

City of Salem



Invitation for Bids

T-13

Resurfacing of Various Basketball and Tennis Courts

Bids Due:

October 18, 2017

*Late bids will be rejected

Yeimi Colon
Acting Purchasing Agent
93 Washington Street
Salem, MA 01970
ycolon@salem.com

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| <p style="text-align: center;">T-13 COURT RESURFACING COVER SHEET</p> |
|--|

PLEASE PRINT OR TYPE:

| | |
|----------------------------|--|
| Name of Bidder: | Contact Individual: |
| Address: | |
| # | Street |
| City/Town | Zip Code |
| Phone: | Alternate Phone: |
| Email Address: | Social Security/Federal Tax Identification Number: |
| Authorized Signature:_____ | |

| |
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| <p style="text-align: center;">T-13 COURT RESURFACING CHECKLIST</p> |
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Submissions:

- ☒
- ☐ Completed Cover Sheet
- ☐ Checklist (this sheet)
- ☐ Bid Form
- ☐ 5% Bid Deposit
- ☐ Signed Certificate of Non-Collusion
- ☐ Signed Tax Compliance Certification
- ☐ Certificate as to Corporate Bidder
- ☐ Reference Form
- ☐ Prevailing Wage Certification
- ☐ Debarment Certification
- ☐ Labor Harmony and OSHA Certification

Minimum Requirements:

| | | Yes | No |
|----|--|-----|----|
| A. | Bidder must furnish at least three references with this Invitation for Bids. | | |
| B. | Bidder must be regularly engaged in the business of resurfacing. | | |
| C. | Bidder shall provide a list of all athletic court resurfacing project completed within the last 3 years. | | |

COURT RESURFACING BID FORM

The Undersigned proposes to furnish all labor and materials required for the 'Court Resurfacing Project' in Salem, Massachusetts, in accordance with accompanying plans and specifications.

Base Bid:

| No. | Site | Bid Amount |
|-----|-----------------------|------------|
| 1. | Pickman Park | \$ |
| 2. | Memorial Park | \$ |
| 3. | Salem Common | \$ |
| 4. | Castle Hill | \$ |
| 5. | Mansell Playground | \$ |
| 6. | Salem Willows | \$ |
| | Total Base Bid | \$ |

Alternate 1:

| No. | Site | Bid Amount |
|-----|--------------------------------------|------------|
| 7. | Salem Willows Park (3 Tennis Courts) | \$ |

Signature of Authorized Representative

Bidder

Date

| |
|--|
| <p>COURT RESURFACING CERTIFICATIONS</p> |
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FORM A
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 other organization, entity, or group of individuals.

(Signature of authorized individual submitting proposal)

(Printed Name)

(Name of Proposer)

(Date)

FORM B
TAX COMPLIANCE

Pursuant to M.G.L. c. 62C, §49A, 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 relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

(Signature of authorized individual submitting proposal)

(Printed Name)

(Name of Proposer)

(Federal Tax Identification or Social Security Number)

(Date)

FORM C
CERTIFICATE OF CORPORATE AUTHORITY *(if applicable):*

I, _____ certify that I am the _____ of the corporation named as Bidder in the Bid included herein, that _____, who signed said Bid on behalf of the Bidder was then _____ of said corporation, that I know his signature, that his signature thereon is genuine and that said Bid was duly signed, sealed and executed for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(Secretary-Clerk)

(Signature of authorized individual submitting proposal)

(Printed Name)

(Name of Proposer)

(Date)

FORM D
PREVAILING WAGES:

The undersigned bidder or quoter hereby certifies, under the pains and penalties of perjury, that the foregoing bid or quote is based upon the payment to laborers employed on the project of wages in an amount no less than the applicable prevailing wage rates established for the project by the Massachusetts Department of Labor and Workforce Development. The undersigned bidder or quoter agrees to indemnify the awarding authority for, from and against any loss, expenses, damages, action or claims, including any expense incurred in connection with any delay or stoppage of the project work, arising out of or as a result of (1) the failure of the said bid or quote to be based upon the payment of the said applicable prevailing wage rates, or (2) the failure of the bidder or quoter, if selected as the Contractor, to pay laborers employed on the project the said applicable prevailing wages.

(Signature of authorized individual submitting proposal)

(Printed Name)

(Name of Proposer)

(Date)

FORM E
DEBARRMENT:

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 twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

(Signature of authorized individual submitting proposal)

(Printed Name)

(Name of Proposer)

(Date)

FORM F
LABOR HARMONY AND OSHA TRAINING:

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that he will comply fully with all laws and regulations applicable to awards made subject to section 44A.

