

Town of Provincetown REQUEST FOR QUALIFICATIONS (RFQ)

DESIGNER SERVICES

FOR A FACILITIES CONDITION ASSESSMENT OF FIRE DEPARTMENT BUILDINGS AND A SCHEMATIC DESIGN FOR A PUBLIC SAFETY COMPLEX



RFP Schedule

Request for Qualifications Issued:	Tuesday, April 20, 2021
Scheduled Site Visit:	Tuesday, April 27, 2021 at 10:00 am
Written Questions Deadline:	Thursday, April 29, 2021 Thursday,
RFP Submission Deadline:	May 6, 2021 by 4:00 pm

TOWN OF PROVINCETOWN
REQUEST FOR QUALIFICATIONS

**DESIGNER SERVICES FOR
FACILITIES CONDITION ASSESSMENT OF FIRE DEPARTMENT BUILDINGS**

1. GENERAL INFORMATION

The Town of Provincetown is seeking proposals from qualified Designers , currently registered in Massachusetts, to conduct a condition assessment and feasibility study to determine the department's building needs. The scope of work will include an evaluation of present site conditions (including, but not limited to, mechanical systems, electrical systems and fire protection systems) and the development of conceptual plans and budgets for presentation to the Select Board for renovating the existing fire stations, and/or possible construction of a sub-station on Town owned property.

As part of a multi-year facilities master plan, funding was obtained to perform a feasibility study to determine the needs of the department and to provide an assessment of the current facility. In the future, on-call fire and EMS staff may not be a sustainable staffing model, so presentations should incorporate a facility able to accommodate full time staff and/or low-cost expansion options. The result of this study should produce evidence to support the best approach in meeting the service needs. Renovation, expansion or a new substation should all be considered and weighed equally. The Town will then use this study to pursue a plan of action

After a review of the selected consultant's report, the Fire Chief will seek funding for construction and renovation to address the public safety facility needs of the Fire Department, as well as the community. The consultant will support the Town in any effort to obtain funding.

The individual or firm that is awarded the contract may also be considered for the final design services contract. Should the Town decide to proceed with any subsequent project as a result of the preliminary design study, the Town will issue a subsequent Request for Qualifications for the required design services.

It is anticipated that the project will be completed within three months from the contract execution with a completed report delivered to the Select Board and the Fire Chief. An electronic presentation of the report will be prepared for presentation at a meeting of the Select Board..

The Minimum Requirements and Evaluation Criteria are set forth below (Part 3 and Part 5, respectively). Each applicant must be licensed and registered by the Commonwealth of Massachusetts as an architect or professional engineer, with a minimum of five years of experience and must also have experience in the design of public buildings in Massachusetts. The design services requested herein include engaging the services of other licensed engineers and consultants, such as electrical, HVAC and other professionals as needed.

There will be a site visit on Thursday, April 26, 2021 at 10:00am at the main Fire Station at 25 Shank Painter Road. Attendance is strongly encouraged, but not mandatory. Prospective Proposers should contact Elisabeth Verde in the Town Manager's Office at everde@provincetown-ma.gov) to register at least 24 hours in advance of the site visit. Due to the Governor's Order regarding COVID-19 restrictions, attendance may be limited and additional site visits may be scheduled as needed.

Submissions will be received by the Town Manager's Office until Thursday, May 6, 2021 by 4:00 pm. All submissions received will be evaluated according to the Minimum Requirements. Submittals failing to comply with any of the minimum requirements stated in this RFP shall be disqualified from further consideration. Submissions that satisfy all of the Minimum Requirements will then be evaluated and ranked by the Selection Committee, as appointed by the Town Manager/Chief Procurement Officer.

The contract will be awarded in accordance with M.G.L. c. 7c, § 50, et seq. (the "Designer Selection Statute"). The Designer's fee will be negotiated. The not-to-exceed fee limit is \$50,000. The selected designer will execute a contract prepared by the Town, which will consist of the Town's Standard Contract for Design Services (ATTACHMENT 3 to this RFP). Upon completion of contract negotiations, the standard contract will be modified to reflect the actual scope of services agreed upon during contract negotiations. The Designer is also required to execute a Certificate of Non-Collusion and a Certificate of Tax Compliance (ATTACHMENT 1 to this RFP), as required by law.

This RFP, and any subsequent contract for services, is hereby issued in accordance with all applicable Massachusetts General Laws. The selected proposer shall be expected to comply with all applicable state and federal laws in performance of service.

BACKGROUND

The Provincetown Fire Department has three stations: the main station at 25 Shank Painter Road, Station 4 at 4 Johnson Street and Station 5 at 514 Commercial Street.

THE MAIN STATION



The Main Station

The main station was built in 1992 and is 13,448 square feet. The layout consists of an eight-bay drive thru apparatus bay with a work area, two storage rooms, SCBA air fill room and hose tower. The first floor administration wing has an EMS room, an EMS storage and laundry room, an EMS office (originally planned for dispatch), two bathrooms, a small meeting room, a supply closet and offices for the administrative assistant, the Fire Chief, the Deputy Fire Chief and Captains. The second Floor consists of a large meeting room with kitchen used for classes, dinners and meetings. There is also a day room for the duty crew with a small kitchen, two bunk rooms, an officer's bunk room, a gym, two bathrooms with showers and a maintenance and supply closet.

