



**TOWN OF HOLLISTON  
DEPARTMENT OF PUBLIC WORKS - HIGHWAY**

**63 Arch Street  
Holliston, MA 01746**

**508-429-0616  
May 9, 2022**

**INVITATION FOR BID**

***-SIDEWALK CONSTRUCTION-***

The Town of Holliston DPW - Highway is seeking sealed bids for Sidewalk Construction. Contractors are invited to submit sealed bids no later than 11:00 AM on June 8, 2022 at the Town Administrator's Office, Town Hall at 703 Washington Street, Holliston, MA 01746. The bid opening will be at 11:05 AM on June 8, 2022.

Specifications and information regarding this IFB may be obtained from the Chief Procurement Officer at Holliston Town Hall, 703 Washington Street, Holliston, MA 01746 on or after May 18, 2022 during normal business hours Monday, Wednesday, Thursday 8:30 am to 4:30 pm; Tuesday 8:30 am to 7:00 PM; Friday 8:30 am to 12:00 pm. Information is also available on The Town of Holliston website: <https://www.townofholliston.us/town-links/pages/procurement-legal-notice>

Contractors intending to bid must fill out and submit a "Request for Proposal Form" for Determination of Contractors Prequalification, from the Contract Engineer, Mass. DPW, Room 7552, 10 Park Plaza, Boston, MA. This form must be completed and submitted to the Contract Engineer for approval. It can be filled out online at: <https://www.mass.gov/how-to/request-proposal-form-r109>

Please review the enclosed Scope of Services and provide any questions in writing to Anne Kellogg at the Holliston Highway Department, 63 Arch Street, Holliston, MA 01746 before 3:00 p.m. on TBD or via email to Anne Kellogg at: [kellogga@holliston.k12.ma.us](mailto:kellogga@holliston.k12.ma.us)

The Town of Holliston reserves the right to accept or reject any or all bids and to award the project in a manner which is deemed to be in the interests of the Town of Holliston.

**Date Issued:**

May 18, 2022

**Post to Town's Web Page:**

May 18, 2022

**Post Town Hall:**

May 18, 2022

**Central Register Publication & COMMBUYS:**

May 18, 2022

**Sealed Bid Submission and Response Date:**

June 8, 2022

**GENERAL REQUIREMENTS:**

**1. INTENT**

The Town of Holliston is seeking sealed bids to provide labor and materials for Sidewalk Construction. The Town will award the contract to the lowest responsive and responsible bidder. The Town reserves the right to reject any and all bids as determined to be in the best interests of the Town. Unless sooner rejected or accepted, all bid proposals must be firm and continue in effect for ninety (90) calendar days following the date of bid opening.

**2. CONTRACT TERMS AND CONDITIONS**

The successful Bidder must enter into the Town's Standard Form Agreement, attached hereto.

**3. QUESTIONS REGARDING BID**

3.1 Any prospective contractor (bidder) requesting an interpretation of existing specifications of terms and conditions must do so in writing by TBD, addressed to Anne Kellogg at the Holliston Highway Department, 63 Arch Street, Holliston, MA 01746 or via email to Anne Kellogg at: [kellogga@holliston.k12.ma.us](mailto:kellogga@holliston.k12.ma.us)

3.2 The Bidder should be familiar with all of the IFB requirements and Bid Documents before submitting their bid in order to prevent misunderstanding. Bidders shall promptly raise the issue of any ambiguity, inconsistency, or error which they may discover in the Bid Documents, specifications, at the work site, or any other conditions which may apply. No allowance will be made for any claim where the underlying bid was based on incomplete information.

