



Town of Mansfield

REQUEST FOR QUOTES

6 Park Row
Mansfield, MA 02048



**Request for Written Quotes (RFQ) for Planning Services
Local Hazard Mitigation Plan (HMP) Update with
Climate Vulnerability Element**

Issued: October 23, 2023

Proposals Due: December 1, 2023 at 10:00 AM

**Town of Mansfield
Request for Written Quotes (RFQ) for Planning Services
Local Hazard Mitigation Plan (HMP) Update with
Climate Vulnerability Element**

Summary

Solicitation: The Town of Mansfield seeks proposals from qualified firms to prepare an update to the 2010 Hazard Mitigation Plan (HMP) in accordance with FEMA/MEMA Hazard Mitigation Planning guidelines and requirements. This HMP will also integrate all of the goals and objectives included in the Town of Mansfield's 2019 Municipal Vulnerability Preparedness (MVP) Summary. A more descriptive scope of work and tasks is included in this RFP. This plan will be an update, not a new one or process as the required MVP Plan requirements have been fully met.

Deadline: Responses are due to Priscilla McGill, Administrative Secretary, Planning, pmcgill@mansfieldma.com, by Friday, December 1, 2023, at 10:00 am. Responses shall conform to the formal requirements of this RFP.

Questions: Questions concerning the RFP must be submitted in writing and be received via email by 12:00 pm on Wednesday, November 8, 2023 by Priscilla McGill, Administrative Secretary, Planning, pmcgill@mansfieldma.com. Written responses/addenda will be uploaded to a web page on or before 4:00 pm on Wednesday, November 15, 2023, to those recorded by the Town as having received the RFQ. No oral responses will be provided, and no oral responses may be relied upon.

Form of Submittal: Responders to this RFQ shall include one (1) electronic version (on a flash drive). Additional submittal requirements are indicated below.

Procurement: The selection of a consultant will be made based on the criteria set forth in this RFP and will conform with any applicable procurement requirements as set forth in M.G.L. c.30B. After responses are ranked, the Town reserves the right to conduct interviews with selected finalists, or to directly select the top-ranked Respondent for fee negotiation. If mutual agreement is not realized with the top-ranked Respondent, the Town reserves the option to cease negotiations with the top-ranked Respondent and commence fee negotiations with the next-ranked Respondent. This process will continue until an agreement for services is reached.

Award: Contract for Services will be awarded by the Mansfield Town Manager in consultation with the Environmental & Conservation Planner. The Town reserves the right to cancel this RFP, to reject in whole or in part any and all Responses, to seek further information from any and all proposers, to negotiate terms and price with the selected firm, or waive informalities on the process, as deemed to be in the best interest of the Town. Award of the contract will be conditioned upon the successful negotiation of revisions to the Scope of Services as identified during the Consultant review process. The consultant selected for the work will need to provide certification of insurance coverage and will be required to execute the Town of Mansfield Standard Agreement for Technical Services.

Scope of Work

The Town of Mansfield, Massachusetts is soliciting responses from qualified consultants for a Hazard Mitigation Plan Update with a climate impact element in alignment with the state's Municipal Vulnerability Preparedness (MVP) program. Therefore, the objective of this project is to have a plan that:

- Meets all requirements by FEMA/MEMA for a certifiable Hazard Mitigation Plan, and
- Meets best practices for hazard identification and mitigation related to climate action plan development and aligned with any Municipal Vulnerability Preparedness guidelines.

This project is intended to be a single, integrated plan meeting the FEMA/MEMA requirements of Hazard Mitigation Plans and also seamlessly integrating the materials from the Mansfield MVP Prioritization Plan process and other related climate change resiliency planning or action.

The expectation is that at the end of the process, Mansfield will come away with a single integrated plan document that functions as a working blueprint for the implementation of the actions applicable for all hazards and vulnerabilities.