STATION 4



Station 4

Station 4 was built in the 1800's with two bays added in the early 1900's and is 1,800 square feet. There are three bays on the first floor in addition to a bathroom and boiler room. Upstairs is a meeting room with a small kitchen that is accessible by interior staircase.

STATION 5



Station 5

Station 5 was built in the 1880's and lifted in 1999 to accommodate a new Engine and is 1,224 square feet. The first floor has a one bay garage with a half bath and boiler. The second floor has a meeting room with a small kitchen that is accessible by an interior staircase.

EXISTING CONDITIONS

Vehicle Storage: In total, there are now two single depth bays and two double depth bays that cannot accommodate any apparatus larger than what they currently house. In addition, two department vehicles currently are un-garaged because of limited space and height restrictions.

Compliance Issues: Station 4 and 5 are Not ADA compliant and apparatus door heights are at or below the industry minimum.

Living Quarters: There are not adequate quarters for current on-duty staff to occupy during their shifts. Staff are required to be within the Town limits to participate in shifts and many of them live in other towns. Having adequate quarters is necessary to maintain our staffing levels and to retain and attract staff.

Storage: There is limited storage.

Office Space: Office space is very limited, impeding operations. In addition to the Administrative assistant running daily business functions with the public, the main office is shared by the Fire Chief, two Deputy Chiefs and the EMS coordinator.

Meeting Space: Although the meeting room has been adapted to accommodate A/V equipment to support classes for department membership, outside agencies and the public, its central location and proximity to the kitchen makes it difficult to conduct classes and disrupts daily operations.

2. SCOPE OF SERVICES

SUMMARY

The designer shall evaluate the conditions of the existing fire stations and surrounding properties and research code and permitting requirements to prepare for the study. The study should document issues involving accessibility, mechanical, electrical, plumbing, communications, fire protection system and code (including local, state and federal) and make recommendations for improvements. This should also identify any recommendations for energy efficient upgrades that may be eligible for rebates, grants or other incentives. The study should include an updated building program and room data sheets as a result of conducting a space needs analysis for both present and future staffing, apparatus and equipment needs. The designer will also provide a Total Project Cost Estimate that includes all soft costs related to the design and construction of the building.

TASKS/DELIVERABLES

Task 1: SPACE NEEDS ASSESSMENT

The space needs assessment should provide an independent analysis of the current

and future needs of the Department, including items such as bathrooms, locker rooms, fitness/training rooms, administrative offices, sleeping quarters, equipment and vehicle storage and community meeting areas. The space needs assessment should also provide an analysis of the fire station properties and should include recommendations for shared spaces.

Task 1 Deliverables:

1. Written report summarizing the space needs of the Fire Department.
2. Preparation of a site plan sufficient for schematic designs showing all existing structures, utilities, lot lines, setbacks, rights of way, easements, parking, etc.

Task 2: BUILDING PROGRAM DEVELOPMENT

Prepare a comprehensive and complete program addressing each of the Emergency Service functions performed by the Fire Department. Firms will be required to interview key Fire personnel to ensure that all departmental functions are incorporated.

Task 2 Deliverables:

1. Department functions with current staff and the square footage and diagram documented. Some functional areas may require larger staff in the future, based on shifting policies and needs, for these function groups, an alternative square footage and diagram is also required.

Task 3: PRE-SCHEMATIC DESIGN PLAN

Develop preliminary design drawings focusing on the site plan, building plans fitted to the selected site, furnishing plans, exterior evaluations, and preliminary building systems. Process should be interactive, allowing maximum involvement by Town departments.

Task 3 Deliverables:

1. Prepare final schematic design for a Public Safety Complex. Develop communication and presentation tools, including plans, models, color renderings and sketches, to use at public forums and presentation at a meeting of the Select Board at a date yet to be determined.

Task 4: TOTAL PROJECT COST ESTIMATE & SCHEDULE

Provide a Total Project Cost Estimate that includes all soft costs related to the design and construction of the building (i.e., construction cost estimate, furniture/equipment, project management, fees, testing, contingencies, etc.), as well as site upgrades. The cost estimates used in the Total Project Cost Estimate must be developed using current construction estimating methods and with consideration of prevailing wages. Provide a complete project schedule including realistic deadlines for future design development and construction phases.

Task 4 Deliverables:

1. A report summarizing the costs of all project elements and estimated time frames for implementing all phases of design and construction.

Task 5: FUNDING OPTIONS

There are several methods by which a public facility can be funded. In addition to the standard method of including a project in the Town's Capital Improvements Programs or in an article on the Town Meeting warrant, projects can be funded through grants from both State and Federal agencies and other various financing options.