3.3 Inquiries shall be directed to Anne Kellogg at the Holliston Highway Department. Bidders should note that oral communications are not binding on the Town and only written responses by the Town may be considered by Bidders. All requests/questions must be submitted in writing. Questions may be delivered by mail to Anne Kellogg at the Holliston Highway Department, 63 Arch Street, Holliston, MA 01746 or via email to Anne Kellogg at: [kellogga@holliston.k12.ma.us](mailto:kellogga@holliston.k12.ma.us) by the deadline. Questions that may be asked during a pre-bid conference, if any, should also be sent in writing in order to receive an official response. Requests properly presented that, in the sole opinion of the Town, require interpretation, correction, or change in the Bid Documents may result in an issuance of an Addendum to the Bid Documents. Such Addendum shall then become part of the contract. The Town will forward all their responses to all persons who are on record as having received the bid package. Questions received after the deadline for such will be met with no response unless the Town, in its sole discretion, determines it is necessary to respond.

#### 4. ADDENDA

In the event changes/additions are made to this IFB, an addendum will be issued to all persons on record as having received the bid package.

#### 5. BID MODIFICATIONS OR WITHDRAWALS

Bids may be corrected, modified, or withdrawn prior to the submission deadline. After the submission deadline, bids may not be changed. Minor mistakes may be waived by the Town.

#### 6. PREMATURE OPENING OF A BID

The Town will not be responsible for the premature opening of any bid not properly identified. The Town may reject bids which are incomplete, not properly endorsed or signed, or which are otherwise contrary to these instructions.

#### 7. UNEXPECTED CLOSURES OR DELAYS

If, at the time of the scheduled bid submission deadline, the designated location for delivery and opening of the bids is closed due to uncontrollable events such as fire, snow, ice, wind, building evacuation, COVID-19 or other, the deadline will be postponed to TBD. In such event, bids will be accepted at the same location until said date and time.

#### 8. LATE SUBMISSIONS

LATE BIDS WILL NOT BE CONSIDERED. The Town assumes no responsibility for late submissions due to mail, courier, delivery or any other problems.

#### 9. REJECTION OF BIDS

The bid must satisfy all requirements to be considered for award. Failure to complete the required forms, answer any questions, or provide the required documentation will result in the bid being deemed NON-RESPONSIVE and will result in rejection by the Town unless it is determined, solely by the Town, that any such failure constitutes a minor informality that can be corrected without prejudice to other bidders.

## 10. TAXES

Purchases made by the Town are exempt from the payment of all Federal and State taxes. If requested, the Town will provide the successful bidder with a copy of the Certificate of Exemption.

## 11. CONTRACT AWARD

The Town reserves the right to waive all minor informalities and reject any and all bids as determined to be in the best interests of the Town.

The Town of Holliston will review all bids and will award a contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder shall be awarded a contract for the specified items based upon the total bid price provided in their bid. At the sole discretion of the Town, the purchase of the items may be awarded to one or more vendors for each item as defined in the Specifications, whichever is determined to be in the best interests of the Town. Upon bidder selection, the Town will mail or email the contract to be executed by the Bidder, who will return the required number of original copies with the required insurance information. Unless otherwise noted by the Town, the terms and conditions of the contract are not negotiable.

## 12. PREVAILING WAGE

Pursuant to Massachusetts General Laws, chapter 149, sections 26 and 27, the Division of Occupational Safety (formerly the Department of Labor and Industries) has determined the Prevailing Wage Rates for this work. The enclosed rates apply only to this work. The Prevailing Wage shall become part of the contract signed between the successful bidder and the awarding authority or the contract is invalid. Prevailing Wages must be paid to all persons employed on the public works project, regardless of whether they are employed by the successful bidder or a subcontractor. The wage rates issued for each project shall be paid for the entire project.

a. Payroll records must be kept by the successful bidder for all persons employed on the project. A separate Statement of Compliance must be submitted to the Division of Occupational Safety by every employer, including all prime contractors and subcontractors, when its portion of the work is completed. The enclosed form entitled "Weekly Payroll Records Report and Statement of Compliance" clearly details these requirements. A certified payroll record must be submitted to the Office of the Town Administrator for each week work is performed for the Town under this contract.

