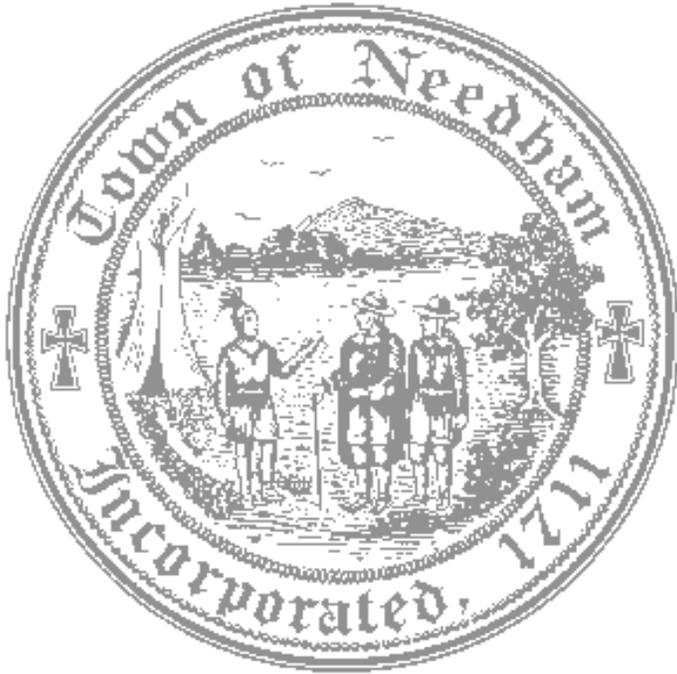


Town of Needham
Department of Public Works
 Public Services Administration Building, 500 Dedham Avenue
 Needham, Massachusetts 02492
 Telephone (781) 455-7550

ACKNOWLEDGEMENT OF RECEIPT

Release Date	November 18th, 2021
Qualifications Title	Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects
ID Number	22DPW162D
Number of Documents	The Bid Package consists of 2 PDF documents. Returning this form confirms receipt of all the documents.
Pre-Proposal Meeting	November 29th, 2021 @ 9:00am
Questions Due	November 30th, 2021 by 5:00pm
Qualifications Due	December 9th, 12:00pm Administration Office of the Department of Public Works located at the Public Services Administration Building, 500 Dedham Ave., Needham, MA, 02492
Please provide the requested information below as acknowledgment that you have received our bid package noted above. It is recommended that interested bidders complete this acknowledgment and return via email to dpwadmin@needhamma.gov or fax to the Department of Public Works at (781) 449-9023. Only by doing this, will the Town be able to provide notification of any addenda or answered questions relating to this bid. Only those companies or individuals shown on the Distribution Register will receive addenda to this bid. By completing and returning this acknowledgement will ensure you are recorded on the Distribution Register. Proposals from companies or individuals not acknowledging the addenda may be rejected as not responsive.	
Name of Company or Individual	
Name / Title of Contact	
Address	
City/Town, State, Zip Code	
Telephone Number	
Fax Number	
Email Address	
Signature	
Date	
Addenda will be posted to the Town's website. Please check the website for addenda before submitting your bid to the Town. Bidders who access the bid package from the Town's website are responsible for checking the website periodically for any addenda that may be issued by the Town.	

**Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects
22DPW162D**



Release Date	November 18 th , 2021
Pre-Proposal Conference	November 29 th , 2021 at 9:00am
Deadline for Questions	November 30 th , 2021 at 5:00pm
Qualifications Due	December 9 th , 2021 at 12:00pm Director of Finance and Administration PSAB 500 Dedham Ave. Needham, MA 02492

(Advertised in the Needham Times issue of Thursday, November 18th, 2021)
(Advertised on the MNPA's website, Thursday, November 18th, 2021)
(Published in Central Register issue of Wednesday, November 17th, 2021)
(Advertised in CommBuys on November 18th, 2021)



LEGAL NOTICE
TOWN OF NEEDHAM, MASSACHUSETTS
DEPARTMENT OF PUBLIC WORKS
Request for Qualifications
RFQ 22DPW162D

Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects

The Town of Needham invites statements of qualifications for **Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects**. Information and details of bidding requirements will be available beginning Thursday, November 25th, 2021, at the DPW Administration Office, Public Services Administration Building, 500 Dedham Ave, Needham, Massachusetts 02492, by calling (781) 455-7550, Ext. 366, or online at <http://needhamma.gov>.

A pre-proposal site visit will be held at 500 Dedham Ave, Needham, MA in the Charles River Conference Room on November 29th, 2021 at 9:00am.

Sealed proposals will be received at the DPW Administration Office, Public Services Administration Building, 500 Dedham Ave, Needham, Massachusetts 02492 until **December 9th, 2021 at 12:00pm**. Finalists' interviews are tentatively scheduled for **week of January 3rd, 2022**.

The right is reserved by the Town of Needham to reject or accept any or all statements of qualifications if it is in the public interest to do so.

Kate Fitzpatrick
Needham Town Manager

RFQ 22DPW162D
Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects
Procurement in Brief

Primary Procurement Contact		Andrew Fagan, Admin Analyst x229
Project Manager		Barry Dulong, Building Maintenance Director
Event	Date	Details
Project Name		Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects
Contract ID Number		22DPW162D
Request for Qualifications (RFQ) Available	Starting November 18th, 2021	Information and details of bidding requirements may be obtained at the Administration Office DPW, PSAB, 500 Dedham Ave., Needham, MA 02492, or online at the Town's web site http://www.needhamma.gov/bids.aspx
Pre-Proposal Site Visit & Meeting	November 29th, 2021 @ 9:00am	PSAB Building: 500 Dedham Ave, Needham MA
Bid Deposit		5% Bid Deposit Required as part of bid
Deadline for Written Questions	November 30th, by 5:00pm	By Mail: DPW - 500 Dedham Ave., Needham, MA 02492 By Email: dpwadmin@needhamam.gov By Fax: 781-449-9023 Questions are to be clearly labeled as: QUESTIONS - Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects – 22DPW162D
Addenda		If any changes are made to this bid, an addendum will be issued. Addenda will be posted on the Town's webpage and emailed to all bidders on record as having received the bid package.
When and where bids are due	12:00pm, December 9th, 2021	Administration Office DPW, PSAB, 500 Dedham Ave., Needham, MA 02492. LATE BIDS WILL NOT BE CONSIDERED
Proposal Opening		Qualifications will not be publicly opened.
Notify all bidders of finalists selected for interviews	December 16th, 2021	Time of interview scheduled at time of notification
Interviews (if required)	Week of January 3rd, 2022	Interviews will be tentatively scheduled with the selection subcommittee in Needham, MA.
Contract Award	February 2022	Approval of Town Manager and Town Counsel is REQUIRED
Contract Length		This Agreement shall be for a term commencing upon execution and ending November 30th, 2024. This agreement may be renewed or extended for up to 2 years, in one-year terms, at the sole discretion of the Town.

Section 1 – General Conditions and Submission Requirement

1.01 Introduction

The Town of Needham, through the Town Manager and its Department of Public Works – Building Maintenance Division, (“Owner”), invites consulting firms to provide qualifications for Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects.

The term of this Agreement shall be upon execution until November 30th, 2024, with two (2) one-year renewal options, expiring November 30th, 2025 and November 30th, 2026 respectively.

