



Town of Nantucket

INVITATION FOR BIDS SUPPLYING AND DELIVERY OF MISCELLANEOUS PARTS & SUPPLIES FOR THE WANNACOMET WATER COMPANY

The Town of Nantucket, acting by and through the Nantucket Water Commission, invites qualified bidders to submit bids for the supply and delivery of miscellaneous parts and supplies for the Wannacomet Water Company.

I. GENERAL INFORMATION AND BID SUBMISSION REQUIREMENTS.

- 1) Bids will be accepted at the Procurement Office, 37 Washington Street, Nantucket, MA 02554, until **2:00 PM Wednesday, November 30, 2022**, and will be publicly opened forthwith for this Invitation for Bids which is made in accordance with M.G.L. c 30B. **Two copies of the bid are required.**

Proposer must register on the Town's website – bid posting page, to ensure receipt of any changes or addenda to the IFB

- 2) The bid envelope must be sealed and clearly marked:

Bid for Supplying and Delivery of Misc. Parts & Supplies

- 3) Award date. Award will be made within forty-five (45) days after bid opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of the Town and the apparent responsive and responsible low bidder. All bids submitted shall be valid for a minimum period of forty-five (45) calendar days following the date established for acceptance.
- 4) If any changes are made to this IFB, an addendum will be issued. Addenda will be emailed to all bidders on record as having requested the IFB. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda. **Failure to do so may be cause to reject the submittal as being unresponsive.**
- 5) Questions concerning this IFB must be submitted in writing to: Alice M. Kellogg, Procurement Office, via email at akellogg@nantucket-ma.gov **before 12:00 PM, November 18, 2022**. Written responses will be posted on the Town website in the form of Addenda if necessary and emailed to all bidders on record as having requested the IFB.
- 6) Bids may be modified, corrected or withdrawn only by written correspondence received by the Wannacomet Water Company prior to the time and date set for the bid opening. Bid modifications must be submitted in a sealed envelope clearly labeled "Modification No. ___" and must reference the original IFB.
- 7) After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the Town of Nantucket or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake in the intended bid are clearly evident on the face of the bid document, the mistake will be corrected to reflect the intended bid, and the bidder will be notified

in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid, but the intended correct bid is not similarly evident.

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

II. BID SUBMISSION REQUIREMENTS

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

III.SCOPE OF SERVICES.

SUPPLYING AND DELIVERY OF MISCELLANEOUS PARTS AND SUPPLIES FOR THE WANNACOMET WATER COMPANY.

It is the intent of these specifications to describe certain parts & supplies and the delivery thereof to the Wannacomet Water Company, 1 Milestone Road, Nantucket, MA 02554. This is a bid for a one (1) year contract covering the period of December 2022 to December 2023.

The number of items listed below is intended for the purpose of determining the low bid. The bid is meant to include but is not limited to the listed items below. It is not a guarantee of actual items to be purchased and is not meant to hold the town to a specific breakdown. Actual items required on the contract may be higher or lower than the number stated.

The number of items and/or quantities listed below is intended for the purpose of determining the low bid.

The **TOTAL BID PRICE PER CATEGORY** amount on the Bid Response Form will be the total price per category from the Bid Price Form by Category from [A] to [M]- It is not a guarantee of actual items to be purchased and is not meant to hold the awarding agency to a specific breakdown. Actual items required on the contract may be higher or lower than the number stated.

BID PRICE FORM BY CATEGORY

A	Class 52 Ductile Iron Water Pipe
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Ductile Iron Water Pipe shall be Class 52 with push-on joints. Pipe shall be double cement lined and have an exterior asphaltic coating and meet the minimum specifications of the latest revision of ANSI/AWWA C- 151/A21.51-02. Pricing shall be by the linear foot based on a quantity of 500 linear feet.

<u>Size</u>	<u>\$/lf</u>	<u>\$/500 lf</u>	<u>Manufacturer</u>
4"	_____	_____	_____
6"	_____	_____	_____
8"	_____	_____	_____
10"	_____	_____	_____
12"	_____	_____	_____

TOTAL [A] (\$/500 lf) \$ _____

B	Ductile Iron Pipe Fittings
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Ductile iron mechanical joint pipe fittings shall meet or exceed the requirements of ANSI/AWWA C153/A21.53-00 and shall be all bell compact design with a design rating of 350 psi. Fittings shall have an asphaltic coating approximately 1 mil in thickness. All fittings shall be manufactured in the United States. Pricing shall be by the individual fitting.

