



TOWN OF NANTUCKET

INVITATION FOR BIDS PUBLIC RESTROOM CLEANING SERVICES TOWN OF NANTUCKET

The Town of Nantucket, through its Town Administration, invites qualified bidders to submit bids for public restroom cleaning services at municipal-owned facilities. The resulting contract will be a 3-year agreement from April 1, 2021 – March 31, 2024.

I. GENERAL INFORMATION AND BID SUBMISSION REQUIREMENTS.

- 1) Bids and specifications can be obtained from and will be accepted at the Town of Nantucket, Procurement Office, 37 Washington Street, Nantucket, MA 02554, until **Monday, March 15, 2021 at 1PM** and publicly opened forthwith for this Invitation for Bids which is made in accordance with M.G.L. c 30B. **Two copies of the bid are required.** The bid envelope must be sealed and clearly marked:

IFB for Town Public Restroom Cleaning Services

Proposers must register on the Town's website – bid postings page in order to ensure receipt of any changes or addenda to the IFB.

- 2) Award date. Award will be made within thirty (30) days after bid opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All bids submitted shall be valid for a minimum period of sixty (60) calendar days following the date established for acceptance.
- 3) If any changes are made to this IFB, an addendum will be issued. Addenda will be emailed to all bidders on record as having requested the IFB. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda. **Failure to do so shall be cause to reject the submittal as being unresponsive.**
- 4) Questions concerning this IFB must be submitted in writing to: Chief Procurement Officer, Town of Nantucket, 37 Washington St., Nantucket, MA 02554 via email at procurement@nantucket-ma.gov by or **before Tuesday, March 9, 2021 at 12PM (noon)**. Written responses will be posted on the Town website in the form of addenda if necessary and emailed to all bidders on record as having requested the IFB.
- 5) Bids may be modified, corrected or withdrawn only by written correspondence received by the Town of Nantucket prior to the time and date set for the bid opening. Bid modifications must be submitted in a sealed envelope clearly labeled "Modification No. ___" and must reference the original IFB.
- 6) After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the Town of Nantucket or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on

the face of the bid document, the mistake will be corrected to reflect the intended bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid, but the intended correct bid is not similarly evident.

- 7) The Town of Nantucket reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in its best interest.
- 8) The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting bids. All bids shall become the property of the Town of Nantucket.
- 9) Responders must be willing to enter into the Town of Nantucket's standard form of contract that will include the scope of services description of this IFB.
- 10) The bid, and any subsequent contract for the services, is hereby issued in accordance with applicable Massachusetts General Laws. The selected bidder shall be expected to comply with all applicable state and federal laws in performance of service.
- 11) Bids received prior to the date of opening will be securely kept, unopened. No responsibility will attach to an officer or person for the premature opening of a bid not properly addressed and identified.
- 12) Any bids received after the advertised date and time for opening will be returned to the responder unopened.
- 13) Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.
- 14) The Tax Compliance Certification and the Certificate of Non-Collusion must be included with the bid response. The bid must be signed by the authorized individual(s).
- 15) Unexpected closures. If, at the time of the scheduled bid opening, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the bid opening will be postponed until 3:00 PM on the next normal business day. Bids will be accepted until that date and time.
- 16) The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages bids from qualified MBE/DBE/WBE firms.
- 17) **Bidders should be aware that many overnight mailing services do not guarantee service to Nantucket.** All major carriers deliver to Nantucket Island (USPS, FedEx, UPS, etc.). It is best to allow for two additional days for delivery to the island.

BID SUBMISSION REQUIREMENTS.

1. The signed Tax Compliance Certification must be included with the bid response.
2. The signed Certificate of Non-Collusion must be submitted with the bid response.
3. Bid Price Forms must be signed by the authorized individual(s).
4. Signature page from the Town's contract, signed by an authorized individual as a good faith statement that the contractor is willing to enter into the Town's standard contract form.
5. Current Certificate(s) of Insurance.
6. Reference list.

II. SCOPE OF SERVICES.

The Town of Nantucket contracts for daily professional public restroom cleaning services for its public restroom facilities in accordance with the following specifications.

Term: The service period shall commence April 1, 2021 through March 31, 2024.