One (1) original, five (5) copies of the proposals and one (1) electronic copy must be submitted to the attention of Cecilia Simchak, Director of Finance/Admin for Public Services, Administration Office, Public Services Administration Building, 500 Dedham Ave, Needham, Massachusetts 02492 by 12:00pm, December 9th, 2021. All proposals must include the attached certificate of non-collusion. All consultants shall furnish proof of a minimum of ten (10) continuous years in business.

Selected consultant interviews will be conducted by a Selection Committee and are tentatively scheduled to take place on January 3rd, 2021. The successful consultant must enter into the Form Agreement prepared by Town Counsel (Sample Available Online). The selected consultant will be invited to meet with the Town to negotiate for specific tasks and made part of the consulting contract as required.

The Town of Needham reserves the right to reject or accept any or all statements of qualifications that it considers to be in the best interest of the Town. The Town Manager is the Awarding Authority for the project. The Town Manager and the DPW are the jurisdictional body overseeing the site and the facility with operations management provided by the DPW.

1.02 Requests for Interpretation

Consulting Firms shall promptly raise the issue of any ambiguity, inconsistency, or error, which they may discover upon examination of the RFQ Documents or any other conditions, which apply to the work. Consulting Firms must note that statements made orally are not binding on the Town and only written responses by the Town will be considered. **Questions** must be sent in writing by email to afagan@needhamma.gov by 5:00pm on December 2nd, 2021. To identify questions coming in, please write in the subject area the following: **Engineering Inspection, Design, Monitoring & Laboratory Services for Asbestos Abatement & Flooring Projects 22DPW162D – Questions**. Requests properly presented that in the opinion of the Town require interpretation, correction, or change in the RFQ documents shall result in an issuance of an Addenda to the RFQ Documents. Such Addenda shall subsequently become part of the RFQ Documents. All addenda are required to be acknowledged in the RFQ package submission.

1.03 CORI/SORI Requirements

In accordance with G.L. c. 71, § 38R, the Town may request and obtain all available criminal offender record information (CORI) from the Criminal History Systems Board of any employee of the Consultant “who may have direct and unmonitored contact with children” during the performance of their work on school property.

As a condition of the award of any contract pursuant to this RFQ, and prior to commencement of any work, the successful Consultant shall complete and sign a CORI Request Form to obtain CORI if, in the determination of the Town, some or all of the employees or contractors of the Consultant “may have direct and unmonitored contact with children” during the performance of their work on school property.

Pursuant to G.L. c. 6, §§ 178C-178P, the Contractor authorizes the Town to use local and national sexual offender registry information (SORI) to determine if any of Contractor’s employees pose an unreasonable risk to children within the Needham Public Schools.

The Town shall provide the CORI Request Forms as needed.

Furthermore, the Contractor's employees will be subject to fingerprint-supported national criminal history background checks. The Contractor will ensure any required fee is paid, and that the Town will not be charged for the cost of this requirement.

1.04 Statement of Compliance

Statement of Compliance stating that persons employed by the award recipient are paid in accordance with the provisions of Sections 26 to 27H of Chapter 149 of the General Laws.

The selected consulting firm will not be permitted to either assign or underlet the contract, nor assign either legally or equitably any monies there under, or its claim thereto without the previous written consent of the Town.

1.05 General Safety, Licenses, & Performance

The consultant's personnel working on this project must hold all necessary licenses and permits to perform the work required under this Agreement as required by the Town of Needham under the Commonwealth of Massachusetts regulations. Fire details are required for all work performed that requires an open flame within an occupied building.

Most of the work under this agreement is anticipated to be between the hours of 7:00 a.m. to 5:00 pm, Monday through Friday. No work is to be performed without the expressed and written permission of the Town.

All work will be done in accordance with applicable industry standards, codes and regulations, and/or manufacturer's specifications. The selected consultant firm is responsible for providing adequate safety measures during work to ensure protection of life and property.

The selected consultant shall be informed that there is a thirty (30) day cancellation clause in this contract for improper service. Complaints not rectified within a reasonable length of time from day of notice as determined by the Town may cause the Town to notify the consultant by registered or certified mail that the contract will be cancelled thirty days from the date of the letter.

Any defective workmanship shown to be caused by improper or faulty installation shall cause the consultant to correct, repair and/or replace all material and labor at no cost to the Town. The consultant will warrant that all workmanship shall be first class and shall be performed by persons qualified and licensed in their respective trades.

Any additional work that is performed as a part of this agreement must be approved by the appropriate Town authority. The absence of approval from the appropriate Town authority will be considered a violation of the contract.

1.06 Invoices & Reporting

Invoices shall be submitted by the successful consultant on a per job basis for work performed under this agreement after the completion of the work detailed in the scope of work. Any work that is performed as a part of this agreement must be approved by the appropriate by the Director of Building Maintenance or his designee. The absence of approval from the appropriate Town authority will be considered a violation of the contract.

Invoices and reports must be sent to the Town of Needham, Department of Public Works, 500 Dedham Avenue, Needham, MA 02492.

1.07 Site Maintenance & Inspection

The selected consultant will be responsible for maintaining the work site in a safe and orderly fashion on a daily basis. The consultant is responsible for the proper securing of all items associated with the project, including but not limited to: debris, tools, material, scaffolding, ladders, etc. The consultant is responsible for the removal and disposal of all debris and materials generated from this project.

1.08 Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program

Contractors are required to comply with the objectives of the Contract Compliance Procedures of the Minority Business Enterprise Program for the Town of Needham and ensure that appropriate minority manpower utilization targets are achieved for all construction contracts for which direct contract award exceeds \$50,000.

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Section 2 – Scope, Schedule, and Fees for Design Services

2.01 Project Scope

The Town of Needham is looking for a consultant to provide asbestos and asbestos-related engineering services. The Consultant should be able to test not only for asbestos, but also for hazardous materials including but not limited to: lead, mold, PCBs, radon, and lead and copper in water. They must also be able to test soil and Indoor Air Quality. The selected consultant would not be responsible for the physical removal of hazardous materials under this contract.

The Consultant would also be responsible for assisting the Town on any flooring projects deemed necessary. The contract would be for three (3) years with the possibility to renew yearly for a total of five (5) years.

2.02 Inspection and Design Services

- A. The Consultant will collect and analyze by PLM bulk samples from various materials suspected to contain asbestos. They are also expected to be able to inspect for the following hazardous materials: Lead, PCBs, radon, mold, lead and copper in water, soil, IAQ, and any other materials as necessary.
- B. Recommendations for Removal – Recommendations and strategies for removal must be based on the Town's objectives, schedules, and financial constraints, in accordance with applicable federal, state, and local regulations.
- C. Prepare Cost Estimates – Prepare cost estimates for the recommended actions, with alternative options as desired.
- D. Meetings – Meet with representatives of the Town to present recommendations for plans and specifications.
- E. Design Criteria – The project must be designed to meet the construction schedule prepared by the Owner. This design may include options for removal as well as repair of asbestos containing materials. This schedule should be prepared with adequate consideration for the requirements of asbestos abatement. The bid documents must be designed to solicit a lump sum price for the removal of the known quantities of ACM. Selected designer must have the ability to draft specifications for the project needs of the Town of Needham in accordance with MGL Chapter 149.
- F. Contract Documents – Prepare Contract Specifications based on the recommendations as accepted by the Owner.
- G. Advertisement for Bids – Assist in the Advertisement for Bids, including placing the advertisement in the Central Register and the local newspaper, and providing assistance to contractors who have questions regarding the project.
- H. Addenda Preparation – Prepare addenda and provide any additional information required during the bid period.
- I. Contractor Evaluation – Assist in evaluation of the contractors bidding on the project, including checking the bid package for all necessary documentation, confirming DCAMM status and checking the validity of all licenses with the appropriate State officials.
- J. The Town may require inspection and design services at any point during the contract period to meet the needs of the Town in the event of unforeseen situations.
- K. The Consultant is expected to have operational hours and ability to provide mentioned services on weekends and after hours if necessary.