6" 45 ^o bend	\$ _____ each	Mfg. _
6" 90 ^o bend	\$ _____ each	Mfg. _
6"x6"x6" Tee	\$ _____ each	Mfg. _
6"x6"x6" Anchor Tee	\$ _____ each	Mfg. _
8" 45 ^o bend	\$ _____ each	Mfg. _
8" 90 ^o bend	\$ _____ each	Mfg. _
8"x8"x8" Tee	\$ _____ each	Mfg. _
8"x8"x6" Anchor Tee	\$ _____ each	Mfg. _

TOTAL [B] \$ _____

C	Resilient Seat Gate Valves for Buried Service
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Resilient seat gate valves shall have a ductile iron body with stainless steel non-rising stem, O-ring seals and mechanical joints. Valves shall open right and meet or exceed the requirements of ANSI/AWWA C509/C515 with latest revisions and the mechanical joints shall meet the requirements of ANSI/AWWA C111/A21.11-00 with latest revisions. Valves shall be rated for 250 psi and be full epoxy coated on the interior and exterior surfaces with a minimum thickness of 3.5 mils. Pricing shall be shall per valve.

<u>Size</u>	<u>\$/each</u>	<u>Manufacturer</u>
4"	_____	_____
6"	_____	_____
8"	_____	_____
10"	_____	_____
12"	_____	_____

TOTAL [C] \$ _____

D	Resilient Seat Tapping Valves
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Resilient seat gate tapping valves shall have a ductile iron body with stainless steel non-rising stem and O-ring seals and mechanical joints. Valves shall open right and meet or exceed the requirements of ANSI/AWWA C509/C515 with latest revisions and the mechanical joints shall meet the requirements of ANSI/AWWA C111/A21.11-00 with latest revisions. Valves shall be rated for 250 psi and be full epoxy coated on the interior and exterior surfaces with a minimum thickness of 3.5 mils. Valves shall have an inlet valve, ASA-125 lb, with alignment lip. Pricing shall be shall per valve.

<u>Size</u>	<u>\$/each</u>	<u>Manufacturer</u>
6"	_____	_____
8"	_____	_____

TOTAL [D] \$ _____

E	Tapping Sleeves
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Tapping Sleeves shall be 304 stainless steel shell with fully passivated welds, 304 stainless steel bolts with UNC threads and hex nuts. Gasket shall be a gridded virgin SBR or Buna-N compounded for water service per ASTM D2000. The outlet gasket shall be Buna-N. Flange shall be 304 stainless steel configured to accept standard tapping valves and conform to the latest revisions of AWWA C207. Pricing shall be by the sleeve for the sizes indicated and sized for Class 52 ductile iron pipe. Tapping valves shall be Ford FAST or equal.

<u>Size</u>	<u>\$/each</u>	<u>Manufacturer</u>
6" x 6"	_____	_____
8" x 6"	_____	_____
8" x 8"	_____	_____
12" x 6"	_____	_____
12" x 8"	_____	_____
TOTAL [E] \$ _____		

F	Valves Boxes and Curb Boxes
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Valves Boxes shall be cast iron of the two piece sliding type not less than 5 1/4" in diameter with a cast iron cover with the word "water" cast into the cover. Curb boxes shall be a two piece extension type with 2 hole Erie pattern cover and include a stationary rod. Pricing shall be by the piece.

Valve Box	_____ each
Curb Box and Rod	_____ each
TOTAL [F] \$ _____	

G	Corporation Stops
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Corporation stops shall be full port ball type manufactured with "no-lead" alloy brass meeting the latest requirements for "no-lead" brass alloy for use in drinking water. Corporations shall be compression type and for use with polyethylene service tubing size 1 1/4" CTS. Pricing shall be by the piece.

Manufacturer: _____	\$ _____	each
TOTAL [G] \$ _____		

H	Curb stops
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Curb stops shall be manufactured with “no-lead” alloy brass meeting the latest requirements for “no-lead” brass alloy for use in drinking water. Curb stops shall be full port ball type design with compression type connections to 1 ¼” CTS polyethylene tubing. Pricing shall be by the piece.

