

# **REQUEST FOR PROPOSALS**

**FOR**

**RFP 2027-13**

**Real Estate Brokerage Services – 16 Loring Road**



**FY 2027**

**WINTHROP TOWN HALL**

*Finance Office, Room 12A*

*1 Metcalf Square*

*Winthrop, MA 02152*

*617-846-5500 ext. 7116*

**TOWN OF WINTHROP  
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**LEGAL NOTICE**  
**TOWN OF WINTHROP**  
**PROCUREMENT DEPARTMENT**  
**REQUEST FOR PROPOSALS (RFP) # 2027-13**

The Town of Winthrop invites sealed price and non-price proposals in accordance with M.G.L. c.30B, §6, for the following: **REAL ESTATE BROKERAGE SERVICES – 16 Loring Road, Winthrop, MA 02152.**

The Vendor must be a licensed real estate agent or broker within the Commonwealth of Massachusetts, shall not hold any elected or appointed office or employment with the Town of Winthrop, and must comply with all applicable requirements under M.G.L. c.60, §64A.

Brokerage services will be retained for the disposition of Town-owned property located at 16 Loring Road, Winthrop, MA, acquired by the City through the M.G.L. c.60 tax foreclosure process. The property is confirmed as a legal two-family dwelling by the Building Department and Assessor's database. There are numerous building, fire, and sanitary code violations within the property and will be sold strictly "as-is". The purchaser shall be responsible for bringing the property into compliance with all applicable laws, codes, and ordinances. The Vendor will be required to submit a market analysis or comparable comprehensive report to support the listing price prior to the listing date and demonstrate their ability to obtain an appraisal of the property following selection.

Contract Documents will be available beginning **June 15, 2026** via request by email to [dcook@winthropma.gov](mailto:dcook@winthropma.gov).

**Proposal Deadline:** Proposals will be received until **July 7, 2026 by 9:30 A.M.** at the Procurement Department, Room 12, 1 Metcalf Square, Winthrop, MA 02152. Proposals received after this deadline will not be accepted. Submitted proposals may not be corrected, modified, or withdrawn after the deadline.

Following the deadline, all timely proposals will be reviewed by a committee, and an award will be made to the most advantageous proposer, taking into consideration both price and non-price criteria. **The selected broker is expected to begin work immediately upon award.**

All proposals are subject to the provisions of M.G.L. c.30B, §6. Addenda will be posted to the Town's website. It is the sole responsibility of each proposer to verify receipt of any/all addenda prior to submission. Failure to do so may result in the proposal being deemed non-responsive.

The Town of Winthrop reserves the right to reject any or all proposals, to waive minor informalities, and to negotiate and amend the scope of services if deemed in the best interest of the Town.

**TOWN OF WINTHROP**  
Dylan Cook, Chief Procurement Officer

**TOWN OF WINTHROP**  
**INSTRUCTIONS TO PROPOSERS**

**ARTICLE 1 - PROPOSER 'S REPRESENTATION**

- 1.1 Each General Proposer (hereinafter called the "Proposer ") by making a Proposal (hereinafter called "Proposal") represents that:
1. The Proposer has read and understands the Contract Documents and the Proposal is made in accordance therewith.
  2. The Proposer has experience with the Work to be performed.
- 1.2 Failure to so examine the Contract Documents and site will not relieve any Proposer from any obligation under the Proposal as submitted.

**ARTICLE 2 - REQUEST FOR INTERPRETATION**

- 2.1 Proposer s shall promptly notify the TOWN of any ambiguity, inconsistency, or error which they may discover upon examination of the Contract Documents, the site, and local conditions.
- 2.2 Proposer s requiring clarification or interpretation of the Contract Documents shall make a written request to the Procurement Officer via email at [dcook@winthropma.gov](mailto:dcook@winthropma.gov). The TOWN will use its best efforts to answer such requests if received seven (7) calendar days before the date for receipt of the Proposals.
- 2.3 Interpretation, correction, or change in the Contract Documents will be made by Addendum which will become part of the Contract Documents. The TOWN will not be held accountable for any oral instruction..
- 2.4 Addenda will be emailed to every individual or firm on record as having taken a set of Contract Documents.
- 2.5 Copies of addenda will be posted to the Town's webpage.