(Signature of authorized individual submitting proposal)

(Printed Name)

(Name of Proposer)

(Date)

| |
|---|
| COURT RESURFACING REFERENCE FORM |
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| | | |
|---|--------------------|--------|
| (1) Reference Name (Contact Person): | City/Town/Company: | |
| Address: | | |
| Phone: | Fax: | Email: |
| Dates of Services Provided: ____ / ____ / ____ to ____ / ____ / ____ | | |
| Description of Services Provided: | | |

| | | |
|---|--------------------|--------|
| (2) Reference Name (Contact Person): | City/Town/Company: | |
| Address: | | |
| Phone: | Fax: | Email: |
| Dates of Services Provided: ____ / ____ / ____ to ____ / ____ / ____ | | |

| | | |
|---|--------------------|--------|
| Description of Services Provided: | | |
| (3) Reference Name (Contact Person): | City/Town/Company: | |
| Address: | | |
| Phone: | Fax: | Email: |
| Dates of Services Provided: ____ / ____ / ____ to ____ / ____ / ____ | | |
| Description of Services Provided: | | |

PART 1. GENERAL INFORMATION

1.1 PROCUREMENT DESCRIPTION

The City of Salem is seeking bids from qualified contractors to resurface and paint basketball courts located at Pickman Park (20 Lincoln Rd.), Memorial Park, (Fort Ave.) Salem Common (Washington Sq.), Castle Hill (14 Story Rd.), Mansell Playground (Mansell Pkwy), Sa and the tennis court located at Salem Willows Park (200 Fort Ave.)

The City intends to complete as many sites as possible, subject to available funding, and scheduling.

The sites are listed by priority on the 'Bid Form.'

No official pre-bid site visit will be schedule, but bidders are strongly encouraged to visit, and become familiar with each site.

| | |
|---------------------|-----------------------|
| Attachment A | Sample Contract |
| Attachment B | Prevailing Wage Rates |
| Attachment C | Location Map |

1.2 APPLICABLE LAW

This procurement will be conducted pursuant to Massachusetts General Laws Chapter 30, Section 39M.

1.3 APPROVAL

Any contract(s) that may result from the procurement shall be subject to the approval of the Mayor of the City of Salem.

1.4 INCORPORATION BY REFERENCE

All requirements, specifications, terms and conditions described in this Request for Quotes shall be incorporated by reference into any contract that may result.

1.5 TIME FOR AWARD

Any contract that may result from the procurement shall be awarded within thirty (30) days after the bid opening. The Contractor must agree to hold its bid prices firm for that period.

1.6 RIGHT TO CANCEL/REJECT

The City reserves the right to cancel this Request for Quotes or reject in whole or in part any and all bids if the City determines that cancellation or rejection serves the best interests of the City.

1.7 TAXATION

Purchases made by the City are exempt from the payment of Federal excise tax and the payment of Commonwealth of Massachusetts sales tax and any such taxes must not be included in the bid pricing.

Copies of the City and Town's tax-exempt paperwork shall be available upon request of the selected contractor.

PART 2. INSTRUCTIONS TO BIDDERS

2.1 REQUIREMENTS AND SUBMISSIONS

Below please find a description of the requirements and submissions that must be included as part of a bid.

2.1.1 BID PRICING FORM

Every bid must include a completed 'Bid Pricing Form'. See attached. All material, equipment and labor is F.O.B. City of Salem.

2.1.2 NON-COLLUSION

Every bid must include a certification of good faith, certifying that the bid was made in good faith and without collusion or fraud. See 'Non-Collusion Form' attached.

2.1.3 TAX COMPLIANCE

Every bid must include a written certification that the bidder has complied with all state laws relating to taxes, reporting of employees and contractors, and child support. See 'Tax Compliance Form' attached.

2.1.4 CORPORATE BIDDER

If the bid is being submitted by a corporation, the bid must include a certification that the individual submitting the bid has been authorized to bind the corporation. See 'Certificate of Corporate Authority' attached.

2.1.5 REFERENCE FORM

Every bid must be accompanied by at least three (3) professional references.

2.1.6 BID DEPOSIT

Every bid must be accompanied by a bid deposit in the amount of 5 percent of total base bid.

2.1.7 PAYMENT BOND

The selected contractor shall be required to furnish a Payment Bond in the amount of fifty percent (50%) of the contract price, within ten days of the date of notification of the contract award.

2.1.8 PREVAILING WAGE

Wages for this project are subject to the prevailing wage rates as set by the Department of Labor Standards. A copy of the prevailing wage rates for this project is included in the Invitation for Bids, along with a Payroll Record Form and Statement of Compliance.

In the event that the option to renew is exercised, an updated prevailing wage rate sheet will be sent to the Contractor along with the contract amendment letter.

Certified Weekly Payroll documents shall be sent to the Office of the Purchasing Agent, 120 Washington Street, 3rd Floor, Salem, MA 01970. Payroll records must be sent three (3) business days after the close of the previous work week. See 'Certification Regarding Payment of Prevailing Wage Rates' attached.

