



TOWN OF NATICK MASSACHUSETTS

TO: Natick Board of Selectmen
Melissa Malone, Town Administrator
William Chenard, Deputy Town Administrator - Operations
Jeremy Marsette, Director, Natick Public Works
William McDowell, Town Engineer

FROM: Bryan R. Le Blanc, Procurement Officer

DATE: January 6, 2019

SUBJECT: CONTRACT AWARD
Water & Sewer Consulting Engineering Services

Informal, non-written pricing by DPW reveals that Haley & Ward, Inc. ("Haley & Ward"), a corporation organized under the laws of the Commonwealth of Massachusetts, with a corporate office located at 63 Great Road, Suite 200, Maynard, MA 01754-2097 is the ideally competitive firm to perform on-call water and sewer consulting engineering services in the Town of Natick.

State statute exempts the procurement of these types of engineering services from the Uniform Procurement Act, M.G.L. c. 30B. See M.G.L. c. 30B, §1(b) (32A), which exempts the services of architects, engineers, and related professionals. (Parenthetically, the Designer Selection Law, M.G.L. c. 7C, §§44 *et seq.*, does not apply, since no vertical structure is implicated.) Essentially, therefore, there is no statutorily-prescribed procurement process that would govern.

Haley & Ward is a responsible and responsive firm and has offered what DPW considers to be a reasonable sum for the purposes. It has offered superior service in the past. Moreover, in an RFP process conducted for such services in the past several years, Haley & Ward was far most advantageous for the provision of such services.

We respectfully request that Natick Board of Selectmen award Haley & Ward a contract, in the form of the attached, to perform the services outlined in in the contract, for the hourly rates specified therein.

The funding to cover this comes from the following sources:

Water & Sewer Project Lines – Amounts Vary/Included with Project Costs. Approximately 10% of each project budget.

CONTRACT

This Contract is made this twenty-first day of January, 2020, by and between the Town of Natick, Massachusetts, Natick Town Hall, 13 East Central Street, Natick, MA 01760, acting by the Natick Board of Selectmen (hereinafter the "Town of Natick," the "Town," or the "Owner"), and Haley and Ward, Inc., a corporation organized under the laws of the Commonwealth of Massachusetts, with a principal office located at 63 Great Road, Suite 200, Maynard, MA 01754-2097 (hereinafter the "Engineer" or 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 of Services

The Contractor shall furnish consulting and professional services in connection with the provision of professional engineering and technical services required to plan, coordinate, develop, design, construct, operate and maintain Town of Natick facilities and infrastructure on an as-needed basis. The Engineer shall assist the Natick Department of Public Works in the successful and timely conduct and completion of capital improvement and other projects during the term of this Contract.

The Town will develop and provide the Engineer with a description of the task(s), project(s) or service(s) to be provided. The Engineer, after review of the description, shall provide the Town with an estimate of the hours and costs required to complete the task(s), project(s) or service(s) for each category of labor within the duration of time specified by the Town. The Engineer shall also apply the appropriate hourly rate for each category of labor listed on Exhibit 1, attached herewith to determine the Engineer's fee for said work.

Upon review, and prior written approval by the Town of the Engineer's description of services, estimate of total hours that will be required to complete said services, and estimated total cost of said services, the Town shall issue a written Notice to Proceed for the work.

The Engineer shall perform for the Town professional engineering services in all phases of the Project to which this Contract applies as hereinafter provided. These services shall include serving as the Town's professional engineering representative for Project, providing professional engineering consultation and advice, and furnishing customary engineering services incidental thereto.

Design Phase: The duties and responsibilities of the Engineer during the Design Phase shall include the following:

- a) In consultation with the Town, determine the general scope, extent and character for each Project.
- b) Advise the Town if additional data or services are necessary and assist the Town in obtaining such data and services.
- c) Prepare for incorporation in Contract Documents final drawings to show the general scope, extent and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications (which will be prepared in conformance with the sixteen (16) division format of the Construction Specifications Institute).
- d) Provide technical criteria, written descriptions and design data for the Town's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist the Town in consultations with appropriate authorities.
- e) Furnish to the Town an opinion of probable Construction Cost based on the Drawings and Specifications.
- f) Prepare for review and approval by the Town, its legal counsel and other advisors, contract forms, general conditions, supplementary general conditions, bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.
- g) Furnish five (5) copies of the above documents and of the Drawings and Specifications and present and review them with the Town.

Bidding Phase: During the Bidding Phase, the Engineer shall:

- a) Assist the Town in advertising for and obtaining bids for each Project, maintain a record of prospective bidders to whom Bidding Documents have been issued, and receive and process deposits for Bidding Documents.
- b) Issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.
- c) Attend the bid opening, prepare bid tabulation sheets and assist the Town in evaluating bids and in assembling and awarding contracts.

