

## TOWN OF NATICK MASSACHUSETTS

**TO:** Natick Board of Selectmen  
William D. Chenard - Acting Town Administrator

**FROM:** Bryan R. Le Blanc, Procurement Officer  
Joshua Ostroff, Chair, CRT Committee

**DATE:** January 19, 2018

**SUBJECT: CONTRACT AWARD**  
Appraisal/Mechanic Street

Pursuant to Massachusetts General Laws Chapter 30B, Section 4, the Town of Natick solicited written quotes, subject to a written purchase description, for appraisal services for certain parcels on Mechanic Street in Natick. Such parcels will likely be needed as a point of access for the Cochituate Rail Trail project in Natick. Although four (4) firms/individuals were solicited, the Town received one (1) quote in response. See attached.

The quote received, in the amount of \$25,000.00 for regular appraisal work, was submitted by NAI Hunneman. (Although NAI Hunneman submitted a quote of \$12,000.00 for review appraisal work, it is not presently anticipated that such services will be needed.)

The Town has reviewed the quote submitted by NAI Hunneman, and has determined that firm to be responsive and responsible. NAI has performed appraisal work for the Town in the past.

Based upon the foregoing, the Town recommends that the Natick Board of Selectmen award a contract to NAI Hunneman in the amount of twenty-five thousand dollars and zero cents (\$25,000.00).

The funding to cover the additional sums comes from the following sources:

Funding Sources:  
CRT Appropriations - \$25,000.00

## MEMORANDUM

To: FILE

From: Bryan R. Le Blanc, Procurement Officer

Re: Quote Process – Appraisal Services/ Mechanic Street /Town of Natick

Date: January 18, 2018.

In late January, 2018, I received a procurement request for appraisal services related to Mechanic Street in the Town of Natick. The cost of these services is approximately \$15,000.00.

The requisite statutory reference governing procurements of non-exempt services estimated to cost between \$10,000 and \$50,000 is found in M.G.L. c. 30B, §4, which provides in relevant part:

*(a) Except as permitted pursuant to this section and section 7, for the procurement of a supply or service in the amount of \$10,000 or greater, but not more than \$50,000, a procurement officer shall seek written quotations from no fewer than 3 persons customarily providing the supply or service. The procurement officer shall record: (1) the names and addresses of all person from whom quotations were sought, (2) the purchase description used for the procurement, (3) the names of the persons submitting quotations and (4) the date and amount of each quotation. Such information shall be retained in the file required pursuant to section 3. A governmental body may require that any procurement in an amount of not more than \$50,000 be subject to section 5.*

*(b) The procurement officer shall award the contract to the responsible person offering the needed quality of supply or service at the lowest quotation.*

### WRITTEN PURCHASE DESCRIPTION:

The following description was developed in conjunction with Mark Coviello, P.E., special projects engineer for the Town of Natick, and Joshua Ostroff, of the Cochituate Rail Trail Committee.

The Town solicits Quotes from qualified firms or individuals for the procurement of general appraisal services and review appraisal services for Mechanic Street in Natick (the "Project").

#### *A. Scope of Services*

*The Town of Natick desires to enter into a contract with a consultant firm to provide General Appraisal and Review Appraisal services for a certain portion of Mechanic Street, for which takings, pursuant to Massachusetts General Laws (M.G.L.) c. 79 or any successor statute, will likely be made necessary for the construction and public use of the Cochituate Rail Trail project. When completed, the Cochituate Rail Trail will provide a multi-use path connecting downtown Natick with an existing path near Route 30 in the City of Framingham.*

*The Town envisions having this portion of Mechanic Street used as a public way. The way is intended to be used for vehicular, pedestrian, and bicycle access to the developed Cochituate Rail Trail, as well as for access to other public land. Additionally, the way is intended to be used for construction vehicles and equipment for a limited period of time. 33 feet +/- is identified as an easement on the Plan of Land referenced herein, to which abutters retain certain deeded rights of access. The entirety of this easement, or a narrower section may be considered for this public way. A narrow section of both 5 and 7 Mechanic Street may also be considered for this way.*

*The selected firm will be required to assign a Certified Licensed General Appraiser and a Certified General Review Appraiser to determine the amount of just compensation a property owner will be paid by the Town of Natick in connection with fee based land acquisitions, easement acquisitions, leases, license agreements, and other real estate transactions for the purpose of obtaining a secure Right of Way that will allow for the construction and operation of the Cochituate Rail Trail project.*

*The attached Local Public Agency (LPA) Appraisal Function Job Aid (attached hereto) details the responsibilities of the appraiser and review appraiser. The six page LPA Appraisal Function Job Aid and the review appraisal check list must be made part of the general appraisal report and review appraisal documents.*

*Appraisal reports will be required for the following properties as shown in the attached Plan of Land in Natick, Mass., Owned by Marie T. Mitchell, Trustee of Nickinello Realty Trust at Willow Street, Scale 1" = 30', August 30, 2011, Survey by: Sullivan Surveying Company, 209 West Central Street, Natick, MA 01760:*

- 1. The property including Mechanic Street, which shall include Lot 43, consisting of approximately 120,950 square feet*
- 2. 5 Mechanic Street, owned by Kathleen L. Bacon, Patricia R. Westhaven, Rocky A. Melchiorri, and Michael A. Melchiorri.*
- 3. 7 Mechanic Street, owned by the Seven Mechanic Street Trust, Michael A. Bradley, Trustee.*
- 4. 13 Mechanic Street, owned by Boston Edison Co.*

*The Town intends to award one (1) contract, if at all, for the above properties to the responsible and responsive quoting party submitting the lowest quote for all properties listed herein.*

*The successful quoting party shall agree to abide by the terms and conditions of the attached contract.*

*A draft report shall be submitted within thirty five (35) days after the award of a contract by the Town. A final summary appraisal report shall be due within six (6) days thereafter. Five (5) bound copies, plus one (1) unbound copy, suitable for reproduction, shall be provided. The Contractor shall attend one (1) meeting with representatives of the Town to discuss the contents of the report and to answer questions*

*regarding the draft report. The Contractor shall furnish an hourly cost to attend additional meetings (as needed) and shall be expected to attend such meetings as required.*

**SOLICITED FIRMS:**

On January 11, 2018, I used the Request for Quotes and its purchase description to solicit four (4) firms/individuals for written quotes, as required by M.G.L. c. 30B, §4. Firms solicited for written quotes, at the emails shown below were:

1. Peterson LaChance Regan Pino, LLC  
685 Centre Street, Suite 204  
Boston, MA 02130  
617-522-0022  
[wlachance@plrpllc.com](mailto:wlachance@plrpllc.com)
2. Christopher M. Walsh, MAI  
Vice President  
NAI Hunnemnan Appraisal & Consulting  
303 Congress Street  
Boston, MA 02210  
617 457 3232  
Mobile: 508-243-0231  
[cwalsh@naihunne.com](mailto:cwalsh@naihunne.com)
3. Geoff Lewis  
[geoffrey.lewis@colliers.com](mailto:geoffrey.lewis@colliers.com)  
Colliers International  
160 Federal street  
Boston, MA 02110  
617 780-7804
4. CBRE-New England  
[john.davis@cbre-ne.com](mailto:john.davis@cbre-ne.com)  
617 912-5955  
33 Arch Street  
28th Floor  
Boston, MA 02110.

Quotes were ultimately due no later than 11:00 A.M. local time on January 18, 2018.

**DATED WRITTEN QUOTES RECEIVED/PARTIES SUBMITTING QUOTES/AMOUNT OF EACH QUOTATION:**

1. On January 18, 2018, NAI Hunneman, the above address, submitted a quote of \$12,000 to provide review appraisal services and \$25,000 to provide appraisal services. These are clarified to be separate items – a \$37,000.00 quote.

Colliers, CBRE, and Peterson did not quote.

The lowest overall quote was that of NAI Hunneman, which we have determined to be a responsive and responsible party.

Award should be made, if at all, to NAI Hunneman, which is the responsive and responsive firm that submitted the lowest quote to perform all required services.

**Town of Natick, Massachusetts**  
**CONTRACT FOR THE PROCUREMENT OF**  
**GENERAL APPRAISAL AND REVIEW APPRAISAL SERVICES FOR**  
**MECHANIC STREET**

This Contract is made as of this twenty-fourth day of January, 2018, by and between the Town of Natick, Massachusetts, with an address of Natick Town Hall, 13 East Central Street, Natick, MA 01760, acting by the Natick Board of Selectmen (hereinafter the "Town"), and NAI Hunneman, with a principal office located at 303 Congress Street, Boston, MA 02210 (hereinafter the "Contractor").

The words "he," "him" and "his" in this Contract, as far as they refer to the Contractor, shall so refer whether the Contractor is an individual, partnership or corporation. All prior contracts, if any exist between the Town and the Contractor, are hereby terminated and shall be of no force and effect.