2.03 Monitoring and Laboratory Services

- A. All testing of materials/hazardous materials, excluding mold, must be completed within 24 hours of collection of material to be tested, unless the Consultant notifies the Town.
- B. The Certified Asbestos Project Monitor(s) shall provide on-site asbestos abatement project monitoring and observe the contractor's practices and procedures during the removal process, including compliance with the Contact Documents and Federal and State Regulations.
- C. The Certified Asbestos Project Monitor(s) shall collect and analyze air samples in accordance with Federal and State regulations including:
 - Background air samples by Phase Contract Microscopy (PCM) prior to the commencement of abatement activities in each area to establish the ambient levels of airborne fibers.
 - General area air samples by PCM during abatement activities both inside and outside abatement work areas to verify airborne fiber levels do not exceed required limits.
 - Clearance air samples by PCM and Transmission Electron Microscopy (TEM) as required by Federal and State regulations.
 - PCM samples must be collected and analyzed on-site in accordance with the NIOSH method 7400 (A rules) by a NIOSH 582 equivalent trained analyst. TEM air sample analysis must be provided with a 24-hour turnaround, in accordance with 40 DFR 763.
- D. The Consultant must have the ability to oversee all abatements, including asbestos or non-asbestos projects.
- E. The Consultant must have the ability to oversee project construction and ensure that all work is being performed in accordance with the construction specifications and contract.
- F. Perform a final inspection and complete a "punch" list. Follow up to verify completion of the "punch" list items and provide written verification.
- G. Produce four copies of the final report, including daily project monitor logs, all sample results, contractor daily logs, and original manifests, based on EPA compliance audit protocols.
- H. Review and evaluate all change orders prior to their submission to the Owner.
- I. Review and approve contractor payment applications.
- J. The Town may require monitoring and laboratory services at any point during the contract period to meet the need of the Town in the event of unforeseen situations.
- K. Provide up-to-date list of all possible labs that the consultant may use for the above-mentioned hazardous materials, and services described within.

2.04 AHERA Six-Month Surveillance Inspections and AHERA Third Year Re-Inspection Services

A. Locations:

Emery Grover Building
1330 Highland Ave.
Needham, MA 02492

Daley Building
257R Webster St.
Needham, MA 02492

Hillside School
28 Glen Gary Rd.
Needham, MA 02492

Mitchell School
187 Brookline St.
Needham, MA 02492

Newman School
1155 Central Ave.
Needham, MA 02492

Needham High School
609 Webster St.
Needham, MA 02492

Pollard School
200 Harris Ave.
Needham, MA 02492

Any Additional Municipal or School
Buildings, as determined by the Town

- B. Visually re-inspect and reassess, under 40 CFR Part 763 Section 763.88, the condition of all friable known or assumed ACBM.
- C. Visually inspect material that was previously considered non-friable ACBM and touch the material to determine whether it has become friable since the last inspection or re-inspection.
- D. Identify any homogeneous areas with material that has become friable since the last inspection or re-inspection.
- E. For each homogeneous area of newly friable material that is already assumed to be ACBM, bulk samples may be collected and submitted for analysis in accordance with 40 CFR Part 763 Section 763.86 and 40 CFR Part 763 Section 763.87.
- F. Assess, under 40 CFR Part 763 Section 763.88, the condition of the newly friable material in areas where samples are collected, and newly friable materials in areas that are assumed to be ACBM.
- G. Reassess, under 40 CFR Part 763 Section 763.88, the condition of friable known or assumed ACBM previously identified.
- H. Using computer-aided drafting (CAD), update existing floor plan layouts found in Section 3 of the management plans, to reflect recent abatement and repair activities that may have been performed in each school building.
- I. Provide new spreadsheets that will accommodate the 3rd year re-inspection and the succeeding 6-month surveillance inspections equivalent to existing spreadsheets, which are found in Section 4 and at the end of the management plans. Bind new sheets into existing management plans (one copy for the LEA and one copy for each school).
- J. Submit to the LEA Designated Person for inclusion in the management plan the following: the results of the assessments and reassessments, and the name, signature and license number (with expiration date) of the inspector making the inspection.

Section 3 – Response to RFQ

3.01 Designer Qualifications

- A. The engineering firm, licensed inspector(s), project designer(s) and project monitor(s) shall have not less than five (5) years of experience with demonstrable, specific monitoring experience on projects of similar scope and magnitude.
- B. On-site air monitoring, testing and analysis shall be performed by experienced and qualified technical personnel. All personnel must be certified by the Massachusetts Department of Labor and Industries as Project Monitors.
- C. The engineering firm must demonstrate continuous successful participation in the NIOSH PAT Program for airborne fiber analysis by PCM and have had a Massachusetts DLWD licensed laboratory certification for PCM analysis for the previous 5 years.
- D. The engineering firm and laboratory shall maintain professional liability insurance with limits as referenced above.
- E. A not to exceed fee of \$200,000 for this contract.

This RFQ will be appended to and become part of the Contract for Designer Services. Any Designer selected as a result of this RFQ will be required to execute the "Agreement between Owner and Designer" that can be found attached hereto (Attachment A). Consultants submitting a Statement of Qualifications in response to this RFQ must specify any exceptions to the Contract at the time of application. The Owner may consider any such exceptions but shall not be bound by any such exceptions. A failure to specify exceptions will be deemed an acceptance of the Contract's terms and conditions.

The successful firm will be required to provide a Certificate of Professional Liability Insurance at the time of contract execution, in accordance with Article 11 of the Agreement – Attachment A. The successful firm shall identify **reimbursable expenses which shall be included within the not-to-exceed fee of \$200,000.**

3.02 Approach to AHERA Inspections

The Consultant must provide a brief outline of how they conduct AHERA Inspections, including the testing and scheduling required for AHERA Inspections.

Applicants must specify whether work in each category listed above is to be performed by in-house staff or by a sub-consultant(s) in their Statement of Qualifications.

3.03 SDO Goal

Pursuant to M.G.L. c 7C, §6 and M.G.L. c. 7, §61, the Supplier Diversity Office ("SDO") (formerly SOMWBA) and the Division of Capital Asset Management ("DCAM") have set revised participation goals for Minority Business Enterprise ("MBE") and Women Business Enterprise ("WBE") participation for affected state funded building projects and state assisted municipal building projects as defined in the above referenced laws and related Executive Orders, including Executive Orders 524 and 526.

Effective January 1, 2012, and until such time as the goals may be revised, the MBE and WBE participation goals for building construction and design awards and expenditures on new projects advertised on or after the effective date will be a combined MBE/WBE goal as follows:

13% combined MBE/WBE participation on construction contract awards; and,
21.6% combined MBE/WBE participation on design contract awards.

