

Town of Sudbury
25% Engineering/Design Services

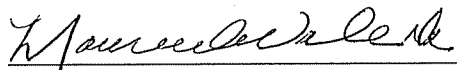
Bruce Freeman Rail Trail

September 10, 2014

The Town of Sudbury, Massachusetts, acting through its Town Manager, is soliciting responses from qualified professional engineers registered in Massachusetts for preparing a 25% design plan for the full length of the Bruce Freeman Rail Trail in Sudbury to Mass DOT standards. **By receiving this notice you have been selected as one of three reputable firms that the Town has requested responses from.**

Three paper copies and an electronic copy of your response must be received at the Planning and Community Development Office, 278 Old Sudbury Road, Sudbury, MA 01776, by **1:00 p.m., Wednesday, October 1, 2014** to be considered.

The Town reserves the right to reject any and all proposals, wholly or in part, and to accept any response or part thereof deemed to be in the best interest of the Town.


Maureen G. Valente, Town Manager

Section 1. Background and Introduction

The Bruce Freeman Rail Trail (BFRT) is a proposed 25-mile rail trail between Lowell and Framingham along the former Lowell Secondary Track right-of-way of the Old Colony Rail Road. In Sudbury, the rail corridor extends through the center of Town, approximately 4.6 miles from South Sudbury near Route 20, north to the Sudbury/ Concord Town line. This portion of rail corridor is owned in its entirety by the Commonwealth of Massachusetts.

At 2014 Annual Town Meeting, the Town appropriated funding for the purpose of preparing the 25% design plan for the full length of the BFRT in Sudbury to Mass DOT standards.

Questions regarding this project may be directed to Jim Kupfer, Assistant Planner, Department of Planning and Community Development, 278 Old Sudbury Rd., Sudbury, MA 01776, by e-mail at kupferj@sudbury.ma.us or phone (978) 639-3387.

Section 2. Instructions for Responses

Attachment A contains a full Scope of Services required for the project.

Attachment B is a model Mass DOT Scoping Workbook for 25% design services. The Consultant is to complete and indicate where key topics in the attached Scope of Services will fit in this workbook.

Attachment C contains Sudbury specific work. The Consultant is to complete this workbook in a manner similar to the MassDOT workbook.

Consultants must submit a suggested work schedule with realistic dates for key events, such as hearings and document submissions, and for the completion of interim project milestones.

Include any MassDOT required item missing from the attached Scope of Services.

Identify the removal of any task listed in the attached Scope of Services.

Identify any sub-contractors used for any part of the project, including tasks they will be responsible for, price for those components, name and contact information for principal supervisor of work.

Include resumes of all personnel who will be preparing work under the response.

Include 3 references for the firm.

Consultants should list any current projects under review by MassDOT and the Boston MPO, including name of project, MassDOT Project Number, type of project, and estimated cost.

It will be the responsibility of the Consultant to become familiar with the trail. No pre-bid site visit will be completed.

Section 3. Relevant Materials Available for Review and Use

The Town has considerable information available for review on this project, including a property line survey (included in introduction email), wildlife survey and preliminary feasibility study, which should be examined prior to undertaking any additional work in these areas. Information can be found on the Town's website at <http://sudbury.ma.us/departments/PCD/news4738/>

Section 4. Project Scope

The objective of this project is to advance the Bruce Freeman Rail Trail (BFRT) 25% design plan in accordance with the MassDOT 2006 Project Development and Design Guide, at a schedule that allows for a construction contract award for approximately the Federal Fiscal Year 2019. Services and tasks to be performed shall include, but not necessarily be limited to, those outlined in the attached scope of services. All items shall be in accordance and compliant with MassDOT standards.

Section 5. Submittal Requirements

Submission of a technical proposal and a price proposal is required. Please provide three paper copies and an electronic submission.

1. Technical Proposal

- A. Cover Letter: A cover letter introducing the Consultant and the proposed Consultant team, and identifying the project manager and the name, title, address, telephone number and email address of the person with authority to negotiate and contractually commit to all services.
- B. Statement of Project Understanding and Approach: A statement, not exceeding 2 pages, that describes the Consultant's understanding of and approach to the technical aspects of the requested work and the various goals that must be addressed and achieved.