Buildings:

- 25 Federal Street (Town) – year-round public restroom facilities only
- 34 Washington Street, Marine Department (Town) - public seasonal restrooms with showers only
- 15 Harbor View Way - Children’s Beach (Town)– Public restrooms and trailer - public seasonal restrooms
- 1 Folgers Court (‘Sconset) – public seasonal restrooms
- Dionis Beach Restroom facility – Dionis Beach – public seasonal restrooms
- Tom Nevers playground – Tom Nevers – public seasonal restrooms
- 10 Sun Island Rd - Delta Athletic fields – public seasonal restrooms
- 4 Bathing Beach Road – Jetties Bathhouse pavilion – public seasonal restrooms
- 4 Western Ave – Surfside Beach Bathhouse – public seasonal restrooms

Cleaning Services Specifications:

The following specifications and conditions shall serve as a minimum requirement for cleaning services for all of the buildings listed above, hereinafter referred to as the "Facilities."

- 1) *Contractor.* The successful bidder (hereinafter “Contractor”) receiving award of this contract shall be responsible for providing all labor, insurance, equipment and supplies, except where noted, necessary for the cleaning of the Facilities at Contractor’s expense. The Contractor shall provide the necessary amount of daily resources required to adequately maintain the Facilities in a respectable, clean and sanitary manner at all times.
- 2) *Cleaning hours.* All Facilities shall be cleaned in accordance with the Public Restrooms Cleaning Schedule, included in this document.
- 3) *Irregular times.* The Contractor may be required to provide services at irregular times upon request from the Town Manager's office or Police Department to correct immediate unsanitary conditions perform light maintenance or needed improvement, which may be required or may render part of the Facilities unusable. The Contractor shall be required to respond within 30 minutes of being notified.

The Contractor shall maintain a schedule so as to maximize his/her ability to clean the Facilities in a minimum amount of time. The Town Facilities Manager's office may coordinate with the Contractor to determine the best level of effort needed to achieve this condition.

- 4) *Security.* All exterior doors of all the Facilities must be locked by the Contractor as indicated. The Contractor must securely lock doors once verifying all persons have exited the restroom facility when closing and turn off the lights.

Keys shall be issued to the Contractor by the Town Facilities Manager, or his/her designee.
Duplicate keys

may be made only after authorization by the Town Facilities Manager. Should the Contractor lose a key or keys, the Contractor shall be responsible for the cost of having all affected door locks re-keyed. The Town will arrange for this to be done and bill the Contractor or subtract the cost from that month's invoice.

- 5) *Compliance with laws.* Contractor shall comply with all applicable state, federal and local laws, including but not limited to OSHA, prevailing wage and hour regulations. The Contractor agrees to have MSDS sheets available for all cleaning supplies used in fulfilling the requirements of this contract.
- 6) *Safety.* Contractor will be responsible for instructing his/her employees in appropriate safety measures. Contractor's personnel will not place or use mops, buckets, or any equipment in locations likely to create safety hazards. Personnel shall provide, place, and remove appropriate warning signs for wet or slippery floor areas caused by cleaning or waxing operations. General safety requirements will be complied with in all activities.

Contractor shall be responsible for instructing its employees as to the use of all emergency equipment, the phone numbers of emergency personnel and the location of fire alarms and firefighting equipment.

- 7) *Work areas.* Contractor shall make necessary provisions to protect all work areas and shall be responsible for full restoration, including any associated costs, resulting from any damages caused by Contractor's work or employees. Contractor shall be responsible for keeping the storage rooms provided by the Town for his/her equipment and supplies neat and orderly at all times. Shelving provided for supply storage shall be fully stocked on a weekly basis with adequate material to maintain a 2 Week minimum of products in order to eliminate running out of necessary items.
- 8) *Contractor's personnel.* The Contractor shall employ only those persons qualified and trained to provide the services stated herein. The Contractor further warrants that his/her employees, and any other personnel providing services under these specifications, are duly qualified to perform the services required and said employees/personnel agree to perform services in a professional manner utilizing appropriate procedures and methods and in accordance with any applicable local, state or federal laws, rules or regulations.