**ARTICLE 3 - MBE PARTICIPATION**

- 3.1 By Proposalding on this project each Proposer certifies its intent to comply with the Massachusetts Minority/Women Business Enterprise Plan to further expand business opportunities for minority firms
- 3.2 The awarded Proposer shall, prior to the award of any sub-contract, obtain from each of its sub-contractors the Sub-Contractors Certification certifying the Sub-Contractor shall comply with the minority manpower ratio.

**ARTICLE 4 - PREPARATION AND SUBMISSION OF PROPOSALS**

- 4.1 Proposals shall be submitted on the "Proposal Price Form" as appropriate, as furnished by the TOWN.
- 4.2 All entries on the Proposal Price Form shall be made by typewriter or in ink.
- 4.3 Any quantities indicated on the Proposal Form or elsewhere in the Project Manual or Drawings are estimates only and are given solely as a basis for the comparison of Proposals. The TOWN does not by implication or otherwise guarantee them to be even approximately correct. The Contractor shall have no claim for additional compensation, or refuse to do the work called for, because of the actual quantities involved being greater or lesser by any amount than those called for in the proposal.
- 4.4 Where so indicated on the Proposal Form, sums shall be expressed in both words and figures. Where there is a discrepancy between the Proposal sum expressed in words and the Proposal sum expressed in figures, the words shall control.
- 4.5 All proposals which contain abnormally high prices, or abnormally low prices, for any class of work, or those which contain unbalanced Proposalding in any form or manner may be rejected as informal.

4.6 The Proposal shall be enclosed in a sealed envelope with the following plainly marked on the outside:

- \* PROPOSAL FOR TOWN OF WINTHROP “**Real Estate Brokage Services – 16 Loring Road**”
- \* PROPOSER 'S NAME and BUSINESS ADDRESS

4.7 Date and time for receipt of Proposals is set forth in the Request for Proposals.

4.8 Timely delivery of a Proposal at the location designated shall be the full responsibility of the Proposer .

#### ARTICLE 5 - WITHDRAWAL OF PROPOSALS

5.1 Any Proposal may be withdrawn prior to the time designated for receipt of Proposals on written or telegraphic request. Telegraphic withdrawal of Proposals must be confirmed over the Proposer 's signature by written notice postmarked on or before the date and time set for receipt of Proposals.

5.2 Withdrawn Proposals may be resubmitted up to the time designated for the receipt of Proposals.

5.3 No Proposals shall be withdrawn for sixty days, Saturdays, Sundays and legal holidays excluded, after the opening of the Proposals.

#### ARTICLE 6 - CONTRACT AWARD

6.1 The TOWN of WINTHROP will award the contract to most advantagous Proposer within 10 days, Saturdays, Sundays, and legal holidays excluded after the opening of Proposals.

6.2 The TOWN of WINTHROP reserves the right to waive any informalities in or to reject any or all Proposals if it be in the public interest to do so.

6.3 It is the purpose of the TOWN not to award this contract to any Proposer who does not furnish evidence satisfactory to the Chief Procurement Officer that he has the ability and experience in this class of work and that he has sufficient capital and plans to enable him to prosecute the same successfully and to complete it within the specified time and that he will complete it in accordance with the terms thereof.

6.4 Subsequent to the award and within five (5) days, Saturday, Sundays and legal holidays excluded, after the prescribed forms are presented for signature, the successful Proposer shall execute and deliver to the TOWN originally signed copies of the Contract in the form included in the Contract Documents.

#### ARTICLE 8 - TAXES

7.1 The Proposer shall not include in this Proposal any tax imposed upon the sale or rental of tangible personal property in this Commonwealth, such as any and all building materials, supplies, services and equipment required to complete the work.

7.2 The TOWN is exempt from payment of the Massachusetts Sales Tax, and the Proposer shall not include any sales tax on its Proposal.

#### ARTICLE 9 – TIE BREAKER PROCEDURES

9.1 Bids will be compared on the basis of the unit prices stated in the Bid. In the event of a tie, the Town will go to a "Second Heat" format in which the tied vendors submit a last and final Pricing without changing the terms of their original offers. The second price submission will be on a specific time and place and follow a specific quote format. The Contract will then be awarded to the responsive and responsible vendor offering the best price. In the event of a further tie, a Coin Toss will be used to break the tie.