The Town of Mansfield, MA seeks professional services to prepare a Hazard Mitigation Plan in accordance with FEMA/MEMA guidelines for Hazard Mitigation Planning in Massachusetts. The Town of Mansfield's plan shall address the mitigation of multiple natural hazards that may affect the community, including flood hazards, winter storm hazards, wind hazards, wildfire hazards, geologic hazards, and hazards associated with pestilence, disease, and similar threats. Note that Mansfield has an existing Hazard Mitigation Plan that was completed in 2008 and thus a completely new plan is not required, only an update based on changing conditions and program requirements with the integration of vulnerabilities to the impacts of climate change and act to minimize damage from climate change events. The HMP planning process shall include actions and elements with a climate-related lens in alignment with the 2019 Mansfield Municipal Vulnerability Preparedness (MVP) Plan:

- HMP Task 1: Coordination with the Town of Mansfield HM Planning Committee
- HMP Task 2: Update Hazard Profiles
- HMP Task 3: Critical Facility Inventory
- HMP Task 4: Vulnerability
- HMP Task 5: Mitigation Goals
- HMP Task 6: Actions
- HMP Task 7. Maintenance
- HMP Task 8. Public Review of Draft HMP Plan
- HMP Task 9. Review and Approval

Relevant Materials Available for Review and Use:

- [2008 Hazard Mitigation Plan](#)
- [2019 Municipal Vulnerability Preparedness and Community Resilience Building Workshop Summary of Findings](#)
- [2016 Open Space & Recreation Plan](#)
- [2021 Organizational Capacity Assessment for Climate Change Resiliency](#)
- [2020 Master Plan](#)

Budget

The project is grant-funded and the total contract amount shall not exceed \$33,033. The Contractor will be responsible for tracking tasks and hours associated with the budget and drafting the quarterly reports for staff submittal.

RFO Selection Schedule (subject to change at Town’s discretion)

| | |
|---|---|
| RFQ Release | Monday, October 23, 2023 |
| Questions Due | Wednesday, November 8, 2023 (by noon) |
| Answers Posted | Wednesday, November 15, 2023 (by 4:00 pm) |
| Proposals Due | Friday, December 1, 2023 (by 10:00 am) |
| Selection Process (Interviews and contract award negotiations, as needed) | December 2023 |
| Notice to Proceed | By Friday, January 5, 2024 |

Instructions for Responses:

One electronic copy (on a flash drive) of your response, clearly marked “HMP Update” must be received at the Town Clerk’s Office, 6 Park Row, Mansfield, MA 002048, by 10:00 am on Friday, December 1, 2023, to be considered. Notice to proceed is anticipated to be issued by Friday, January 5, 2024.

- Letter of Transmittal:** The Letter of Transmittal shall contain a statement that the Respondent has read, understands, and will comply with the requirements and conditions contained in this RFP. The Letter will affirm that and describe how the Respondent meets the Minimum Evaluative Criteria as detailed below. The Letter shall be signed by a representative for the firm, who is authorized to act as a contact person during the selection, negotiation, and contracting process, and is authorized to bind the Consultant in contract.
- Statement of Project Understanding and Scope of Work:** Respondents shall provide a statement that describes the Consultant’s understanding of and approach to the technical aspects of the requested work and the various goals that must be addressed and achieved. The deliverables shall meet the Massachusetts and Federal Plan requirements for HMP. The project proposal must provide a detailed work plan with a timeline showing how to accomplish the planning process, with meetings, requirements for the HMP planning process, and budget breakdown, as applicable.