The Contractor must provide the Town with a current list of all personnel employed by Contractor for cleaning the Facilities, including telephone numbers and addresses, if requested. Contractor's personnel shall wear uniforms, provided by the contractor, while performing cleaning services. Uniforms shall bear the company name.

Should the Town advise the Contractor that any agent, employee or other person under its jurisdiction or supervision relative to this contract, is for any reason objectionable, unsatisfactory or undesirable, the Contractor shall replace the individual.

Neither the Contractor nor the Contractor's employees are to have family, friends or associates unrelated to this contract with them for extended periods of time while working in any of the Facilities.

- 9) *Supplies.* The Town shall provide the Contractor with all consumable items, including paper products, plastic bags and liquid soap. Other necessary consumable cleaning supplies to be used by the Contractor in the performance of these specifications, shall be ordered by the Town at the Contractor's request (Contractor shall provide a written list of items and quantities) or ordered by the Contractor and charged directly to the

Town by a vendor approved by the Town. The Contractor shall otherwise supply, at its own expense, all other cleaning material and equipment necessary to complete the cleaning of the Facilities as specified herein. Contractor shall acquire and distribute supplies from the Town's designated storage area at 81 S Shore Road, or any other designated storage area identified by the Facilities Manager.

- 10) *Change to scope of work.* The Town may, at any time, change the scope of work of the Contract by written notice to the Contractor, giving therein a date upon which the change shall become effective. On such effective date, the Contractor shall make the required changes in his/her operation.
- 11) *Other.* The Contractor shall immediately report any damage noted in the process of cleaning the Facilities to the Facilities Manager, or his/her designee. A meeting(s) may be held with the Contractor or his/her designee, as necessary, to review progress and to discuss service improvements or modifications.
- 12) All cleaning personnel shall become familiar with the cleaning-related requirements of the individual facilities.
- 13) *Contacts.* Contact persons for this contract will be the Facilities Manager, or his/her designee for all Facilities.
- 14) *Billing.* Contractor shall bill the Town in twelve (12) monthly invoices for each contract year.
- 15) *Reporting.* Contractor shall complete, retain, and submit on a weekly basis the Restroom Facility Daily Maintenance Log, included in this document.

DETAILED SPECIFICATIONS

The following areas are to be maintained at a high standard of cleanliness. The following standards are intended to be the acceptable minimum level of service as directed herein. Cleaning frequencies set forth herein are meant to be working guidelines for specific areas, dependent upon type and frequency of use. All items not specifically included, but found necessary to properly clean the building, shall be included as though written into these specifications.

“Daily” is considered every day for all restroom facilities unless specified otherwise herein. A summary for Facilities cleaning schedule follows this section.

1. *Restroom cleaning.* Daily cleaning of the restrooms shall include: cleaning and drying of floor surfaces, visually check all drains including but not limited to sinks, toilets, floor drains etc.; emptying of waste baskets, and trash disposal at designated area; cleaning of sinks, faucets, soap/sanitizer dispensers and mirrors; washing, disinfecting and deodorizing of sanitary facilities, including cleaning and disinfecting toilets, toilet seats, urinals, partitions, grab bars, trash receptacles, vents and other fixtures; and the cleaning of any other items not specifically mentioned herein which would be considered part of the restrooms, and which require periodic cleaning to maintain the overall cleanliness of the restrooms. Specific daily cleaning is to be done around the edges of floors and tile walls. Where the restroom has an air dryer, the wall below it should be cleaned daily. The Contractor is responsible for keeping the restrooms of each of the Facilities stocked with toilet paper, paper towels, hand soap and sanitary items at all times, and for notifying the Facilities Manager, or his/her designee when supplies need to be re-ordered. These services are to be carried out in accordance with “FACILITIES CLEANING SCHEDULE.”
2. *Showers and changing areas* - Daily cleaning of the changing rooms with showers shall include: washing and disinfecting of shower stall walls and curtains, benches and grab bars and or shelving and washing, disinfecting and the cleaning of any other items not specifically mentioned herein which would be considered part of the showers and/or changing area and which require periodic cleaning to maintain the overall cleanliness of the restrooms. Contractor shall notify the Town Facilities Manager whenever any fixtures, furniture, curtains, dispensers, etc. are broken or, need to be repaired.