## 13. PAYMENT BOND

Within ten (10) days of receipt of notice of contract award, the successful bidder shall provide a payment bond 50% of the amount of the contract. Upon execution of the contract, the successful bidder shall be expected to commence work immediately and proceed in a timely and efficient manner until project completion and acceptance by the Town.

## 13. OSHA CERTIFICATION

Successful bidder must comply with Chapter 306 of the Acts of 2004 § 1. (3) and shall certify that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health

Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and **SECTION 2 (3)** that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration. (b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

### **SUBMISSION REQUIREMENTS:**

1. Bids are to be addressed as follows: Sidewalk Construction - Town of Holliston, Administrator's Office, Town Hall, 703 Washington Street, Holliston, MA 01746.
2. Bids are to be sealed and clearly marked: "Sidewalk Construction, Holliston, MA"
3. Bidder should acknowledge all addenda to this IFB, if any.
4. Bidder must submit a completed Bid Form, signed by an individual authorized to contractually bind the Bidder. All prices must include costs for delivery. No price adjustments will be allowed. Fuel or vehicle surcharges will not be allowed.
5. Bids shall be accompanied by a bid deposit of not less than five (5%) percent of the value of the proposed work and made payable to the Town of Holliston, the Awarding Authority. Bidders are reminded that the bid deposit covers the Town for damages when a bidder withdraws its bid after the bid submission date. Be advised that to the extent permitted by the law the Town will retain all bid deposits for withdrawn bids.
6. Bids must be received and time stamped no later than the deadline stated in the **Invitation for Bids in Brief**. LATE BIDS WILL NOT BE CONSIDERED.
7. Bidder must provide a minimum of three (3) references for whom they have completed contracts for work similar in size and scope to this project within the last five (5) years. For each reference, provide customer's name, contact person, address, telephone number, and a brief description of the services provided.
8. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of Holliston as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.

Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.

9. Bids must include the following forms completed and signed:

*Certificate of Good Faith and Non-Collusion;*

*Certification Regarding Labor Harmony and OSHA Training;*

*Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC from Secretary of Commonwealth;*

*Certificate of Tax Compliance;*

*Certification of Signatures*

*If Corporation: need President's signature or Clerk's Certificate dated no more than 2 years ago, with Corporate Seal affixed (see attached form)*

*If LLC: need Manager signature or signed vote of the LLC*

*Itemized Bid Price Form*

## **SCOPE OF SERVICES**

### **PROSECUTION AND PROGRESS**

1. Unless a schedule is established within the Special Provisions, the work will be scheduled by mutual agreement between the Town and the contractor.
2. Failure to perform the work or supply the materials in conformance with the specifications, shall be grounds for the Town to cancel the contract.

### **MEASUREMENT AND PAYMENT FOR MATERIALS**

1. The method of measurement for payment will be by certified weigh slip or delivery ticket.
2. Payment will be made within 15 days of receipt of an invoice, subject to approval of measured quantities.

### **SPECIAL PROVISIONS**

1. Description of the Work – Several types of repair are proposed. The attached technical specification fully describes the work.
2. Location of Work – The work will be at various locations on public streets throughout the Town of Holliston. Specific locations will be designated by the engineer. The engineer on these items will be the Deputy DPW Director or his designated representative.

3. Control of Work – The engineer will direct the contractor to the work areas and will designate which sections of streets are to be repaired. Any work performed without the express direction of the engineer will not be measured for payment.
4. Scheduling of Work – The successful bidder will meet with the engineer to review the areas to be repaired. A mutually acceptable schedule will be established to attempt to ensure that the contractor will have a full day's work each working day requested by the Town. The contractor will respond to work within two weeks of verbal notice.
5. Time Schedule – Work under this proposal will be performed during fiscal year 2023, from July 1, 2022 – June 30, 2023.
6. Prosecution of the Work - The contractor will be fully responsible for traffic control and clean up, including signage and traffic control personnel. Traffic will not be detoured or rerouted without the express consent of the engineer. No streets will be closed to traffic without the express consent of the engineer. No excavation shall remain open during non-working hours without the consent of the engineer.
7. Measurements – The contractor shall measure repairs for payment, showing subtotals by street name, and submit payment requests. The engineer will verify measurements.