- C. Fully completed workbooks included as Attachments B and C indicating the recommended Scope of Services responsive to the requirements herein, and any deviations therefrom.
- D. Project schedule with tasks and/or subtasks that define clear phases, milestones and deliverables with proposed dates for completion of each.
- E. Project Team:
Provide the names and the specific educational background, qualifications, and expertise of all professional members of the Consultant and sub-consultant (if any) project team who will actually perform the work related to some or all of the project tasks.
- F. Relevant Experience and Prior Performance:
Provide details of relevant experience and prior performance of all the members of the Consultant team, including any sub-contractors, if any. This must include:
- a. A statement outlining the relevant experience of members of the Consultant team in working successfully on matters and projects of similar complexity, addressing all required areas of expertise and experience as evident from the Scope of Services, including assisting clients with obtaining Federal and State funding for rail trail/multi-use paths, rail trail/multi-use path design, environmental permitting for rail trails/multi-use paths, and successful completion of Federal and State funded project where MassDOT approval was required for 25%, 75%, and 100% design stages.
 - b. Sample materials (copies of text and plans not to exceed 10 pages in total) produced by the Consultant for previous clients representing final presentation documents on rail trail/multi-use path projects with similar complexity, range of tasks, and issues as outlined in this document. The sample material should be from a project(s) for which the Consultant team member(s) had principal responsibility.
 - c. A description of the substantive nature of comparable contracts recently completed by members of the Consultant team, including the party contracted with.
- G. References: Provide a complete list of all municipal transportation design projects completed by the project team (the proposed project manager and the Consultant's and sub-consultant's principal team members) within the last 5 years that had a contract amount of \$100,000.00 or more, and all municipal transportation construction projects with a contract amount of \$1,000,000.00 or more (please do not list any projects with smaller contract amounts or projects that have not yet been completed). For each project, submit a brief description, the Consultant's responsibilities, the Consultant's project manager, identification of funding sources and amounts, and the name, title, telephone number and email address of a reference

person who can evaluate and judge the Consultant's performance. Indicate the relationship between the reference persons listed and the relevant professional work of the Consultant team members.

- H. **Competing Commitments:** Consultants shall discuss the means by which adequate and timely attention to this project will be assured, and identify other current or pending contracts of the Consultant firm(s) in which project team members will be or may be involved, and which might compete for time and attention of the proposed Consultant team members.
- I. **Certificates:** Signed certificates of non-collusion and tax compliance in the form attached as well as certification of insurance coverage.

2. Price Proposal

- A. The fee for the entirety of all services proposed in the technical proposal, including but not limited to travel, meetings, telephone, postage, and reproduction. Completed forms are required, that closely follow the format of Attachment D.
- B. The hourly rates to be charged by the Consultant for services performed by each team member.
- C. Consultants must agree to honor price quotes in the response until December 31, 2014 inclusive.

Section 6. General Provisions

1. Correspondence Prior or During Proposal Submission Period

- A. Any information released by the Town either verbally or in writing prior to the issuance of responses shall be deemed preliminary and bind neither the Town nor the Consultant.
- B. The Town will not accept oral supplements, revisions, or changes to the responses. Written supplements, revisions, or changes will be accepted before the response deadline only.
- C. The Town of Sudbury Planning and Community Development Office will be the project coordinator. All inquiries and communication concerning this document are to be directed to Jim Kupfer, 278 Old Sudbury Road, MA 01776, kupferj@sudbury.ma.us or 978.639.3387.
- D. Consultants must respond in writing to all follow-up questions by the Town concerning their proposal.

2. Contract Award

- A. It is the Town's goal to have a Consultant selected and contract awarded by November 15, 2014. Responses shall be valid and may not be withdrawn for a period of thirty (30) calendar days after the deadline. Pending execution of a Contract by the selected Consultant, Consultants must agree to honor price quotes until December 31, 2014 inclusive.
- B. Award of the contract will be conditioned upon successful negotiation of revisions to the Scope of Services as identified during the Consultant review process.
- C. The consultant selected for the work will need to provide certification of insurance coverage and will be required to execute the Town of Sudbury Standard Agreement for Technical Services (Attachment F).
- D. The Town reserves the right at any time to accept any proposal in whole or in any part, and to reject any or all proposals.