The Restroom facilities professional cleaning services are to be carried out in accordance with the following schedule:

25 Federal Street Public Restrooms:

Monday through Sunday:

- **October 15th to April 15th** -- once per day in the evening with extra cleanings over Christmas Stroll as noted below (the first weekend in December each year). Close, clean and lock facility at 9PM.
- **April 16th to May 24th** - twice (2x) per day, once between 12 - 2:00 PM and once at closing at 9PM with extra cleanings over Daffodil Festival weekend noted below). Close, clean and lock facility between 9PM.
- **May 25th to June 30** -- four times per day, once between 10:00 AM - 12:00 PM, once between 3-5:00 PM, once between 8-9:00 PM and once at closing at 1:00 AM. Close, clean and lock facility at 1AM.

- **July 1 to August 15** – five times (5X) per day, once between 10:00 AM - 12:00 PM, once between 2-3:00 PM, once between 5-6:00 PM, once between 8-9:00 PM and once at closing at 1:00 AM. Close, clean and lock facility at 1AM.
- **August 16th to September 8** - four times (4X) per day, once between 10:00 AM - 12:00 PM, once between 3-5:00 PM, once between 8-9:00 PM and once at closing at 1:00 AM. Close, clean and lock facility at 1AM.
- **September 9th to October 14th** -- twice (2X) per day, once between 12 - 2:00 PM and once at closing at 9PM. Close, clean and lock facility at 9PM.
- **Daffodil Festival Weekend** (Friday-Sunday- last weekend in April) -- four times (4X) per day, once between 10:00 AM - 12:00 PM, once between 3-5:00 PM, once between 8-9:00 PM and once at closing at 1:00 AM. Close, clean and lock facility at 1AM.
- **Christmas Stroll Weekend** (Friday-Sunday – first weekend in December) -- four times (4X) per day, once between 10:00 AM - 12:00 PM, once between 3-5:00 PM, once between 8-9:00 PM and once at closing at 1:00 AM. Close, clean and lock facility at 1AM.

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It shall be the responsibility of the Contractor to **Open and Close** the restrooms at 25 Federal Street daily which includes weekends. Times noted above.

Restroom facility is open year-round

‘Sconset - 1 Folgers Court – Comfort Station Public Restrooms:

April 25 to May 15th

Once (1x) per day Three (3) days a week starting the third (3rd) weekend in April.

Cleaning Monday, Wednesday and Saturday

Exception: Daffodil Weekend as determined by the Town (usually the last weekend in April) –Extra cleaning on Friday, Saturday and Sunday between 10:00 AM and Noon.

- It is the responsibility of the cleaning contractor to open the restroom facility at 8:00AM and close at 8:00 PM daily from the third weekend in April through Christmas Stroll weekend as noted below

May 15th through Columbus Day Weekend: Monday through Sunday: Twice (2x) a day – between 12 -1:00 PM and between 8:00 PM and 8AM. Close, clean and lock facility at 8PM

Columbus Day Weekend through: Once (1x) per day Three (3) days a week.

Cleaning Monday, Wednesday and Saturday. Close, clean and lock facility at 8PM

Christmas Stroll Weekend (Friday-Sunday – first weekend in December - annually) - Twice (2x) a day – between 12 -1:00 PM and at 8:00 PM. Close, clean and lock facility at 8PM

Final Cleaning: Tuesday after Christmas Stroll weekend.

– Restrooms Closed for the season after Christmas Stroll.

**Facility will be winterized by Town Facilities personnel*

34 Washington Street - Marine Department Restrooms - from the Friday before Memorial Day through the Friday after Columbus Day (21 Weeks) 3 times (3X) per day, once before 11AM, once (1x) between 3-5:00PM and once (1x) at closing at 7:00 PM. Restrooms Closed for the season after Columbus Day.

**Facility will be winterized by Town Facilities personnel*

15 Harbor View Way - Children's Beach – Public seasonal restrooms and trailer - from the Friday before Memorial Day through the Friday after Columbus Day (21 Weeks) once (1X) per day. Time of day for cleanings to occur are to be determined and coordinated with Facilities Manager. Restrooms Closed for the season after Columbus Day.