#### BITUMINOUS CONCRETE SURFACE

BITUMINOUS CONCRETE BERM – The bituminous berm shall be measured by the linear foot, measured along the exposed face of the berm completed and accepted. Payment will be made at the unit price bid per linear foot, for bituminous concrete berm and will be full compensation for all materials, labor, and equipment necessary to complete the work, including furnishing the mixture, placement and forming, compaction, and all else necessary to complete the work.

BITUMINOUS CONCRETE HAND WORK – Bituminous hand work shall be measured by the ton, as indicated on weigh bills for each load delivered to the site and used in the work. Payment will be made at the unit price bid per ton for bituminous surface course and will be full compensation for all material, labor and equipment necessary, including key cuts, material removal, furnishing the mixture, spreading, compacting, grade control and all else necessary to complete the work.

8. Acceptance – Any work, in the judgment of the engineer, not in conformance with the technical specifications regarding quality of materials or workmanship, shall be removed and replaced by the contractor, at no additional cost to the Town.
9. Total Quantities – This contract will be awarded on the Total Bid, based on the unit price, as indicated on the Bid Form.
10. Wage Rates – Minimum wage rates must be paid as predetermined by the Commissioner of Labor and Industries in accordance with the provisions of Massachusetts General Laws,

Chapter 149, Section 27F. Charts are available upon request at the Holliston Highway Department.

11. Extension to Contract – This contract may be extended for a period up to two years at the sole discretion of the Town of Holliston.

12. Monthly Price Adjustment for Hot Mix Asphalt (HMA) Mixtures - This provision applies to all projects using greater than 100 tons of hot mix asphalt (HMA) mixtures containing liquid asphalt cement as stipulated in the Notice to Contractors section of the bid documents. Price Adjustments will be based on the variance in price, for the liquid asphalt component only, between the Base Price and the Period Price. They shall not include transportation or other charges. Price Adjustments will occur on a monthly basis.

#### Base Price

The Base Price of liquid asphalt on a project as listed in the Notice to Contractors section of the bid documents is a fixed price determined by the Department at the time of the bid using the same method as the determination of the Period Price detailed below. The Base Price shall be used in all bids. Period Price The Period Price is the price of liquid asphalt for each monthly period as determined by the Department using the average selling price per standard ton of PG64-28 paving grade (primary binder classification) asphalt, FOB manufacturer's terminal, as listed under the "East Coast Market - New England, Boston, Massachusetts area" section of the Poten & Partners, Inc. "Asphalt Weekly Monitor". This average selling price is listed in the issue having a publication date of the second Friday of the month and will be posted as the Period Price for that month. The Department will post this Period Price on its website at <http://www.mhd.state.ma.us/> within two (2) business days following its receipt of the relevant issue of the "Asphalt Weekly Monitor". Poten and Partners has granted the Department the right to publish this specific asphalt price information sourced from the Asphalt Weekly Monitor. This method of period price determination was formerly called the New Asphalt Period Price Method. Separate website postings using both the New Asphalt Period Price Method and the Old Asphalt Period Price Method were discontinued after June 2013.

#### Price Adjustment Determination, Calculation and Payment

The Contract Price of the HMA mixture will be paid under the respective item in the Contract. Price Adjustments, as herein provided, either upwards or downwards, will be made after the work has been performed using the monthly period price for the month during which the work was performed.

Price Adjustments will be paid only if the variance from the Base Price is 5% or more for a monthly period. The complete adjustment will be paid in all cases with no deduction of the 5% from either upward or downward adjustments.

The Price Adjustment applies only to the actual virgin liquid asphalt content in the mixture placed on the job in accordance with the Standard Specifications for Highways and Bridges, Division III, Section M3.11.03.