Overall annual designations by awarding authorities, as well as MBE/WBE participation on individual projects with a combined MBE/WBE participation goal, must include a reasonable representation of both MBE **and** WBE firms that meets or exceeds the combined goal. Proposed MBE/WBE participation plans that

include solely MBE or solely WBE participation or do not include a reasonable amount of participation by both MBE and WBE firms to meet the combined goal will not be considered responsive. Where the prime contractor or designer is an SDO certified MBE or WBE, the prime must bring a reasonable amount of participation by a firm or firms that hold the certification which is not held by the prime contractor or designer on the project. Proposed participation on construction projects or design projects which consists solely of either an MBE or WBE representing 100% of the overall combined goal will not be considered reasonable participation.

The SDO and the Awarding Authority will determine whether there is reasonable participation by both MBE and WBE firms on individual projects under their respective oversight. Firms submitting MBE/WBE participation plans which do not provide reasonable participation by both MBE/WBE firms shall be provided an opportunity to revise and resubmit their plans within the time frame set by the awarding authority; however no price adjustments shall be permitted as a result of the revised plan. Firms failing to submit an MBE/WBE participation plan deemed reasonable and accepted by the awarding authority shall not be awarded the contract.

Participation by MBE and WBE firms must be documented, tracked and reported on separately as MBE participation and WBE participation by prime vendors, subcontractors and awarding authorities.

Participation by MBE and WBE firms will continue to be tracked, reported and monitored separately to ensure that both MBE and WBE firms are participating on these projects. Not every project will have the full MBE/WBE goals set forth above due to their size, scope, or geographic location, as certain projects may have reduced goals, or in some cases no goals, as determined by the public awarding authority

3.04 RFQ Response Requirements

Persons or firms interested in applying must meet the following requirements:

1. Applications - one (1) original, five (5) copies and one (1) electronic copy in PDF or similar format on a flash drive - must be received on or before 12:00PM Thursday, December 9th, 2021. The applications must include the following:
 - a. Cover letter – 2 pages maximum
 - b. Completed DCAMM Designer Application Form - Applications are limited to the application plus a maximum of 3 supplementary pages, double-sided, not including the required documents listed below. Information in excess of three pages may be the basis for rejection. The Applications shall be on “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction” (updated July 2016) or the most recent version as developed by the Designer Selection Board of the Commonwealth of Massachusetts. The form can be found at the Massachusetts DCAMM website.
 - c. Evidence of professional liability insurance with at least the minimum liability coverage amounts as noted in this RFQ (Attachment A, Article 11)
 - d. Preliminary Work Plan identifying design tasks and responsible sub-consultants and incorporating the specified schedule into a project calendar (Maximum of two double-sided pages)
 - e. List of similar projects, including references, original cost estimate, and actual project cost
 - f. Identification of all project team members and their roles, including resumes with relevant past projects
 - g. Attachment B - Certificate of Non-collusion; Attachment C: Certifications; Attachment D: Certificate of Authority (if applicable); and Attachment E: Certificate of Compliance with Massachusetts Tax Laws
 - h. SDO (formerly known as SOWMBA) - MBE or WBE certificates (as applicable to project team members).

Proposal packages should be provided in simple spiral binders or stapled. Double-sided printing is encouraged where appropriate to reduce paper.

2. Qualifications shall be addressed to the attention of:

**Director of Finance/Admin for Public Services
Department of Public Works
500 Dedham Ave
Needham, MA 02492
Tel: (781) 455-7550**

3. Qualifications must be clearly identified by marking the package or envelope with the following:

**Town of Needham – Engineering Inspection, Design, Monitoring & Laboratory Services
for Asbestos Abatement & Flooring Projects**

Contract ID# 22DPW162D

Qualifications for - _____ [Insert Name of Applicant]

4. All questions regarding this RFQ should be addressed exclusively in writing in accordance with the Deadline for Written Questions in the Procurement Schedule to:

**DPW - Admin
Town of Needham
500 Dedham Ave
Needham, MA 02492
Tel: (781) 455-7550
Email: dpwadmin@needhamma.gov**

The deadline for questions is 5:00pm, December 2nd, 2021.

3.05 Pre-Proposal Meeting

A pre-proposal meeting will be held as follows:

When: **Monday, November 29th, 2021 at 9:00am**

Where: **Charles River Room, PSAB Building, 500 Dedham Ave, Needham MA 02492**

The briefing session will be held in the Charles River Conference Room at the Public Service Administration Building. Following a project overview and Q&A session the applicants may attend a tour of the Mitchell Elementary School. ***Attendance is encouraged but not required for submission of qualifications.***

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Section 4 - Selection

4.01 Selection Criteria

The Owner, through its Department of Public Works – Building Maintenance Division, will consider the following criteria in evaluating Qualifications:

1. Demonstrated recent experience and expertise with similar hazardous materials testing work performed within the past five years;
2. Past performance of the firm, if any, with regard to public or private projects across the Commonwealth, with respect to:
 - a. Quality, clarity, completeness, and accuracy of testing or sampling hazardous material.
 - b. Ability to manage timelines, and deliverable times.
 - c. Ability to permit complex projects, and testing/sampling/handling of hazardous material.
 - d. Coordination of laboratories and sub-consultants for flooring projects.
 - e. Working relationship with local awarding authority, staff, and local officials;
3. Identification and quality of work of the firm, if any, with regard to prior similar services provided to the Town of Needham or other municipalities, and state agencies;
4. Current workload and ability to undertake the contract based on the number and scope of projects for which the firm is under contract or projected to be under contract for the duration of this project. Capacity of the firm to meet the time commitments required by the project;
5. The financial stability of the firm;
6. The identity and qualifications of the consulting firms who will work on the project and the qualifications of the key personnel and consultants to be assigned to the project;
7. Geographical proximity of the firm to the project site or willingness of the firm to make site visits and attend local meetings as required by the client;
8. References from recent clients for similar projects;
9. Team's ability to meet the SDO goals for MBE & WBE participation;
10. Any other criteria the selection committee considers relevant to the project.

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4.02 Proposal Evaluation Criteria

Overall	
Highly Advantageous	The proposal is complete and demonstrates a clear understanding of the services to be performed and how the services will be provided in accordance with the Town needs. The Bidder exceeds the Minimum Qualifications.
Advantageous	The proposal is complete, and the Bidder meets all the Minimum Qualifications.
Not Advantageous	The proposal is incomplete/is not clear whether it satisfies the services, but the Bidder meets all of the Minimum Qualification.
Unacceptable	The Firm does not meet the Minimum Qualifications.

Experience of Identified Staff	
Highly Advantageous	The lead personnel have ten (10) or more years' experience with projects similar to those outlined in the RFQ.
Advantageous	The lead personnel have five (5) or more years' experience with projects similar to those outlined in the RFQ.
Not Advantageous	The bidder has three (3) or more years' experience with projects similar to those outlined in the RFQ.
Unacceptable	The bidder has less than three years' experience with projects similar to those outlined in the RFQ.

Experience of Supervisory Personnel	
Highly Advantageous	The lead personnel have ten (10) or more years' supervisory experience with projects similar to those outlined in the RFQ.
Advantageous	The lead personnel have five (5) or more years' supervisory experience with projects similar to those outlined in the RFQ.
Not Advantageous	The bidder has three (3) or more years' supervisory experience with projects similar to those outlined in the RFQ.
Unacceptable	The bidder has less than three years' supervisory experience with projects similar to those outlined in the RFQ.