**Facility will be winterized by Town Facilities personnel*

Dionis Beach Restroom facility – Dionis Beach – public seasonal restrooms – Friday before the Memorial Day holiday through Friday after Labor Day, once (1X) per day. Time of day for cleanings to occur are to be determined and coordinated with Facilities Manager. Restrooms Closed for the season after Labor Day.

**Facility will be winterized by Town Facilities personnel*

Tom Nevers playground – Tom Nevers - public seasonal restrooms - Friday before Memorial Day through Friday after Columbus Day, twice (2X) per week on Monday and Friday. Time of day for cleanings to occur are to be determined and coordinated with Facilities Manager. Restrooms Closed for the season after Columbus Day.

**Facility will be winterized by Town Facilities personnel*

10 Sun Island Rd - Delta Athletic fields – public seasonal restrooms – April 15th through Friday after Columbus Day, twice (2X) per week on Monday and Friday. Time of day for cleanings to occur are to be determined and coordinated with Facilities Manager. Restrooms Closed for the season after Columbus Day.

**Facility will be winterized by Town Facilities personnel*

4 Bathing Beach Road – Jetties Bathhouse pavilion – public seasonal restrooms – Friday before Memorial Day through Friday after Labor Day, once (1X) per week. Time of day for cleanings to occur are to be determined and coordinated with Facilities Manager. Restrooms Closed for the season after Labor Day.

**Facility will be winterized by Town Facilities personnel*

4 Western Avenue – Surfside Beach Bathhouse – public seasonal restrooms – Friday before Memorial Day through Friday after Labor Day, once (1X) per week. Time of day for cleanings to occur are to be determined and coordinated with Facilities Manager. Restrooms Closed for the season after Labor Day.

**Facility will be winterized by Town Facilities personnel*

**2021 - 2024
PUBLIC RESTROOM
FACILITIES CLEANING
SCHEDULE**

DAILY

- RESTROOMS & SHOWER/CHANGING AREAS RESTROOMS - cleaning and drying of floor surfaces; emptying of waste baskets, and trash disposal; cleaning of counter surfaces, mirrors; washing, disinfecting and deodorizing of sanitary facilities, including cleaning and disinfecting of sinks, dispensers, toilets, and other fixtures; and the cleaning of any other items not specifically mentioned herein which would be considered part of the restrooms, and which require periodic cleaning to maintain the overall cleanliness of the restrooms. A “Restroom Facility Daily Maintenance Log” shall be placed in each restroom. Location and form shall be approved by Town Facilities Manager. At a minimum, it shall identify the person, time cleanings occur and the various tasks performed during each cleaning. Logs shall be turned over to the Town Facilities Manager.

WEEKLY

- CLEAN W/STAINLES STEEL POLISH STALL DIVIDERS, WASH BASEBOARDS THROUGHOUT ALL RESTROOM FACILITIES

MONTHLY

- WALLS (including vents), LIGHT FIXTURES AND WINDOWS (interior only)

*TWICE EACH CONTRACT YEAR**

- CLEAN CEILINGS (including vents)

Restroom Facility Daily Maintenance Log

Location: _____

Date	Time	Toilets & Sinks		Mirrors		Soap		Paper Towels & Toilet Paper		Floors		Trash Can		Employee's Initials
		Checked	Cleaned	Checked	Cleaned	Checked	Filled	Checked	Filled	Checked	Cleaned	Checked	Emptied	

S A M P L E

QUALITY OF WORK

All work is to be quality work and shall be performed according to the standards of the industry and according to the plans, directions and instructions as presented by the authorized representatives of the Town of Nantucket.

III. QUALITY REQUIREMENT.

1. Bidders must provide all of the items described in Section II and comply with all of the bid submission requirements listed in Section I.
2. Bidder must have been regularly and actively engaged in the cleaning business, operating under the same business name and business organization structure; and performing the type of work described above under "SCOPE OF WORK" for a minimum of five (5) years and must provide proof of this.
3. Bidder must provide current proof of Insurance(s) for the business in the bid
 - a) Workers' Compensation coverage, covering the obligations of the Contractor in accordance with applicable workers' compensation or benefits law;
 - b) Commercial General Liability insurance on an occurrence basis with a combined single limit of not less than \$1,000,000. Coverage is to include premises and operations, coverage for liability or subcontractors and products and completed operations. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this contract. The Town will be added as an additional named insured;
 - c) Automobile Liability insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

IV. REFERENCES.

Bidders must provide a complete list of municipal customers who it provided services for in the past three years. Reference information must include Company/Government Name, Contact Person, Current Phone Number, Fax Number and date of purchases. Poor references may be a basis for determining that a bidder is not responsible.