#### ARTICLE 10 – “OR EQUAL” CLAUSE

10.1 Whenever the specifications define the material or article required by using the name of the proprietary product or of a manufacturer or vendor rather than by using descriptive detail of substance or function, the words "or equal" are to be understood to follow immediately the name of the maker, vendor or proprietary product. The words "or equal" shall be interpreted as including any material or article which, in the opinion

of the Awarding Authority, is equal in quality, durability, appearance, strength and design to the article named and which will perform adequately the function imposed by the general design.

- 10.2 Whenever in the specification the names of manufacturers are mentioned as indicating that their products comply with a particular specification, or when specific trade names or plate numbers or letters are mentioned, it is not intended to exclude products of other manufacturers whose names, trade names or symbols have not been mentioned, provided however, that such products otherwise comply, in the opinion of the Awarding Authority, with the specification. The opinion of the Awarding Authority shall in all cases mentioned be final.

#### ARTICLE 11 – CONFLICT BETWEEN SPECIFICATIONS

- 11.1 Wherever a conflict exists between this specification and Commonwealth of Massachusetts laws, rules, or regulations, the laws rules or regulations of the Commonwealth of Massachusetts shall prevail.

END OF SECTION

**TOWN OF WINTHROP**

- A. The undersigned proposes to furnish all labor and materials required in accordance with the Contract Documents supplied by the TOWN of WINTHROP entitled:

**Real Estate Brokage Services – 16 Loring Road**

for the contract price specified below, subject to additions and deduction according to the terms of the specifications.

- B. This bid includes addenda number(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,
- C. The proposed contract price is:
- D. Price proposal shall be in a separate sealed envelope form the technical proposal.

**Commission Structure:**

**Commission percentage on sale price:** \_\_\_\_\_

**Company name:** \_\_\_\_\_

- D. The undersigned has completed and submits herewith the following documents:
  - O Bid Form - signed, 2 pages
  - O Bidder's Qualification Form and References;
- E. The undersigned agrees that, if selected as general contractor, s/he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the TOWN of WINTHROP, execute a contract in accordance with the terms of this bid and furnish a performance bond and also a labor and materials or payment bond, each of a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the TOWN of WINTHROP and each in the sum not less than 50% of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price.

The undersigned hereby certifies that it is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that they will comply fully with all laws and regulations applicable to awards made subject to M.G.L. Chapter 30, Section 39M.

The undersigned further certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from public contracting or subcontracting in the Commonwealth under the provisions of M.G.L. Chapter 29, Section 29F or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Date \_\_\_\_\_  
\_\_\_\_\_  
(Name of General Bidder)

BY: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name and Title of Signatory)

\_\_\_\_\_  
(Business Address)

---

(TOWN, State, Zip)

---

(Telephone)

---

(FAX)

---

(E-mail address)

**TOWN OF WINTHROP**

**BIDDER'S QUALIFICATIONS AND REFERENCES FORM**

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the TOWN of WINTHROP for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

- 1. FIRM NAME: \_\_\_\_\_
- 2. WHEN ORGANIZED: \_\_\_\_\_
- 3. INCORPORATED?  YES  NO DATE AND STATE OF INCORPORATION: \_\_\_\_\_
- \* 4. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OF COMPLETION:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- \* 5. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU?  
 YES  NO  
IF YES, WHERE AND WHY?  
\_\_\_\_\_  
\_\_\_\_\_
- \* 6. HAVE YOU EVER DEFAULTED ON A CONTRACT?  YES  NO  
IF YES, PROVIDE DETAILS.  
\_\_\_\_\_  
\_\_\_\_\_
- \* 7. LIST YOUR VEHICLES/EQUIPMENT AVAILABLE FOR THIS CONTRACT:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- \* 8. IN THE SPACES FOLLOWING, PROVIDE INFORMATION REGARDING CONTRACTS COMPLETED BY YOUR FIRM SIMILAR IN NATURE TO THE PROJECT BEING BID. A MINIMUM OF FOUR (4) CONTRACTS SHOULD BE LISTED. PUBLICLY BID CONTRACTS ARE PREFERRED, BUT NOT MANDATORY.  
  