Task 5 Deliverables:

1. Suggestions for alternative funding for the project and assistance with planning and executing grants.

Task 6: IMPLEMENTATION PLAN

Complete the above tasks and provide five (5) copies of a bound written report based on the described scope of services. The report and preliminary plans shall also be provided in an electronic format acceptable for reproduction and distribution. The Town of Provincetown shall own all rights to any reports, plans or materials produced under this scope of services. The firm should also anticipate attending, in addition to the Select Board meeting, a minimum of two (2) meetings with the Town and/or the public. The report and preliminary plans shall be subject to approval by the Select Board

3. MINIMUM REQUIREMENTS of DESIGNER

The selection of a Designer will be made in accordance with M.G.L. c. 7C, §§ 44-57, inclusively. The proposer must certify in a proposal transmittal letter that it meets the following minimum qualifications. Any Proposer that fails to include such certification in its proposal, demonstrating that these criteria have been met, will be rejected without further consideration. To be eligible for selection, the Designer must meet all of the following qualifications:

- Demonstrate a minimum of five years of experience in the design, construction, and supervision of public buildings in Massachusetts and knowledge of Massachusetts public construction laws and procedures. Evidence of current license and registration by the Commonwealth of Massachusetts as an architect or professional engineer must be provided.
- Proposer shall provide brief resumes of principals and of all staff to be assigned to the project, including a minimum of three (3) references for each staff member listed.
- Proposer must have completed a facility condition assessment for at least three (3) public facilities within the past three years and provide evidence of this.
- Proposer shall not be debarred under M.G.L. c. 149, § 44C, or disqualified under M.G.L. c. 7c, § 38D.
- Proposers must meet all PROPOSAL SUBMISSION REQUIREMENTS, see section 4 below..

4. PROPOSAL SUBMISSION REQUIREMENTS

Responses to this RFP must be prepared according to the guidelines set forth herein. Selection of the successful responder will be based upon an evaluation and analysis of the information and materials required under the RFP. The Town of Provincetown reserves the right to reject any and all proposals and to waive any informality in proposals received whenever such rejection or waiver is in its best interest. Sealed separate price and non-price proposals in an envelope clearly labeled "Designer Services for a Facilities Condition Assessment of Fire Department Buildings and a Schematic Design for a Public Safety Complex" must be submitted to the Town Manager's Office, 260 Commercial Street, Provincetown, Massachusetts 02657. Proposals may be sent or delivered to the drop box at the lower Ryder Street door. Proposals will be received until 4:00pm on Thursday, May 6, 2021.

Proposals must include, in addition to the proposal transmittal letter, the Certification of Tax Compliance/Non Collusion Form, the MA Standard Designer Application for Public Agencies, completed and signed by an authorized individual.

One (1) Original and three (3) copies of the proposal are required. Proposers must also submit their proposals in electronic format. Any proposal received after the advertised date and time for opening will not be considered.

QUESTIONS & ADDENDA

Questions concerning this RFP must be submitted in writing to: Office of the Town Manager, 260 Commercial Street, Provincetown, MA no later than 4:00pm on Thursday, May 6, 2021. Questions should be emailed to Elisabeth Verde, Executive Assistant to the Town Manager at everde@provincetown-ma.gov.

If any changes are made to this RFP, an addendum will be issued on the Town web site, www.provincetown-ma.gov, on the "Bid Opportunities" page. Proposers are responsible for checking the Town web site for any addenda.

MODIFICATIONS & WITHDRAWAL

Proposals may be modified, corrected or withdrawn only by written correspondence received by the Town of Provincetown prior to the time and date set for the opening. Modifications must be submitted in a sealed envelope clearly labeled "Designer Services for a Facilities Condition Assessment of Fire Department Buildings and a Schematic Design for a Public Safety Complex".

WAIVER OF MINOR INFORMALITIES

The Town reserves the right to waive minor informalities, errors or omissions prior to the selection of a proposer, and to conduct discussions with any qualified proposers and to take any other measures with respect to this RFP in any manner necessary to serve the best interest of the Town and its beneficiaries.

OTHER INFORMATION

All information submitted in response to the RFP is subject to the Massachusetts Public Records Law, M.G.L. chapter 66, section 10, and chapter 4, section 7(26). Any statements in submitted proposals that are inconsistent with the provisions of these statutes shall be disregarded.

Purchases by the Town of Provincetown are exempt from federal, state and municipal sales and/or excise taxes.

The Town of Provincetown is an Equal Opportunity Employer. The proposer shall agree to abide by the Town's Anti-Discrimination Policy.

5. EVALUATION PROCESS

Proposals will be opened in the Town Manager's Office and referred to the Selection Committee for evaluation. All submissions received will be evaluated according to the Minimum Requirements. Submittals failing to comply with one or more of the minimum requirements stated in the RFP shall be disqualified from further consideration. Submissions that satisfy all

the Minimum Requirements will then be evaluated and ranked by the Selection Committee based upon the following Evaluation Criteria. The Selection Committee will be appointed by the Town Manager as the Chief Procurement Officer.. The top-ranked proposals will be shortlisted for further analysis and they may be requested to participate in a formal interview as part of the selection process.

The Town will rank the proposals based on the following Evaluation Criteria:

1. Experience with Projects of Similar Size and Scope
2. Public Building Renovation Experience, Specifically Fire Stations
3. Quality of References
4. Quality of Subconsultants
5. Ability to Manage Project Schedule
6. Demonstrated ability to Secure Alternative Funding Sources
7. Experience with LEED Initiatives

The Town reserves the right to reject any and all proposals if such rejection is in its best interest.