2.1.9 DEBARMENT

Every bid must include a certification regarding the contractor's debarment status. A debarred contractor is not eligible for the award of public contracts during the period of its debarment. See 'Certification Regarding Debarment' attached.

2.1.10 LABOR HARMONY AND OSHA CERTIFICATION

Every bid must include a certification regarding labor harmony training approved by the U.S. Occupation Safety and Health Administration completed by all employees to be employed at the worksite. See 'Labor Harmony and OSHA Certification' attached.

2.2 BID DELIVERY

Below please find a description of the manner in which sealed bids must be submitted.

2.2.1 DUE DATE AND TIME

Bids shall be received by the Office of the Purchasing Agent on or before **2:00 AM, Friday, October 18, 2017.**

Any bid received after that time shall be rejected as non-responsive.

2.2.2 ADDRESS

Sealed bids shall be delivered to the Office of the Purchasing Agent, 93 Washington Street, 2nd Floor, Salem MA 01970.

2.2.3 HOURS OF OPERATION

Bids must be delivered during the normal hours of operation of the City of Salem:

| | |
|-------------------|------------------|
| Monday-Wednesday: | 8:00 AM-4:00 PM |
| Thursday: | 8:00 AM-7:00 PM |
| Friday: | 8:00 AM-12:00 PM |

2.2.4 COPIES

Bidders must submit one (1) original and one (1) copy of the quote.

2.2.5 LABELING

The outside of the envelope containing the sealed bid must be labeled with 1) the solicitation number 2) the opening date and time and 3) the name of the bidder

2.3 SIGNATURES

A bid must be signed as follows: 1) if the bidder is an individual, by her/him personally; 2) if the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with the corporate seal affixed.

2.4 QUESTIONS, CHANGES, MODIFICATIONS AND WITHDRAWALS

2.4.1 QUESTIONS/REQUESTS FOR CLARIFICATION

Questions concerning this Invitation for Bids must be submitted in writing to: Yeimi Colon at ycolon@salem.com at least 5 days prior to the bid opening date. Written responses will be emailed to all bidders on record as having picked up the Invitation for Bids.

2.4.2 CHANGES

If any changes are made to this Invitation for Bids, addenda will be issued. Addenda will be posted in the Office of the Purchasing Agent, on the website and e-mailed to all bidders on record as having picked up the Invitation for Bids.

2.4.3 MODIFICATIONS AND WITHDRAWALS

A bidder may correct, modify, or withdraw a quote by written notice received by the City of Salem prior to the time and date set for quote opening.

Modifications must be submitted in a sealed envelope clearly labeled "Modification No.____" to the address listed in part one of this section. Each modification must be numbered in sequence, and must reference the Invitation for Bids.

After the bid opening a bidder may not change any provision of the bid in a manner prejudicial to the interests of the City or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the bid document, the mistake will be corrected to reflect the intended correct bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident.

2.5 UNFORESEEN OFFICE CLOSURES

If, at the time of the scheduled bid opening, 93 Washington Street, 3rd Floor, Salem, MA 01970, is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the bid opening will be postponed until 2:00 PM on the next normal business day. Bids will be accepted until that date and time.

2.6 BID OPENING PROCEDURE

At the time and place fixed for opening of bids, the City will cause to be opened and publicly read aloud every bid received within the time set for receiving bids, irrespective of any irregularities therein. Bidders and other persons properly interested may be present, in person or by representative.

PART 3. SCOPE OF WORK

Location of Work:

Basketball:

Pickman Park (20 Lincoln Rd.)
Mansell Playground (Mansell Pkwy.)
Castle Hill (14 Story Rd)
Memorial Park (17 Fort Ave.)
Salem Common (Washington Sq.)
Salem Willows (200 Fort Ave)

Tennis

Salem Willows (200 Fort Ave.)

Proposed sites are minimum of. 500-2000 sq. yds.

Please see attached Site Improvement Plan and maps. . Please also see the attached basketball and tennis court layout for each court within the area shown new court.

Work Scope Summary:

1. Remove vegetation, if any, from the cracks and thoroughly clean the cracks and thoroughly clean the cracks with the use of brooms and air pressure.
2. Install a base in the cracks where needed.
3. Fill all cracks with a court patch binder or hydraulic concrete depending on the width of the cracks.
4. Install the four (4) membrane layers of the riteway crack repair system over filled cracks per manufacturer's specifications.
 - a. Furnish all labor, and equipment to repair structural and random cracks with riteway crack system.
 - b. Apply a three-coat acrylic surface system to bituminous concrete surface
 - c. Furnish, install, and compact an intermediate course of asphalt, 1.5"-2" thick
5. Sweep and air clean area to be surfaced.
6. Apply one coat (1) of acrylic resurfacer mixed with 5-10 pounds of 50-60mesh silica sand per gallon of resurfacer and applied at a rate of .07 to .10 gallon per sq. yard.
7. Apply two (2) coats of latexite textured surface at a rate of approximately .05 gallon/ sy per coat.
8. Layout, mask and stripe playing lines with a paintbrush using 100% acrylic textured line paint.
9. Remove masking tape and clean up general work area
 - a. Paint must be applied to manufacturer's specification.
 - b. Paint must be for basketball court use, exterior, 100% acrylic.
 - c. Colors to be chosen by city at a later time

A. Court Specifications

The dimensions and measurements for the basketball court are:

A.1. The basketball court shall be rectangle 84 feet long and 50 feet wide.