V. RULE FOR AWARD.

One contract will be awarded to the responsive and responsible bidder who meets the qualifying factors, can provide the services requested and offering the lowest **LUMP SUM BID AMOUNT**. This is a lump sum amount contract which includes all costs associated with the items needed to complete the work as required. In the event of a tie of two vendors, the vendors will be invited to the procurement office for a coin toss to break the tie. In the event of a tie of more than two vendors, the vendors will be invited to the procurement office for a drawing of straws to break the tie.

VI. BASIS OF COMPENSATION.

Lump sum amount contract including all costs associated with the items needed to complete the work as required.

BID FORM

LUMP SUM BID:

The undersigned proposes to the Town of Nantucket the contract price specified below for the specifications contained herein.

CONTRACT YEAR	AMOUNT
Year 1: April 1, 2021 – March 31, 2022	\$
Year 2: April 1, 2022 – March 31, 2023	\$
Year 3: April 1, 2023 – March 31, 2024	\$
TOTAL BID	\$

Bid amount in words: _____

For any additional work outside contract scope: **HOURLY RATE \$** _____

Name of general bidder: _____

FEIN or SSN: _____

Address of bidder: _____

Telephone number of bidder: _____

Email Address of bidder: _____

Bidder's signature: _____

Name: _____

Date: _____

NOTE: *If the bidder is a corporation, indicate state of incorporation under signature and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address.*

Insurance Required:

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

CERTIFICATE OF NON-COLLUSION

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

Signature of person signing bid or proposal

Date

Please Print Name

Name of Business

TAX COMPLIANCE CERTIFICATION

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

Federal Employer ID Number

Name of Corporation

President's Signature

Date

Please Print Name



TOWN OF NANTUCKET



TOWN OF NANTUCKET
AGREEMENT BETWEEN
THE TOWN OF NANTUCKET
AND
XXXXXXXXXXXXXXXXXX

THIS AGREEMENT made effective _____, 2021, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Town Administration, with offices at Town Hall, Nantucket, Massachusetts 02554 (hereinafter called the "TOWN"), and **XXXXXXXXXX** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

RECITALS:

WHEREAS, the TOWN desires to retain the CONTRACTOR to provide certain services for the TOWN, as described below, and the CONTRACTOR is willing to accept such engagement, all on the terms hereinafter set forth,

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE CONTRACTOR

- 1.1 The TOWN hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement to perform certain services for the TOWN, as described in Article 2.
- 1.2 In the performance of any service under this Agreement, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the TOWN, on the one hand, and the CONTRACTOR, on the other, and the TOWN shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Agreement.

ARTICLE 2 - SERVICES OF THE CONTRACTOR

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the TOWN and its designee (if any) as set forth on Exhibit A.
- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the TOWN. The TOWN shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the TOWN in writing.
- 2.4 The CONTRACTOR represents and warrants to the TOWN that the CONTRACTOR (including all

STANDARD TON CONTRACT – AWARDED BIDDER WILL BE ASKED TO SIGN

of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by this Agreement and further agrees to perform its services in a professional manner, and in accordance with the reasonable standard of care implied by law and all applicable local, state or federal ordinances, laws, rules and regulations, all of which are incorporated herein by reference. The CONTRACTOR will obtain and pay for any and all permits, bonds and other items required for the proper and legal performance of the Work.