The Town will commence fee and contract negotiations with top-ranked proposer and will execute a contract upon completion of successful negotiations. If the Town and the top-ranked proposer cannot come to an agreement on the terms of the contract, the Town will commence contract negotiations with the second-ranked proposer and will continue this process until a contract is successfully negotiated.

6. GENERAL CONTRACT TERMS & CONDITIONS

Please see attached general contract for Design/Architect Services (ATTACHMENT 3). Any designer selected as a result of this RFP will be required to execute a Contract for Designer Services with the Town that is substantially in accordance with the contract form attached hereto.

The successful Proposer will be required to provide certificates of general and professional liability insurance, indicating minimum coverage of one million dollars, and worker compensation insurance.

The successful firm/individual must comply with all applicable federal, state, and local laws and regulations.

7. ATTACHMENTS

1. Certification of Tax Compliance
2. Non-Collusion Form
3. DSB Application. https://www.mass.gov/files/citiestownsapplication2016_1.doc
4. Contract
5. Town of Provincetown Anti-Discrimination Policy

ATTACHMENT 1

**CERTIFICATION OF COMPLIANCE
M.G.L. Chapter 62C, Section 49A**

Pursuant to Section 49A of Chapter 62C of the General Laws of Massachusetts, I hereby certify that I have complied with all Laws of the Commonwealth of Massachusetts relating to taxes.

This statement is made under the pains and penalties of perjury this ____ day of _____, 2020.

Printed Name of Individual or Corporation: _____

Name and Title of Corporate Officer (if applicable):

Signature of Individual or Corporate Officer:

Social Security or Federal Identification Number:

ATTACHMENT 2

CERTIFICATION OF NON-COLLUSION

The undersigned certifies under the penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other persons. 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.

Signed: _____

Name (Print): _____

Name of Business: _____

Address: _____

Telephone: _____

TOWN OF _____
Contract for Designer Services

PROJECT TITLE: _____

PROJECT TYPE: **Feasibility Study**

This AGREEMENT is made under seal the ___ day of _____ in the year Two Thousand and _____, between the Town of _____, by its _____ (hereinafter, the AWARDING AUTHORITY), and _____ acting as PROJECT ARCHITECT.

ARTICLE 1: DEFINITION OF TERMS

- 1.1 GENERAL LAWS -- the General Laws of the Commonwealth of Massachusetts as amended, including any rules, regulations and administrative procedures implementing said laws.

- 1.2 DESIGNER -- the individual or firm performing professional services under this AGREEMENT.

- 1.3 PRINCIPALS -- the registered professional Architects or Engineers listed in ARTICLE 16.

- 1.4 NOTICE TO PROCEED -- written communication from the Awarding Authority, constituting an essential condition of this AGREEMENT, authorizing the Designer to perform services for the project phase to which such Notice shall relate. The Notice to Proceed shall include the basis for compensation, the fixed limit construction cost, if any, and may include the time of submittal. Subsequent written communications amending the Notice to proceed are required to change either a submittal date or the fixed limit construction cost. Proceeding with various phases of contract work is contingent upon the Awarding Authority or its designees' satisfaction with and acceptance of services performed for each phase.

- 1.5 SUBMITTAL DATES -- those dates referred to in the Notice to Proceed or any subsequent amendment thereto.

- 1.6 CONSTRUCTION CONTRACT -- contract for construction of a whole or part of the project, including all change orders.

- 1.7 TOTAL CONSTRUCTION COST -- the sum of the actual construction contract award price and each authorized change order revising the construction contract award price. The construction contract award price shall be the same as the construction price of the lowest responsible and eligible bidder.

- 1.8 AWARDING AUTHORITY -- The board, commission, agency or department of the Town having authority to award design and construction contracts in connection with the Project.
- 1.9 PROJECT -- the building project for which designer services have been procured under this AGREEMENT, and which is identified on Page 1 (Project Title).

ARTICLE 2: CONSULTANTS, SUBCONTRACTING, SUCCESSORS AND ASSIGNS

- 2.1 The Designer shall not employ additional consultants, not named in the proposal(s) nor sublet, assign or transfer any part of his services or obligations under this AGREEMENT without the prior approval and written consent of the Awarding Authority. The Awarding Authority shall not unreasonably withhold such approval. Written consent shall not in any way relieve the Designer from his responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specifications, estimates and other work or materials furnished.
- 2.2 Except as otherwise provided in this AGREEMENT or authorized by the Awarding Authority, the Designer shall employ within the basic fee for this project the following consultants where their specific services are required: Architect, Structural Engineer, Civil Engineer, Sanitary Engineer, Mechanical Engineer, Landscape Architect, Cost Estimator, and Electrical Engineer, or any other consultant specifically listed in the proposal. Consultants must be registered in their respective disciplines if registration is required under the applicable General Laws.
- 2.3 When the Designer receives payment from the Awarding Authority, the Designer shall promptly make payment to each consultant whose work was included in the work for which payment was made by the Town. The Awarding Authority shall have the contractual right, but not the obligation, to require corrective measures necessary for the best interests of the Town.