3. Other Provisions

- A. Those who enter into contractual obligations with the Town of Sudbury must not discriminate against qualified individuals in their employment decisions.
- B. Material submitted in response to this document shall not be considered confidential under the terms of the Massachusetts Public Records Law.

Section 7. Attachments

Attachment A: Scope of Services 25% Design

Attachment B: Model Scoping Workbook

Attachment C: Sudbury Scoping Workbook

Attachment D: Price Proposal

Attachment E: Certificate of Taxes and Certificate of Non-Collusion

Attachment F: Standard Agreement for Technical Services

ATTACHMENT A
SCOPE OF SERVICES
25% DESIGN PLAN
Bruce Freeman Rail Trail

The objective of this project is to advance the Bruce Freeman Rail Trail (BFRT) 25% design plan in accordance with the MassDOT 2006 Project Development and Design Guide, at a schedule that allows for a construction contract award for approximately the Federal Fiscal Year 2019. Services and tasks to be performed shall include, but not necessarily be limited to, those outlined in this scope of services. All items shall be in accordance and compliant with MassDOT standards.

A. Target Completion Date and Timelines

The target completion date for this project is October 30, 2016 for submission of the 25% design review documents to MassDOT. The Consultant is expected to finish all tasks, products, and objectives identified in this scope by the specified completion date. The Town, at its discretion, may amend the deadline as it deems necessary to accommodate actions (or failures to act) by Local, State, and Federal agencies with jurisdiction, or other circumstance beyond the Consultant's control.

B. Special considerations/issues/caveats

- Massachusetts Department of Transportation is the current owner of the right-of-way (ROW). A contract with the selected design engineer is contingent on MassDOT granting permission to access the ROW and perform necessary surveys and site investigations to deliver the 25% MassDOT design.
- The BFRT will include 7 road crossings, including Route 27 and 117. Good design and traffic management may allow safe at-grade crossings in these locations. Design options must be explored.
- Much of the trail route runs through extensive wetlands and flood plains as well as delineated Natural Heritage Endangered Species habitat. The Sudbury Conservation Commission is aware of the project and early communication with the Commission is vital.
- Appropriate locations for designated parking areas dispersed throughout the project shall be identified, and incorporated into the 25% design work as directed by the Town. Specifically, parking at Davis Field on Route 117 shall be studied to determine the demand of the BFRT users, as well as the supply of parking for all

users. The distance to the nearest parking facility along the BFRT in Concord shall be taken into consideration in the Davis Field parking study.

- Along the BFRT route there are opportunities for spur trails or direct access into surrounding areas and neighborhoods, especially where there is adjacent or nearby Town-owned land. These opportunities shall be identified and explored, and incorporated into the 25% design work as directed by the Town.
- The Town will require additional meetings above the minimum requirements noted in the 25% design process.
- The Design shall follow MA Department of Environmental Protection's Best Management Practices (BMPs) for Controlling Exposure to Soil during the Development of Rail Trails.

C. MassDOT General Tasks:

The Consultant shall do all things necessary to prepare and obtain approval for the 25% MassDOT design plans in accordance with the applicable procedures and standards outlined in the MassDOT 2006 Project Development and Design Guide. An alternative work plan can be submitted by the Consultant, with approval by the Town, which delivers a better product or service provided the project objectives and quality of work is not diminished and the alternative work plan meets MassDOT standards.

1. Identify all required local, State, and Federal environmental and other permits, certificates, and other approvals that are needed for the construction of the rail trail. Prepare and file all applications for such approvals at the appropriate time as early as practical during the project schedule to ensure that the rail trail stays on track for the year when Federal construction funding is programmed.
2. File an Abbreviated Notice of Resource Area Delineation (ANRAD) with the Sudbury Conservation Commission during the 25% design phase.
3. Determine any additional ROW and alternative routes that may be necessary to build the project.
4. Prepare the 25% design plan:
 - A. Field Survey, Base Mapping, and Data Collection
 - a. Collect available data and inspect all features of the rail trail route and have early coordination with all regulatory agencies.
 - b. Supplement available mapping and plans with on-the-ground survey as needed to establish ground control, and to locate on the plan existing features and conditions including rails, culverts, bridges, limits of vegetation, foot paths, walks, drives, parking lots, streets, walls, curbing, structures, fences, manholes, hydrants, utility poles, water

lines, sewer lines, utility lines, drainage lines, and other physical features above and below ground.