1. Scope

In consideration of the obligations herein contained, the Contractor shall provide general appraisal services and, if necessary, as determined by the Town, review appraisal services in the Town of Natick, as described in the Request for Quotes for General Appraisal Services and Review Appraisal Services for Mechanic Street ("RFQ"), which is attached hereto and incorporated herein by reference.

2. Standard of Care

The Contractor shall exercise due care and diligence in the rendering of all services under this Contract in accordance with the applicable professional standards in the Eastern Massachusetts area. The Contractor's services shall be performed as expeditiously as is consistent with such standards, with professional skill and care, and with the orderly progress of the work.

3. Term

The term of this Contract shall commence as of the date set forth in the first line of the first paragraph above and shall end one (1) year later. In the sole discretion of the Town, the term of this Contract may be extended for one (1) or two (2) one (1)-year renewal periods.

4. Incorporation of the RFQ/Order of Priority of Contract Documents

The provisions of the RFQ and the Contractor's Quote are incorporated herein by reference. 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 the RFQ (if any)
Fourth Priority:	RFQ

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Fifth Priority: Contractor's Quote.

5. Payment

In consideration for performance of the work in accordance with the requirements of this Contract, the Town shall pay the Contractor the prices set forth in the Contractor's Quote, a copy of which is attached hereto and incorporated by reference.

This Contract is a fixed price/fixed rate contract; and, therefore, miscellaneous expenditures associated with the Contractor's work shall not be paid by the Town. In the event that an unforeseen miscellaneous expense is incurred, the Contractor shall receive the Town's approval in writing prior to incurring the expense if it will subsequently seek payment of said expense from the Town.

Payment shall be made to the Contractor for work completed in accordance with this Contract. All requests for payment shall be submitted to the Town as an invoice and shall specify all services rendered.

Payment will be due thirty (30) days after receipt of the Contractor's invoice by the Town for services rendered in accordance with this Contract. The Town shall not make payments in advance.

If the Town objects to all or part of any invoice, the Town shall notify the Contractor in writing within two (2) weeks of the date of receipt of the invoice, and shall pay that portion of the invoice not in dispute within thirty (30) days after the date of receipt of the invoice.

Should it be necessary for the Contractor to engage the services of a specialized contractor or companies other than those originally proposed in the Contractor's response to the Town's RFQ, the Contractor shall take such measures only with the Town's prior written approval. Charges for such services, with no mark-up, shall be billed directly to the Town unless otherwise agreed upon by the parties.

Payment of the amounts due under this Contract shall release the Town, Massachusetts and its officers, employees, boards, commissions, committees, agents and representatives, from any and all claims and liability in any way relating to this Contract or anything done in pursuance thereof.

No payment by the Town to the Contractor shall be deemed to be a waiver of any right of the Town under this Contract or a ratification by the Town of any breach hereof by the Contractor.

6. Warranty

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DELETED – NOT APPLICABLE.

7. Compliance with Laws

The Contractor shall comply with all provisions of Federal, Massachusetts, and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, and related regulations, as amended, in effect throughout the term of this Contract and any extension or renewal thereof. Without limitation, the Contractor shall comply with the provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws, as amended, and the applicable minimum wage rates as determined by the Massachusetts Commissioner of Labor and Industries. This Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, as though such terms were set forth in their entirety herein.

8. Insurance

The Contractor shall provide and maintain throughout the term of the Contract and any extension or renewal thereof the following insurance with companies that are authorized and licensed in the Commonwealth of Massachusetts to issue policies for the coverages and limits so required.

- a. Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts and employer's liability insurance in the amount of \$1,000,000/\$1,000,000/\$1,000,000.
- b. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
- c. Automobile Liability Insurance, covering all leased, owned, non-owned, and hired vehicles - Combined single limit of \$1,000,000.
- d. Professional Liability Insurance, \$1,000,000 each occurrence/\$1,000,000 aggregate limit. If written on a claims-made basis, each such policy shall remain in effect for at least six (6) years following the termination of this Contract.
- e. Excess Liability Insurance, Umbrella Form - \$1,000,000 each occurrence



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and \$1,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, and employer's liability under workers' compensation insurance.

- f. The Town shall be named as an additional insured on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.
- g. All certificates and policies shall contain the following provision:

“Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Natick Town Administrator, Natick Town Hall, 13 East Central Street, Natick, MA 01760 before such cancellation or amendment shall take place.”
- h. Certificates evidencing such insurance in five (5) copies shall be furnished to the Town at the execution of this Contract. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. The Contractor shall make no claims against the Town or its officers for any injury to any of its officers or employees or for damage to its equipment arising out of work contemplated by the Contract.
- i. The Contractor shall also be required to provide to the Town with its proof of insurance coverage endorsements or riders to the policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Town is named as an additional insured on each such policy.
- j. No insurance shall be obtained from an insurer which:
  - (1) is not licensed to sell insurance in the Commonwealth of Massachusetts; or
  - (2) is not authorized to provide insurance as an excess or surplus lines insurer, and does not have a current Best's rating of A or better.
- k. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this Contract and shall operate as an immediate termination thereof.

9. Indemnification

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The Contractor shall compensate the Town for all damage to Town property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Town and all of its officers, employees, boards, commissions, committees, agents and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind which arise out of the breach by the Contractor of its obligations under this Contract, or the act or omission of the Contractor, its subcontractors, or their officers, employees, agents and representatives or anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regarding the work to be performed by the Contractor under the Contract, or which arise out of the violation of any federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relate to personal injury or property damage suffered by the Contractor or any of its officers or employees regarding the subject matter of this Contract. Said costs shall include, without limitation, reasonable legal costs, collections fees, and counsel fees incurred in defending any claim or suit that may be brought against the Town and any judgment that may be obtained in any such claim or suit.

10. No Personal Liability

Neither the Town, nor its officers, employees, boards, committees, commissions, agents and representatives shall be under any personal obligation or incur any personal liability by reason of this Contract, the execution thereof or anything relating thereto which arises out of the breach or violation of any provision of this Contract, or the violation of any Federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Contractor or its employees, regarding the subject matter of this Contract.

11. Familiarity with Area of Work

By signing this Contract, the Contractor acknowledges that it has examined the area of work which is the subject matter of this Contract and that it is familiar with all conditions of the RFQ and of this Contract. The Contractor has entered into this Contract in reliance on its own examinations and estimates as to the amount and character of its work, and conditions which may be encountered in the performance thereof, and shall assume all risks and bear all losses pertaining thereto.

12. Performance Bond

DELETED – NOT APPLICABLE.

13. Labor and Materials Payment Bond

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DELETED – NOT APPLICABLE.

14. Independent Contractor Status

The Contractor shall provide services under this Contract as an independent contractor with the Town and not as an employee of the Town. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the Town, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

15. Use of Alcohol and Controlled and/or Mood Altering Substances Prohibited

The Contractor hereby acknowledges that the use of alcoholic beverages, narcotics, and controlled and/or mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Contractor is prohibited on Town property which is the subject matter of this Contract and during all hours of work under this Contract. If any officer, employee, agent, or representative of the Contractor violates the foregoing provision, the Town shall have the right to order that such officer, employee, agent, or representative of the Contractor shall not be permitted to return to work on this Contract. Under such circumstances, the Contractor shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with this Contract.

16. No Smoking

Pursuant to Massachusetts General Laws (M.G.L.) c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Contractor, its officers, employees, agents, and representatives shall refrain from smoking and from using tobacco products in any public building in the Town.

17. Criminal Background Screening

For each employee of the Contractor who is rendering services under this Contract, the Contractor shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written confirmation to the Town that such employee passed the Contractor's pre-employment criminal background screen. In the event that any employee refuses to permit the Contractor to provide such information to the Town, the Contractor shall not assign such employee to perform services for the Town, and such

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employee shall not be authorized to perform services for the Town. The Town shall be permitted to keep such information in its files.

18. *Delays/Force Majeure*

Except as specifically set forth in this Contract, neither party shall hold the other responsible or liable for damages or delays in performance caused by acts of God, interruptions in the availability of labor, or other events beyond the control of the other party, or that could not have been reasonably foreseen or prevented. For this purpose, such acts or events shall include unusually severe weather affecting performance of services, floods, epidemics, wars, riots, strikes, lockouts, or other industrial disturbances, protest demonstrations, and project site conditions which could not have been reasonably anticipated. Should such acts or events occur, both parties shall use their best efforts to overcome the difficulties arising and to resume as soon as reasonably possible the normal pursuit of performance.

19. *Termination*

- a. If the Contractor shall breach any provision of this Contract, which breach is not cured within twenty-one (21) days of written notice thereof from the Town to the Contractor, the Town shall have the right to terminate this Contract upon written notice to the Contractor.
- b. If any assignment shall be made by the Contractor or by any guarantor of the Contractor for the benefit of creditors, or if a petition is filed by the Contractor or by any guarantor of the Contractor for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Contractor and such involuntary petition is not discharged within ninety (90) days thereafter, in any event the Town may terminate this Contract upon written notice to the Contractor.
- c. The award of this Contract and the continued operation of this Contract are contingent upon appropriation by Natick Town Meeting of sufficient money to fund the Contract. Should Natick Town Meeting fail to appropriate necessary funds therefor, the Town shall no longer be under any obligation to tender performance, including payment, under the terms of this Contract. In that event, the Town may terminate this Contract upon written notice to the Contractor.
- d. The Town may terminate this Contract upon written notice to the Contractor if a source of money to fund the Contract is lost during the Contract term. In the alternative, the parties may agree in writing to amend the Contract to

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provide for a Contract price which represents a reduced appropriation for the Contract term.