- Project Team: Respondent shall provide the names and the specific educational background, qualifications, and expertise of all professional members of the Consultant and sub-consultant (if any) project team who will actually perform the work related to some or all of the project tasks. Include resumes of all personnel who will be preparing work under the response. Respondent shall identify any sub-contractors used for any part of the project, including tasks they will be responsible for, the price for those components, and the name and contact information of the principal supervisor of work.
- Relevant Project Experience: Respondent shall provide details of relevant experience and prior performance of all the members of the Consultant team, including any sub-contractors, if any. For the purposes of this RFP, the following is defined as “Relevant Project Experience”:
 - Experience in Massachusetts
 - Experience with Hazard Mitigation Planning (with added value for MVP programmatic experience)
 - Successful submittal of at least one (1) Hazard Mitigation Plan or Update within the prior 24 months.
 - Experience with municipal clients
 - Experience working jointly with municipal committees (as opposed to working only with municipal staff).
- References: Respondent shall include at least three (3) references for the firm(s) that are part of the project team including any subcontractors. References shall specifically relate to comparable projects
- Attachment A: Price Proposal Form submitted in a separate sealed envelope clearly marked “HMP Update Price Proposal.” The Price Proposal Form also contains a statement indicating the firm’s ability to provide insurance coverage in at least the amounts listed.
- Attachment B: Scoresheet (for staff use)
- Attachment C: Past Performance / Reference Sheet (submit one per reference)
- Attachment D: Certificate of Vote (if Contractor is a Corporation)
- Attachment E: Certificate as to Corporate Contractor (if Contractor is a Corporation)
- Attachment F: Certifications of Non-Collusion and Tax Compliance
- Attachment G: Acknowledgement of Ethical Conduct Standards
- Attachment H: Sample Contract Agreement for Professional Consulting Services

- Attachment I: Sample Certificate of Appropriation (by Town Accountant)
- Attachment J: Sample Request for Taxpayer Identification Number (TIN)

Minimum Evaluative Criteria:

Proposals must be well-prepared and responsive to the RFP format requirements. Additionally, the following shall be considered minimum requirements for the submittal of a Response to this RFQ. Acceptable evidence or certification must be provided to demonstrate the minimum requirements are being met. Failure to meet the minimum standards as described in this Section shall result in a proposal’s rejection.

If the Statement of Qualification submitted by the Consultant firm meets the Minimum Criteria, it will then be evaluated based on the following, with fee negotiations to be undertaken with the top-ranked Consultant firm:

STATEMENT OF PROJECT UNDERSTANDING & SCOPE OF WORK

- Highly Advantageous: Response is exceptionally well articulated, clear and thorough, focused, and specific to the Project. Demonstrates a clear understanding of the project, the regulatory environment, innovation, and best practices. The project timeline is responsive to the proposed schedule.
- Advantageous: Response is reasonably well articulated, clear, thorough, and focused. The response is not specific to the Project. The project timeline is not responsive to the proposed schedule.
- Not Advantageous: Response is not well articulated, clear, or thorough. The response is not specific to the Project. The project timeline is not responsive to the proposed schedule.

PROJECT TEAM

- Highly Advantageous: Response clearly identifies that Project Team possesses requisite expertise and commits Team members to this Project. Project Manager has at least 15 years of experience in the creation of municipal plans and/or hazard mitigation.
- Advantageous: Response clearly identifies that Project Team possesses requisite expertise and commits Team members to this Project. Project Manager has at least 10 years of experience in the creation of municipal plans and/or hazard mitigation.
- Not Advantageous: Response does not clearly identify that Project Team possesses requisite expertise and/or does not commit Team members to this Project. Project Manager has less than 10 years of experience in the creation of municipal plans and/or hazard mitigation.

RELEVANT PROJECT EXPERIENCE

- Highly Advantageous: Response clearly identifies experience with more than five (5) projects of similar scale, type, and complexity. More than five projects demonstrate

“Relevant Project Experience” aligning with at least four (4) of the criteria indicated above.

- Advantageous: Response clearly identifies experience with more than three (3) projects of similar scale, type, and complexity. More than three projects demonstrate “Relevant Project Experience” aligning with at least three (3) of the criteria indicated above.
- Not Advantageous: Response identifies experience with fewer than three (3) projects of similar scale, type, and complexity. Fewer than three projects demonstrate “Relevant Project Experience” aligning with at least three (3) of the criteria indicated above.