Price Adjustments will be separate payment items. The pay item numbers are 999.401 for a positive price adjustment (a payment) and 999.402 for a negative price adjustment (a deduction).

Price Adjustments will be calculated using the following equation: Price Adjustment = Tons of HMA Placed X Liquid Asphalt Content % X RAP Factor X (Period Price - Base Price)

No Price Adjustment will be allowed beyond the Completion Date of this Contract, unless there is a Department-approved extension of time.

## CEMENT CONCRETE SURFACE

### Description

General. Sidewalks and wheelchair ramps shall be constructed of Portland cement concrete with fiber mesh or HMA concrete, conforming to the requirements of MassDOT Standard Specifications, with a minimum width of five (5) feet. Wheelchair Ramps (WCR) and Duralast® Detectable Warning Panels shall be installed in accordance with the “Rules and Regulations of the Architectural Access Board – 521 CMR.”

### Sidewalk Construction.

1. Portland Cement Concrete for sidewalks shall conform to the applicable requirements of Section M4 and Section 701 of the MassDOT Standard Specifications. FIBERMESH fibers (100% virgin polypropylene, collated, fibrillated fibers) at a rate of 1.5 lb. per cubic yard of concrete shall be added for reinforcement. Installation shall be per manufacturer’s recommendations.
2. Concrete shall be installed on an 8-inch gravel sub-base prepared in the same manner as for the traveled way with a minimum width of five feet six inches (5’6”). Satisfactory forms shall be installed to assist in securing proper alignment. The fiber mesh or HMA concrete walk surface shall be laid in one course to a finished depth of 4 inches. The walk shall have a cross slope of 1.5 percent toward the roadway to provide proper drainage.
3. Driveway aprons and other sidewalk areas where vehicular traffic may reasonably be expected to occur shall be laid in one course, 6 inches thick, and shall be constructed to the same specifications as sidewalks and meet the proposed sidewalk grades.
4. In no case shall sidewalks and aprons be laid until the gravel sub-base has been inspected and approved. The Holliston Deputy DPW Director or his designated representative shall be notified at least 24 hours prior to any planned sidewalk concrete pour to allow inspection of the gravel sub-base.
5. Testing of grade shall be done with a 10-foot straight edge placed parallel to the center line of the course; there shall be no deviation from a true surface in excess 1/4 of an inch. Sidewalks shall be broom finished prior to scoring. The sidewalk slab shall be scored to form

5-foot panels. Sidewalks shall be 5 feet wide. Traverse preformed expansion joints shall be installed at 30-foot intervals.

6. Wheelchair ramps shall be 6 inches thick and shall be installed in strict compliance with the current AAB/ADA Rules and Standards.

7. The Contractor is hereby notified that they are ultimately responsible for constructing all project elements in strict compliance with the current AAB/ADA rules, regulations and standards. All construction elements in this project associated with sidewalks, walkways, wheelchair ramps and curb cuts are controlled by 521CMR - Rules and Regulations of the Architectural Access Board (AAB).

8. The AAB Rules and Regulations specify maximum slopes and minimum dimensions required for construction acceptance. There is no tolerance allowed for slopes greater than the maximum slope nor for dimensions less than the minimum dimensions.

9. The Contractor shall establish grade elevations at all wheelchair ramp locations and shall transition lengths according to the appropriate table in the Construction Standards. All wheelchair ramps, joints and transition sections which define grade changes shall be formed, staked and checked prior to placing cement concrete. All grade changes are to be made at joints.

10. The Contractor shall be responsible for collection of any additional information he/she deems necessary for construction of wheelchair ramps within the tolerances allowed. All related costs shall be included under the unit price bid for "Cement Concrete Wheelchair Ramps"

11. All identified sidewalk transition areas requiring Detectable Warning Panels must utilize Duralast ® Model 00700571 or 00700471 with two 24"x24" steel panels installed side-by-side and installed in accordance with the manufacturer instructions.