- 2.5 The CONTRACTOR represents and warrants to the TOWN that it is not a party to any agreement contract or understanding which would in any way restricts or prohibits it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of “hard” copies, graphics, magnetic media or otherwise) which are received and produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be “work for hire” and shall be and become the property of the TOWN upon the receipt and production of such items by the CONTRACTOR. The TOWN acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the TOWN in connection with any other project shall be at the TOWN’s sole risk, unless otherwise agreed to by the CONTRACTOR in writing.
- 2.7 The CONTRACTOR shall be responsible for the professional and technical accuracy, and for the coordination, of all designs, drawings, specifications, estimates and other work or services furnished by CONTRACTOR or its consultants and subcontractors. The CONTRACTOR shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary. The CONTRACTOR shall supervise and direct the Work, using its best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and engineering profession for projects similar to the subject project in scope, difficulty and location.
- 2.8 The CONTRACTOR shall not use any subcontractors or sub-consultants (not identified herein) for any work required under this Agreement unless such use has been approved in advance in writing by the TOWN.
- 2.9 Notwithstanding anything to the contrary in this Agreement, the CONTRACTOR shall not be relieved of its obligations under this Agreement by the TOWN’s performance, or failure to perform, any of the TOWN’s administrative duties under this Agreement, including, but not limited to, the TOWN’s review and/or approval of plans, estimates, programs, documents, materials, work and services furnished by CONTRACTOR.

ARTICLE 3 - PERIOD OF SERVICES

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the TOWN's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving Notice to Proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions

STANDARD TON CONTRACT – AWARDED BIDDER WILL BE ASKED TO SIGN

hereof. In any event, the Work shall be completed no later than the date set forth on Exhibit A. The CONTRACTOR acknowledges that time is of the essence of this Agreement.

- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the occurrence of an unforeseen event beyond its control such as fire or other casualty, abnormal adverse weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the TOWN shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

If an Unavoidable Event occurs which, in the TOWN's reasonable determination, makes the performance of the Agreement impossible without the expenditure of additional TOWN funds, the TOWN may, at its option, elect to terminate this Agreement upon thirty (30) days written notice.

ARTICLE 4 - PAYMENTS TO THE CONTRACTOR

- 4.1 The compensation due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the TOWN at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the TOWN.
- 4.3 The TOWN will pay the CONTRACTOR upon review and approval of such invoices by the TOWN or its designee.
- 4.4 This engagement may be subject to budgetary restrictions which may limit the total amount of funds available for the Work. Accordingly, unless otherwise stated on Exhibit B, the TOWN will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the TOWN.
- 4.5 The CONTRACTOR and its sub-contractors shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR in the preparation of the documents, as reasonably determined by the TOWN.

ARTICLE 5 – TERMINATION

- 5.1 This Agreement may be terminated, with cause, by either the TOWN or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The TOWN shall have the right to terminate this Agreement for its convenience and without cause upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:

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- (a) unless the TOWN terminates for cause under paragraph 5.1, in which event the TOWN shall be under no obligation to make any payments to CONTRACTOR except for those services satisfactorily provided, the TOWN shall remain responsible for payments for the services satisfactorily performed and, unless this Agreement is for a lump-sum, expenses of CONTRACTOR reasonably accrued prior to the effective date of the notice of termination in compliance with this Agreement (less the value of any claims of the TOWN), all as determined by the TOWN in its sole discretion, but for no other amounts, including, without limitation, claims for lost profits on Work not performed; and
- (b) The CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to WORK performed pursuant to the Agreement.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

- 6.1 The CONTRACTOR agrees to indemnify and save the TOWN harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall reimburse the TOWN for any and all costs, damages and expenses, including reasonable attorney's fees, which the TOWN pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the TOWN with respect to the CONTRACTOR, in connection with this Agreement, and shall survive termination or expiration of this Agreement.
- 6.2 Before commencing work the CONTRACTOR shall obtain and maintain at its expense and from insurance companies of a Best Rating of A or better, which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.
- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
 - (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
 - (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
 - (d) Errors and Omissions Insurance of not less than \$2 million per claim. The coverage shall be in force from the date of execution of the Agreement to the date when all design and construction work is completed and accepted by the TOWN, unless, however, the policy is a "claims made policy," in which event the policy shall remain effective and in

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full force for a period of six (6) years after completion of all design and construction work relating to the engagement.

- (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
- (f) Such additional insurance as the TOWN may reasonably require, as set forth on Exhibit A.