REFERENCES

- Highly Advantageous: At least three (3) references indicate the firm is responsive and meets project requirements and the client’s expectations.
- Advantageous: Two (2) references indicate that the firm is reasonably responsive and meets project requirements.
- Not Advantageous: At least one (1) reference indicates the firm was not responsive and/or did not meet project requirements.

REQUIRED DOCUMENTS:

- Highly Advantageous: The submittal of all required documents (clear and concise Letter of Transmittal, Attachment A, Attachment B, and Attachment C) indicates the firm is responsive and meets project requirements and the client’s expectations.
- Advantageous: The submittal of all required documents (Letter of Transmittal, Attachment A, Attachment B, and Attachment C) indicates the firm is generally responsive and meets project requirements and the client’s expectations.
- Not Advantageous: Some required documents (Letter of Transmittal, Attachment A, Attachment B, and Attachment C) were not submitted indicating the firm is not responsive and/or does not meet project requirements.

Attachment A
Price Proposal Form

Submit in Separate Sealed Envelope Clearly Marked "HMP Update Price Proposal"

PROJECT: "HMP Update"

CONTRACTOR: Town of Mansfield, 6 Park Row, Mansfield, MA 02048

PROPOSER: Name _____

Address _____

Contact _____

Name _____

Phone _____

Email _____

Website _____

PRICE:

| Task | Budget |
|---------------|--------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| Total: | |

If selected, the Proposer will provide certificate(s) of insurance to indemnify and defend the Town of Mansfield and its designees from any and all claims and damages of whatever nature arising from the services provided.

- Worker’s Compensation and Disability: Statutory requirements
- Commercial General Liability-General Aggregate: \$2,000,000 (\$1,000,000 per occurrence)
- Comprehensive Automobile: \$1,000,000

Signed

Title

Print Name

Date Signed

Attachment B

Town Staff Proposal Scoresheet

| Town Staff – Proposal Scoresheet | | | | | | | | | | | | |
|----------------------------------|-------|--------------------------|-------|-------------|--------------------------|-------------|--------------------------|-------------|--------------------------|-------------|--------------------------|-------------|
| | Score | Proposal #1 | Score | Proposal #2 | Score | Proposal #3 | Score | Proposal #4 | Score | Proposal #5 | Score | Proposal #6 |
| Criteria 1 | | notes: | | notes: | | notes: | | notes: | | notes: | | notes: |
| | HA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | A | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | NA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| Criteria 2 | | notes: | | notes: | | notes: | | notes: | | notes: | | notes: |
| | HA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | A | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | NA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| Criteria 3 | | notes: | | notes: | | notes: | | notes: | | notes: | | notes: |
| | HA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | A | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | NA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| Criteria 4 | | notes: | | notes: | | notes: | | notes: | | notes: | | notes: |
| | HA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | A | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | NA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| Criteria 5 | | notes: | | notes: | | notes: | | notes: | | notes: | | notes: |
| | HA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | A | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| | NA | <input type="checkbox"/> | | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | | <input type="checkbox"/> | |
| Price | | | | | | | | | | | | |

Attachment C

Past Performance / Reference Sheet

Submit one per reference

The Town requires that the team demonstrate experience providing similar services for other municipalities.

Please use the below format for all references submitted and provide as much detail as possible in the Summary section.

| | |
|--|--|
| Reference Community: | |
| Period of Performance: | |
| Point of Contact* Name & Title: | |
| Telephone: | |
| Email: | |
| <i>*Point of Contact (POC) providing reference shall be individuals who worked directly with the applicant. Confirm the contact is still employed prior to using as a reference.</i> | |

Summary of services provided:

Click or tap here to enter text.