Experience and Capabilities of the Firm	
Highly Advantageous	The bidder has ten (10) or more years' experience in providing services comparable to municipal school buildings.
Advantageous	The bidder has five (5) or more years' experience in providing services comparable to municipal school buildings.
Not Advantageous	The bidder has three (3) or more years' experience in providing services comparable to municipal school buildings.
Unacceptable	The bidder has less than three (3) or more years' experience in providing services comparable municipal school buildings or those listed in the overview of services.

Experience of Sub-Consultant / Laboratory Services	
Highly Advantageous	The sub-consultant has ten (10) or more years' experience in providing services comparable to that listed in the overview of services and has evidence of successful completion.
Advantageous	The sub-consultant has seven (7) or more years' experience in providing services comparable to that listed in the overview of services and has evidence of successful completion.
Not Advantageous	The sub-consultant has five (5) or more years' experience in providing services comparable to that listed in the overview of services. and has evidence of successful completion.
Unacceptable	The sub-consultant has less than five (5) years' experience in providing services comparable to that listed in the RFQ in relation to the work required and has evidence of successful completion.

Management Approach & Capacity to Perform Work	
Highly Advantageous	The proposal is complete and demonstrates a clear understanding of the services to be performed and how the services will be provided in accordance with the Town needs. The Bidder exceeds the Minimum Qualifications.
Advantageous	The proposal is complete, and the Bidder meets all the Minimum Qualifications.
Not Advantageous	The proposal is incomplete/is not clear whether it satisfies the services, but the Bidder meets all of the Minimum Qualification.
Unacceptable	The Firm does not meet the Minimum Qualifications.

Successful Completion of Similar Projects	
Highly Advantageous	The bidder has ten (10) or more years' experience in providing services comparable to that listed in the overview of services and has evidence of successful completion.
Advantageous	The bidder has seven (7) or more years' experience in providing services comparable to that listed in the overview of services and has evidence of successful completion.
Not Advantageous	The bidder has five (5) or more years' experience in providing services comparable to that listed in the overview of services. and has evidence of successful completion.
Unacceptable	The bidder has less than five (5) years' experience in providing services comparable to that listed in the RFQ in relation to the work required and has evidence of successful completion.

Successful Completion of Projects in the New England Area	
Highly Advantageous	The bidder has five (5) or more years' experience providing services comparable to that listed in the RFQ with Massachusetts Municipal Clients.
Advantageous	The bidder has three (3) or more years' experience providing services comparable to that listed in the RFQ with Massachusetts Municipal Clients.
Not Advantageous	The bidder has one (1) or more years' experience providing services comparable to that listed in the RFQ with Massachusetts Municipal Clients.
Unacceptable	The bidder no experience providing services comparable to that listed in the RFQ with Massachusetts Municipal Clients.

4.03 Interviews

As part of the evaluation process, the Selection Committee will require a presentation by Bidders that meet the Minimum Quality Requirements. Interviews will consist of questions from the Committee on the information contained in their submission, and bidders must be ready to speak to their qualifications and action plans for this contract.

Presentations should be no longer than 15 minutes, with approximately 20 additional minutes additional reserved for questions from the Evaluation Committee.

A presentation to the Evaluation Committee is a requirement for award of a contract. Bidders that fail to make a presentation will be deemed non-responsive and therefore the proposal will be rejected.

Interview	
Highly Advantageous	Bidder offers an exceptionally creative, well-organized, and compelling presentation, and demonstrates an ability to effectively communicate ideas and plans. The Bidder responds to the Committee's questions with factual and clear answers and follows up on Committee requests for additional information promptly (less than 24 hours).
Advantageous	Bidder offers a clear, well-organized presentation and demonstrates an ability to effectively communicate ideas and plans. The Bidder responds to the Committee's questions with factual and clear answers and follows up on Committee requests for additional information within the time frame agreed to

	at the presentation (usually not more than 2 business days).
Not Advantageous	Bidder offers an unclear and confusing presentation and does not effectively communicate their ideas and plans. The Bidder responses to the Committee's questions were unclear and/or did not follow up on any request for additional information promptly. Failure to provide requested information within the agreed time will be a basis for rejection of the Bidder.
Unacceptable	Bidder declines or does not make a presentation.

4.04 Bidder References

Quality of References	
Highly Advantageous	Four clients contacted by the Town, among them at least three municipalities, commented substantively and positively on their experiences with the Bidder and their expertise and gave the firm a highly positive recommendation.
Advantageous	Three clients contacted by the Town, among them at least two municipalities commented substantively and positively on their experiences with the Bidder and their expertise and gave the firm a highly positive recommendation.
Not Advantageous	One client contacted by the Town commented substantively and positively on their experiences with the Bidder and gave the firm a highly positive recommendation.
Unacceptable	No client contacted by the Town commented substantively and positively on their experiences with the Bidder.

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Section 5 - Other

Rule for Award

The Town reserves a period up to forty-five (45) calendar days following the opening of the qualifications in which to evaluate and award the contract.

The Town herein declares its express purpose not to award the contract to any firm unable to furnish evidence, satisfactory to the Town, that it has sufficient ability, experience, and capital to execute and complete the work in accordance with the contract. The Consultant must possess and identify the physical resources, equipment, and personnel necessary to carry out the work in accordance with the specified requirements. If requested, any firm MAY be required to demonstrate financial stability satisfactory to the Town.

The Department of Public Works and Town Manager are the awarding authority for the contract (Attachment A, or a contract substantially in this form). Furthermore, the contract will not be binding until it has been approved as to form by Town Counsel. Award, payment, and performance obligations shall depend on the availability and appropriation of funds.

The Town reserves the right to reject any and all qualifications as determined to be in the best interests of the Town and to waive minor informalities.

Federal and State Taxes

The Town is exempt from federal and state sales taxes and/or use taxes. Taxes are not to be included in the Proposal price to be negotiated with the selected consultant.

Information about changes to the RFQ (Addenda)

In the event that changes/additions are made to this RFQ, an addendum will be issued. Addenda will be emailed to every potential responder on record as receiving the RFQ package. It is necessary for the prospective firm to submit the "ACKNOWLEDGEMENT OF RECEIPT" so that Addenda can be forwarded to interested firms.

Examination of documents and questions

The Consultant shall be satisfied as to the requirements of the contemplated services to enable intelligent preparation of this Proposal. The Consultant shall be familiar with all of the RFQ documents before submitting the Proposal so that no misunderstanding shall exist in regard to the nature and character of the contemplated services to be performed. No allowance will be made for any claim that the Proposal is based on incomplete information.

Inquiries concerning any part of this RFQ shall be directed to the individual(s) listed under the Procurement Schedule. Firms should note that oral communications are not binding on the Town. All requests/questions must be submitted in writing. Questions must be sent in writing and may be delivered by hand, fax, or email as referenced under the Procurement Schedule by the deadline. The Town will respond to written questions that are received by the deadline and will forward responses to all persons who are on record as receiving the Proposal package. Questions received after the due date will not be responded to unless the Town determines it is necessary. Firms must allow enough time for hand delivery or facsimile transmissions.

Proposal modifications or withdrawals

Qualifications may be corrected, modified, or withdrawn prior to the submission deadline; requests to do so must be received in writing to the Town Manager. After the submission deadline, qualifications may not be changed. Minor mistakes may be waived by the Town.