PROJECT NAME: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
TOWN/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID?  YES  NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)  
\_\_\_\_\_

PROJECT NAME: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
TOWN/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID?  YES  NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)  
\_\_\_\_\_

PROJECT NAME: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
TOWN/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID?  YES  NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)  
\_\_\_\_\_

PROJECT NAME: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
TOWN/STATE: \_\_\_\_\_  
DOLLAR AMOUNT: \$ \_\_\_\_\_ DATE COMPLETED: \_\_\_\_\_  
PUBLICLY BID?  YES  NO  
TYPE OF WORK?: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_ TELEPHONE #: (\_\_\_\_) \_\_\_\_\_  
CONTACT PERSON'S RELATION TO PROJECT?: \_\_\_\_\_  
(i.e., contract manager, purchasing agent, etc.)  
\_\_\_\_\_

9. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the TOWN of WINTHROP in verification of the recitals comprising this statement of Bidder's qualifications and experience.

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

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

**This form required at the time of bid submittal:**

**AFFIDAVIT OF NON-COLLUSION**

The undersigned certifies under the penalties of perjury that this bid or proposal is in all respects bona fide and fair and has been made and submitted in good faith without collusion or fraud with any other person. As used in this affidavit, the word “person” shall mean any natural person, joint venture, business, partnership, corporation, union, committee, club, organization, group of individuals, or other business or legal entity.

Signature: \_\_\_\_\_

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

Name[Printed]: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

**BIDDERS/RESPONDENTS MUST SUBMIT THIS FORM FULLY COMPLETED**

**SIGNATURE AUTHORITY CERTIFICATION**

I hereby certify, on behalf of \_\_\_\_\_ (Company Name),

that \_\_\_\_\_ (Name of Signer) of this Company, be and hereby is authorized to execute contracts and bonds in the name and on behalf of said Company, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this Company's name on its behalf by such person under seal of the Company, shall be valid and binding upon this Company.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**BIDDERS/RESPONDENTS MUST SUBMIT THIS FORM FULLY COMPLETED**

## TAX COMPLIANCE ATTESTATION

Pursuant to MGL c. 62C, § 49A, the undersigned, acting on behalf of the Contractor, certifies under the penalties of perjury that, to the best of the undersign's knowledge and belief, the Contractor is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.\*

\_\_\_\_\_  
\*\*Signature of Individual  
or Corporate Contractor (Mandatory)

\_\_\_\_\_  
\*\*\* Contractor's Social Security Number  
Federal Identification Number

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporate Officer  
(Mandatory, if applicable)

\* The provision in the Attestation relating to child support applies only when the Contractor is an individual.

\*\* Approval of a contract or other agreement will not be granted unless the applicant signs this certification clause.

\*\*\* Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of MGL c. 62C, § 49A.

**BIDDERS/RESPONDENTS MUST SUBMIT THIS FORM FULLY COMPLETED**

# TOWN OF WINTHROP

## SUMMARY OF WORK AND SPECIFIC REQUIREMENTS OF THE CONTRACT

### I. SUMMARY OF WORK

#### A. Background

The Town of Winthrop is soliciting proposals from qualified firms to provide real estate brokerage services for the Town for the purpose of disposing of the property at 16 Loring Road, Winthrop, MA 02152, acquired by the City/Town under the M.G.L. c. 60 foreclosure process. Due to legislation passed recently for Chapter 140 of the Acts of 2024 Tax Title Reform, municipalities are now required to retain Real Estate Brokers to dispose of such property. In order to comply with the statute, the Town will be required to list the property for sale within 180 days of entry of the Final. Interested bidders are responsible for doing their own due diligence and research on the property for the purpose of bidding on this RFQ.

#### B. Scope of Services

Services shall be retained for the disposition of the property at 16 Loring Road, Winthrop, MA 02152, acquired by the Town of Winthrop under the M.G.L. c. 60 foreclosure process. Further, the Vendor shall be required to officially list the property for sale by the statutory deadline, submit a market analysis or similar comprehensive report to support the listing price ahead of the listing date; and must otherwise conform with any and all other requirements set out for such entities under M.G.L. c.60, § 64A.

#### C. Minimum Requirements

A Vendor must demonstrate that they can meet the following minimum qualifications to be eligible for further consideration:

- Be a real estate agent or broker licensed within the Commonwealth of Massachusetts
- Shall not be any person who holds elected or appointed office or who is employed by the Town of Winthrop
- Shall show successful completion of the sale of at least five (5) properties in Winthrop or surrounding communities in the past two (2) years.

#### D. Submission Requirements and Instructions

Proposals shall include a price quote by task with description of service, timeframe, and Vendor qualifications. If two or more responsible and responsive vendors submit identical quotes, the Town will award the contract to the vendor with the greater number of years of experience as a licensed real estate broker/agent, as verified through the qualifications submitted.