- c. Contact utility companies to verify locations of existing utilities and to assess impacts to those facilities. Ensure that the proposed design addresses impacts associated with accommodating both existing and proposed utilities.
- d. Establish existing ROW lines and property boundaries/ownership from available maps and plans, and field verify. Identify gaps in ownership.
- e. Provide critical and typical cross-section details, where needed.
- f. Create an electronic base plan with all information at 1"=40' scale for plans and appropriate scale for cross sections and profiles.
- g. Collect and review available wetland resource and flood plain mapping. Meet on site with the Town's Conservation Commission representatives to view wetland resource areas and limits. Establish wetland boundaries/resource delineation as required by the Conservation Commission. Include approved wetland delineation on base plan. Complete and submit a Categorical Exclusion Checklist, Water Quality Data Form and an Abbreviated Notice of Resource Area Determination (ANRAD).
- h. Collect traffic data at major street crossings to determine prudent safeguards for trail users and motorists.

B. Concept Design Plans

- a. Identify construction details, providing cross sections and vertical and horizontal geometry of entire length of rail trail, including surface treatment, shoulders, road crossings, bridges, etc. in accordance with MassDOT Shared Use Paths and Greenways requirements and as directed by the Town.
- b. Compile a constraints map on an aerial plan to include base survey information, wetlands limits, other environmental constraints, ROW lines, encroachments, etc. Describe constraints in narrative terms. Complete a constructability review.
- c. Identify design alternatives for constrained areas at specific locations, including pros/cons and cost/benefit analyses.

C. 25% Design Review Submittal

- a. Complete a Quality Control Review.

- b. Prepare and Submit a 25% Design Submission Checklist.
 - c. Present the anticipated storm drainage design and best management practices (BMPs) at a level suitable for the 25% submittal.
 - d. Prepare for and participate in the 25% design public hearings.
 - e. Receive, review, and summarize 25% design review comments for the Town and in cooperation with the Town's representatives do all additional work, amend the plan, and revise documents as necessary to obtain MassDOT 25% design approval.
5. Submit to MassDOT (in the format and number of duplicates that they may require) and the Town (3 copies, plus electronic files) the necessary documentation and plans for the 25% Submission Design Review, including but not limited to:
- Survey plans and designs;
 - Documentation and data for the 25% Submission Environmental Review by MassDOT Environmental Section;
 - Preliminary designs for bridges, boardwalks, street crossings, and on-street segments;
 - Functional Design Report and Traffic Safety Analysis;
 - Design Exceptions Report as necessary;
 - Any other documentation required by MassDOT for acceptance of the 25% design plan.

D. Sudbury Specific Tasks

These tasks may already be included in the MassDOT tasks and if so should be omitted from the price proposal for Sudbury Specific. The Town would like to call these tasks out as specific needs defined.

1. Hold meetings with Town boards, commissions, departments, residents, abutters, MassDOT, utility companies, etc., and maintain subsequent consultations throughout the duration of the project as needed to advance the project. The Town anticipates 8 public (night) meetings and 12 day time staff meetings throughout the 25% design phase (not including any meetings related to Conservation Commission permitting). The Consultant shall prepare and distribute minutes of all meetings. The Town will be responsible for advertising and notifications for all public meetings, which will be posted at least two (2) weeks in advance.
2. Provide the Town with monthly update/ progress reports. Reports shall be in the form of technical memoranda or letters, not as e-mail communications.

3. Act as Town liaison to MassDOT representatives and the Boston MPO, as necessary.
4. Meet with abutters to determine privacy and screening needs. The design shall identify and consider such screenings to a reasonable extent within the anticipated available budget.
5. Conduct a Parking Needs/Demand Analysis to identify and explore appropriate locations for designated parking areas along the length of the rail trail and incorporate into the 25% design plan.
6. Preparation of cost estimates for the completion of the project based on the most recent available information, broken down by design and construction, separately. Include separate details on assumptions for each of the following: rail and tie removal; grading; and the scrap value of the rails. A contingency fee of no less than 20% shall be contained in all cost estimates.