ARTICLE 3: SURVEYS, BORINGS, TESTS, LABORATORIES, PHOTOGRAPHS

- 3.1 The Awarding Authority shall furnish to the Designer available surveys of the project building site, showing the grades and lines of streets, pavements and adjoining properties; the rights, restrictions, easements, boundaries and controls of the site, or sites; reports from any borings, test pits, chemical, mechanical or other tests, any photographs and information as to water, sewer, electricity, steam, gas, telephone and other services.
- 3.2 The Awarding Authority does not guarantee the accuracy of information furnished and the Designer must satisfy himself as to the correctness of data, except in instances where written exception to the contrary is specifically indicated by the Awarding Authority. If the above data are not available or they are in the opinion

of the Designer insufficient, the Designer, upon request, may be given authorization to obtain the services of a consultant or perform the work with his own employees. In no case shall the Designer commence such work without prior written authorization of the Awarding Authority.

- 3.3 During the construction phase of this contract, the Designer may retain the services of a photographer, a qualified testing laboratory, and special field inspectors when required by the project, subject to the prior approval of the Awarding Authority or its designee.
- 3.4 If a consultant's services estimated to cost more than \$25,000 are required, including the services of a qualified testing laboratory functioning under the jurisdiction of both a Massachusetts registered Engineer and licensed inspectors, a detailed description of the proposed services shall be prepared by the Designer and approved by the Awarding Authority. Consultant fee proposals shall be received by the Designer and accompanied with recommendations of approval submitted to the Awarding Authority before any work is authorized. Such consultants shall carry adequate Liability Insurance. When a consultant's services are estimated to cost \$25,000 or less, the Designer shall use established standard rates for such services.
- 3.5 Drawings and/or specifications needed to obtain survey or subsoil information, and any other soils engineering shall be prepared by the Designer as part of the basic fee. The Designer shall then analyze and evaluate such surveys and tests and make his design conform to the results of such evaluation.
- 3.6 The Awarding Authority will compensate and reimburse the Designer as provided in ARTICLE 9 for the cost of consultant services performed under this Article. For responsibility, coordination inspection, analysis and evaluation of consultant services retained under this ARTICLE, the Designer shall similarly be compensated as provided by ARTICLE 9.

ARTICLE 4: COMPLIANCE WITH LAWS

- 4.1 The Designer shall perform the work required under this AGREEMENT in conformity with all requirements and standards of the Awarding Authority, all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders of the Commonwealth and its political subdivisions, and the Federal Government. The Construction Documents shall comply with all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders. The Designer, including all approved consultants and subcontractors, shall comply with all applicable provisions of the rules and regulations of the President's Committee on Equal Employment Opportunity and Procedures promulgated by the Governor of Massachusetts or his designees, insuring equal opportunity for employees and minority and women-owned business enterprises.

ARTICLE 5: PROFESSIONAL RESPONSIBILITY

5.1 The Designer shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work furnished by him or his consultants and subcontractors. The Designer shall staff his office with sufficient personnel to complete the services required under this contract in a prompt and continuous manner, and shall meet the approval schedule and submittal dates established during the course of this AGREEMENT.

The Designer shall commence work under this AGREEMENT upon written notice to proceed issued by the Awarding Authority in conformance with the provisions of Section 1.4 of this AGREEMENT. The Designer shall complete the services required under this AGREEMENT in a prompt and continuous manner, and to meet such time limits as are established during the course of the AGREEMENT and stated in each Notice to Proceed. If the completion of the scope of work is delayed through no fault of the Designer, the time limit may be extended upon written approval of the Awarding Authority.

5.2 The Designer shall furnish appropriate competent professional services for each of the phases to the point where detail checking and reviewing by the Awarding Authority will not be necessary. Any changes, corrections, additions or deletions made by the Awarding Authority shall be incorporated in the design of the Project unless detailed objections thereto are received from the Designer and approved by the Awarding Authority.

5.3 The designer shall thoroughly acquaint his employees and consultants with all provisions of the General Laws governing the conduct of public construction projects, including but not limited to M.G.L. c.149, and c.30, and in particular, M.G.L. c.30, §39M, wherein the description of material specifications and proprietary items in construction bid documents is governed.

5.4 Neither the Awarding Authority's review, approval or acceptance of, nor payment for any of the services furnished shall be construed to operate as a waiver of any rights under the AGREEMENT or any cause of action arising out of the performance of the AGREEMENT.

ARTICLE 6: DESIGNER SERVICES

6.1 CONTRACTS, STUDIES, PROGRAMS, MASTER PLANS, REPORTS
(FEASIBILITY STUDY)

1. Upon receipt of a Notice to Proceed from the Awarding Authority acceptable to the Designer, the Designer shall meet as necessary with the Awarding Authority and shall prepare and submit programs, preliminary reports, master plans, studies, sketches, space utilization criteria and estimates in accordance with the Scope of Services set forth in Attachment A to this AGREEMENT. Monthly progress reports shall be submitted by the Designer to

the Awarding Authority. The Designer shall prepare and submit concept sketches of various design ideas to determine a workable plan solution in terms of the programs, funds available, and as complete an overall design concept as possible including cost estimates. The Designer shall furnish to the Awarding Authority eight (8) copies of the report for final approval on or before the date set forth in the Notice to Proceed or any supplement thereto.