Completed sealed proposals must be received by Tuesday, July 7, 2026, by 9:30 A.M. Proposals will not be accepted nor may submitted proposals be corrected, modified, or withdrawn after the deadline for proposals.

Following the deadline, all proposals received within the time specified will be reviewed, and an award will be made to the responsible vendor offering the lowest price for the required services.

All proposals are subject to the provisions of M.G.L. Chapter 30B §6. All Town of Winthrop proposals are available by request. Addenda's will be sent to the contact information provided. It is the sole responsibility of the vendor requesting these proposals to ensure they have received any, and all addenda prior to the proposal opening.

The Town will reject any, and all proposals in accordance with the above referenced General Laws. In addition, the Town reserves the right to waive minor informalities in any or all proposals or to reject any or all proposals (in whole or in part) if it be in the public interest to do so. Further, the Town reserves the right to negotiate and amend the scope of services.

Once a realtor has been selected, he or she should be able to adhere to the following proposed timeline:

- Week 1 – Obtain Appraisal, inspect/photograph property, and prepare listing and marketing materials
- Weeks 2-3 – Market/advertise property and hold showings
- Week 4 – Present and review offers to Town
- Weeks 5-7 – Assist as needed for any closing related duties.

**Evaluation Criteria:**

<b>EVALUATION CRITERIA</b>	<b>Highly Advantageous</b>	<b>Advantageous</b>	<b>Not Advantageous</b>	<b>Unacceptable</b>
1. Qualifications of the Broker	Proposal provides qualifications of broker in detail with relevant education/license information	Proposal provides qualifications of broker with limited information	Proposal is missing qualifications	Proposal has no information
2. Experience	Assigned staff has extensive experience (10 years or more)	Assigned staff has extensive experience (5 years or more)	Assigned staff has extensive experience (2 years or more)	No experience, or insufficient information provided
3. Description of approach to proposed work	Shows well developed understanding of proposed work and requirements of the contract	Shows good understanding of proposed work and requirements of the contract	Appears to show fair understanding of proposed work and requirements of the contract	Does not appear to show understanding of project goals.
4. Quality and completeness of submission	Demonstrates a high standard of quality and completeness	Demonstrates good standard of quality and completeness	Demonstrates fair standard of quality and completeness	Demonstrates poor quality and completeness

END OF SECTION

***SAMPLE TOWN-CONTRACTOR AGREEMENT***

Contract # \_\_\_\_\_

**OWNER-CONTRACTOR AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_ in the year \_\_\_\_, between \_\_\_\_\_, with a usual place of business at \_\_\_\_\_, hereinafter called the CONTRACTOR, and the Town of Winthrop, acting by its town manager, with a usual place of business at 1 Metcalf Square, Winthrop, MA 02152, hereinafter called the OWNER.

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment and insurance to perform all work required for the project known as \_\_\_\_\_, in strict accordance with the Contract Documents and all related Drawings and Specifications. The said Documents, Specifications, Drawings and any GENERAL SUPPLEMENTARY CONDITIONS are incorporated herein by reference and are made a part of this Agreement.

2. Contract Price

The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, the sum of xxxxxx.

3. Commencement and Completion of Work and Liquidated Damages

It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon execution hereof and shall complete the work on or before xxxxxx.

- A. Definition of Term: The Term "Substantial completion" shall mean the date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.
- B. Time as Essential Condition: It is understood and agreed that the commencement of and substantial completion of the work are essential conditions of this Agreement. It is further agreed that time is of the essence for each and every portion of the Contract Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

- C. Progress and Completion: Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will insure Substantial Completion within the stipulated number of calendar days.
- D. Liquidated Damages: It is expressly agreed between the Contractor and the Owner that the Contractor will be responsible for all damages which may arise due to the Contractor's failure to substantially complete the work within the above specified time. If the Contractor shall neglect, fail or refuse to complete the work within the specified number of days, or any extension thereof authorized by the Owner, Contractor agrees, as a part of the consideration for the execution of this Contract by the Owner, to pay the Owner the amount specified herein, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day, excluding Saturdays, Sundays and legal Holidays, that the Contractor shall be in default of Substantial completion after the date specified in the Agreement. Due to the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, said amount is agreed to be the amount of damages which the Owner would sustain, and said amount shall be retained from time to time by the Owner from current periodic estimates. The amount of liquidated damages shall be \$200.00 per day.