ATTACHMENT B: MassDOT Model Scoping Workbook

| Scope of Services: Scoping Workbook 25% design | | | |
|--|------------|------------------------------|----------|
| <i>Please insert tasks from sections C of the Scope of Services under each category below. Insert estimated hours for each task and project team members/sub consultants who will work on each task.</i> | | | |
| | Est. Hours | Team Members Working on Task | Comments |
| 1. Data Compilation | | | |
| Section from Scope: | | | |
| 2. Utility Coordination | | | |
| Section from Scope: | | | |
| 3. Survey Coordination and Controls | | | |
| Section from Scope: | | | |
| 4. Base Plans, Profiles and Typical Sections | | | |
| Section from Scope: | | | |
| 5. Field Reconnaissance | | | |
| Section from Scope: | | | |
| 6. Plot Existing Layout Lines | | | |
| Section from Scope: | | | |
| 7. Meetings and Liaison | | | |
| Section from Scope: | | | |
| 8. Determine Roadway Cross Section | | | |
| Section from Scope: | | | |
| 9. Preliminary Horizontal Geometry | | | |
| Section from Scope: | | | |
| 10. Preliminary Vertical Geometry | | | |
| Section from Scope: | | | |
| 11. Cross Section Studies | | | |
| Section from Scope: | | | |
| 12. Prepare Cross Sections | | | |
| Section from Scope: | | | |
| 13. Plot Proposed Layout and Easements | | | |
| Section from Scope: | | | |
| 14. Pavement Designs | | | |
| Section from Scope: | | | |
| 15. Typical Sections | | | |
| Section from Scope: | | | |
| 16. Construction Details | | | |
| Section from Scope: | | | |
| 17. Preliminary Drainage and Utility Studies | | | |
| Section from Scope: | | | |
| 18. Traffic Signals | | | |
| Section from Scope: | | | |
| 19. Signs and Pavement Markings | | | |
| Section from Scope: | | | |
| 20. Traffic Management | | | |
| Section from Scope: | | | |
| 21. Early Environmental Coordination | | | |
| Section from Scope: | | | |
| 22. Constructability Review | | | |
| Section from Scope: | | | |
| 23. Quality Control Review | | | |
| Section from Scope: | | | |
| 24. Preliminary Construction Estimate | | | |
| Section from Scope: | | | |
| 25. Submission Check List | | | |
| Section from Scope: | | | |
| 26. Modifications and Revisions | | | |
| Section from Scope: | | | |
| 27. Value Engineering | | | |
| Section from Scope: | | | |
| 28. Public Hearings | | | |
| Section from Scope: | | | |

ATTACHMENT C: Sudbury Scoping Workbook

| Scope of Services: Scoping Workbook Sudbury Specific 25% design | | | | |
|--|---|------------|------------------------------|----------|
| Insert estimated hours for each task and project team members/sub consultants who will work on each task. These tasks may already be included in the MassDOT tasks and if so should be omitted and an "x" placed in the second column. | | | | |
| Full description of scope can be found on page 9. | If included in MassDOT scope please place a "x" | Est. Hours | Team Members Working on Task | Comments |
| D-1 Hold meetings with Town boards, commissions, departments, residents, abutters, MassDOT, utility companies, etc., and maintain subsequent consultations throughout the duration of the project as needed to advance the project. | | | | |
| D-2 Provide the Town with monthly update/ progress reports. | | | | |
| D-3 Town liaison to MassDOT representatives and the Boston MPO. | | | | |
| D-4 Meet with abutters to determine privacy and screening needs. | | | | |
| D-5 Conduct a Parking Needs/Demand Analysis. | | | | |
| D-6 Preparation of cost estimates for the completion of the project. | | | | |

ATTACHMENT D: Price Proposal

Town of Sudbury

25% Engineering/Design Services Bruce Freeman Rail Trail

Name of firm submitting: _____

Contact Person: _____

Address: _____

Telephone: _____

Email Address: _____

25% Design Services to achieve MassDOT approval as proposed: \$ _____

Town of Sudbury Specific Tasks, as proposed in Section D 1 -6: \$ _____
**Only those items not included in the MassDOT proposal*

TOTAL: \$ _____

ATTACHMENT E

CERTIFICATE OF TAXES/TAX ATTESTATION

Pursuant to M.G.L. Chapter 62C, Section 49A, I certify under penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required by law.