### **ESTIMATED QUANTITIES**

#### **Interpretation of Basic Estimates of Quantities:**

All bids will be compared to the estimated quantities of material. The quantities on the Itemized Bid Form are approximates only, being provided as a basis for comparison of the submitted bids, and the Town does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of the various types of materials.

An increase or decrease in the quantities shall not be regarded as cause for an increase or decrease in the unit prices.

### BID FORM

DESCRIPTION	UNIT PRICE	EXTENDED
1. Bituminous concrete sidewalk Furnish and install Est. quantity 50 tons	\$ _____/ton	\$ _____
2. Bituminous concrete sidewalk Remove and replace Est. quantity 50 tons	\$ _____/ton	\$ _____
3. Bit. concrete driveway Remove and replace Est. quantity 30 tons	\$ _____/ton	\$ _____
4. Cement concrete sidewalk Furnish and install Est. quantity 10 sq. yards	\$ _____/s.y.	\$ _____
5. Cement concrete sidewalk Remove and replace Est. quantity 10 sq. yards	\$ _____/s.y.	\$ _____
6. Cement concrete driveway Remove and replace Est. quantity 10 sq. yards	\$ _____/s.y.	\$ _____
7. Cement concrete wheelchair ramp Furnish and install with pads Est. quantity 10 sq. yards	\$ _____/s.y.	\$ _____
8. Cement concrete wheelchair ramp Remove and replace with pads Est. quantity 10 sq. yards	\$ _____/s.y.	\$ _____
9. Loam and seed disturbed areas As directed	\$ _____/s.y.	

**Total of bid, items 1 through 8, based on extended total prices:**

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Dollars (\$ )

Note:

1. All prices, except item totals, shall be stated in both words and figures. In the event of a discrepancy between the price in words and the price in figures, the words shall govern. In the event of a discrepancy between the total of the items and the total stated, the total of the items shall govern.

2. All prices shall be typewritten or written by hand in ink. Interlineation, alteration or erasure will void the bid.

Respectfully submitted:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Address

\_\_\_\_\_  
By

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

(Seal – if bid is by a corporation)

\_\_\_\_\_  
Attest

## **CERTIFICATION OF GOOD FAITH**

The undersigned certifies under pains and penalties of perjury that this contract has been obtained 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.

The Contractor by:

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Print Name

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Title/Authority

**CERTIFICATE OF NON-COLLUSION**  
**“SIDEWALK CONSTRUCTION”**  
**HOLLISTON, MA**

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

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Name of Business

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Signature of Individual Corporate Name

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Signature of individual submitting bid or proposal

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Social Security Number or Federal Identification Number

## **CERTIFICATION REGARDING LABOR HARMONY AND OSHA TRAINING**

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration (“OSHA”) that is at least ten (10) hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee (effective July 1, 2006); and that he will comply fully with all laws and regulations applicable to awards made subject to section forty-four A.

Name and Title of person authorized to sign Bid

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Signature

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Name of Business (please Print or Type)

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Date: \_\_\_\_\_

## CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

\_\_\_\_\_, authorized signatory for  
name of signatory

\_\_\_\_\_, whose  
name of contractor

principal place of business is at \_\_\_\_\_,

\_\_\_\_\_ does hereby certify under the pains and penalties of perjury that  
\_\_\_\_\_ has paid all

name of contractor

Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Federal Tax ID # or Social Security #



## EXAMPLE CLERK'S CERTIFICATE

\_\_\_\_\_  
Action of Shareholders  
Written Consent

(Date)

The undersigned, being the Shareholders of \_\_\_\_\_, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all Contract Documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, \_\_\_\_\_ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on \_\_\_\_\_, 20\_\_.