A.2. The Tennis court size shall be rectangle 78 feet long and 27feet wide

A.3. Court measurements shall be made to the outside of the lines. The lines should be 2 inches (5.1 cm) in width and the same color, clearly contrasting with the color of the court surface.

B. Lines and Areas

The lines and areas of the standard basketball court are:

B.1. Baselines. The baselines are the lines parallel to the net at each end of the court.

B.2. Sidelines. The sidelines are the lines perpendicular to the net on each side of the court.

B.3 See attached Layout of basketball court

B.4 See attached layout of tennis court

Other

- Price should include clean up, reseeding (if grass disturbed), and proper disposal of all materials.
- Prices should include prevailing wage and comply with contract, attached.

Add Alt 1 (See specifications below)

Salem Willows located at 200 fort Ave., includes 3 bituminous concrete all weather tennis courts .

Work Scope Summary:

10. Remove vegetation, if any, from the cracks and thoroughly clean the cracks and thoroughly clean the cracks with the use of brooms and air pressure.
11. Install a base in the cracks where needed.
12. Fill all cracks with a court patch binder or hydraulic concrete depending on the width of the cracks.
13. Install the four (4) membrane layers of the riteway crack repair system over filled cracks per manufacturer's specifications.
 - a. Furnish all labor, and equipment to repair structural and random cracks with riteway crack system.
 - b. Apply a three-coat acrylic surface system to bituminous concrete surface
 - c. Furnish, install, and compact an intermediate course of asphalt, 1.5"-2" thick
14. Sweep and air clean area to be surfaced.
15. Apply one coat (1) of acrylic resurfacer mixed with 5-10 pounds of 50-60mesh silica sand per gallon of resurfacer and applied at a rate of .07 to .10 gallon per sq. yard.
16. Apply two (2) coats of latexite textured surface at a rate of approximately .05 gallon/ sy per coat .
17. Layout, mask and stripe playing lines with a paintbrush using 100% acrylic textured line paint.
18. Remove masking tape and clean up general work area
 - a. Paint must be applied to manufacturer's specification.
 - b. Paint must be for tennis court use, exterior, 100% acrylic.
 - c. Colors to be chosen by city at a later time.

PART 4. TERMS AND CONDITIONS

4.1 TERM OF CONTRACT

The performance period for any contract that results from this shall commence on or around October 1, 2017 and be complete on or around December 1, 2017.

4.2 ASSIGNMENTS AND SUBCONTRACTING

The selected vendor shall not assign, sell, subcontract or otherwise transfer any interest in this contract without the prior written consent of the City. The successful bidder shall be fully responsible to the City for the acts and omissions of his subcontractor, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

4.3 PAYMENT

The City shall make every effort to furnish payment within thirty (30) days of receipt of a reasonably detailed invoice. Any invoice received must reference the contract number. Nothing contained in the contract shall create any contractual relation between any subcontractor and the City of Salem. The Successful Bidder shall cause appropriate provision to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the application provisions of the Contract for the improvements embraced in the site preparation.

Invoicing for all work must be done weekly and must be accompanied by copies of original bills for material used. Billing must separate labor and itemize materials

Weekly payroll record reporting forms (prevailing wage) and signed statement of compliance (form attached) must be submitted with all billing.

4.4 INSURANCE REQUIREMENTS

General- The Vendor shall before commencing performance of the Contract be responsible for providing and maintaining insurance coverage in force for the life of the Contract of the kind and in adequate amounts to secure all of the obligations under the Contract and with insurance companies licensed to write insurance in the Commonwealth of Massachusetts. All such insurance carried shall not be less than the kinds and amounts designated herein, and the Vendor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Vendor to any such kinds and amounts of insurance coverage. All policies issued shall indemnify and save harmless the City of Salem, its agents and employees from any and all claims for damages to persons or property as may rise out of the performance of this Contract.

Vendor's Comprehensive General Public Liability and Property Damage Liability Insurance - The Vendor shall carry Comprehensive General Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of bodily injury to or death of one person, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries or death of two or more persons in any one accident; and Vendor's Comprehensive Property Damage Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out

of injury to or destruction of property in any one accident, and subject to that limit per accident, a total (or aggregate) limit or not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property during the policy period.