Attachment D

CERTIFICATE OF VOTE

(To be filed if Contractor is a Corporation)

I, _____ hereby certify that I am the duly qualified and acting
(Secretary of the Corporation)

Secretary of _____ and I further certify that at
(Name of Corporation)

a meeting of the Directors of said Company, duly called and held on _____
(Date of Meeting)

at which all Directors were present and voting, the following vote was unanimously passed:

VOTED:

To authorize and empower anyone acting singly, to execute Forms of General Proposal, Contracts or Bonds on behalf of the Corporation. I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)

Attachment E

CERTIFICATE AS TO CORPORATE CONTRACTOR

I certify that I am _____ of
Clerk or other Officer

the Corporation named as Contractor in the within Proposal Form that

_____ who signed said Proposal Form on

behalf of the Contractor was then _____ of
Title

said Corporation; that I know his signature and that his signature hereto is genuine and that said Proposal Form was duly signed, sealed, and executed for and on behalf of said Corporation by authority of its Board of Directors.

(Corporate Seal)

(Signature)

(Title)

This Certificate must be completed where the Contractor is a Corporation, and should be so completed by its Clerk. In the event that the Clerk is the person signing the Proposal on behalf of the Corporation, this Certificate must be completed by another Officer of the Corporation.

Attachment F

CERTIFICATION OF NON-COLLUSION

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

The applicant further certifies that:

1. The applicant has not given, offered, or agreed to give any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of contract for these services.
2. No consultant to, or subcontractor for, the applicant has given, offered, or agreed to give any gift, contribution, or offer of employment to the applicant, or, to any other person, corporation, or entity as an inducement for, or in connection with, the award of the consultant or subcontractor of a contract by the applicant.
3. No person, corporation, or other entity, other than a bona fide full-time employee to the applicant has been retained or hired to solicit for or in any way assist the applicant in obtaining the contract for services upon an agreement or understanding that such person, corporation, or entity be paid a fee or other compensation contingent upon the award of the contract to the applicant.

I hereby attest with full knowledge of the penalties for perjury, as in accordance with Massachusetts G.L.C.7C, § 48, that all information provided in this application for services is correct.

Firm

Signed (Typed)

Signed (Written)

Title

Date

CERTIFICATION OF TAX COMPLIANCE

Pursuant to M.G.L. c. 62C, Sec 49A and M.G.L. c. 151A, Sec 19A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature of person submitting bid or proposal

Name of business

Federal Identification Number

Attachment G

ACKNOWLEDGEMENT OF ETHICAL CONDUCT STANDARDS

Consultant shall not engage in unethical conduct in its performance of this Agreement and shall comply with and abide by any applicable laws, regulations, rules or codes relevant to or governing its performance.

Consultant shall keep informed and comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement and all ethical standards governing Consultant's profession.

Consultant shall discharge its duties fairly, impartially and maintain a standard of conduct that competently serves the Town of Mansfield and the interests of the Town. Consultant shall at all times exercise unbiased judgment when performing its duties under this Agreement.

Consultant shall only submit charges, by invoice or otherwise, for work products, activities and services that are directly related to the scope of this Agreement.

I hereby acknowledge the standards of ethical conduct required in the performance of this Agreement.

Firm

Signed (Typed)

Signed (Written)

Title

Date

Attachment H
SAMPLE CONTRACT
AGREEMENT FOR
PROFESSIONAL CONSULTING SERVICES

THE TOWN OF MANSFIELD AND _____

THIS IS AN AGREEMENT made on the ___ day of _____, 20__ between the Town of Mansfield, in the County of Bristol and the Commonwealth of Massachusetts and _____, Inc (hereinafter "Consultant"), a planning consulting firm incorporated in the State of Massachusetts with its principle place of business at _____.

Town and Consultant agree to the performance and furnishing of certain professional services by Consultant concerning a within the Town (hereinafter referred to as the "project") for certain consideration to be paid to Consultant by Town, as set forth more specifically in the mutual covenants set forth below.

This Agreement will become effective on the date that the last party fully executes the same.

1.0 CONTRACT DOCUMENTS

This Agreement and the Exhibits identified in this section, all of which are attached to and form a part of this Agreement, constitute the entire agreement between Town and Consultant and supersede any and all prior written or oral understandings between Town and Consultant.

Exhibits:

- The Town's Request for Qualifications;
- Certificate(s) of Insurance;
- Licenses Required by this Agreement;
- Consultant's Proposal; and
- Consultant's Corporate Authorization.