Manufacturer: _____ \$ _____ each

TOTAL [H] \$ _____

I	Water Meter Installation Assembly
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The Water Material Meter Installation Assembly shall consist of the following components. Pricing shall be by the piece and the bid price shall be the total of all components.

P.E. Meter Pit, 20” diameter x 24” high
With notches knocked out
Equal to MidStates MP2024 \$ _____ each Mfg. _____

Meter Pit Frame to accept Ford A3 Lid
Equal to Ford FDFA3 \$ _____ each Mfg. _____

Single 11 ¼” Lid for Meter Pit Frame
Equal to Ford FDA3 \$ _____ each Mfg. _____

1” Meter Coppersetter w/key valve inlet
& outlet, 30” high equal to Ford FFVV274-30W \$ _____ each Mfg. _____

1” CTS Pack Joint Assembly for Ford #4
Kornerhorn equal to Ford FBJA4-44 \$ _____ each Mfg. _____

1 ¼” pack Joint Assembly for Ford #4
Kornerhorn, equal to Ford FBJA4-44 \$ _____ each Mfg. _____

TOTAL ASSEMBLY PRICE [I] \$ _____

J	Tapping Saddles
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Tapping saddles shall have an epoxy coated body with double 304 stainless steel straps, outlet shall have CC thread and the gasket shall be a nitrile rubber NSF 61 approved gasket that is recessed into the saddle body. Pricing shall be per saddle.

- 6" x 1" \$_____ each Mfg. _____
- 8" x 1" \$_____ each Mfg. _____
- 6" x 2" \$_____ each Mfg. _____
- 8" x 2" \$_____ each Mfg. _____

TOTAL [J] \$_____

K	Couplings
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Couplings shall be carbon steel with NSF 61 registered fusion-bonded epoxy coating with two ANSI 304/303 stainless steel bolts, NSF 61 registered EPDM gasket in two layers for multi-sized piping outside diameter. Coupling shall be Hymax-2000 or approved equal. Pricing shall be by the coupling.

- 2" \$_____ each Mfg. _
- 4" \$_____ each Mfg. _
- 6" \$_____ each Mfg. _
- 8" \$_____ each Mfg. _
- 10" \$_____ each Mfg. _
- 12" \$_____ each Mfg. _

TOTAL [K] \$_____

L	All Stainless-Steel Repair Clamps
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All Stainless Steel Repair Clamps shall have a band constructed of 304 stainless steel, a girded SBR gasket, a 304 stainless steel lifter bar with 304 stainless steel bolts and hex nuts, and 304 stainless steel welded sidebars. All welds shall be fully passivated. Pricing shall be for the following examples and sizes.

6" with 6.84" to 7.24" OD range, 12" length \$_____ Mfg. _____

8" with 8.99" to 9.39" OD range, 12" length \$_____ Mfg. _____

TOTAL [L] \$ _____

M	Fire Hydrants
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Fire hydrants shall meet or exceed the latest revision of AWWA C502. Hydrant shall meet following specifications.

- a. Main valve shall be 5 1/4" diameter
- b. Two (2) 2 1/2" hose nozzles, NST
- c. One (1) 4 1/2" pumper nozzle with NST
- d. Replaceable brass nozzles
- e. Breakaway flange
- f. Mechanical Joint epoxy coated shoe
- g. Open Right (clockwise)
- h. Stainless steel upper and lower stem rod
- i. 4 1/2' depth of bury
- j. Self draining
- k. Color shall be yellow

Fire hydrants shall be American AVK Model 27/80 or approved equal.

Model _____ \$ _____ each Mfg. _____

TOTAL [M] \$ _____

Bidder's Printed Name: _____

Title: _____

Bidder's Signature (by authorized individual): _____

Date: _____

BID RESPONSE FORM
SUPPLYING AND DELIVERING OF MISCELLANEOUS PARTS AND SUPPLIES FOR THE WANNACOMET
WATER COMPANY AND/OR THE SIASCONSET WATER DEPARTMENT

The undersigned proposes to supply the Town of Nantucket at the contract price(s) listed below for the specifications contained herein for each material category listed.