Social Security Number, or
Federal Identification Number

Signature of Individual, or
Corporation Name

By: _____
Corporate Officer & Title (if applicable)

AFFIX CORPORATE SEAL

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 other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of Individual, or
Corporation Name

By: _____
Corporate Officer & Title (if applicable)

AFFIX CORPORATE SEAL

ATTACHMENT F
Town of Sudbury Standard
AGREEMENT FOR TECHNICAL SERVICES

The Town of Sudbury, acting by and through its Town Manager (the "Town") hereby agrees to pay for and _____ (the "Contractor") hereby agrees to provide engineering services related to design of the Bruce Freeman Rail Trail to the MassDOT 25% design in compliance with the Town of Sudbury document dated _____ and as identified in the Response from the Contractor to the Town dated _____, in accordance with the following terms and conditions.

1. COST OF SERVICES (check applicable option)

_____ a) For performance of the services described in the Attachment A, the Town shall pay the fixed sum of _____. Any additional services shall be paid on a time and materials basis in accordance with the hourly rates submitted by the Contractor, subject to approval by the Town.

_____ b) The Town shall pay for the services described in Appendix A on a time and materials basis, as needed and in accordance with an approved Project Order, in accordance with the rate schedule contained in the response dated _____.

2. PAYMENT The Contractor shall submit invoices to the Town on a monthly basis according to the percentage of work completed, and the Town shall make payment within thirty (30) days after receipt of an invoice.

3. TIME The Contractor shall complete performance of its services hereunder on or before _____, unless extended by the Town.

4. CONTRACTOR RESPONSIBILITIES The Contractor represents that it can and shall perform the services hereunder in a competent and professional manner, as proposed in the Proposal, and in accordance with the standards generally accepted for the performance of such services. The Contractor shall at all times be acting as an independent contractor and not as an agent for, partner

or joint venturer with the Town.

5. ASSIGNMENT The rights and obligations of the Contractor hereunder may not be assigned without the written consent of the Town.
6. ENTRY ONTO PROPERTY If performance of the services described in The Proposal requires the Contractor to make entry onto land or other property, the Town hereby grants (for property it owns) or agrees that it has obtained (for property it does not own) permission to enter such property for the purpose of performing such services. The Contractor hereby agrees that it shall conduct its activities on such property in such a manner as to minimize any damage, disruption or alteration to the site, and shall, so far as is reasonable and consistent with the nature of the activities conducted thereon, restore the site to its condition prior to entry by the Contractor.
7. PROVISION OF INFORMATION AND EXTENT OF LIABILITY The Town shall make available to the Contractor all information in its possession which relates to the subject of the services to be performed hereunder. The Town does not warrant the accuracy or completeness of such information; however, unless stated by the Town in writing, the Contractor shall be entitled to rely upon such information, subject to the following conditions. The Contractor shall be responsible for reviewing the information for any inaccuracies which are apparent upon a view of the site or discrepancies between such information and any materials, measurements, analysis or data prepared independently by the Contractor which concern the same subject matter; and the Contractor shall not be entitled to rely on information which such review shows, or reasonably should have shown, consistent with due professional diligence and generally accepted standards of performance in the Contractor's field of practice, to be incorrect. The Contractor shall not be liable to the Town in connection with errors, acts or omissions directly resulting from the Contractor's reasonable and justified reliance, in accordance with the requirements of this paragraph, on information furnished to it by the Town. All information provided to the Contractor by the Town shall remain the property of the Town.
8. HAZARDOUS WASTE OR MATERIALS If the services to be performed

hereunder involve the detection, exploration or analysis of hazardous waste or materials or contamination of a site, the following provisions shall apply.