Premature opening of a Proposal

The Town will not be responsible for the premature opening of any qualifications not properly identified. The Town may reject qualifications which are incomplete, not properly endorsed or signed, or which otherwise are contrary to these instructions.

Unexpected closure of delays

If, at the time of the scheduled proposal submission deadline, the building is closed due to uncontrolled events such as fire, snow, ice, wind, building evacuation, or other the deadline will be postponed until 2:00pm on the next normal business day. Qualifications will be accepted until that date and time.

Late submissions

The Town assumes no responsibility for late submissions due to mail, courier, or delivery problems. LATE QUALIFICATIONS WILL NOT BE CONSIDERED.

Rejection of bids

The Qualifications must satisfy all the requirements of the RFQ in order to be considered for award. Failure to complete the required forms, answer any questions, or provide the required documentation will be deemed NON-RESPONSIVE and result in rejection of the qualifications unless the Town determines that such failure constitutes a minor informality that can be corrected without prejudice to other firms. A proposal may be rejected if the firm:

- Fails to adhere to one or more of the provisions established in the RFQ;
- Fails to submit its proposal by the time or in the format specified herein or to supply the minimum information requested herein;
- Fails to submit its proposal to the required address on or before the specified submission deadline;
- Misrepresents its service or provides demonstrably false information in its proposal;
- Fails to provide material information;

OR

- Submits a proposal that is incomplete, not properly endorsed, or signed.

The Town reserves the right to reject any and all qualifications as determined to be in the best interests of the Town and to waive minor informalities.

General and special provisions

The consideration of all bids and subsequent selection of the successful applicant shall be made without regard to race, color, sex, age, handicap, religion, political affiliation, or national origin.

The Consultant shall adhere to the provisions of the Fair Employment Practices Law of the Commonwealth (Massachusetts General Laws, Chapter 151B)

The provisions relating to non-discrimination and affirmative action in employment shall flow through all contracts and subcontracts that the successful firm may receive or award as a result of this contract.

Services provided by the Consultant shall be rendered through a professional services contract; the Consultant will not be considered an employee of the Town and will not receive any benefits of an employee.

The Consultant shall comply with Massachusetts General Laws, Chapter 66A if the Consultant becomes a "holder" of "personal data". The Consultant shall also protect the physical security and restrict any access to personal or other Town data in the Consultant's possession or used by the Consultant in the performance of the Contract, which shall include, but is not limited to the Town's public records, documents, files, software, equipment, or systems.

Ownership of Documents

All qualifications, materials, drawings, plans, etc. shall become the property of the Town and may not be disposed of without notification and shall be considered public information.

The Consultant selected shall be expected to comply with all applicable federal and state laws in the performance of services.

By execution of a contract with the Town of Needham, the Consultant acknowledges that the Town of Needham is a municipality for the purposes of Massachusetts General Laws, 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.

Contract terms and conditions

The contract is anticipated to be executed by the date indicated under Procurement Schedule for this Proposal. The Town reserves the right to change, delay, cancel, or expedite the contract execution date. The selected Consultant is required to furnish all bonds and certificate of insurances required under the contract, in a form acceptable to the Town prior to the execution date.

The Town's Standard Contract is incorporated herein as Attachment A. Bidders are expected to review the sample contract. Unless otherwise noted by the Town in this RFQ, the terms and conditions contained therein are NOT negotiable.

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Section 6 - Attachments

Attachment A: Certificate of Authority

Attachment B: Certificate of Non-Collusion

Attachment C: Certifications

Attachment D: Certificate of Compliance with Massachusetts Tax Laws

Attachment E: Sample Master Agreement Between Owner and Consultant

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Attachment A: Certificate of Authority

CERTIFICATE OF AUTHORITY

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 _____
(The date must be **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.

This form is required to be submitted with the RFQ Proposal if the Proposal is signed by a person other than the owner or president of the company.

Attachment B: Certificate of Non-Collusion

The undersigned further certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section 29F of chapter 29, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder. The undersigned hereby certifies that s/he will comply with all laws and regulations applicable to awards made subject to Massachusetts General Laws Chapter 7.

Bidder Name

Date

Signature of Individual Submitting the Bid

Individual Full Name / Title

Name of Business

Business Address

City/Town State

THIS FORM MUST BE COMPLETED AND FILED WITH THE PROPOSAL SUBMISSION

Attachment C: Certifications

In accordance with M.G.L. c. 7 § 38H (b), the undersigned states that the wage rates and other costs used to support the designer's compensation are accurate, complete, and current at the time of contracting; and agrees that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amount if the fee was increased by such amounts due to inaccurate, incomplete or noncurrent wage rates or other costs.

In accordance with M.G.L. c. 7 § 38H(b), the undersigned certifies under penalties of perjury that the designer or construction manager has not given, offered, or agreed to give any person, corporation, or other entity any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of the contract for design services.

The undersigned certifies under penalties of perjury that no consultant to, or subcontractor for, the designer or construction manager has given, offered, or agreed to give any gift, contribution, or offer of employment to the designer or construction manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the designer or construction manager.

The undersigned certifies under penalties of perjury that no person, corporation, or other entity, other than a bona fide full-time employee of the designer or construction manager, has been retained or hired by the designer or construction manager to solicit for or in any way assist the designer or construction manager in obtaining the contract for design services upon an agreement or understanding that such person, corporation, or other entity be paid a fee or other consideration contingent upon the award of the contract to the designer; and

Signature of individual submitting Proposal

Date

Name of Business (please type or print)

THIS FORM MUST BE COMPLETED AND FILED WITH THE PROPOSAL SUBMISSION

Attachment D: Certificate of Compliance with Massachusetts Tax Laws

Certificate of Good Standing issued by the Massachusetts Department of Revenue dated no earlier than 90 days before the bid submission deadline may be submitted in place of this certificate.

Pursuant to M.G.L. c.62C, §49A , the undersigned acting on behalf of the Contractor* certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.**

(1) Contractor: _____ Date: _____

Print Name: _____

Social Security Number: _____

Corporation, Association or Partnership:

_____ (Print)

Federal Tax ID Number or Social Security Number:

(2) By: _____ Date: _____
(Authorized Corporate Signature)

Title: _____

Note to Contractor***: Please sign at (1) or (2), whichever applies.

In order to comply with all laws of the Commonwealth relating to taxes, the undersigned certifies that Contractor (check applicable item):

1. _____ has filed all tax returns and paid all taxes required by law; or
2. _____ has filed a pending application for abatement of such tax; or
3. _____ has a pending petition before the appellate tax board contesting such tax; or
4. _____ does not derive taxable income from Massachusetts Sources such that it is subject to taxation by the Commonwealth

* As used in this certification, the word "Contractor" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

* The provision in this Certification relating to child support applies only when the Contractor is an individual.

*** Approval of a contract or other agreement will not be granted until the Town of Needham receives a signed copy of this Certification.

THIS FORM MUST BE COMPLETED AND FILED WITH THE PROPOSAL SUBMISSION

ATTACHMENT E

**MASTER AGREEMENT BETWEEN
OWNER AND CONSULTANT
CONTRACT ID # DPW
FY**

This Master Agreement for [**Contract Name**] is made and entered into on the ____ day of _____ by and between the TOWN OF NEEDHAM, (hereinafter **OWNER**), a municipal corporation organized under the laws of the Commonwealth of Massachusetts, acting through its Town Manager and [**VENDOR**] (hereinafter **CONSULTANT**), a corporation organized under the laws of [State], with a usual place of business at [Address], for consulting work to be done under a Project Agreement to be separately signed by the parties setting forth work to be done on a particular project, which shall incorporate the terms of this agreement.