- e. The Town may also terminate this Contract for convenience upon thirty (30) days' written notice to the Contractor.

In the event of termination, the Contractor shall be entitled to be paid for services rendered in accordance with this Contract prior to termination.

In the event that this Contract is terminated pursuant to Section 19a. or 19b. above, the Town may make any reasonable purchase or contract to purchase services in substitution for performance due from the Contractor and may deduct the cost of any substitute contract, or damages sustained by the Town due to non-performance or non-conformance of services, together with incidental and consequential damages from the Contract price, and shall withhold such damages from sums due or sums which become due.

20. Notices

Except as otherwise provided in this Contract, each notice required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail, return receipt requested, to the parties at the following address or such other address or addresses as to which a party shall have notified the other party in accordance with this Section 20.

If to the Town: William D. Chenard, Acting Town Administrator  
Natick Town Hall  
13 East Central Street  
Natick, MA 01760

With a copy to: John P. Flynn, Esq.  
Murphy, Hesse, Toomey & Lehane, LLP  
300 Crown Colony Drive, Suite 410  
Quincy, MA 02169

If to the Contractor: Christopher M. Walsh, MAI  
NAI Hunneman  
303 Congress Street  
Boston, MA 02210.

21. License

The Town shall have unlimited rights, for the benefit of the Town, in all drawings, designs, specifications, notes and other work developed in the

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performance of this Contract, including the right to use same on any other project of the Town, without additional cost to the Town; and with respect thereto, the Contractor agrees and hereby grants to the Town an irrevocable royalty-free and nonexclusive license to all such data, which he may cover by copyright, and to all designs as to which he may assert any rights or establish any claim under any patent or copyright laws. The Contractor shall obtain similar irrevocable royalty-free nonexclusive licenses from the Contractor's consultants consistent with this Contract.

22. Miscellaneous Provisions

- a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Middlesex County, MA, and in no other court or jurisdiction.
- b. No action or failure to act by the Town shall constitute a waiver of a right or duty afforded to the Town under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by the Town shall be construed as a waiver or in any way limit the legal or equitable remedies available to the Town. No waiver by the Town of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.
- c. If the Contractor discovers or is informed of any discrepancy or inconsistency in the Contract Documents in relation to any law, statute, ordinance, by-law, decree, code, rule, regulation, or order, the Contractor shall promptly, before commencing performance under this Contract, report the same to the Town in writing.
- d. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.
- e. The Contractor shall maintain the confidentiality of information designated by the Town as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public, or unless the Contractor has been required to release such information by final judgment or order of a court of competent jurisdiction, or unless the Town has expressly waived such confidentiality in advance in writing.
- f. The Contractor shall not represent or purport to represent that it speaks for the Town vis-à-vis the media or the public at-large without the Town's

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express, written consent in advance.

- g. Prior to commencing performance under this Contract, the Contractor shall furnish the Town, in writing, the names, addresses and telephone numbers of not fewer than two (2) principal employees of his business who are to be contacted in the event of an after-hours emergency.
- h. By entering into this Contract, the Contractor certifies under penalties of perjury that its Quote was made and submitted in good faith and without collusion or fraud with any 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.
- i. By entering into this Contract, the Contractor certifies under the penalties of perjury, pursuant to M.G.L. c.62C, Section 49A(b), that it has complied with all laws of the Commonwealth relating to taxes, to reporting of employees and contractors, and to withholding and remitting child support.
- j. The Contractor understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, applies to the Contractor with respect to the services required to be provided under this Contract. The Contractor and its officers, employees, agents, subcontractors and affiliated agencies shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.
- k. Prevailing wage rates, as contained in the Quote documents, shall be paid, pursuant to M.G.L. c.149, §§26-27G, if they are applicable.
- l. The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their

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employment, without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.

- m. **To the extent that any of the foregoing sections required by Massachusetts law are inconsistent with other, non-statutory sections in this Contract, any statutorily-mandated provisions contained herein shall control.**
- n. The Contractor shall not assign or subcontract in whole or in part this Contract or in any way transfer any interest in this Contract without the prior express written approval of the Town.
- o. The Contractor shall not assign any money due or to become due to the Contractor unless the Town shall have received prior written notice of such assignment. No such assignment shall relieve the Contractor of its obligations under this Contract.
- p. This Contract may be amended only by written consent of the parties.
- q. This Contract constitutes the entire agreement of the parties, and any other agreement, written or oral, that may exist is excluded from this Contract. When executed, this Contract supersedes any prior agreement between the parties in connection with the transaction contemplated.
- r. The parties agree that the traditional canon of contract interpretation, resolving ambiguities against the drafter of the particular instrument, shall not be employed in construing provisions of this Contract.
- s. 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.
- t. The provisions of this Contract shall be binding upon and shall inure to the benefit of the heirs, assigns and successors in interest of the parties.
- u. 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.



**Town of Natick, Massachusetts**  
**CONTRACT FOR THE PROCUREMENT OF**  
**GENERAL APPRAISAL AND REVIEW APPRAISAL SERVICES FOR**  
**MECHANIC STREET**

v. This Contract is executed in triplicate as a sealed instrument.

The Town of Natick, Massachusetts

NAI Hunneman

by: the Natick Board of Selectmen

by:

\_\_\_\_\_  
Jonathan H. Freedman, Chairman

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Susan G. Salamoff, Vice Chairman

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Richard P. Jennett, Jr., Clerk

\_\_\_\_\_  
Printed Title

\_\_\_\_\_  
Michael J. Hickey, Jr.

\_\_\_\_\_  
Amy K. Mistrot

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO AVAILABILITY OF APPROPRIATION:**

In accordance with the requirements of M.G.L. Chapter 44, Section 31, this is to certify that an appropriation in the amount of this Contract is available therefor, and that the Natick Board of Selectmen is authorized to execute this Contract and to approve all requisitions and execute change orders.

\_\_\_\_\_  
Arti P. Mehta  
Comptroller, Town of Natick

Dated: \_\_\_\_\_

**Town of Natick, Massachusetts**  
**CONTRACT FOR THE PROCUREMENT OF**  
**GENERAL APPRAISAL AND REVIEW APPRAISAL SERVICES FOR**  
**MECHANIC STREET**

APPROVED AS TO FORM ONLY, AND NOT AS TO SUBSTANCE:

\_\_\_\_\_  
John P. Flynn, Esq.

Dated: \_\_\_\_\_

**Town of Natick, Massachusetts**  
**CONTRACT FOR THE PROCUREMENT OF**  
**GENERAL APPRAISAL AND REVIEW APPRAISAL SERVICES FOR**  
**MECHANIC STREET**

CERTIFICATE OF VOTE

I, \_\_\_\_\_, hereby certify  
(Clerk/Secretary)

that I am the duly qualified and acting \_\_\_\_\_ of  
(Corporation Name) (Title)

and I further certify that at a meeting of the Directors of said Corporation duly called and held on \_\_\_\_\_ 20 \_\_\_\_, at which meeting all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower either

\_\_\_\_\_, \_\_\_\_\_;  
(Name) (Title)

\_\_\_\_\_, \_\_\_\_\_; or  
(Name) (Title)

\_\_\_\_\_, \_\_\_\_\_  
(Name) (Title),

any one acting singly, to execute all contracts and bonds on behalf of the Corporation.

I, further certify that the above vote is still in effect on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and has not been changed or modified in any respect.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

The certification contained hereabove shall be executed by CONTRACTOR or copy of current "certification of authority to sign for the Corporation" shall be attached.)

**Town of Natick  
Natick, Massachusetts**

**Request for Quotes**

**for**

**General Appraisal Services and Review Appraisal Services for  
Mechanic Street**

**QUOTES DUE:  
January 18, 2018, 11:00 A.M. LOCAL TIME**  
Late Quotes Will Be Rejected

**DELIVER COMPLETED QUOTES TO:**

Procurement Officer  
Natick Department of Public Works Building  
Second Floor  
75 West Street  
Natick, MA 01760.

## **I. INTRODUCTION**

The Town of Natick, Natick Town Hall, 13 East Central Street, Natick, MA 01760 ("the Town"), solicits quotes for general appraisal services and review appraisal services for Mechanic Street in Natick. For a full description of the scope of services, please refer to Section II (A) of the Request for Quotes ("RFQ").

Each Quoting party's quote marked, marked "Quote for Appraisal Services/Mechanic Street," will be received until **11:00 A.M. local time, January 18, 2018**, will be received at this address:

Procurement Office  
Natick Department of Public Works Building  
Second Floor  
75 West Street  
Natick, MA 01760.