The request for qualifications shall be considered part of this contract document. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

Highest Priority: Amendments to Contract (if any)

Second Priority: Contract

Third Priority: Addenda to Request for Qualifications

Fourth Priority: Request for Qualifications

Fifth Priority: Contractor's Proposal

2.0 CONSULTANT'S SERVICES

The full execution of this Agreement by Town and Consultant constitutes the Town's written authorization for Consultant to proceed with the professional services described in the Request for Qualification (hereinafter referred to as "Consultant's Services").

3.0 GUARANTEES AND WARRANTIES BY CONSULTANT

The Consultant's services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions. The Consultant makes no other

representations or warranties, whether expressed or implied, with respect to the services rendered hereunder.

4.0 OWNERSHIP OF DOCUMENTS AND WORK PRODUCT

All documents produced pursuant to this Agreement shall be the property of Town. All information acquired from the Town, or from others at the expense of Town, in the performance of this Agreement shall be and remain the property of Town. This includes but is not limited to all records, data files, computer records, work sheets, deliverable products (complete and incomplete) and all other types of information prepared or acquired by Consultant in the performance of Consultant's Services. Any modification of the documents without written verification or adaptation by the Consultant, as appropriate for the specific purpose intended, will be at the Town's sole risk and without liability or legal exposure to Consultant or to Consultant's Consultants.

5.0 TOWN'S RESPONSIBILITIES

Town shall appoint a person to serve as liaison between Town and Consultant with respect to the Project and Consultant's Services. In addition to serving as Town Liaison, this person shall be responsible for scheduling all meetings between Consultant and Town's representatives. This person, however, shall have no authority to bind Town to make payments in excess of the specific appropriation for this Agreement. Town shall provide all information requested by Consultant that is necessary for the completion of Consultant's Services. However, Town shall not be required to provide information not readily available to it.

6.0 PAYMENT BY THE TOWN FOR CONSULTANT'S SERVICES

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 CONSULTANT _____ dollars (\$_____). Upon satisfactory completion of the work, thirty (30) days after receipt of an invoice for final payment, the TOWN shall pay the CONSULTANT all amounts due under the Contract.

This Agreement does not provide for the payment by Town to Consultant for any expenses incurred by Consultant outside of allowable expenses approved by the Town. The acceptance by Consultant of its final payment under this Agreement shall operate as a release of the Town of all claims and all liability by the Consultant. No payment, however, final or otherwise, shall operate to release Consultant from its obligations under this Agreement.

7.0 SUSPENSION OF WORK

If Town is unable to proceed with the Project or its obligations under this Agreement either before or after the execution of this Agreement for any reason, regardless of whether such inability is caused by or is within the control of Town, Consultant shall not be entitled to make or assert any claim for damage by reason of said delay. However, the time for completion of Consultant's Services shall be extended to such reasonable time as the Town may determine that will compensate for time lost by such delay, with such determination to be set forth by Town in writing.

8.0 TERMINATION

8.1 By Town

8.1.1 In the case of any default on the part of Consultant with respect to any of the terms of this Agreement, Town shall give written notice thereof. If said default is not remedied by Consultant within such time as Town shall specify in writing, Town shall notify Consultant in writing that there has been a breach of this Agreement. Thereafter, Town shall have the right to secure the completion of Consultant's Services remaining to be done on such terms and in such manner as Town shall

determine. In case of such breach, Consultant shall be entitled to receive payment only for work satisfactorily completed prior to said breach in good faith and the amount of any balance due Consultant shall be determined by Town in good faith.

8.1.2 Notwithstanding any other provision of this Agreement, the Town reserves the right at any time to suspend or terminate this Agreement in whole or in part for its convenience or due to an unavailability of funds upon fourteen (14) days written notice to Consultant. Town shall incur no liability by reason of such termination for convenience except for the obligation to pay for work performed and accepted accruing through the date of termination less any offset or claim of Town. Such obligation shall not exceed the available appropriation. Consultant shall have no right to recover other amounts, including but not limited to amounts for lost profits, indirect, incidental or consequential damages.