2. Pursuant to M.G.L. c.7C, the Awarding Authority, in its sole discretion, may allow the feasibility designer to continue with the design of this project, pursuant to submission of an additional proposal in accordance with the Designer Selection statute. The Awarding Authority, in its sole discretion, may commission an independent review, by a knowledgeable and competent individual or business doing such work, of the feasibility Designer's work to insure its reasonableness and its adequacy prior to allowing the Designer to continue on the project.

Drawings shall be furnished to the Awarding Authority by the Designer.

ARTICLE 7: DESIGNER'S BASIC FEE

- 7.1 For the performance of all services required under the terms of this AGREEMENT and excluding those services specified under ARTICLES 8, 9 and 10, the Designer shall be compensated by the Awarding Authority in accordance with the lump sum fee for this project. The fee for this project is a lump sum of \$_____.
- 7.2 If there is a material change in the scope of services provided in this agreement, the Designer and the Awarding Authority will mutually agree to an adjustment in the Designer's Basic Fee. Delay of one year or more by the Awarding Authority plus a significant change in the estimated construction cost of the project will be considered a material change in scope of services.
- 7.3 The basic fee shall be paid to the Designer in accordance with Attachment B to this agreement. Billings for services shall be made monthly and shall be in proportion to the amount of work completed.

ARTICLE 8: ADDITIONAL COMPENSATION

- 8.1. With the formal written approval of the Awarding Authority, the Designer shall perform all or any of the following services in addition to the services performed pursuant to ARTICLE 6 above: (1) making measured drawings of existing construction facilities when required for planning additions, or alterations thereto; (2) revising previously approved drawings, specifications or other documents to accomplish changes authorized by the Awarding Authority; (3) preparing documents for alternate bids requested by the Awarding Authority except alternates prepared by the Designer to adjust the fixed limit construction cost, if any; (4) providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing professional services of the type set forth in ARTICLE 6 as may be required in connection with the

replacement of such work; (5) providing professional services made necessary by the default of the contractor in the performance of the construction contract; (6) providing services after final payment to the contractor; (7) for preparing change orders and supporting data, except as set forth in ARTICLE 10; (8) revising working plans and specifications submitted in their final and complete form for which bids were not received within six months after submission; (9) making studies other than those normally required and preparing applications and reports to assist the Awarding Authority in obtaining federal and/or state aid; (10) preparing operating and maintenance manuals; (11) observing the balancing of air and water circulation systems and reporting the results thereof; (12) observing and setting and adjusting automatic controls and reporting the results thereof; (13) assisting the Awarding Authority in litigation arising out of the construction contract; and (14) performing any other professional services not otherwise required under this Contract.

8.2 For the services provided pursuant to paragraph 1 of this ARTICLE, the Designer shall be compensated by the Awarding Authority at the rates set forth in Attachment B.

ARTICLE 9: REIMBURSEMENT

9.1 The Designer shall be reimbursed by the Awarding Authority:(a) at one and one tenth (1.1) times the actual cost to the Designer of consultants hired to obtain any data in accordance with ARTICLE 3 above, provided, however, that no reimbursement for such expense shall be made unless the rates of compensation for said consultant services have been approved by the Awarding Authority or its designee, which may approve a lump sum fee; (b) at one and one tenth (1.1) times the actual cost to the Designer or special consultants not specified in ARTICLE 2, and approved by the Awarding Authority or its designee, provided, however, that no reimbursement for such expense shall be made unless the rates of compensation for said consultant services shall have been approved in writing by the Awarding Authority or its designee, which may approve a lump sum fee; (c) any other specially authorized reimbursement, including special printing; and (d) for all printing and reproduction costs.

ARTICLE 10: DESIGN FEES AND RESPONSIBILITY FOR MODIFICATIONS, CHANGE ORDERS

10.1 The Designer shall be compensated in accordance with the rates specified in ARTICLE 8 for the services of its employees or any consultant listed in ARTICLE 2 for the preparation of modifications, change orders and supporting data. The Designer shall not be compensated for any services involved in preparing change orders required to make unit price adjustments due to existing conditions. Changes for which the Designer receives no compensation under this ARTICLE shall be "no fee modifications" or "no fee change orders." The fact that the Designer receives no fee shall not limit the Town's legal remedies regarding such changes.

Any services in connection with change orders and change directives which are necessitated by a lack of reasonable clarity, deficiencies or conflicts in the Construction Documents or other errors or omissions of the Designer, or which result from existing conditions encountered in the building which should have been anticipated by the Designer based on reasonable investigation of said building as required herein, shall not qualify as additional services and shall be performed within the scope of Basic Services.

- 10.2 Payments for modifications or change orders to the Designer shall be made upon completion of the Designer's work under such modifications or change orders.