Each Quoting Party's name, address and contact phone number shall be clearly visible from the outside of each envelope. The clock in Procurement Office shall be considered official. No Quotes received after the date and time specified in the previous paragraph shall be accepted. No faxed Quotes shall be accepted. Conditional Quotes will not be accepted. If the Procurement Office is closed due to weather or other emergency, the deadline for receipt of Quotes shall be extended until 11:00 A.M. local time on the next business day that the Procurement Office is open.

Quotes may also be received by email at [bleblanc@natickma.org](mailto:bleblanc@natickma.org).

Each Quote shall be submitted in accordance with the Submission Requirements in order to be considered for award. Any Quote submitted shall be binding for sixty (60) days subsequent to the time of the opening of Quotes.

The Town **will not** reimburse Quoting parties for any costs incurred in preparing Quotes in response to this RFQ. Submission of a Quote shall be conclusive evidence that the Quoting party has examined this RFQ and is familiar with terms of this RFQ and all provisions of the contract included with this RFQ. Upon finding any omissions or discrepancy in this RFQ, each Quoting party shall notify the Town immediately so that any necessary addenda may be issued. Failure of a Quoting party to investigate completely the RFQ and/or to be thoroughly familiar with this RFQ shall in no way relieve any such Quoting party from any obligation with respect to the Quote. By submission of a Quote, the Quoting party agrees that if its Quote is accepted, then it shall enter into a Contract with the Town which incorporates all of the requirements of this RFQ and which is the form attached hereto at Attachment H. By submission of a Quote, the Quoting party further indicates acceptance of all terms and conditions of this RFQ.

## **II. BACKGROUND**

The Town solicits Quotes from qualified firms or individuals for the procurement of general appraisal services and review appraisal services for Mechanic Street in Natick (the "Project").

### **A. Scope of Services**

The Town of Natick desires to enter into a contract with a consultant firm to provide General Appraisal and Review Appraisal services for a certain portion of Mechanic Street, for which takings, pursuant to Massachusetts General Laws (M.G.L.) c. 79 or any successor statute, will likely be made necessary for the construction and public use of the Cochituate Rail Trail project. When completed, the Cochituate Rail Trail will provide a multi-use path connecting downtown Natick with an existing path near Route 30 in the City of Framingham.

The Town envisions having this portion of Mechanic Street used as a public way. The way is intended to be used for vehicular, pedestrian, and bicycle access to the developed Cochituate Rail Trail, as well as for access to other public land. Additionally, the way is intended to be used for construction vehicles and equipment for a limited period of time. 33 feet +/- is identified as an easement on the Plan of Land referenced herein, to which abutters retain certain deeded rights of access. The entirety of this easement, or a narrower section may be considered for this public way. A narrow section of both 5 and 7 Mechanic Street may also be considered for this way.

The selected firm will be required to assign a Certified Licensed General Appraiser and a Certified General Review Appraiser to determine the amount of just compensation a property owner will be paid by the Town of Natick in connection with fee based land acquisitions, easement acquisitions, leases, license agreements, and other real estate transactions for the purpose of obtaining a secure Right of Way that will allow for the construction and operation of the Cochituate Rail Trail project.

The attached Local Public Agency (LPA) Appraisal Function Job Aid (attached hereto) details the responsibilities of the appraiser and review appraiser. The six page LPA Appraisal Function Job Aid and the review appraisal check list must be made part of the general appraisal report and review appraisal documents.

Appraisal reports will be required for the following properties as shown in the attached Plan of Land in Natick, Mass., Owned by Marie T. Mitchell, Trustee of Nickinello Realty Trust at Willow Street, Scale 1" = 30', August 30, 2011, Survey by: Sullivan Surveying Company, 209 West Central Street, Natick, MA 01760:

1. The property including Mechanic Street, which shall include Lot 43, consisting of approximately 120,950 square feet
2. 5 Mechanic Street, owned by Kathleen L. Bacon, Patricia R. Westhaven, Rocky A. Melchiorri, and Michael A. Melchiorri.
3. 7 Mechanic Street, owned by the Seven Mechanic Street Trust, Michael A. Bradley, Trustee.
4. 13 Mechanic Street, owned by Boston Edison Co.

The Town intends to award one (1) contract, if at all, for the above properties to the responsible and responsive quoting party submitting the lowest quote for all properties listed herein.

The successful quoting party shall agree to abide by the terms and conditions of the attached contract.

A draft report shall be submitted within thirty five (35) days after the award of a contract by the Town. A final summary appraisal report shall be due within six (6) days thereafter. Five (5) bound copies, plus one (1) unbound copy, suitable for reproduction, shall be provided. The Contractor shall attend one (1) meeting with representatives of the Town to discuss the contents of the report and to answer questions regarding the draft report. The Contractor shall furnish an hourly cost to attend additional meetings (as needed) and shall be expected to attend such meetings as required.

**B. Successful Quoting Party's Personnel**

The Successful Quoting party shall be responsible for any training of his/her/its personnel. The Successful Quoting party's personnel shall be adequately trained by the Successful Quoting party, shall be experienced in the provision of services specified in this RFQ, and shall be of good moral character. All of the Successful Quoting party's employees assigned to the work under any contract with the Town shall pass Criminal Background Screening.

The Successful Quoting party shall provide the Town with the following information:

1. Name, business address, telephone, and cell phone numbers of the person(s) in charge of the work under any contract with the Town.
2. Name, address, and telephone number of all employees assigned to the work under any contract with the Town. The Successful Quoting party will update this list whenever there is a change in personnel.

**III. COMPLIANCE WITH LAWS**

The Successful Quoting party shall comply with all provisions of Federal, Massachusetts and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act, as amended, and related regulations, as amended, in effect throughout the term of this Lease and any extension or renewal thereof. Without limitation, the Successful Quoting party shall comply with the applicable provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws (M.G.L.), as amended, and with all applicable minimum prevailing wage rates as determined by the Massachusetts Commissioner of Labor and Industries. Any Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, and any other laws, as though such terms were set forth in their entirety herein.

**IV. INSURANCE**

The Successful Quoting party shall keep in force throughout the term of the Contract and any extension or renewal thereof the amount of insurance described in the Contract which is a part of this RFQ and is incorporated herein by reference. Without limitation of other requirements of this RFQ, no Contract shall be entered into by the parties unless the successful Quoting party complies with all applicable insurance requirements, including, without limitation, the requirement to submit endorsements or riders which include the required language concerning notice of cancellation or amendment of any and all insurance policies required under the Contract, and which include the required language mandating that the Town shall be named as an additional insured on the required policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form.

#### **V. INDEMNIFICATION**

The Successful Quoting party shall assume the indemnification responsibilities described in the Contract which is a part of this RFQ and is incorporated herein by reference.

#### **VI. INDEPENDENT CONTRACTOR STATUS**

The Successful Quoting party shall provide services as an independent contractor with the Town, and not as an employee of the Town, and the Successful Quoting party and his/her/its employees shall not be entitled to receive any benefits of employment with the Town of Natick, including without limitation salary, overtime, vacation pay, holiday pay, health insurance, life insurance, pension or deferred compensation.

#### **VII. CRIMINAL BACKGROUND SCREENING**

For each employee of the Successful Quoting party who is performing services under any Contract awarded by the Town of Natick, the Successful Quoting party shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written confirmation to the Town that such employee passed the Successful Quoting party's pre-employment criminal background screen. In the event that any employee refuses to permit the Successful Quoting party to provide such information to the Town, the Successful Quoting party shall not assign such employee to perform services for the Town, and such employee shall not be authorized to perform services for the Town. The Town shall be permitted to keep such information in its files.

#### **VIII. USE OF ALCOHOL AND CONTROLLED AND/OR MOOD ALTERING SUBSTANCES PROHIBITED**

The use of alcoholic beverages, narcotics, and controlled and/or mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Successful Quoting party is prohibited on Town of Natick property which is the subject matter of this RFQ and during all hours of work under any contract with the Town. If any officer, employee, agent, or representative of the Successful Quoting party violates the foregoing provision, the Town of Natick shall have the right to order that such officer, employee, agent, or representative of the Successful Quoting party shall not be permitted to return to work under any contract with the Town. Under such



circumstances, the Successful Quoting party shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with any contract with the Town.

**IX. NO SMOKING/USE OF TOBACCO PRODUCTS**

Pursuant to M.G.L. c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Successful Quoting party, its officers, employees, agents, and representatives are prohibited from smoking tobacco products, or any non-tobacco products designed to be combusted or inhaled, in any public building.

**TOWN OF NATICK  
QUOTE FORM**

The undersigned Quoting party hereby submits a quote for the procurement of general appraisal services and review appraisal services for Mechanic Street in Natick.