8.1.3 In the event of termination by Town, all finished work and documentation, complete and incomplete, shall be delivered to Town. Consultant shall be entitled to receive payment for any work performed and accepted under this Agreement, which was completed prior to the date of termination. In the event of termination prior to the completion of the work, Consultant shall have no right to recover other amounts, including but not limited to amounts for lost profits, indirect, incidental, or consequential damages.

8.1.4 After the notice of termination for cause under Section 8.1.1 above, it is determined that said cause was invalid, the termination shall be deemed to have been effected for the convenience of Town under Section 8.1.2. In such event, a payment adjustment shall be made as provided in Section 8.1.2.

8.1.5 Any termination or suspension of this Agreement shall not impair Town's right to recover damages occasioned by the fault of Consultant. Any suspension shall not limit the right of Town to terminate this Agreement.

8.2 By Consultant

Consultant shall have no damages for delay or hindrance. In the event of delay or hindrance not the fault of the Consultant, an extension of time shall be the Consultant's sole remedy. Consultant also shall have the right to terminate this Agreement if Town fails to make timely payment on the amounts due to Consultant under this Agreement.

8.3 Force Majeure

Neither party shall be liable to the other or deemed to be in breach under this agreement for any failure to perform, including, without limitation, a delay in rendering performance due to causes beyond its reasonable control, such as an order, injunction, judgment, or determination of any Court of the United States or the Commonwealth of Massachusetts, an Act of God, war, civil disobedience, extraordinary weather conditions, labor disputes, or shortages, or fluctuation in electric power, heat, light, or air conditioning. Dates or time of performance shall be extended automatically to the extent of such delays, provided that the party whose performance is affected promptly notifies the other of the existence and nature of such delay.

9.0 INSURANCE

Consultant shall provide and maintain insurance at its own expense until the completion of

Consultant's Services as set forth below:

- 9.1 Worker's compensation insurance in accordance with Massachusetts state law. Any company outside Massachusetts must provide evidence of coverage in Massachusetts.
- 9.2 Comprehensive general liability, comprehensive automobile liability and property damage insurance in the amount of not less than \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate.
- 9.3 The Town must be named as an additional insured on a certification of insurance (except workers compensation and professional liability coverages) filed with the Town Manager at time of contract issue. This Certificate of Insurance will be attached as part of Exhibit B to this Agreement.

10.0 INDEMNIFICATION FOR GENERAL LIABILITY; PROFESSIONAL LIABILITY

- 10.1 Except as provided in Section 10.1, below, Consultant hereby agrees to indemnify, defend, and hold harmless Town, and its officers, attorneys, employees, attorneys, and agents from and against any and all claims (including workers' compensation and wage claims) demands, suits, actions, liabilities, damages, penalties, judgments, and costs and expenses, including without limitation the costs and expenses of litigation and attorney's fees, of or by anyone that in any way is caused by, arises out of, or is occasioned by, the acts, omissions, or provision of Consultant's services, or any activities, operations, conducts, negligence, or omissions of Consultant, regardless of whether same is caused in part by Town or any third party.
- 10.2 With respect to damages, costs, liabilities, and expenses that arise or are alleged to arise out of the Consultant's acts, errors, or omissions in the performance of professional services, to the fullest extent permitted by law, the Consultant agrees to indemnify and hold the Town harmless from and against liabilities, damages and costs (including reasonable attorney's fees) to the extent caused by the negligence of the Consultant in performance of services under this Agreement. This indemnification expressly excludes the duty of the Consultant to defend the Town. However, the absence of the duty to defend shall not preclude the Town from seeking its reasonable attorneys' fees as part of its damages where and to the extent such fees are caused by the Consultant's negligence. Nothing in this Section 10.2 shall apply to indemnification of general liability, which is addressed in Section 10.1, above.