ARTICLE 11: TERMINATION, NO AWARD

- 11.1 By written notice to the Designer, the Awarding Authority may terminate this contract at any time. If any such termination shall occur without the fault of the Designer, all compensation and reimbursement due to the Designer up to the date of termination, in accordance with all contract terms, shall be paid to the Designer by the Awarding Authority. Such payment shall not exceed the fair value of the work, as the Awarding Authority shall determine.
- 11.2 By written notice to the Awarding Authority, the Designer may terminate this contract (1) if the Awarding Authority, within sixty (60) days following written notice from the Designer of any default by the Awarding Authority under the AGREEMENT, shall have failed to remove such default or (2) if, after the Designer shall have performed all services required of the Designer in Phase 1, Phase 2, or Phase 3 of the Project, if applicable, at least six (6) months shall have lapsed without receipt by the Designer of Notice to Proceed with the next phase of the Project. Upon any such termination by the Designer all compensation and reimbursement payable to the Designer in accordance with the AGREEMENT up to and including the date of termination shall be paid to the Designer by the Awarding Authority.

ARTICLE 12: RELEASE AND DISCHARGE

- 12.1 The acceptance by the Designer of the last payment for services paid under the provisions of ARTICLES 11 and 12 in the event of contract termination shall in each instance operate as and be a release to the Awarding Authority, and every member or agent thereof, from all claims and liability to the Designer for payment on account of services performed or reimbursable expenses incurred under this AGREEMENT, except for those written claims submitted by the Designer to the Awarding Authority with the last payment requisition.

ARTICLE 13: NOTICES, APPROVALS, INVOICES

- 13.1 Any notice required under this contract to be given by the Awarding Authority to the Designer, or by the Designer to the Awarding Authority, shall be deemed to

have been so given, whether or not received, if mailed by prepaid postage by, respectively, the Awarding Authority to the Designer at the address specified for the Designer on Page 1, or the Designer to the Awarding Authority.

- 13.2 Written approval by the Awarding Authority for Extra compensation as provided under ARTICLES 8 and 9, Reimbursements, shall be in the form of a letter issued by the Awarding Authority.
- 13.3 All invoices may be submitted monthly and subject to contract terms and proper documentation will be promptly processed by the Awarding Authority or returned to the Designer. No invoice, however, shall be required to be submitted or processed when the net amount due is less than \$100.00.
- 13.4 Invoices for services under ARTICLE 6 where such invoices pertain to design services during construction shall also describe the names, payroll titles, and dates of site visits required for construction-phase services.
- 13.5 Invoices submitted for services which have not been previously authorized in writing shall be returned to the Designer.
- 13.6 Requests for previously authorized expenses of any nature must be accompanied by a billing or receipt from the source of the expense.

ARTICLE 14: INSURANCE

- 14.1 The Designer shall at his own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts arising out of the performance of this AGREEMENT in a minimum amount of \$ _____.
- 14.2 The coverage shall be in force from the time of the agreement to the date when all construction work designed under the contract is completed and accepted by the Awarding Authority. If, however, the policy is a claims made policy, it shall remain in force for a period of six (6) years after substantial completion.

Since this insurance is normally written on a year-to-year basis, the Designer shall notify the Awarding Authority should coverage become unavailable.
- 14.3 The Designer shall, before commencing performance of this contract, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with M.G.L. c.152, as amended, to all employed under the contract and shall continue such insurance in full force and effect during the term of the contract. The Designer shall also maintain broad public liability insurance to protect against damage or injury to persons or property.
- 14.4 The Designer shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to

the work covered by this contract in event of loss or destruction until the final fee payment is made or all data are turned over to the Awarding Authority.

14.5 Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the Town at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice.

14.6 Upon request of the Designer, the Awarding Authority reserves the right to modify any conditions of this Article.

ARTICLE 15: SUPPLEMENTAL CONTRACT DATA; LEGAL REQUIREMENTS

15.1 The Designer hereby certifies:

- (i) if an individual, the individual is a registered architect;
- (ii) if a partnership, a majority of all the partners are persons who are registered architects;
- (iii) if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are registered architects, and the person to have the project in his or her charge is a registered architect;
- (iv) if a joint venture, each joint venturer satisfies the requirements of this section. (Statutory reference: M.G.L. c.7C, §44)

15.2 The Designer hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with the award of this Agreement. (Statutory reference: M.G.L. c.7C, §51)

15.3 The Designer hereby certifies that no consultant to or subcontractor for the Designer has given, offered or agreed to give any gift, contribution or offer of employment to the Designer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Designer. (Statutory reference: M.G.L. c.7C, §51)

15.4 The Designer hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of the Designer, has been retained or hired by the Designer to solicit for or in any way assist the Designer in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to the Designer. (Statutory reference: M.G.L. c.7C, §51)