Comprehensive Automotive and Property Damage Insurance - The Vendor shall carry Automobile Insurance covering all owned vehicles, hired vehicles or non-owned vehicles under the control of the Vendor while performing work under the Contract in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of bodily injuries to or death of one person and subject to that limit for each person, a total of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of two or more persons in any one accident; and Property Damage coverage in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages to or destruction of property.

The Vendor must carry Workman's Compensation Insurance in the amounts prescribed under Massachusetts State Law and meet all other City and State Laws and Regulations.

No cancellation(s) of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the City of Salem at least fifteen (15) days prior to the intended effective date thereof, which date shall be expressed in said notice, which shall be sent by registered mail, return receipt requested. These provisions shall apply to the legal representative(s), trustee in bankruptcy, receiver, assignee, trustee, and successor(s) in interest of the Vendor.

All insurance coverage shall be at the sole expense of the Vendor and shall be placed with such company as may be acceptable to the City of Salem and shall constitute a material part of the contract documents.

Failure to provide written proof to City and continue in force such insurance as aforesaid shall be deemed a material breach of the contract, and may constitute sufficient grounds for immediate termination of the same.

4.5 CHANGE ORDERS AND ADJUSTMENTS

Any request for a change order or adjustment must be submitted in writing and contain, an explanation of the need for the change order, a statement of work including a cost breakdown of each addition, and a statement that the change order is in the best interest of the awarding authority. The City is not obligated to pay for change orders that are not approved in writing, by the original contract signatories. Three (3) copies of the change order shall be required.

4.6 INDEMNIFICATION

Unless otherwise provided by law, the Vendor will indemnify and hold harmless the City against any and all liability, loss, damages, costs or expenses for personal injury or damage to real or tangible personal property which the City may sustain, incur or be required to pay, arising out of or in connection with the performance of the Contract by reason of any negligent action/inaction or willful misconduct by the Contractor, its agents, servants or employees.

4.7 FEDERAL AND STATE LAW

The selected contractor shall comply with all applicable Federal, State and Local laws and ordinances.

4.8 STATEMENT OF WORK

Except as otherwise specifically stated in the bid and contract documents the selected contractor shall secure, at its own expense, all necessary permits and licenses and comply with all city and state codes and regulations. The selected contractor shall provide and pay for all materials, equipment, labor, tools, temporary construction of every nature, charges, levies, fees, or other expenses incurred and all other services and facilities of every nature whatsoever for his performance of the Contract within the specified time, and required for this project. The selected contractor must provide all materials and equipment free of any lien, claim or encumbrance.

4.9 SAMPLE CONTRACT

See 'Sample Contract' attached.

SAMPLE CONTRACT

CITY OF SALEM CONTRACT FOR SERVICES Over \$10,000

This agreement is made and entered into by and between the City of Salem (hereinafter the CITY), a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, and XXXXXXXXXXXXXXXXXXXXXXXX (hereinafter the CONTRACTOR).

ARTICLE I. DEFINITION.

This CONTRACT as used herein shall mean these articles, and the “contract documents” which include but are not limited to the following identified items and all documents, and forms submitted therewith, or attached hereby.

- ☐ Attachment A: Scope of Services, and/or other bid package materials
- ☐ Attachment B: Additional Contract Terms and Conditions
- ☐ Attachment C: Statement of Corporate Authority
- ☐ Addenda: N/A

ARTICLE II. AMOUNT AND DURATION.

This CONTRACT in an amount not to exceed XXXXXXXXXXXX (\$XXXXXXXX) shall commence upon issuance of the Notice to Proceed and shall be complete within XXXX (XX) calendar days, unless a written amendment to renew or extend this CONTRACT is executed in accordance with the provisions of this CONTRACT.

ARTICLE III. PERFORMANCE.

The Contractor agrees to provide all goods and/or services set forth in Invitation for Bids, Documents, Scope of Services, and the CONTRACTOR’s bid X-XX and/or as outlined in ATTACHMENT A - SCOPE OF SERVICES.

ARTICLE IV. TERMINATION.

Without Cause. The CITY may terminate this CONTRACT on sixty (60) calendar days notice, or may suspend this CONTRACT for up to sixty (60) calendar days upon receipt of notice, when in the best interests of the City by providing notice to the CONTRACTOR, which shall be in writing and shall be deemed delivered and received when given in person to the CONTRACTOR, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the CONTRACTOR.

For Cause. If the CONTRACTOR is determined by the CITY to be in default of any term or condition of CONTRACT, the CITY may terminate this contract on thirty (30) days notice by providing notice to the CONTRACTOR, which shall be in writing and shall be deemed delivered and received when given in person to the CONTRACTOR, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual

receipt by the CONTRACTOR. If the CITY is determined by the CONTRACTOR to be in default of any term or condition of this CONTRACT the CONTRACTOR may terminate this contract on thirty (30) days notice by providing notice to the CITY, which shall be in writing and shall be deemed delivered and received when given in person to the CITY, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the CITY.