	Material Category	Total Price per Category
A	Class 52 Ductile Iron Water Pipe	\$ _____
B	Ductile Iron Pipe Fittings	\$ _____
C	Resilient Seat Gate Valves for Buried Service	\$ _____
D	Resilient Seat Tapping Valves	\$ _____
E	Tapping Sleeves	\$ _____
F	Valves Boxes and Curb Boxes	\$ _____
G	Corporation Stops	\$ _____
H	Curb stops	\$ _____
I	Water Meter Installation Assembly	\$ _____
J	Tapping Saddles	\$ _____
K	Couplings	\$ _____
L	All Stainless-Steel Repair Clamps	\$ _____
M	Fire Hydrants	\$ _____

Name of general bidder: _____ FEIN or SSN: _____

Telephone: _____ Fax _____ E-mail: _____

Address, City, State and Zip Code: _____

Bidder's Signature (by authorized individual): _____

Bidder's Printed Name: _____ Title: _____

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

Insurance Required:

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

DELIVERY:

Delivery is to be to the Wannacomet Water Company, 1 Milestone Road, Nantucket, MA 02554

PRICES:

All prices are to be FOB delivered to Nantucket, MA 02554 and shall be firm through the completion of this contract.

IV. QUALITY REQUIREMENT.

- a. Bidders must provide all of the items described in Section II and comply with all of the bid submission requirements listed in Section I.
- b. Bidder must have been in the business of supplying these specific items for a minimum of five (5) years.

V. REFERENCES.

Bidders must provide a complete list of all customers for whom it provided similar services in the past three years. Reference information must include Name, Contact Person, Phone Number, Fax Number and date of purchases.

Poor references may be a basis for determining that a bidder is not responsible. Reference questions will include but may not be limited to quality of product, customer service, and general customer satisfaction.

VI. RULE FOR AWARD.

Contracts will be awarded on a category-by-category basis to the most responsive and responsible bidder(s) offering the lowest **TOTAL BID PRICE PER CATEGORY** for each category from [A] to [M]. A vendor may be awarded multiple contracts in different categories.

In the event of a tie of two vendors, the vendors will be invited to the procurement office for a coin toss to break the tie. In the event of a tie of more than two vendors, the vendors will be invited to the procurement office for a drawing of straws to break the tie.

NOTE: The number of items on the Bid Sheet is intended for the purpose of determining the low bid. It is not a guarantee of actual items and is not meant to hold the town to a specific breakdown. Actual items required on the contract may be higher or lower than the number stated.

VII. BASIS OF COMPENSATION.

Fixed price contract

CERTIFICATE OF NON-COLLUSION

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

Signature of person signing contract

Name of Business

TAX COMPLIANCE CERTIFICATION

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

By:

Name

Date

FEIN:



TOWN OF NANTUCKET

AGREEMENT BETWEEN Wannacomet Water Company AND XXXXXXXXXX

THIS AGREEMENT made effective ____, 2022, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Wannacomet Water Commission, with offices at 1 Milestone Road, Nantucket, Massachusetts 02554 (hereinafter called the "COMMISSION"), and **XXXXXXXXXXXXXXXX** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

RECITALS:

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

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

ARTICLE 1 - ENGAGEMENT OF THE CONTRACTOR

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

ARTICLE 2 - SERVICES OF THE CONTRACTOR

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the COMMISSION and its designee (if any) as

set forth on Exhibit A.

- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the COMMISSION. The COMMISSION shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the COMMISSION in writing.
- 2.4 The CONTRACTOR represents and warrants to the COMMISSION that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by this Agreement and further agrees to perform its services in a professional manner, and in accordance with the reasonable standard of care implied by law and all applicable local, state or federal ordinances, laws, rules and regulations, all of which are incorporated herein by reference. The CONTRACTOR will obtain and pay for any and all permits, bonds and other items required for the proper and legal performance of the Work.
- 2.5 The CONTRACTOR represents and warrants to the COMMISSION that it is not a party to any agreement contract or understanding which would in any way restricts or prohibits it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of “hard” copies, graphics, magnetic media or otherwise) which are received and produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be “work for hire” and shall be and become the property of the COMMISSION upon the receipt and production of such items by the CONTRACTOR. The COMMISSION acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the COMMISSION in connection with any other project shall be at the COMMISSION’s sole risk, unless otherwise agreed to by the CONTRACTOR in writing.
- 2.7 The CONTRACTOR shall be responsible for the professional and technical accuracy, and for the coordination, of all designs, drawings, specifications, estimates and other work or services furnished by CONTRACTOR or its consultants and subcontractors. The CONTRACTOR shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the COMMISSION shall not be necessary. The CONTRACTOR shall supervise and direct the Work, using its best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and engineering profession for projects similar to the subject project in scope, difficulty and location.
- 2.8 The CONTRACTOR shall not use any subcontractors or sub-consultants (not identified herein) for any work required under this Agreement unless such use has been approved in advance in writing by the COMMISSION.