- 15.5 The Designer hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that the Designer filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R. (Statutory reference: M.G.L. c.7C, §51)
- 15.6 The Designer shall maintain all books, records, and accounts related to the Project in compliance with the following:
1. The Designer shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Designer.
 2. Until the expiration of six years after final payment, the Awarding Authority, the office of the inspector general and the deputy commissioner of capital planning and operations shall have the right to examine any books, documents, papers or records of the Designer or of its consultants that directly pertain to, and involve transactions relating to, the Designer or its consultants.
 3. The Designer shall describe any change in the method of maintaining records or recording transactions which materially affects any statements filed with the Awarding Authority, including in the Designer's description the date of the change and reasons therefor, and shall accompany said description with a letter from the Designer's independent certified public accountant approving or otherwise commenting on the changes.
 4. The Designer has filed a statement of management on internal accounting controls as set forth in Paragraph (6) below prior to the execution of this Agreement.
 5. The Designer has filed prior to the execution of this Agreement and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in subparagraph 15.6.8 below.
 6. The Designer shall file with the Awarding Authority a statement of management as to whether the system of internal accounting controls of the Designer and its subsidiaries reasonably assures that:
 - (a) transactions are executed in accordance with management's general and specific authorization;
 - (b) transactions are recorded as necessary:

1. to permit preparation of financial statements in conformity with generally accepted accounting principles; and
 2. to maintain accountability for assets;
- (c) access to assets is permitted only in accordance with management's general or specific authorization; and
- (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any difference.
7. The Designer shall also file annually with the Awarding Authority a statement prepared and signed by an independent certified public accountant, stating that such accountant has examined the statement of management on internal accounting controls, and expressing an opinion as to:
- (a) whether the representations of management in response to this paragraph and paragraph 15.6.6(b) above are consistent with the result of management's evaluation of the System of internal accounting controls; and
 - (b) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the Designer's financial statements.
8. The Designer shall annually file with the Awarding Authority during the term of this Agreement a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by accountant's report.
9. Records and statements required to be made, kept or filed in compliance with the provisions of this paragraph 15.6 shall not be public records and shall not be open to public inspection, except as provided in subparagraph 15.6.2. (Statutory reference: M.G.L. c.30, §39R)

15.7 The Designer and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the Designer in the preparation of bid documents, as reasonably determined by the Awarding Authority. (Statutory reference: M.G.L. c.7C, §51)

- 15.8 Life-cycle cost estimates for the Project shall be obtained at an initial stage and as a regular part of the services to be performed under this Agreement. (Statutory reference: M.G.L. c.149, §44M)
- 15.9 The Designer hereby certifies under penalties of perjury that the Designer has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. (Statutory reference: M.G.L. c.62C, §49A)

ARTICLE 16: MISCELLANEOUS PROVISIONS

- 16.1 One (1) reproducible copy of all Drawings and Specifications furnished by the Designer and all other documents prepared by the Designer shall become the property of the Awarding Authority. Ownership of the stamped drawings and specifications shall not include the Designer's certification or stamp. Any re-use of such Drawings and/or Specifications without the Designer's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to the Designer or to the Designer's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as an act in derogation of the Designer's rights under this AGREEMENT.
- 16.2 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and personal representatives.
- 16.3 This Agreement represents the entire agreement between the Awarding Authority and the Designer, and supersedes any prior agreements whether oral or written. This Agreement may be amended only by written instrument executed by both the Awarding Authority and the Designer.
- 16.4 The Designer agrees that the Awarding Authority and any of its officer or employee assumes no personal liability under this Agreement.
- 16.5 This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
- 16.6 In the event any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid or unenforceable any other provision of this Agreement.
- 16.7 The Designer shall indemnify, defend, and hold the Awarding Authority harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses arising out of the Designer's breach of the Agreement or the negligence or misconduct of the Designer or the Designer's agents or employees.

(Remainder of this Page is intentionally blank – signature page follows)

SIGNATURES

IN WITNESS WHEREOF, on the day and year hereinabove first written, the Designer has caused this agreement to be signed and sealed in its name and behalf, and its corporate seal to be hereto affixed by the signatory below authorized to do so, and the _____ has signed this agreement on behalf of the Awarding Authority.

Accepted by Designer

Accepted by Awarding Authority

By: _____

By: _____

Title: _____

Date: _____

Witness: _____

Title: _____

Date: _____

Witness: _____

I hereby certify that there is an appropriation available for the amount of the Agreement and that the _____ is authorized to execute this Agreement and approve all requisitions and change orders.

Town Accountant

Approved as to Form

Town Counsel

563322/99999/0003

6. FINANCE, EMPLOYMENT, AND FEES

6-4-7. Anti-discrimination Policy. It is the policy of the Town of Provincetown to uphold the human rights of all persons in Provincetown and the free exercise and enjoyment of any and all rights and privileges secured by the Constitution, Law, Bylaws and Regulations of the United States, the Commonwealth of Massachusetts, and the Town of Provincetown. As such, actions that may deny or tend to deny or intend to deny to an individual equal access or opportunity in matters of housing, employment, education, municipal services, contracts, purchasing or public accommodations on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation, are hereby prohibited. No lease or contract for services or public works and public building construction contracts shall be entered into by any Town authority without an anti-discrimination certification signed by the contractor as follows:

The contractor hereby certifies that the Contractor will not discriminate against any employee or applicant for employment on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. The contractor has taken and will continue to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination.