Default. The following shall constitute events of default under this CONTRACT: a) any material misrepresentation made by the CONTRACTOR to the CITY, b) any failure to perform any of its obligations under this CONTRACT including, but not limited to the following: (i) failure to commence performance of this CONTRACT at the time specified in this CONTRACT due to a reason or circumstance within the CONTRACTOR'S reasonable control, (ii) failure to perform this CONTRACT with sufficient personnel and equipment or with sufficient material to ensure the completion of this CONTRACT within the specified time due to a reason or circumstance within the CONTRACTOR'S reasonable control, (iii) failure to performance this CONTRACT in a manner reasonably satisfactory to the CITY, (iv) failure to promptly re-perform with reasonable time the services that were rejected by the CITY as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the CONTRACTOR'S reasonable control, (vi) failure to comply with a material term of this CONTRACT, including, but not limited to, the provision of insurance and nondiscrimination, and (vii) any other acts specifically and expressly stated in this CONTRACT as constituting a basis for termination of this CONTRACT, and (viii) failure to comply with any and all requirements of state law, and/or regulations, and City ordinances, and/or regulations.

ARTICLE V. REMEDIES OF THE CITY.

The CITY may deduct the cost of any substitute contract or performance for expenses, losses, and all damages, including incidental and consequential damages as a result of any event of non-conformance or non-performance of the CONTRACTOR in complying with the terms of this CONTRACT, and shall withhold such expenses, losses, and damages from sums due, or to become due.

ARTICLE VI. REMEDIES OF THE CONTRACTOR.

If the damages, other than loss, non-conformance, or non-performance, are actually sustained by the CONTRACTOR due to any act or omission for which the CITY is legally responsible the CITY shall allow a sum equal to the amount of such damages sustained by the Contractor as determined by the CITY in writing, provided the Contractor shall have provided to all signatories of the contract a detailed written statement of such damages and cause thereof within 30 days of the act of omission by the CITY.

ARTICLE VII. ASSIGNABILITY.

The CONTRACTOR shall not assign, subcontract or in any way transfer any interest in this contract without the prior written consent of the Procurement Officer of said City. In the event of such occurrence the City reserves the right to deal with any assignee subcontractor or transferee directly and the contractor agrees to remain bound by all terms and conditions of this contract in accordance with its original tenor. The provisions of this CONTRACT shall be binding upon, and shall inure to the benefit of, the successors and assigns of the CONTRACTOR and any public body or bodies succeeding the interests of the CITY.

ARTICLE VIII. INDEMNIFICATION.

The CONTRACTOR shall assume the defense, indemnify and hold harmless the CITY, the CITY'S agents and employees, from and against all losses and all claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recovered against them by reason of acts, in actions, omissions, negligence, reckless or intentional misconduct of the said CONTRACTOR, its agent(s), officers, employees, or subcontractors; in the execution of the work or in guarding the same. Unless otherwise provided by law, the CITY may elect to indemnify the CONTRACTOR for claims arising in tort if it is determined that the CONTRACTOR performed its obligations under this CONTRACT pursuant to the direct supervision and control of the CITY or its designated agent(s).

ARTICLE IX. WORKER'S COMPENSATION AND OTHER INSURANCE.

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

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

Prior to commencement of any work and until completion of its work under this CONTRACT shall maintain the following insurance coverage, at its cost, from insurance acceptable to the CITY, giving evidence of such coverage to the CITY prior to execution of this CONTRACT, a copy of such insurance coverage to be attached herewith:

General - The Vendor shall before commencing performance of the Contract be responsible for providing and maintaining insurance coverage in force for the life of the Contract of the kind and in adequate amounts to secure all of the obligations under the Contract and with insurance companies licensed to write insurance in the Commonwealth of Massachusetts. All such insurance carried shall not be less than the kinds and amounts designated herein, and the Vendor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Vendor to any such kinds and amounts of insurance coverage. All policies issued shall indemnify and save harmless the City of Salem, its agents and employees from any and all claims for damages to persons or property as may rise out of the performance of this Contract.

Vendor's Comprehensive General Public Liability and Property Damage Liability Insurance - The Vendor shall carry Comprehensive General Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of bodily injury to or death of one person, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries or death of two or more persons in any one accident; and Vendor's Comprehensive Property Damage Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of injury to or destruction of property in any one accident, and subject to that limit per accident, a total (or aggregate) limit or not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property during the policy period.