#### 4. Performance of the Work

- A. Direction of the Work: The Contractor shall supervise and direct the Work, using his best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.
- B. Responsibility for the Work: (1) The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.  
  
(2) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.
- C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.
- D. Notices, Compliance With Laws: (1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents

that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.

(2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.

(3) If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

(4) In the performance of the Work, the Contractor shall comply with all applicable federal, state and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the work which violate said laws and regulations and shall take prompt action to correct and eliminate any such violations.

- E. **Project Superintendent:** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.
- F. **Progress Schedule:** The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.
- G. **Drawings, Specifications and Submittals:** (1) The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As-Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.
- (2) By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- (3) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.
- (4) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner on previous submittals.

(5) No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner. All such portions of the Work shall be in accordance with approved submittals.

- H. Protection of the Work and Owner's Property: The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.
- I. Quality of the Work: The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.
- J. Warranty: The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. Affirmative Action/Equal Employment Opportunity

The Contractor is directed to comply with all applicable State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.

6. Site Information Not Guaranteed; Contractor's Investigation

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has

made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as he deems necessary for the performance of the work at the Contract Price, within the Contract Time, and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.

Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.

It is further agreed and understood that the Contractor shall not use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the Owner, arising from or by reason of any variance which may exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

7. Project Architect or Engineer

There no project architect-engineer for this project. Except as otherwise indicated in the Contract Documents, \_\_\_\_\_ shall be a representative of the Owner and the Contractor shall direct all communications, questions and comments on the work and the performance thereof to him. Except as otherwise provided, he shall have all the authority of the Owner set forth in the Contract Documents. In general, he shall have the authority to review the performance of the work, reject work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the Town with certified payrolls and to comply with all requirements of the above-cited statutes.

The schedules of prevailing wage rates are included in the Contract Documents.

9. Payments to the Contractor

- A. The Owner shall make payment to the Contractor in accordance with the provisions of Sections 39F and 39G of Chapter 30 of the General Laws of the Commonwealth of Massachusetts. The Contractor shall submit requisitions for payment as required by said provisions and the directions of the Owner.
- B. The Contractor's applications for payment shall be subject to approval by the Director of Public Works, Steve Calla.
- C. Changes in the Work: No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
  - (1) Labor.
  - (2) Materials entering permanently into the work.
  - (3) The ownership or rental cost of construction equipment during the time of use on the extra work.
  - (4) Power and consumable supplies for the operation of power and equipment.
  - (5) Wages to be paid.

To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bonds, profit and any other general expenses.

D. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

#### 10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

#### 11. Contract Documents

The Contract Documents consist of the following, together with this Agreement:

- Invitation to Bid
- This Contract Form
- Bid Form
- Non-Collusion Certificate
- Tax Compliance Certificate
- Clerk's Certificate of Corporate Vote
- Certificate of Insurance
- Schedule of Prevailing Wages

#### 12. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

#### 13. Indemnification

The Contractor shall indemnify and hold harmless the Owner from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or his employees, agents, subcontractors or representatives.

#### 14. Insurance

The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

1. claims under workers' or workmans' compensation, disability benefit and other applicable employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
5. claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and
7. claims involving contractual liability applicable to the Contractor's obligations under Article 13.

The limits of liability for coverage required under the preceding paragraph shall be as required by the Owner.

Except for Workmen's Compensation, all liability coverage shall name the Town of Winthrop as an additional insured and shall provide for 30 days prior written notice to the Town of any modification or termination of coverage provided thereby. The Contractor shall provide the Owner with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

#### 15. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

#### 16. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. Royalties and Patents: The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.
- B. Assignment: The Contractor shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the Owner.
- C. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.
- D. Statutory Compliance: By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, the Owner by its authorized representatives who, however, incur no personal liability by reason of the execution hereof or of anything herein contained, as of the day and year first above written.

CONTRACTOR:

By its \_\_\_\_\_

OWNER: Town of Winthrop

\_\_\_\_\_  
Anthony Marino,  
Town Manager

By: \_\_\_\_\_

Title:

Name:

In accordance with M.G.L. C.44, Section 31C, this is to certify that an appropriation in the amount of this contract is available therefor and that the \$xxxxxx has been authorized to execute the contract and approve all requisitions and change orders.

By \_\_\_\_\_

Dylan Cook, CFO

Approval as to Form.

\_\_\_\_\_  
Town Counsel