11.0 MISCELLANEOUS PROVISIONS

11.1 Entire Agreement

Unless contained in this Agreement, or the Exhibits incorporated into and made a part of this Agreement, no warranties, statements, promises, or representations shall be considered a part of this Agreement or a basis upon which Consultant or Town entered into this Agreement.

11.2 Assignment of Interest

Consultant shall not assign, transfer, or convey any interest in this Agreement without the prior written consent of Town, which consent shall not be unreasonably withheld.

11.3 Subcontractors

Consultant shall not assign, subcontract, or delegate the performance of its services to any person, corporation, or entity without the prior written consent of Town. Provided that such consent is

obtained, it is understood and agreed that any such persons, corporations, or entities hired by Consultant shall be deemed agents of Consultant and that Consultant shall be responsible for the methods, means, and materials used in connection with the performance of any such services, and for any breach of this Agreement or any delays or damages occasioned by such work.

11.4 Inspection by Town

The authorized representatives and agents of Town shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records of Consultant upon demand.

11.5 Incorporation of Applicable Law

Each and every provision of law required to be included in this Agreement shall be deemed to be included in this Agreement, and this Agreement shall be read and enforced as though such provisions were included herein. If through mistake or otherwise any such provision has not been included in this Agreement, or is not correctly inserted, then upon the application of either party to this Agreement, the Agreement shall forthwith be physically amended to make such inclusion or insertion.

If any provision, or portion thereof, of this Contract shall be adjudged to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law.

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, regardless of choice of law issues or principles.

11.6 Governing Law

Town and Consultant shall perform its services in conformity with the requirements and standards of Town, and with all applicable laws and regulations of the Commonwealth of Massachusetts and its political subdivisions, and with all applicable laws and regulations of the Federal Government.

In the event of any dispute concerning the meaning or application of this Agreement, any such dispute shall be resolved pursuant to law of the Commonwealth of Massachusetts and, if necessary, by a Court of the Commonwealth of Massachusetts. Both parties hereby consent to the jurisdiction of any such Court.

11.7 Licensure and Compliance with Massachusetts Tax Law

By executing this Agreement, Consultant agrees and certifies that it is licensed to perform the services required by this Agreement, and that it will secure such licensure for so long as it is bound to perform services under this Agreement. Documentation of such licensure shall be attached to this Agreement as part of Exhibit B. Consultant shall comply with all applicable laws, ordinances, rules or regulations or codes of the State or Town in performing the work embraced by this Agreement. Pursuant to Mass. G. L. c. 62C, Section 49A, the Consultant certifies under the penalties of perjury that, to the best of the Consultant's knowledge and belief, the Consultant has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

11.8 Corporate Contractor

The Consultant shall endorse upon this Agreement (or attach hereto) a Clerk's Certificate certifying the authority of the party signing this Agreement for the corporation and the existence of such corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in force and effect as of the date of submission. The certificate and letter will be Exhibit D to this Agreement. This Agreement shall not be enforceable against the Town unless and until the Consultant complies with this section.

11.9 Interpretation & Severability

For purposes of interpreting this Agreement in the context of a dispute over its terms or otherwise neither party shall be considered the drafter of this Agreement and neither party shall have any provision of this Agreement construed in its favor as a result of its role in drafting this Agreement or its bargaining power with respect to this Agreement, Consultant's Services, the Project, or otherwise.

IN WITNESS WHEREOF the parties hereto have executed copies of this Agreement.

Town of Mansfield by:

Town Manager

Date

Witness

Date

The Contractor by:

Contractor or Authorized Signature

Date

Witness

Date



Town of Mansfield
6 Park Row, Mansfield, Massachusetts 02048

Attachment I

SAMPLE CERTIFICATE OF APPROPRIATION

This is to certify that adequate funding in the amount of Thirty-three Thousand Thirty-three Dollars (\$33,033.00) is available to cover the net cost of this contract as certified by Matthew Violette, Town Accountant for the Town of Mansfield.

By: _____
Certification Officer: Matthew Violette

Date: _____

Account Number: _____