Comprehensive Automotive and Property Damage Insurance - The Vendor shall carry Automobile Insurance covering all owned vehicles, hired vehicles or non-owned vehicles under the control of the Vendor while performing work under the Contract in the amount of not less than Five Hundred

Thousand Dollars (\$500,000.00) for all damages arising out of bodily injuries to or death of one person and subject to that limit for each person, a total of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of two or more persons in any one accident; and Property Damage coverage in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages to or destruction of property.

The Vendor must carry Workman's Compensation Insurance in the amounts prescribed under Massachusetts State Law and meet all other City and State Laws and Regulations.

No cancellation(s) of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the City of Salem at least fifteen (15) days prior to the intended effective date thereof, which date shall be expressed in said notice, which shall be sent by registered mail, return receipt requested. These provisions shall apply to the legal representative(s), trustee in bankruptcy, receiver, assignee, trustee, and successor(s) in interest of the Vendor.

All insurance coverage shall be at the sole expense of the Vendor and shall be placed with such company as may be acceptable to the City of Salem and shall constitute a material part of the contract documents.

Failure to provide written proof to City and continue in force such insurance as aforesaid shall be deemed a material breach of the contract, and may constitute sufficient grounds for immediate termination of the same.

All required insurance must be endorsed to name the CITY as Additional Insured. All required insurance shall be endorsed to waive the insurer's rights of subrogation against the City. All policies and certificate for insurance must contain language that the insurance shall not be canceled, materially changed or non-renewed without at least thirty (30) days advance written notice to the CITY. The CONTRACTOR under this CONTRACT shall not allow its subcontractors to begin work until similar insurance has been so obtained and certificates of insurance approved by the CONTRACTOR.

ARTICLE X. CORPORATE CONTRACTOR.

If CONTRACTOR is a corporation, CONTRACTOR shall endorse the Certificate of Corporate Authority for the CONTRACTORS' signatory (Attachment C), or shall otherwise provide a form similar in nature and substance acceptable to the CITY.

If CONTRACTOR is a non-profit corporation, CONTRACTOR shall provide satisfactory proof of present status as a non-profit corporation. Such proof shall be in the form of a certification from the Massachusetts Secretary of State's office and/or from the Internal Revenue Service and shall provide the Federal Tax Identification Number of the non-profit corporation. This agreement shall not be enforceable against the CITY unless and until the CONTRACTOR complies with this section. Failure to inform the CITY in writing of revocation, or other loss of non-profit status shall be deemed a material breach of this contract and operate as an immediate termination thereof.

ARTICLE XI. SUBJECT TO APPROPRIATION.

The obligations of the CITY under this CONTRACT shall be subject to appropriation. In the absence of appropriation this CONTRACT shall be immediately terminated without liability for damages, penalties, or other charges.

In the requisite circumstances, the obligations of the CITY under this CONTRACT shall be subject to the formal award of the state, federal grant.

ARTICLE XII. DOCUMENTS, MATERIALS, ETC.

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

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

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

ARTICLE XIII. AUDIT, INSPECTION, RECORD KEEPING.

At any time during normal business hours, and as often as the CITY may deem it reasonably necessary, there shall be made available in the office of the CONTRACTOR for the purpose of audit, examination, and/or to make excerpts or transcripts, all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this agreement.

Further the CONTRACTOR agrees to make its work papers, records and other evidence of audit available to the CITY for a period of three years after final payment under his CONTRACT. The CIT shall be entitled to reproduce any or all such documents at its own expense, for which provision shall be made at such time.

ARTICLE XIV. WEEKLY PAYROLL RECORDS REPORT.

In accordance with Massachusetts General Law c. 149, s. 27B, a true and accurate record must be kept of all individuals employed on a public works construction project for which prevailing wage rates are applicable.

In addition, every contractor and subcontractor is required to submit, on a weekly basis, a copy of their weekly payroll records to the awarding authority. Once collected, the awarding authority is also required to preserve those records for three years.

ARTICLE XV. CONFLICT OF INTEREST.

CITY. No officer, member or employee of the CITY and no members of its governing body who exercise any function or responsibility in review or approval of the undertaking or carrying out of this CONTRACT shall participate in any decision relating to the CONTRACT which affects his/her personal interests or the interest of any corporation, partnership, or association in which he/she has a direct or indirect pecuniary interest. None of the services to be provided by the CONTRACTOR shall be used for any partisan political activity or further the election or defeat of any candidate for political office in the CITY. Compliance with this section shall be material to the CONTRACT.

CONTRACTOR. CONTRACTOR agrees that his/her/its agents, servants, and employees have neither presently nor during the period of this CONTRACT any interest direct or indirect which would impair, detract, or conflict in any manner or degree with the performance of services required under this CONTRACT. The CONTRACTOR, his/her/its agents, servants or employees further stipulates that in the performance of this CONTRACT, no person having any such interest shall be employed. Conflicts of Interest include but are not limited to (a) immediate family relationships with officials of the CITY, (b) instances where the CONTRACTOR, his/her/it agents, servants or employees during the period of this CONTRACT was connected as an officer, employee or member of the governing body of the CITY, and (c) instances where the CONTRACTOR has an interest in any CITY department, its agents, servants or employees or parcels of land within the CITY. Compliance with this section shall be material to the CONTRACT.