Printed Name of Quoting party:

Christopher M. Walsh, MAI

Address: NAI Hunneman

303 Congress St.

Boston, MA ~~02115~~ 02210

Review Appraisal Fee: TOTAL AMOUNT \$12,000.00

Appraisal Fee: TOTAL AMOUNT \$ 25,000.00

The undersigned certifies, under penalties of perjury, that this Quote 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.

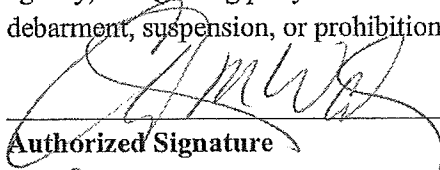
Pursuant to Massachusetts General Laws (M.G.L.) c. 62C, §49A, I certify under the penalties of perjury that the Quoting party named below has complied with all laws of the Commonwealth of Massachusetts pertaining to the payment of taxes, to the reporting of employees and contractors, and to the withholding and remitting of child support.

The Quoting party 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 a Contract pursuant to this RFQ. No consultant to, or subcontractor for, the Quoting party has given, offered, or agreed to give any gift, contribution, or offer of employment to the Quoting party, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a Contract by the Quoting party. No person, corporation, or other entity, other than a bona fide full time employee of the Quoting party has been retained or hired to solicit for or in any way assist the Quoting party in obtaining a Contract pursuant to this RFQ upon an agreement or understanding that such person, corporation or entity be paid a fee or other compensation contingent upon the award of a Contract to the Quoting party. The Quoting party understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws (M.G.L.), applies to the Quoting party and its officers, employees, agents, subcontractors, and affiliated entities with respect to the transaction outlined in the

Request for Quotes. The Quoting party understands that the Quoting party and its officers, employees, agents, subcontractors, and affiliated entities, shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.

The Quoting party hereby certifies that it is in compliance with and shall remain in compliance with Massachusetts General Laws (M.G.L.) Chapter 151B and shall not discriminate on any prohibited basis outlined therein. The Quoting party also hereby certifies that it shall comply with any and all applicable Supplier Diversity Office (SDO) thresholds that have been established in conjunction with this Request for Quotes.

The Quoting party hereby certifies that it is presently not debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, and that, should any proceeding arise in which it is debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, the Quoting party shall inform the Town of Natick within one (1) business day of such debarment, suspension, or prohibition from practice.

  
Authorized Signature

Christopher M Walsh, MAI  
Printed Name

Vice President, MA Certified General Real Estate Appraiser Lic #374  
Printed Title

1/17/18  
Date

Christopher Martin Walsh  
Full Legal Name

Officers of Corporation and Addresses

Stuart W. Pratt, 15 Tree Hill, Essex MA 01929  
Stephen M. Prozinski, 3 New Castle Rd, Ashland MA 01721  
F. Michael DiGiano, 5 Shapquit Bars Cir, W. Falmouth MA 02574

MA  
State of Incorporation

303 Congress St.  
Boston MA 02210  
Principal Place of Business

Tel. 617-457-3232

Qualified in Massachusetts Yes ☒ No ☐

Principal Place of Business in MA 303 Congress St., Boston, MA 02210

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## LPA Appraisal Function Job Aid

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### Local Public Agency - Appraisal Responsibilities



- Identify and select qualified appraisers – appraiser and review appraiser
- Establish process for reviewing appraisals
- Ensure appraisals are completed and reviewed appropriately – use your review appraiser as a consultant to assist you (using Your Review Appraiser's Checklist at the end of this job aid)
- Review and approve the final appraisal report
- Establish an amount believed to be just compensation

Note: For your first project or a complex project, schedule a pre-appraisal meeting with your State DOT LPA coordinator and your appraisal and acquisition consultants to discuss the issues

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### Local Public Agency - Valuation Activities

1. Obtain survey and plans
2. Determine appraisal formats for the following types of acquisitions (and number of appraisals per acquisition)
  - Simple partial acquisitions (strip takings)
  - Simple total acquisitions
  - Complex acquisitions and before/after appraisals
3. Determine appraiser availability
  - Staff or fee
  - Residential or general qualifications
4. Identify the appraisal problem and write scope of work, taking into account;
  - Property ownership rights being acquired
  - Property encumbrances and pre-existing easements
  - Need for specialty appraisals (machinery, arborist, etc.)
  - Cost-to-cure situations
  - If partial acquisition, determine if items such as well or septic system is within take area
5. Determine highest and best use
  - Land viewed as if vacant
  - Contributory value of improvements
  - Possible transitional H&B use
6. Conduct data collection and analysis
  - Collect and verify data and comparable sales
  - Analyze data in relation to subject property
7. Prepare Land/Site Valuation
  - Identify the whole property, or larger parcel
  - Identify and address tenant owned improvements
  - Land is valued prior to consideration of improvements
  - Sales comparison approach typically used
  - If Improved, identify realty vs. personalty
  - If before/after appraisal, identify additional after acquisition comparables
  - Develop Cost and Income approach, or explain why not applicable
8. Reconcile separate approaches to value, if appropriate

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### Local Public Agency - General Post-Valuation Activities

1. Help the review appraiser in thoroughly understanding the appraisal report
2. Discuss questions with the negotiator regarding the appraisal and the valuation process
3. Provide needed data to relocation personnel
4. Provide information to property management relating to highest and best use of the property
5. Serve as a resource to property management providing marketing ideas for disposing of the remainder if it is an uneconomic remnant
6. Assist with legal settlements and litigation (these activities may be performed by the appraiser and/or the review appraiser)
  - Consult on potential legal settlements if necessary
  - Appear as an expert witness in legal proceedings if necessary
  - Serve as a team member in helping to analyze a legal settlement
  - Participate in pre-trial conferences and selection of experts
  - Provide consulting regarding strengths and weaknesses of opponent's evidence
  - Discuss the theory of the case with the attorney to insure the adoption of a correct theory
  - Always consult with an attorney when preparing for discovery
  - Write answers to questions through written interrogatories
  - Produce all documents used in preparing the appraisal
  - Identify other experts or resources to complement your testimony

LPA Appraisal Function  
Job Aid

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**Appraisal Scope of Work Criteria**

- ☐ Does the Scope of Work require compliance?
    - ☐ Federal and State requirements
    - ☐ State DOT FHWA approved right-of-way or appraisal manual
    - ☐ The definition of an appraisal in 49 CFR 24.2(a)(3)
  - ☐ Does the Scope of Work specify property inspection requirements?
    - ☐ Give owner opportunity to accompany appraiser on inspection
    - ☐ Inspect neighborhood and project area
    - ☐ Inspect interior and exterior of subject improvements
    - ☐ Provide level of detail of physical characteristics
  - ☐ Does the Scope of Work address the following appraisal content requirements?
    - ☐ Property description, including floor plan, dimensions, photographs, location maps
    - ☐ Property rights to be acquired
    - ☐ Definition of value
    - ☐ Date of valuation and date of the report
    - ☐ Realty/personalty report
    - ☐ Observed or known encumbrances
    - ☐ Five-year sales history of the property
    - ☐ Highest and best use analysis of present use and zonings
    - ☐ Present and analyze relevant market information
    - ☐ Consider project influence in the appraisal report
    - ☐ Report opinions and conclusions
    - ☐ Intended use
    - ☐ Intended user
    - ☐ Required certification
    - ☐ Assumptions and limiting conditions
-

**LPA Appraisal Function  
Duties and Responsibilities - Job Aid**

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**Selecting an Appraiser and a Review Appraiser**



Before hiring an Appraiser or a Review Appraiser:

- Consult with your State DOT to ensure both the Appraiser and Review Appraiser meet State DOT qualifications and are State certified or licensed
- Define the appraisal problem and select an Appraiser and a Review Appraiser based on the individual project or the complexity of parcels identified for the acquisition
- Consider the Appraiser and Review Appraiser's past eminent domain experience and quality of services provided to other clients

When selecting an Appraiser or Review Appraiser, check their:

- ☐ Education and credentials
- ☐ General & Geographic experience
- ☐ Property type experience
- ☐ Reputation and work ethic
- ☐ Court testimony experience
- ☐ Prior Agency experience

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**Appraiser's Responsibilities**

- |  |  |
|--|--|
| ➤ Attend pre-appraisal meetings with LPA and State DOT, if necessary | ➤ Determine highest and best use   |
| ➤ Develop scope of work in coordination with LPA                     | ➤ Prepare land/site valuation  |
| ➤ Write the problem definition                                       | ➤ Consider three approaches to value   |
| ➤ Prepare a preliminary survey and plan                              | ➤ Conduct reconciliation   |
| ➤ Invite owner to property inspection                                | ➤ Respond to questions/comments from review appraiser                          |
| ➤ Conduct physical inspection of property                            | ➤ Submit correction to appraisal report  |
| ➤ Conduct data collection and analysis                               | ➤ Disclose any prior involvement with the subject property in the last 3 years |

LPA Appraisal Function  
Job Aid

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**Review Appraiser's Responsibilities**

Review Appraiser's Pre-Appraisal Responsibilities:

- Participate as a member of the project development team to contribute expertise and improve the process through coordination
- Develop an appraisal complexity analysis
- Select an appraiser for the project
- Participate in pre-appraisal meetings
- Assist the Agency in the development of a scope of work

Review Appraiser Appraisal Responsibilities:

- Ensure appraisal compliance with the contract/assignment
- Communicate effectively with appraiser
- Review appraiser's findings
- Prepare review appraiser's report
- Review owner's appraisals, if applicable
- Recommend just compensation
- Establish just compensation, if Agency employee and authorized by Agency

Review Appraiser's Post-Appraisal Responsibilities:

- Negotiation
  - ' Assist acquisition agent with complex appraisal issues
- Relocation
  - ' Prevent double-payments during relocation
  - ' Provide carve-out calculations
- Property management
  - ' Establish economic rent
  - ' Provide data and market trends
- Settlement
  - ' Provide professional advice
- Litigation
  - ' Participate as a member of the litigation team (pre-trial conferences, selecting experts, consulting on strengths/weaknesses of evidence)
  - ' Assist in preparing for discovery (requests for admissions, written interrogatories, motions for producing documents, depositions)
  - ' Provide evidence consultation (discovering flaws in opponent's appraisal)
- Post-project review
  - ' Participate in project evaluation
  - ' Provide input for process improvements
- Provide appraiser evaluation, to be included in Agency appraiser database

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**Fee Review Appraiser's Responsibilities**

Fee Review Appraiser's should

- ☐ Comply with the contract
- ☐ Represent the Agency
- ☐ Review the requirements in the same manner as for staff
- ☐ Prepare estimate of market value for Agency approval



## Your Review Appraiser's Checklist

<p><b>Ensure The Appraisal Complies With The Contract</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Does the appraisal comply with the contract?</li> <li><input type="checkbox"/> Was the contract developed based on the scope of work? (See page 2 of checklist)</li> <li><input type="checkbox"/> Does the appraisal comply with both Federal and State appraisal requirements?</li> <li><input type="checkbox"/> Was the appraisal completed on schedule and all milestones completion dates met?</li> </ul>	<p><b>Ensure The Appraisal Addresses The Main Requirements Of 49 CFR Part 24</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Did the appraiser invite the owner or designated representative to accompany the appraiser on the property inspection? Is this documented?</li> <li><input type="checkbox"/> What concerns did the property owner or representative express? Are they documented?</li> <li><input type="checkbox"/> Does the appraisal separately address the tenant-owned improvements?</li> <li><input type="checkbox"/> Was the tenant-owner given an opportunity to accompany the appraiser on the property inspection? Is this documented?</li> <li><input type="checkbox"/> Does the appraisal clarify what is compensable and what is non-compensable?                         <ul style="list-style-type: none"> <li><input type="checkbox"/> Have damages occurred?</li> <li><input type="checkbox"/> What was the impact of the taking on the remainder?</li> <li><input type="checkbox"/> Did you measure the damage?</li> <li><input type="checkbox"/> Does the report separate the identification of the damages?</li> <li><input type="checkbox"/> Did you find any non-compensable damages included in the appraisal?</li> <li><input type="checkbox"/> Did you request appropriate corrections?</li> </ul> </li> <li><input type="checkbox"/> Does the appraisal address all real property affected by the acquisition?                         <ul style="list-style-type: none"> <li><input type="checkbox"/> Does the appraisal consider all improvements?</li> <li><input type="checkbox"/> Does the report appraise these improvements if they are impacted?</li> <li><input type="checkbox"/> Does the report contain support and/or justification for not appraising the improvements?</li> </ul> </li> <li><input type="checkbox"/> Does the appraisal identify both real and personal property?                         <ul style="list-style-type: none"> <li><input type="checkbox"/> Is there a separate personal property report or list within the appraisal report?</li> <li><input type="checkbox"/> Does the personal property report clearly delineate what the value estimate includes?</li> <li><input type="checkbox"/> Is there a clear distinction between the personal and the real property?</li> </ul> </li> <li><input type="checkbox"/> If there is a potential uneconomic remnant situation, did the remainder suffer a loss of value?                         <ul style="list-style-type: none"> <li><input type="checkbox"/> Did you find all of the necessary data and analysis information in the report?</li> <li><input type="checkbox"/> Do you need to gather more information before making your determination?</li> </ul> </li> </ul>
<p><b>Communicate with the Appraiser</b></p> <p>To communicate effectively with the appraiser, always remember these three points:</p> <ul style="list-style-type: none"> <li>• Critique the report and not the person</li> <li>• Solve the problem</li> <li>• Obtain necessary corrections</li> </ul>	
<p><b>Determine If Appraiser Used Proper Appraisal Methodology</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Does the whole property meet the test of unity of use, contiguity, and ownership, and if not, has the appraiser explained the rationale for determining the whole property?</li> <li><input type="checkbox"/> Is the appraiser's opinion of highest and best use supported by market data?</li> <li><input type="checkbox"/> Is the market data comparable to the subject, contain sufficient information, and appear to be properly verified?</li> <li><input type="checkbox"/> Did the appraiser use and apply the three approaches to value correctly or explain the exclusion of one or more of the approaches.</li> <li><input type="checkbox"/> Are the adjustments supported by market data or based on subjective reasoning?</li> <li><input type="checkbox"/> Did the appraiser properly address the value of the partial acquisition and remainder?</li> <li><input type="checkbox"/> Was project influence, if any, applied correctly?</li> <li><input type="checkbox"/> Does the report use the proper compensation framework (Federal and State rules) for this jurisdiction?</li> <li><input type="checkbox"/> Were the assumptions and limiting conditions made in the report reasonable?</li> </ul>	

## Your Review Appraiser's Checklist

<p><b>Ensure The Quality And Accuracy Of The Appraisal</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Does the appraisal adhere to quality assurance principles? <ul style="list-style-type: none"> <li><input type="radio"/> Logical?</li> <li><input type="radio"/> Consistent?</li> <li><input type="radio"/> Mathematically correct?</li> <li><input type="radio"/> Grammatically correct?</li> <li><input type="radio"/> Clearly written?</li> <li><input type="radio"/> Legally sufficient?</li> </ul> </li> <li><input type="checkbox"/> Does the appraisal contain any common mistakes? <ul style="list-style-type: none"> <li><input type="radio"/> Improper methodology?</li> <li><input type="radio"/> Unsupported adjustments?</li> <li><input type="radio"/> Data inconsistent with opinion of highest and best use?</li> <li><input type="radio"/> Erroneous zoning assumptions?</li> <li><input type="radio"/> Compensability issues?</li> <li><input type="radio"/> Unsupported damage estimates?</li> <li><input type="radio"/> Math errors?</li> </ul> </li> </ul>	<p><b>Prepare a Review Appraiser's Report</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Is the Review Appraiser's Report based on 49CFR Part 24? <ul style="list-style-type: none"> <li><input type="radio"/> Is it a written report?</li> <li><input type="radio"/> Does it identify the appraisal report?</li> <li><input type="radio"/> Does it document the findings and conclusions?</li> <li><input type="radio"/> Does it identify damages?</li> <li><input type="radio"/> Does it include a signed certification stating approved value?</li> </ul> </li> <li><input type="checkbox"/> Did you maintain and develop a comprehensive Review Appraiser's Report? <ul style="list-style-type: none"> <li><input type="radio"/> Does it discuss the strengths and weaknesses of the appraisal report?</li> <li><input type="radio"/> Does it maintain a positive approach and avoid negativity?</li> <li><input type="radio"/> Does it refer to the report and not the person?</li> <li><input type="radio"/> Does it avoid imposing your opinion instead of the appraiser's?</li> </ul> </li> </ul>
<p><b>Verify All Conclusions Are Fully Supported</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Did you verify that the appraisal fully supports all conclusions? <ul style="list-style-type: none"> <li><input type="radio"/> Are the opinions expressed supported by relevant market data?</li> <li><input type="radio"/> Have you fully evaluated the analysis, data, and conclusions?</li> </ul> </li> </ul>	<p><b>Review Property Owner Appraisals</b></p> <p>If you received a property owner's appraisal did you ...</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Consider the findings?</li> <li><input type="checkbox"/> Subject it to the same review process?</li> </ul>
<p><b>Review Appraiser's Findings</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Not acceptable</li> <li><input type="checkbox"/> Acceptable – meets all requirements but not selected as recommended or approved</li> <li><input type="checkbox"/> Recommended – as the basis for the establishment of the amount believed to be just compensation</li> </ul>	<p><b>Establish Just Compensation</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> As a Staff Review Appraiser, did you develop and report the amount believed to be just compensation?</li> <li><input type="checkbox"/> As a Fee Review Appraiser, did you establish an estimate of market value for Agency approval?</li> </ul>
<p><b>Appraisal Review Management Activities</b></p> <ul style="list-style-type: none"> <li>• Reconcile consistency issues</li> <li>• Reconcile divergent values reconciliation</li> <li>• Provide assistance with project management review</li> </ul>	<p><i>Sequence for the review of an appraisal report –</i></p> <p><i>If you completed your compliance review in a favorable manner, then you accomplished the following:</i></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reviewed preliminary scope of work</li> <li><input type="checkbox"/> Read the appraisal</li> <li><input type="checkbox"/> Checked for compliance with regulations</li> <li><input type="checkbox"/> Assessed comparability and accuracy of data</li> <li><input type="checkbox"/> Assessed methodology, judgment, and conclusions</li> <li><input type="checkbox"/> Assessed quality and accuracy of the report</li> </ul>



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**ATTACHMENT  
FORM OF CONTRACT  
(SEE ATTACHED DOCUMENT.)**

**Town of Natick, Massachusetts**  
**CONTRACT FOR THE PROCUREMENT OF**  
**GENERAL APPRAISAL AND REVIEW APPRAISAL SERVICES FOR**  
**MECHANIC STREET**

This Contract is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Town of Natick, Massachusetts, with an address of Natick Town Hall, 13 East Central Street, Natick, MA 01760, acting by the Natick Board of Selectmen (hereinafter the "Town"), and \_\_\_\_\_, a \_\_\_\_\_ organized under the laws of \_\_\_\_\_, with a principal office located at \_\_\_\_\_ (hereinafter the "Contractor").