WITNESSETH that the **CONSULTANT** and the **OWNER**, in consideration of the mutual promises hereinafter named, agree as follows:

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: THE PROJECT AGREEMENT TO BE SIGNED BY THE **OWNER AND CONSULTANT**;
- SECOND: THIS MASTER AGREEMENT;
- THIRD: REQUEST FOR PROPOSALS AND ADDENDA FOR THE PARTICULAR PROJECT, IF APPLICABLE;
- FOURTH: **CONSULTANT'S** PROPOSAL SUBMITTED FOR THE PARTICULAR PROJECT;
- FIFTH: DRAWINGS REQUIRED FOR THE PROJECT, IF APPLICABLE; AND
- SIXTH: COPIES OF ALL REQUIRED BONDS, CERTIFICATES OF INSURANCE AND LICENSES REQUIRED UNDER THE CONTRACT.

These documents will form the entire Agreement 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 **OWNER**.

ARTICLE 2: SCOPE OF THE WORK

The **CONSULTANT** shall furnish all materials, labor, and equipment, and perform all work shown on the contract documents, including the Project Agreement, and the **CONSULTANT** agrees to do everything required by the Contract Documents.

ARTICLE 3: TERM OF AGREEMENT

This Master Agreement shall be effective upon execution by all the parties and shall expire on [Date]. This Master Agreement may be renewed or extended for up to two (2) yearly extensions, expiring [Date] and [Date] respectively, at the sole option of the Town and upon the terms described in the Request for Qualifications. The maximum term of this contract will result in an ending date of [Date]. Any Project Agreement executed after the expiration date of this Master Agreement shall be void and unenforceable by the parties.

ARTICLE 4: TIME OF COMPLETION

- 4.1 The work to be performed under the Project Agreement shall be commenced immediately upon execution of the Project Agreement and shall be entirely completed on the date set forth in the Project Agreement.
- 4.2 The **CONSULTANT** hereby agrees that if it fails to carry on the work with reasonable speed or stops work altogether without due cause, as determined in each case by the **OWNER**, the **OWNER** may give notice to

the **CONSULTANT** in writing to proceed with the work or to carry on the work more speedily. Three days after the presentation of such notice, if the work is not proceeding to the satisfaction of the **OWNER**, the **CONSULTANT** shall be considered to have defaulted in the performance of the Agreement.

ARTICLE 5: THE CONTRACT SUM

The **OWNER** shall pay the **CONSULTANT** for the performance of this Agreement according to the rates or unit prices listed on the **CONSULTANT'S** rate sheet attached to this Agreement and the amounts set forth in the Project Agreement, which shall include all reimbursable expenses.

ARTICLE 6: PAYMENT

- 6.1 The **OWNER** shall make payment as set forth in the Project Agreement.
- 6.2 With an invoice the **CONSULTANT** shall submit evidence satisfactory to the **OWNER** 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.
- 6.3 The **CONSULTANT** shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by **CONSULTANT** in the preparation of the bid documents, as reasonably determined by **OWNER**.

ARTICLE 7: NO RELEASE

The approval of any invoice by the **OWNER**, any payment by the **OWNER** to the **CONSULTANT**, any use of the **CONSULTANT'S** work or any part thereof by the **OWNER**, or any correction of the **CONSULTANT'S** defective work by the **OWNER** shall not constitute the **OWNER'S** acceptance of the **CONSULTANT'S** work which is not in accordance with the terms of this Agreement, nor shall it constitute a release of the **CONSULTANT'S** obligation to perform the Project in strict compliance with all terms of this Agreement.

ARTICLE 8: USE OF CONSULTANT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

- 8.1 All Drawings, Specifications, and other documents (including sketches, computations, test data, survey results, photographs, renderings, models, and other material peculiar to the Services) prepared by the **CONSULTANT** or any person or entity hired by the **CONSULTANT** shall become the property of the **OWNER** upon payment of sums due under the Project Agreement. The **OWNER** acknowledges the copyright of the **CONSULTANT** and any person or entity hired by the **CONSULTANT**.
- 8.2 The **OWNER** may use the Drawings, Specifications and such other documents prepared by the **CONSULTANT** or any person or entity hired by the **CONSULTANT** as needed for the construction, maintenance, repair, or modification of the project.
- 8.3 The **OWNER** shall indemnify the **CONSULTANT** or any person or entity hired by the **CONSULTANT** and release and hold them harmless from any claims arising out of any use of or changes to the documents made by the **OWNER** or his representatives during any other construction not a part of this contract.

ARTICLE 9: NONPERFORMANCE

In the case of any default on the part of the **CONSULTANT** with respect to any of the terms of this Agreement or the Project Agreement, the **OWNER** shall give written notice thereof, and if said default is not made good within such time as the **OWNER** shall specify in writing, the **OWNER** shall notify the **CONSULTANT** in writing that there has been a breach of the Agreement and the Agreement is terminated and thereafter the **OWNER** shall have the right to secure the completion of the work remaining to be done on such terms and in such manner as the **OWNER** shall determine, and the **CONSULTANT** shall reimburse the **OWNER** for all expenses incurred by reason of said breach. The **CONSULTANT** 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 **CONSULTANT** shall be determined by the **OWNER** and certified to the **CONSULTANT**.

ARTICLE 10: TERMINATION

- 10.1 This Agreement may be terminated by either party upon not less than three 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.
- 10.2 The **CONSULTANT** shall have the right to terminate this Agreement if the **OWNER** fails to make payment within thirty (30) days after it is due.

ARTICLE 11: 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 **OWNER**: Carys Lustig, Director
 Public Works Department
 500 Dedham Avenue
 Needham, MA 02492

AND TO

Kate Fitzpatrick, Town Manager
 Town Hall
 1471 Highland Avenue
 Needham, Massachusetts 02492

Notices to the Town of Needham must be sent to BOTH in order for it to be effective.

The **CONSULTANT**: [Name, Title]
 [Vendor Name]
 [Address Line 1]
 [Address Line 2]

ARTICLE 12: INSURANCE

- 12.1 The **CONSULTANT** shall at its own expense, obtain and maintain a Professional Liability Policy for errors, omissions, or negligent acts arising out of the performance of this agreement with limits of at least \$1,000,000 per claim and \$2,000,000 aggregate.
- 12.2 The **CONSULTANT** shall, at its own expense, obtain and maintain general liability and motor vehicle liability insurance policies protecting the **OWNER** in connection with any operations included in this Agreement. 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.
- 12.3 The **CONSULTANT** shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes, or other similar data relating to the work covered by this contract in event of loss or destruction until the final fee payment is made or all data is turned over to the **OWNER**.
- 12.4 The **CONSULTANT** shall, before commencing performance of the Agreement, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with Massachusetts General Laws, Chapter 152, as amended, to all employed under the Agreement and shall continue such insurance in full force and effect during the term of the agreement.
- 12.5 All insurance coverage shall be in force from the time of the Project Agreement to the date when all work designed under the Project Agreement is completed and accepted by the **OWNER**. Since this insurance is normally written on a year-to-year basis, the **CONSULTANT** shall notify the **OWNER** should coverage

become unavailable or if its policy should change.