Clerk of Corporation  
SEAL

## TOWN OF HOLLISTON

CONTRACT # \_\_\_\_\_

STATE CONTRACT # (if applicable) \_\_\_\_\_

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DATE: \_\_\_\_\_

This Contract is entered into on, or as of, this date by and between the Town of Holliston,  
703 Washington Street, Holliston, MA 01746 (the "Town"), and

\_\_\_\_\_  
["Contractor"]

\_\_\_\_\_  
[Contact Name for Responsible Person]

\_\_\_\_\_  
[Address of the Contractor]

\_\_\_\_\_  
[Telephone Number]

\_\_\_\_\_  
[FAX Number]

\_\_\_\_\_  
[email address]

1. This is a Contract for the procurement of the following:  
(Describe the goods being purchased or attach purchase order)

This Contract for purchase includes the following delivery, installation or setup requirements [if applicable]:

2. The Contract price to be paid to the Contractor by the Town is:  
[insert price]

3. Payment will be made as follows:

3.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s).

3.2 Fees and Reimbursable Costs combined shall not exceed \$ \_\_\_\_\_ as more fully set forth in the Contractor Documents.

3.3 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Goods are delivered to the Town and accepted.

#### 4. Definitions:

4.1 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, Specifications. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

4.2 Date of Substantial Performance: The date when the goods are delivered, in accordance with Contract Documents, as modified by approved Amendments and Change Orders.

4.3 Goods: Goods, Supplies, or Materials.

#### 5. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before \_\_\_\_\_, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor. Time is of the essence for the completion of the Contract.

#### 6. Subject to Appropriation:

Notwithstanding anything in the Contract Documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town.

#### 7. Termination and Default:

7.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days' notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

7.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days' notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.

7.3 Default. The following shall constitute events of a default under the Contract:

(1) any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 8. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be a material breach of this Contract, and the Town of Holliston shall have all the rights and remedies provided in the Contract Documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at

law or in equity or other proceedings with respect to a breach of this Contract, including “Damages” including but not limited to costs, attorney’s fees or other damages resulting from said breach (“Damages”) as well as specific performance, and the right to select among the remedies available to it by all of the above.

#### 9. Statutory Compliance:

9.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract Documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of the General Laws are incorporated by reference into this Contract.

9.2 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract.

#### 10. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract.

#### 11. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

#### 12. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Contract in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

#### 13. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Contract, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

#### 14. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by a majority of the Select Board; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds.

#### 15. Corporate Contractor:

If the Contractor is a corporation and this Contract is being executed by a party other than its president, it shall endorse upon this Contract (or attach hereto) its Clerk’s Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Holliston unless and until the Contractor complies with this section.

#### 16. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Holliston shall be individually or personally liable on any obligation of the Town under this Contract.

#### 17. Indemnification:

The Contractor hereby agrees to indemnify, defend and save harmless the Town, the Town’s officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses,

costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The Contractor hereby agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct. The Town agrees to make reasonable effort to notify the Contractor of any duty arising out of this paragraph, but failure to make timely notice will not relieve the Contractor of any duty under this paragraph.

The foregoing provisions shall not be deemed to be released, waived, limited or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 18. Insurance

### 18.1 Workers Compensation Insurance:

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

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

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 18.2 Other Insurance Requirements

a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of Holliston as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.

b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.

c. All policies shall identify the Town as an additional insured. (except Workers' Compensation and Professional Liability) The Contractor must provide notice to the Town immediately upon the cancellation modification of the policy. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses.

d. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

## 19. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 20. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 21. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Contract, prior to the effective date of the amendment.

#### 22. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 23. Forum and Choice of Law

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

#### 24. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 25. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 26. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

#### 27. Change Orders

Change orders may not increase the contract price by more than twenty-five (25%) per cent, in compliance with General Laws Chapter 30B, §13.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK]

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

The Town of Holliston by:

The Contractor by:

\_\_\_\_\_  
Select Board Date

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Select Board Date

Certified as to  
Appropriation/Availability of Funds:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Town Accountant Date

\_\_\_\_\_  
Select Board Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Department Head Date

\_\_\_\_\_  
Print Name