The words "he," "him" and "his" in this Contract, as far as they refer to the Contractor, shall so refer whether the Contractor is an individual, partnership or corporation. All prior contracts, if any exist between the Town and the Contractor, are hereby terminated and shall be of no force and effect.

1. Scope

In consideration of the obligations herein contained, the Contractor shall provide general appraisal services and review appraisal services in the Town of Natick, as described in the Request for Quotes for General Appraisal Services and Review Appraisal Services for Mechanic Street ("RFQ"), which is attached hereto and incorporated herein by reference.

2. Standard of Care

The Contractor shall exercise due care and diligence in the rendering of all services under this Contract in accordance with the applicable professional standards in the Eastern Massachusetts area. The Contractor's services shall be performed as expeditiously as is consistent with such standards, with professional skill and care, and with the orderly progress of the work.

3. Term

The term of this Contract shall commence as of the date set forth in the first line of the first paragraph above and shall end one (1) year later. In the sole discretion of the Town, the term of this Contract may be extended for one (1) or two (2) one (1)-year renewal periods.

4. Incorporation of the RFQ/Order of Priority of Contract Documents

The provisions of the RFQ and the Contractor's Quote are incorporated herein by reference. 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 the RFQ (if any)

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Fourth Priority: RFQ  
Fifth Priority: Contractor's Quote.

5. Payment

In consideration for performance of the work in accordance with the requirements of this Contract, the Town shall pay the Contractor the prices set forth in the Contractor's Quote, a copy of which is attached hereto and incorporated by reference.

This Contract is a fixed price/fixed rate contract; and, therefore, miscellaneous expenditures associated with the Contractor's work shall not be paid by the Town. In the event that an unforeseen miscellaneous expense is incurred, the Contractor shall receive the Town's approval in writing prior to incurring the expense if it will subsequently seek payment of said expense from the Town.

Payment shall be made to the Contractor for work completed in accordance with this Contract. All requests for payment shall be submitted to the Town as an invoice and shall specify all services rendered.

Payment will be due thirty (30) days after receipt of the Contractor's invoice by the Town for services rendered in accordance with this Contract. The Town shall not make payments in advance.

If the Town objects to all or part of any invoice, the Town shall notify the Contractor in writing within two (2) weeks of the date of receipt of the invoice, and shall pay that portion of the invoice not in dispute within thirty (30) days after the date of receipt of the invoice.

Should it be necessary for the Contractor to engage the services of a specialized contractor or companies other than those originally proposed in the Contractor's response to the Town's RFQ, the Contractor shall take such measures only with the Town's prior written approval. Charges for such services, with no mark-up, shall be billed directly to the Town unless otherwise agreed upon by the parties.

Payment of the amounts due under this Contract shall release the Town, Massachusetts and its officers, employees, boards, commissions, committees, agents and representatives, from any and all claims and liability in any way relating to this Contract or anything done in pursuance thereof.

No payment by the Town to the Contractor shall be deemed to be a waiver of any right of the Town under this Contract or a ratification by the Town of any breach hereof by the Contractor.

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6.     **Warranty**

DELETED – NOT APPLICABLE.

7.     **Compliance with Laws**

The Contractor shall comply with all provisions of Federal, Massachusetts, and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, and related regulations, as amended, in effect throughout the term of this Contract and any extension or renewal thereof. Without limitation, the Contractor shall comply with the provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws, as amended, and the applicable minimum wage rates as determined by the Massachusetts Commissioner of Labor and Industries. This Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, as though such terms were set forth in their entirety herein.

8.     **Insurance**

The Contractor shall provide and maintain throughout the term of the Contract and any extension or renewal thereof the following insurance with companies that are authorized and licensed in the Commonwealth of Massachusetts to issue policies for the coverages and limits so required.

- a.     Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts and employer's liability insurance in the amount of \$1,000,000/\$1,000,000/\$1,000,000.
- b.     Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
- c.     Automobile Liability Insurance, covering all leased, owned, non-owned, and hired vehicles - Combined single limit of \$1,000,000.
- d.     Professional Liability Insurance, \$1,000,000 each occurrence/\$1,000,000 aggregate limit. If written on a claims-made basis, each such policy shall remain in effect for at least six (6) years following the termination of this Contract.

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- e. Excess Liability Insurance, Umbrella Form - \$1,000,000 each occurrence and \$1,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, and employer's liability under workers' compensation insurance.
- f. The Town shall be named as an additional insured on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.
- g. All certificates and policies shall contain the following provision:

“Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Natick Town Administrator, Natick Town Hall, 13 East Central Street, Natick, MA 01760 before such cancellation or amendment shall take place.”
- h. Certificates evidencing such insurance in five (5) copies shall be furnished to the Town at the execution of this Contract. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. The Contractor shall make no claims against the Town or its officers for any injury to any of its officers or employees or for damage to its equipment arising out of work contemplated by the Contract.
- i. The Contractor shall also be required to provide to the Town with its proof of insurance coverage endorsements or riders to the policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Town is named as an additional insured on each such policy.
- j. No insurance shall be obtained from an insurer which:
  - (1) is not licensed to sell insurance in the Commonwealth of Massachusetts; or
  - (2) is not authorized to provide insurance as an excess or surplus lines insurer, and does not have a current Best's rating of A or better.
- k. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this Contract and shall operate as an immediate termination thereof.



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9. Indemnification

The Contractor shall compensate the Town for all damage to Town property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Town and all of its officers, employees, boards, commissions, committees, agents and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind which arise out of the breach by the Contractor of its obligations under this Contract, or the act or omission of the Contractor, its subcontractors, or their officers, employees, agents and representatives or anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regarding the work to be performed by the Contractor under the Contract, or which arise out of the violation of any federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relate to personal injury or property damage suffered by the Contractor or any of its officers or employees regarding the subject matter of this Contract. Said costs shall include, without limitation, reasonable legal costs, collections fees, and counsel fees incurred in defending any claim or suit that may be brought against the Town and any judgment that may be obtained in any such claim or suit.

10. No Personal Liability

Neither the Town, nor its officers, employees, boards, committees, commissions, agents and representatives shall be under any personal obligation or incur any personal liability by reason of this Contract, the execution thereof or anything relating thereto which arises out of the breach or violation of any provision of this Contract, or the violation of any Federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Contractor or its employees, regarding the subject matter of this Contract.

11. Familiarity with Area of Work

By signing this Contract, the Contractor acknowledges that it has examined the area of work which is the subject matter of this Contract and that it is familiar with all conditions of the RFQ and of this Contract. The Contractor has entered into this Contract in reliance on its own examinations and estimates as to the amount and character of its work, and conditions which may be encountered in the performance thereof, and shall assume all risks and bear all losses pertaining thereto.

12. Performance Bond

DELETED – NOT APPLICABLE.

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13. Labor and Materials Payment Bond

DELETED – NOT APPLICABLE.

14. Independent Contractor Status

The Contractor shall provide services under this Contract as an independent contractor with the Town and not as an employee of the Town. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the Town, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

15. Use of Alcohol and Controlled and/or Mood Altering Substances Prohibited

The Contractor hereby acknowledges that the use of alcoholic beverages, narcotics, and controlled and/or mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Contractor is prohibited on Town property which is the subject matter of this Contract and during all hours of work under this Contract. If any officer, employee, agent, or representative of the Contractor violates the foregoing provision, the Town shall have the right to order that such officer, employee, agent, or representative of the Contractor shall not be permitted to return to work on this Contract. Under such circumstances, the Contractor shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with this Contract.

16. No Smoking

Pursuant to Massachusetts General Laws (M.G.L.) c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Contractor, its officers, employees, agents, and representatives shall refrain from smoking and from using tobacco products in any public building in the Town.