- 12.6 Certificates and any and all renewals substantiating that required insurance coverage be in effect shall be delivered at the time of the execution of the Project Agreement and 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 **OWNER** at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice.

ARTICLE 13: INDEMNIFICATION

The **CONSULTANT** shall indemnify, defend, and save harmless the **OWNER**, and all of its or their members officers, agents, and employees against all suits, claims of liability of every name and nature, for or on account of any injuries to persons or damage to property arising out of the negligence of the **CONSULTANT** in the performance of the work covered by the Agreement and/or failure to comply with terms and conditions of the Agreement, whether by itself or its employees or subcontractors, 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 the Agreement. The foregoing provisions shall not be deemed released, waived, or modified in any respect by reason of any surety or insurance provided by the **CONSULTANT** under the Agreement.

ARTICLE 14: ASBESTOS REMOVAL

Without in any way limiting the **CONSULTANT**'s liability for any other negligent performance or failure to perform professional services, the **CONSULTANT** shall incur no liability for claims arising out of the performance of or failure to perform professional services related to asbestos, except that the **CONSULTANT** shall promptly notify the **OWNER** of any asbestos the **CONSULTANT** observes that may affect the PROJECT. The **CONSULTANT** shall include in the contract documents specific provisions requiring the contractor to include the time required for the asbestos abatement work in the PROJECT schedule, to organize its own work in such a way that it will not conflict with concurrent asbestos abatement work, and to coordinate all of the work at the site (including the asbestos abatement work), so as to minimize disruption and delay. The **CONSULTANT** shall enforce the foregoing requirements, utilizing such authority as it may have under the contract documents. The **CONSULTANT** shall confer with the asbestos abatement consultant to ascertain that similar and consistent requirements are being included in contract documents prepared by the consultant. The **CONSULTANT** shall also be responsible for providing to any asbestos abatement engineer and any asbestos abatement contractor, contract documents and plans which precisely indicate the scope of the renovations and additions to the building. The **OWNER** hereby agrees to bring no claim for negligence, breach of contract, indemnity or otherwise against the **CONSULTANT**, his principals, employees, agents and consultants if such claim in any way would involve the **CONSULTANT**'s services for remedial work related to asbestos in the PROJECT unless otherwise agreed to in writing.

ARTICLE 15: SUBCONTRACTING OF WORK

The **CONSULTANT** shall not subcontract any of the work, which it is required to perform under the Agreement to any corporation, entity, or person without the prior approval of the **OWNER**.

ARTICLE 16: PREVAILING WAGE RATES

If the work under this Agreement involves the construction of public works the **CONSULTANT** agrees to pay the prevailing wage and comply with G. L. c. 149, S 26 - 27D and a Statement of Compliance is included in the Contract Documents.

ARTICLE 17: MBE/WBE PARTICIPATION

If funding for a Project is provided by the Commonwealth of Massachusetts, in whole or in part (such as reimbursements, grants and the like), then the **OWNER** shall incorporate into the Project Agreement 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 **OWNER** where the size, nature or location of the project makes achieving such levels of MBE or WBE participation unfeasible.

(Completed on separate document labelled "Additional Information")

This list will be updated by the **CONSULTANT** upon signing each project agreement.

ARTICLE 23: CERTIFICATIONS REQUIRED

- 23.1 **No Inducements.** By signing this Contract, the **CONSULTANT** certifies under the penalties of perjury that the **CONSULTANT** has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the Contract for design services; no consultant to or subcontractor for the **CONSULTANT** has given, offered or agreed to give any gift, contribution or offer of employment to the **CONSULTANT**, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the **CONSULTANT**; and no person, corporation or other entity, other than a bona fide full-time employee of the **CONSULTANT** has been retained or hired by the **CONSULTANT** to solicit for or in any way assist the **CONSULTANT** in obtaining the Contract for design services upon an Contract or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the Contract to the **CONSULTANT**. ⁽¹⁾_(SEP)
- 23.2 **Existing Government Contracts.** By signing this Contract, the **CONSULTANT** certifies under the penalties of perjury that the following is a listing of all other existing contracts or income derived by **CONSULTANT** from the Commonwealth or any political subdivision thereof or public authority therein, from the Federal Government or any agency thereof, and from the **OWNER** or any governmental source for services rendered.

<u>Contract Description & Awarding Authority</u>	<u>Present Status % Design/Construction</u>	<u>Fee Received</u>	<u>Total Fee Anticipated</u>
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(Completed on separate document labelled "Additional Information")

This list will be updated by the **CONSULTANT** upon signing each project agreement.

- 23.3 **Annual Reports; Corporate Filings.** By signing this Agreement, the **CONSULTANT** certifies under the penalties of perjury that, if the **CONSULTANT** is a corporation, the Corporation has filed with the State of Secretary all certificates and annual reports required by M.G.L c. 156B, §109 (Business Corporation), by M.G.L c. 181, §4 (Foreign Corporation), or by M.G.L. c. 180, §26A (Non-Profit Corporation).
- 23.4 **Debarment; Suspension.** By signing this Agreement, the **CONSULTANT** certifies under the penalties of perjury that the **CONSULTANT** is not currently debarred or suspended by the Commonwealth of Massachusetts, or any if its entities or subdivisions under any Commonwealth law or regulation, including but not limited to M.G.L. c. 29, § 29F and M.G.L. c. 152, § 25C and that it is not currently debarred or suspended by the Federal Government under any federal law or regulation. In the event the **CONSULTANT** is debarred or suspended it shall promptly notify in writing the **OWNER**.

ARTICLE 24: BINDING AGREEMENT AND ASSIGNMENT OF INTEREST

This Agreement shall be binding upon the **OWNER** and the **CONSULTANT** and the partners, successors, heirs, executors, administrators, assigns and legal representatives of the **OWNER** and the **CONSULTANT**. Neither the **OWNER** nor the **CONSULTANT** 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 25: INDEPENDENT CONTRACTOR

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

ARTICLE 26: CONFLICT OF INTEREST

By execution of this Agreement with the **OWNER**, the **CONSULTANT** acknowledges that the **OWNER** 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 **CONSULTANT** based on said statute.

ARTICLE 27: CONFIDENTIALITY

The **CONSULTANT** shall comply with Massachusetts General Law Chapter 66A if the **CONSULTANT** becomes a "holder" of "personal data". The **CONSULTANT** shall also protect the physical security and restrict any access to personal or other Town data in the **CONSULTANT'S** possession, or used by the **CONSULTANT** in the performance of this Contract, which shall include, but is not limited to the Town's public records, documents, files, software, equipment or systems.

ARTICLE 28: COMPLIANCE WITH TAX LAWS

Pursuant to M.G.L., c. 62C, §49A, the undersigned, acting on behalf of the **CONSULTANT**, certifies under the pains and penalties of perjury, to the best of the undersigned's knowledge and belief, that the **CONSULTANT** 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 this Agreement the day and year first above written.

CONSULTANT:

By*: _____

Title: _____

** My signature above certifies that I am duly authorized, or that I have attached a signed Certificate of Vote from my Board of Directors giving me authority, to sign this Contract.*

TOWN OF NEEDHAM, by its

Town Manager:

Kate Fitzpatrick

Approved As To Form:

Town Counsel Town of Needham