CONTRACTOR shall maintain such insurance during the term of Agreement and give the TOWN twenty (20) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the TOWN. The TOWN will be added as an additional named insured with respect to each such policy and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the TOWN upon the execution of this Agreement and at such times thereafter as the TOWN may reasonably request.

ARTICLE 7 - GENERAL PROVISIONS

- 7.1 Upon the expiration or the termination of this Agreement for any reason, all data, drawings, specifications, reports, estimates, summaries and other work product which have been accumulated, developed or prepared by the CONTRACTOR (whether completed or in process) shall become the property of the TOWN upon payment for such to the CONTRACTOR and the CONTRACTOR shall immediately deliver or otherwise make available all such material to the TOWN.
- 7.2 Neither party may assign, transfer or otherwise dispose of this Agreement or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 7.3 Except as otherwise expressly provided in this Agreement, any decision or action made by the TOWN relating to this Agreement, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the TOWN specified in the initial paragraph of this Agreement, unless specifically authorized or delegated by a lawful vote of such body.
- 7.4 This Agreement, together with Exhibit A (Contractor, Scope of Work, Term), Exhibit B (Payments), and Exhibit C (Tax Compliance Certificate), and any additional exhibits referred to therein, constitute the entire agreement of TOWN and CONTRACTOR with respect to the matters set forth therein and may not be changed, amended, modified or terms waived except by a writing signed by TOWN and CONTRACTOR. If there is any conflict among the terms set forth in the body of this Agreement and the terms or provisions set forth in Exhibit A or Exhibit B, or in any other attachment hereto, or in any other document or law incorporated by reference herein, such conflict shall be resolved by giving precedence to the party's address above by certified mail, return receipt requested Terms or provisions contained in the following documents in accordance with the following hierarchy, with the topmost document of the highest priority:
 - A. Applicable federal, state and local laws, rules and regulations.
 - B. Amendments to this Agreement, if any.
 - C. Exhibits A and B.
 - D. This Agreement.

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E. Any other attachments to this Agreement.

To the extent the conflict is not resolved by applying the above hierarchy, the conflict shall be resolved in a manner that results in the highest quantity and best quality of goods and services to the TOWN.

- 7.5 This Agreement is governed by the law of The Commonwealth of Massachusetts and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Agreement shall lie with the state and federal courts having jurisdiction over the county and state in which the Town is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.
- 7.6 Any notices required or allowed shall be to the person's address above by certified mail, return receipt requested.
- 7.7 Notwithstanding anything to the contrary in this Agreement, this Agreement is subject to the appropriation and availability of funds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

CONTRACTOR:

TOWN OF NANTUCKET,
MASSACHUSETTS:

C. Elizabeth Gibson
Town Manager

DATE: _____

DATE: _____

Funding Org/Obj:

FEIN:

Approved as to Funds Available:

Purchase Order # _____

Brian E. Turbitt, Director of Municipal
Finance or Bob Dickinson, Assistant Town
Accountant

DATE: _____

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CONTRACT EXHIBIT A

CONTRACTOR, TERM, COMPLETION

1. **Name of Contractor:**
2. **State of Incorporation:**
3. **Principal Office Address:**
4. **Person, Department, or Committee, if any, to whom CONTRACTOR reports (§ 2.2):**
5. **Term of Agreement (§3.1):**
6. **Completion Date (§3.2):**
7. **Additional Insurance Coverage (§6.2(e)):**

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CONTRACT EXHIBIT B

SCOPE OF SERVICES, DOCUMENTS INCORPORATED BY REFERENCE

CONTRACT EXHIBIT C

PAYMENTS

1. Lump Sum Method
 - a. **Maximum Project Amount:**
 - b. **Payment Increments:** CONTRACTOR shall submit monthly invoices based on a percentage of work complete work as delineated in a progress report accompanying each invoice for approval and processing by the TOWN.
 - c. **Reimbursable Expenses** (if any): None.

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CONTRACT EXHIBIT D

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, Sec.49A, the undersigned certifies under the penalties of perjury that it, to the best knowledge and belief of management, has filed all state tax returns and paid all state taxes required under law (if any, are so required).

By:

Name

Date

FEIN:

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CONTRACT EXHIBIT E

CERTIFICATE OF NON-COLLUSION

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

Signature of person signing contract

Name of Business