Construction Phase: During the Bidding Phase, the Engineer shall:

- a) General Administration of Construction Contract. The Engineer shall consult with and advise the Town and, with the prior written consent of the Town, act as the Town's representative as provided in Articles 1 through 17, inclusive, of Standard General Conditions of the Construction Contract, No. 1910-8 (1983 edition) of the Engineers' Joint Contract Documents Committee, as modified, if at all, by the Supplementary General Conditions provided by the Town. The extent and limitations of the duties, responsibilities and authority of the Engineer, as

assigned in said Standard General Conditions and Supplementary General Conditions, shall not be modified, except as the Town and the Engineer may otherwise agree in writing.

b) Visits to Site and Observation of Construction. In connection with observations of the work of Contractor(s) while it is in progress:

i) The Engineer shall make visits to the site at intervals appropriate to the various stages of construction as the Town deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of the work of the project contractor(s). In addition, the Engineer shall provide the services of a Resident Project Representative (and assistants as agreed) at the site to assist the Engineer and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, the Engineer shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents, and the Engineer shall keep the Town informed of the progress of the work.

ii) The Resident Project Representative (and any assistants) shall be the Engineer's agent or employee and under the Engineer's supervision.

iii) The purpose of the Engineer's visits to and representation by the Resident Project Representative (and assistants, if any) at the site shall be to enable the Engineer to better carry out the duties and responsibilities assigned to and undertaken by the Engineer during the Construction Phase, and, in addition, by exercise of the Engineer's efforts as an experienced and qualified design professional, to provide for the Town a greater degree of confidence that the completed work of project contractor(s) shall conform generally to the Contract Documents, and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by project contractor(s), and that the completed work of the project contractor(s) shall comply with laws, rules, regulations, ordinances, codes or orders applicable to the work of project contractor(s). In the event that the Engineer determines that the work of project contractor(s) does not conform to the Contract Documents, or the integrity of the design concept as reflected in the Contract Documents has not been implemented and preserved by project contractor(s), or that the work of project contractor(s) does not comply with laws, rules, regulation, ordinances, codes or orders applicable to the work of project contractor(s), the Engineer shall promptly report such information in writing to the Town.

c) Defective Work. During such visits and on the basis of such observations, the Engineer may disapprove of or reject project contractor(s)' work while it is in progress if the Engineer believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents. In the event that the Engineer disapproves or rejects such project

contractor(s)' work, the Engineer shall promptly report such information in writing to the Town.

d) Interpretations and Clarifications. The Engineer shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.

e) Shop Drawings. The Engineer shall review and approve (or take other appropriate action in respect of) shop drawings, samples and other data which project contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information give in the Contract Documents.

f) Substitutes. The Engineer shall evaluate and determine the acceptability of substitute materials and equipment proposed by project contractor(s)

g) Disputes between the Town and Contractor. The Engineer shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work there under and make decisions on all claims of project contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. The Engineer shall not be liable for the results of any such interpretations or decisions rendered in good faith.

h) Project Contractor(s)' Completion Documents. The Engineer shall receive and review maintenance and operating instructions, schedules, guarantees, certificates of insurance, bonds and certificates of inspection, tests and approvals which are to be assembled by project contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of the Contract Documents, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with the Contract Documents); and shall transmit them to the Town with written comments.

i) Inspections. The Engineer shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that the Engineer may recommend, in writing, final payment to project contractor(s) and may give written notice to the Town and the project contractor(s) that the work is acceptable (subject to any conditions therein expressed).

j) Record Drawings. The Engineer shall prepare, shall furnish and shall provide to the Town five (5) sets of reproducible record drawings and AutoCad drawing files showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by project contractor(s) to the Engineer and which the Engineer considers significant. The Town shall be considered the owner of all such documents and instruments of service.

2. Standard of Care

The Contractor shall exercise due care and diligence in the rendition 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 be for three (3) years, commencing as the execution date above and ending three (3) years later.

4. Order of Priority of Contract Documents

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.

5. Payment

In consideration for performance of the work in accordance with the requirements of this Contract, the Town shall pay the Contractor at the hourly rates set forth in Exhibit 1, a copy of which is attached hereto and incorporated by reference.

This Contract is a fixed rate contract; and, therefore, miscellaneous expenditures associated with the Contractor's work on this project shall not be paid by the Town. In the event that an unforeseen miscellaneous expense is incurred, the Contractor shall receive the Town's prior written 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 work completed, progress made toward completing deliverables, the number of hours worked, the classification of each employee who performed work, and the billing rate for each employee who performed work on the project.

The Contractor shall submit a monthly invoice, in duplicate, to the Owner for work completed in accordance with this Contract during the month in question.

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, the Contractor shall take such measures only with the Town's prior written approval. Charges for such services 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 of Natick, 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.