17. Criminal Background Screening

For each employee of the Contractor who is rendering services under this Contract, the Contractor shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written confirmation to the Town that such employee passed the Contractor's pre-employment criminal background screen. In the event that any employee refuses to permit the Contractor to provide such information to the Town, the Contractor shall not assign such employee to perform services for the Town, and such

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employee shall not be authorized to perform services for the Town. The Town shall be permitted to keep such information in its files.

18. *Delays/Force Majeure*

Except as specifically set forth in this Contract, neither party shall hold the other responsible or liable for damages or delays in performance caused by acts of God, interruptions in the availability of labor, or other events beyond the control of the other party, or that could not have been reasonably foreseen or prevented. For this purpose, such acts or events shall include unusually severe weather affecting performance of services, floods, epidemics, wars, riots, strikes, lockouts, or other industrial disturbances, protest demonstrations, and project site conditions which could not have been reasonably anticipated. Should such acts or events occur, both parties shall use their best efforts to overcome the difficulties arising and to resume as soon as reasonably possible the normal pursuit of performance.

19. *Termination*

- a. If the Contractor shall breach any provision of this Contract, which breach is not cured within twenty-one (21) days of written notice thereof from the Town to the Contractor, the Town shall have the right to terminate this Contract upon written notice to the Contractor.
- b. If any assignment shall be made by the Contractor or by any guarantor of the Contractor for the benefit of creditors, or if a petition is filed by the Contractor or by any guarantor of the Contractor for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Contractor and such involuntary petition is not discharged within ninety (90) days thereafter, in any event the Town may terminate this Contract upon written notice to the Contractor.
- c. The award of this Contract and the continued operation of this Contract are contingent upon appropriation by Natick Town Meeting of sufficient money to fund the Contract. Should Natick Town Meeting fail to appropriate necessary funds therefor, the Town shall no longer be under any obligation to tender performance, including payment, under the terms of this Contract. In that event, the Town may terminate this Contract upon written notice to the Contractor.
- d. The Town may terminate this Contract upon written notice to the Contractor if a source of money to fund the Contract is lost during the Contract term. In the alternative, the parties may agree in writing to amend the Contract to

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provide for a Contract price which represents a reduced appropriation for the Contract term.

- e. The Town may also terminate this Contract for convenience upon thirty (30) days' written notice to the Contractor.

In the event of termination, the Contractor shall be entitled to be paid for services rendered in accordance with this Contract prior to termination.

In the event that this Contract is terminated pursuant to Section 19a. or 19b. above, the Town may make any reasonable purchase or contract to purchase services in substitution for performance due from the Contractor and may deduct the cost of any substitute contract, or damages sustained by the Town due to non-performance or non-conformance of services, together with incidental and consequential damages from the Contract price, and shall withhold such damages from sums due or sums which become due.

20. Notices

Except as otherwise provided in this Contract, each notice required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail, return receipt requested, to the parties at the following address or such other address or addresses as to which a party shall have notified the other party in accordance with this Section 20.

If to the Town: William D. Chenard, Acting Town Administrator  
Natick Town Hall  
13 East Central Street  
Natick, MA 01760

With a copy to: John P. Flynn, Esq.  
Murphy, Hesse, Toomey & Lehane, LLP  
300 Crown Colony Drive, Suite 410  
Quincy, MA 02169

If to the Contractor:

21. License

The Town shall have unlimited rights, for the benefit of the Town, in all drawings, designs, specifications, notes and other work developed in the

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performance of this Contract, including the right to use same on any other project of the Town, without additional cost to the Town; and with respect thereto, the Contractor agrees and hereby grants to the Town an irrevocable royalty-free and nonexclusive license to all such data, which he may cover by copyright, and to all designs as to which he may assert any rights or establish any claim under any patent or copyright laws. The Contractor shall obtain similar irrevocable royalty-free nonexclusive licenses from the Contractor's consultants consistent with this Contract.

**22. Miscellaneous Provisions**

- a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Middlesex County, MA, and in no other court or jurisdiction.
- b. No action or failure to act by the Town shall constitute a waiver of a right or duty afforded to the Town under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by the Town shall be construed as a waiver or in any way limit the legal or equitable remedies available to the Town. No waiver by the Town of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.
- c. If the Contractor discovers or is informed of any discrepancy or inconsistency in the Contract Documents in relation to any law, statute, ordinance, by-law, decree, code, rule, regulation, or order, the Contractor shall promptly, before commencing performance under this Contract, report the same to the Town in writing.
- d. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.
- e. The Contractor shall maintain the confidentiality of information designated by the Town as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public, or unless the Contractor has been required to release such information by final judgment or order of a court of competent jurisdiction, or unless the Town has expressly waived such confidentiality in advance in writing.
- f. The Contractor shall not represent or purport to represent that it speaks for the Town vis-à-vis the media or the public at-large without the Town's

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express, written consent in advance.

- g. Prior to commencing performance under this Contract, the Contractor shall furnish the Town, in writing, the names, addresses and telephone numbers of not fewer than two (2) principal employees of his business who are to be contacted in the event of an after-hours emergency.
- h. By entering into this Contract, the Contractor certifies under penalties of perjury that its Quote was made and submitted in good faith and without collusion or fraud with any 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.
- i. By entering into this Contract, the Contractor certifies under the penalties of perjury, pursuant to M.G.L. c.62C, Section 49A(b), that it has complied with all laws of the Commonwealth relating to taxes, to reporting of employees and contractors, and to withholding and remitting child support.
- j. The Contractor understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, applies to the Contractor with respect to the services required to be provided under this Contract. The Contractor and its officers, employees, agents, subcontractors and affiliated agencies shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.
- k. Prevailing wage rates, as contained in the Quote documents, shall be paid, pursuant to M.G.L. c.149, §§26-27G, if they are applicable.
- l. The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their

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employment, without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.

- m. **To the extent that any of the foregoing sections required by Massachusetts law are inconsistent with other, non-statutory sections in this Contract, any statutorily-mandated provisions contained herein shall control.**
- n. The Contractor shall not assign or subcontract in whole or in part this Contract or in any way transfer any interest in this Contract without the prior express written approval of the Town.
- o. The Contractor shall not assign any money due or to become due to the Contractor unless the Town shall have received prior written notice of such assignment. No such assignment shall relieve the Contractor of its obligations under this Contract.
- p. This Contract may be amended only by written consent of the parties.
- q. This Contract constitutes the entire agreement of the parties, and any other agreement, written or oral, that may exist is excluded from this Contract. When executed, this Contract supersedes any prior agreement between the parties in connection with the transaction contemplated.
- r. The parties agree that the traditional canon of contract interpretation, resolving ambiguities against the drafter of the particular instrument, shall not be employed in construing provisions of this Contract.
- s. 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.
- t. The provisions of this Contract shall be binding upon and shall inure to the benefit of the heirs, assigns and successors in interest of the parties.
- u. 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.

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v. This Contract is executed in triplicate as a sealed instrument.

The Town of Natick, Massachusetts

\_\_\_\_\_  
(Printed Name of Contractor)

by: the Natick Board of Selectmen

by:

\_\_\_\_\_  
Jonathan H. Freedman, Chairman

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Susan G. Salamoff, Vice Chairman

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Richard P. Jennett, Jr., Clerk

\_\_\_\_\_  
Printed Title

\_\_\_\_\_  
Michael J. Hickey, Jr.

\_\_\_\_\_  
Amy K. Mistrot

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**APPROVED AS TO AVAILABILITY OF APPROPRIATION:**

In accordance with the requirements of M.G.L. Chapter 44, Section 31, this is to certify that an appropriation in the amount of this Contract is available therefor, and that the Natick Board of Selectmen is authorized to execute this Contract and to approve all requisitions and execute change orders.

\_\_\_\_\_  
Arti P. Mehta  
Comptroller, Town of Natick

Dated: \_\_\_\_\_

**APPROVED AS TO FORM ONLY, AND NOT AS TO SUBSTANCE:**



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\_\_\_\_\_  
John P. Flynn, Esq.

Dated: \_\_\_\_\_

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CERTIFICATE OF VOTE

I, \_\_\_\_\_, hereby certify  
(Clerk/Secretary)

that I am the duly qualified and acting \_\_\_\_\_ of  
(Corporation Name) (Title)

and I further certify that at a meeting of the Directors of said Corporation duly called and held on \_\_\_\_\_ 20 \_\_\_\_, at which meeting all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower either

\_\_\_\_\_, \_\_\_\_\_;  
(Name) (Title)  
\_\_\_\_\_, \_\_\_\_\_; or  
(Name) (Title)  
\_\_\_\_\_, \_\_\_\_\_  
(Name) (Title),

any one acting singly, to execute all contracts and bonds on behalf of the Corporation.

I, further certify that the above vote is still in effect on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and has not been changed or modified in any respect.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

The certification contained hereabove shall be executed by CONTRACTOR or copy of current "certification of authority to sign for the Corporation" shall be attached.)