ARTICLE XVI. PAYMENT.

The CITY agrees to make all reasonable efforts to pay to the CONTRACTOR the sum set forth in the CONTRACTOR'S bid or proposal within thirty (30) days of receipt of an invoice at the Office of the City Auditor detailing the work completed.

Subject to pending statutory appeal rights, CONTRACTOR agrees that all sums otherwise due and payable to the CITY for outstanding taxes, fines, fees and or other municipal charges may be deducted from the sum(s) otherwise payable under this CONTRACT prior to disbursement to the CONTRACTOR.

ARTICLE XVII. CONFLICT.

In the event there is a conflict between these Articles and Attachment A. Attachment A shall supersede these Articles.

ARTICLE XVIII. WAIVER AND AMENDMENT.

The provisions contained in this CONTRACT may be modified only as specifically provided by ATTACHMENT B - ADDITIONAL TERMS AND CONDITIONS. Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this CONTRACT may be made only by written amendment executed by all signatories to the original agreement, prior to the effective date of the amendment.

To the extent allowed by law, all conditions, duties, and obligations contained in this CONTRACT may be waived only by written agreement by both parties.

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

ARTICLE XIX. CERTIFICATION.

IN WITNESS WHEREOF, THE CONTRACTOR CERTIFIES, UNDER THE PAINS AND PENALTIES OF PERJURY, THAT THE CONTRACTOR IS IN COMPLIANCE WITH EACH OF THE FOLLOWING:

TAXES. PURSUANT to M.G.L. c. 62C, s. 49A, the CONTRACTOR has filed all state tax returns and complied with all laws of the Commonwealth relating to taxes.

DEBARMENT. The CONTRACTOR is not currently debarred or suspended by the Commonwealth of Massachusetts, or any of its entities or subdivisions.

AMERICANS WITH DISABILITIES ACT. The CONTRACTOR is aware of the recently enacted Americans with Disabilities Act which prohibits discrimination based upon disability and shall meet any relevant standards, and/or conditions set out in the bid/proposal documents, bid/proposal specifications, and/or ATTACHMENT A - SCOPE OF SERVICES.

ARTICLE XX. FORUM AND CHOICE OF LAW

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

IN WITNESS WHEREOF the parties have hereto and to three other identical instruments set forth their hands the day and year first above written.

THE CITY:

THE CONTRACTOR:

Kimberley Driscoll,
Mayor

Authorized Signature

Print Name

Approved as to form:

Print Title

Elizabeth Rennard, Esq.,
City Solicitor

Company

Approved as Contract Manager:

Status (Corporate/Non- Corporate)

XXXXX,
XXXXXXXXX

Taxpayer Identification Number

I certify that funds have been encumbered
in the amount of : \$XXXX

Date

ATTACHMENT A

SCOPE OF SERVICES

INSTRUCTIONS FOR DEPARTMENT AND CONTRACTOR: *Please attach for reference purposes a copy of all bid/proposal documents, including but not limited to (i) invitations/instructions for bidders (ii) invitation/instructions for proposers, (iii) general and specific conditions, and please provide a detailed description of all types of goods and/or services that will be provided pursuant to this CONTRACT, not otherwise provided in any bid/proposal instructions, specifications, conditions or other documents.*

Please refer to the scope of services found in Invitation for Bids X-XX “XXXXXXXXXX” incorporated here by reference.

ATTACHMENT B

ADDITIONAL CONTRACT TERMS AND CONDITIONS

INSTRUCTIONS FOR DEPARTMENTS: Please specify any additions or modifications to the terms and conditions (not to conflict with the public procurement laws or City ordinances or regulations):

ATTACHMENT C

CERTIFICATE OF CORPORATE AUTHORITY

If the Contractor is a corporation, complete the following certification:

At a duly authorized meeting of the Board of Directors of the _____ (Name of the Corporation) held on _____ (Date), at which all the Directors were present or waived notice, it was voted that, _____ (Name), _____ (Officer) of this company, is authorized to execute Contracts and bonds in the name and behalf of said company, and affix its corporate seal thereto, and such execution of any Contract or obligation in this company's name on its behalf by such _____ (Officer) of the company, shall be valid and binding upon this company.

I hereby certify that I am the Clerk of the _____ (Name of the Corporation), that _____ (Name) is the duly elected _____ (Officer) of said company, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of the Contract.

A true copy,

Attest: _____
(Clerk)

Place of Business: _____

Corporate Seal:

| |
|-----------------------------|
| PREVAILING WAGE RATE |
|-----------------------------|