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, 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 - Combined single limit of \$1,000,000.

d. Professional Liability Insurance – \$1,000,000 each occurrence and \$2,000,000 aggregate limit, If written on a "claims made" basis, each such policy of professional liability insurance shall be in effect for at least six (6) years following the termination of this Contract.

e. Valuable Papers Insurance - \$100,000 on enhancer endorsement and \$150,000 blanket limit (scheduled).

f. Excess Liability Insurance, Umbrella Form - \$1,000,000 each occurrence and \$2,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, and employer's liability under workers' compensation insurance.

g. The Town of Natick shall be named as an additional insured on each such policy of Commercial General Liability Insurance, and Automobile Liability Insurance.

h. 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."

i. 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 of Natick 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.

j. The Contractor shall also be required to provide to the Town of Natick with its proof of insurance coverage endorsements or riders to the policies of commercial general liability insurance and automobile liability insurance, which indicate that the Town of Natick is named as an additional insured on each such policy.

k. 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.

1. 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.

9. Indemnification

The Contractor shall compensate the Town of Natick 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 and hold harmless the Town of Natick 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 willful or negligent 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 willful or negligent 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 of Natick, nor any of 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, bylaw, 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 subject matter of this Contract, and that it is familiar with all sites which are the subject of this contract in the Town of Natick and with all conditions 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

DELETED – NOT APPLICABLE.

14. Independent Contractor Status

The Contractor shall provide services under this Contract as an independent contractor with the Town of Natick and not as an employee of the Town of Natick. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the Town of Natick, 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 under current valid, legal prescriptions, by any officer, employee, agent, or representative of the Contractor is prohibited on Town of Natick 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 of Natick 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 of Natick.

17. Criminal Background Screening

For each employee of the Contractor who is performing 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 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, 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 the services for the Project,

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 of Natick 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 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 services 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, all notices 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:

Natick Deputy Town
Administrator – Operations
Natick Town Hall
13 East Central Street
Natick, MA 01760

With copies to:

Karis L. North, Esq.
Murphy, Hesse, Toomey & Lehane, LLP
300 Crown Colony Drive, Suite 410
Quincy, MA 02169

If to the Contractor:

Scott Miller President
Haley and Ward, Inc.
63 Great Road, Suite 200
Maynard, MA 01754-2097.

21. Hazardous Substances

If the Engineer shall discover any hazardous substance in the course of performance of services under this Contract, the Engineer shall report it promptly in writing to the Owner. Unless otherwise provided in this Contract, the Engineer and the Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of a person to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances, except to the extent that the presence, handling, removal, disposal or exposure is caused by the Engineer or its officers, employees, agents and representatives or by the Engineer's consultants or their officers employees, agents or representatives. Other than as required for the preparation of a hazardous material (HAZMAT) abatement plan, including without limitation, taking of samples related to testing required for the abatement plan, neither the Engineer and its officers, employees, agents, and representatives, nor the Engineer's consultants and their officers, employees, agents, and representatives, shall have authority to handle, transport, remove or dispose of hazardous materials in any form regarding the Project which is the subject of this Contract, including without limitation, asbestos, asbestos products, polychlorinated biphenyl (PCB) or any other toxic substance.

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 services 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 express, written consent in advance.

g. Prior to commencing services 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 entry 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 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 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 of Natick 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 other agreement of any of the parties in connection with the transaction contemplated.

r. 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.

s. The provisions of this Contract shall be binding upon and inure to the benefit of the heirs, assigns and successors in interest of the parties.

t. 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.

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

The Town of Natick, Massachusetts

Haley and Ward, Inc.

by: the Natick Board of Selectmen

Michael J. Hickey, Jr, Chairman

Susan G. Salamoff, Vice Chairman

Jonathan H. Freedman, Clerk

Richard P. Jennett, Jr.,

Karen Adelman-Foster

Scott Miller, President

Dated: _____

Dated: _____

APPROVED AS TO AVAILABILITY OF APPROPRIATION:

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):

Karis L. North, Esq.

Dated: _____

CERTIFICATE OF VOTE

I, _____, hereby certify
(Clerk/Secretary)

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

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) _____;
(Name) _____, _____; or
(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.)

Exhibit 1

Haley and Ward, Inc Basic Service Rate Sheet

Direct Labor (by labor categories)	Year 1 12/5/19 to 12/5/20
Principal	\$190.26
Project Manager	\$160.32
Project Engineer (Staff Level)	\$118.50
CAD Operator	\$94.62
Clerical	\$0.00
Civil Engineer (Registered PE)	\$155.85
Electrical Engineer (Registered PE)	Sub Consultant
Mechanical Engineer (Registered PE)	Sub Consultant
Surveyor	\$110.20
Resident Project Representative	\$115.50
Other (Specify)*	\$ N/A
	\$ N/A
	\$ N/A
	\$ N/A
	\$ N/A
	\$ N/A

All Basic Service Rates include direct and indirect overhead costs and profit and other indirect costs such as travel, equipment, materials, supplies, etc.

Year 2 & 3 will reflect Haley and Ward, Inc. present rate structure during each year.

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