- a) Provided it acts within the scope of services set forth in the Proposal and in accordance with the other requirements hereunder, the Contractor shall not be deemed to be, nor have the responsibilities of a generator, handler, treater, storer, transporter or disposer of hazardous waste or materials;
- b) The Contractor shall comply with all federal, state and local laws and regulations relating to hazardous waste and materials, including, without limitation, the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. s.6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980 – 42 U.S.C. s.9601 et seq., and the Massachusetts Oil and Hazardous Material Release Prevention and Response Act – M.G.L. Ch. 21E;
- c) The Contractor shall not be responsible or liable for any violation by the Town of any of the such laws and regulations.

9. DISCOVERY OF TOXIC OR HAZARDOUS WASTE OR MATERIALS If, during the course of performing services hereunder, the Contractor discovers or observes at the site any previously unreported, unknown or unidentified toxic or hazardous waste or materials or substances the Contractor suspects or has reason to believe are toxic or hazardous, the Contractor shall immediately notify the Massachusetts Department of Environmental Protection and the Sudbury Board of Health.

10. UNFORSEEN OCCURRENCES If, during the performance of services hereunder, the Contractor encounters any unforeseen conditions or occurrences, including the discovery of toxic or hazardous waste or materials, which affect the Contractor's performance of services hereunder, the Contractor shall promptly notify the Town. After such notification the Town and the Contractor agree to either

- a) proceed with completion of the services, with or without an adjustment in the cost therefore; or
- b) modify the scope of services and cost therefore to reflect a reduction of or

addition to such services on account of the unforeseen occurrence; or

- c) terminate this agreement, in which case the Town shall pay the Contractor for all services rendered to the Town prior to such termination.

Election of action pursuant to option a), b) or c) shall be in writing signed by both parties.

11. FORCE MAJEURE The Contractor shall not be responsible for failure to perform or for delay in performance on account of circumstances beyond its control, including strikes, riots, wars, acts of nature or acts of government preventing performance. In the event of delay in performance on account of such circumstances, the time for performance shall be extended by a period necessary to allow completion; however, the Town may elect to terminate this agreement upon seven (7) days notice in writing if any such delay exceeds twenty-one (21) days or continuation of the delay will result in the Town being unable to meet a requirement of state or local law for action on any matter pending before it within a certain time.

12. TERMINATION

- a) If the Town fails to make payment hereunder when due or fails to comply with any of its responsibilities hereunder, the Contractor may terminate this agreement upon fourteen (14) days written notice.
- b) The Town may terminate this agreement upon seven (7) days written notice if the Contractor fails to comply with any of its responsibilities hereunder, fails to prosecute its work hereunder in a timely fashion or fails to comply with any requirement of law or regulation applicable to this agreement or the services hereunder.
- c) The Town may terminate this agreement at any time upon seven (7) days written notice. If such termination is without the fault of the Contractor, the Town shall pay the Contractor all compensation and reimbursement due to the Contractor up to the date of termination.

13. NOTICE

Notices shall be sent to the Town at:

James Kupfer, Assistant Planner
Planning and Community Development Dept.
278 Old Sudbury Road
Sudbury, MA 01776

and to the Contractor at:

14. OWNERSHIP OF DOCUMENTS All documents and materials of whatever kind prepared by the Contractor and delivered to the Town pursuant to this agreement shall become the property of the Town; provided, that the Contractor may use its copies of such materials for educational or promotional purposes or for required submissions to governmental bodies.

15. INDEMNIFICATION The Contractor shall indemnify, defend and save harmless the Town and all of its officers, agents and employees against all costs, damages, suits and claims of liability of every name and nature arising out of the negligence or intentional wrongful act of the Contractor in the performance of this Contract and shall indemnify the Town for any third-party claim arising out of injuries to the Contractor's employees or others performing services for the Contractor directly or indirectly.

16. CONTRACTOR INSURANCE The Contractor shall provide a certificate of professional liability coverage in the amount of one million dollars (\$1,000,000.00).

17. AMENDMENT OF AGREEMENT Any amendments to this agreement shall be in writing and signed by both parties.

18. APPLICABLE LAW This agreement shall be deemed to be executed and delivered within the Commonwealth of Massachusetts and shall be governed and construed in accordance with the laws of said Commonwealth.

TOWN OF SUDBURY:

by its Town Manager

Maureen G. Valente

DATE: _____

CONTRACTOR:

By _____

DATE: _____