- 2.9 Notwithstanding anything to the contrary in this Agreement, the CONTRACTOR shall not be relieved of its obligations under this Agreement by the COMMISSION's performance, or failure to perform, any of the COMMISSION's administrative duties under this Agreement, including, but not limited to, the COMMISSION's review and/or approval of plans, estimates, programs, documents, materials, work and services furnished by CONTRACTOR.

ARTICLE 3 - PERIOD OF SERVICES

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the COMMISSION's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving Notice to Proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed no later than the date set forth on Exhibit A. The CONTRACTOR acknowledges that time is of the essence of this Agreement.
- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the occurrence of an unforeseen event beyond its control such as fire or other casualty, abnormal adverse weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the COMMISSION shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

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

ARTICLE 4 - PAYMENTS TO THE CONTRACTOR

- 4.1 The compensation due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the COMMISSION at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the COMMISSION.
- 4.3 The COMMISSION will pay the CONTRACTOR upon review and approval of such invoices by the COMMISSION or its designee.

- 4.4 This engagement may be subject to budgetary restrictions which may limit the total amount of funds available for the Work. Accordingly, unless otherwise stated on Exhibit B, the TOWN will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the COMMISSION.
- 4.5 The CONTRACTOR and its sub-contractors shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR in the preparation of the documents, as reasonably determined by the COMMISSION.

ARTICLE 5 – TERMINATION

- 5.1 This Agreement may be terminated, with cause, by either the COMMISSION or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The TOWN shall have the right to terminate this Agreement for its convenience and without cause upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:
- (a) unless the COMMISSION terminates for cause under paragraph 5.1, in which event the TOWN shall be under no obligation to make any payments to CONTRACTOR except for those services satisfactorily provided, the COMMISSION shall remain responsible for payments for the services satisfactorily performed and, unless this Agreement is for a lump-sum, expenses of CONTRACTOR reasonably accrued prior to the effective date of the notice of termination in compliance with this Agreement (less the value of any claims of the COMMISSION), all as determined by the COMMISSION in its sole discretion, but for no other amounts, including, without limitation, claims for lost profits on Work not performed; and
 - (b) The CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to WORK performed pursuant to the Agreement.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

- 7.1 The CONTRACTOR agrees to indemnify and save the COMMISSION harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall

reimburse the COMMISSION for any and all costs, damages and expenses, including reasonable attorney's fees, which the COMMISSION pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the COMMISSION with respect to the CONTRACTOR, in connection with this Agreement, and shall survive termination or expiration of this Agreement.

7.2 Before commencing work the CONTRACTOR shall obtain and maintain at its expense and from insurance companies of a Best Rating of A or better, which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
- (d) Errors and Omissions Insurance of not less than \$2 million per claim. The coverage shall be in force from the date of execution of the Agreement to the date when all design and construction work is completed and accepted by the COMMISSION, unless, however, the policy is a "claims made policy," in which event the policy shall remain effective and in full force for a period of six (6) years after completion of all design and construction work relating to the engagement.
- (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
- (f) Such additional insurance as the COMMISSION may reasonably require, as set forth on Exhibit A.

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

Agreement and at such times thereafter as the COMMISSION may reasonably request.

ARTICLE 7 - GENERAL PROVISIONS

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

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

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

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

CONTRACTOR:

TOWN OF NANTUCKET, MASSACHUSETTS
WANNACOMET WATER COMMISSION:

XXXXXXXX

Funding Org/Obj:

Purchase Order # _____

Approved as to Funds Available:

Brian E. Turbitt, Director of Municipal
Finance

CONTRACT EXHIBIT A

CONTRACTOR, SCOPE OF WORK, TERM

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

AGREEMENT EXHIBIT B

PAYMENTS

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

BIDDER'S CHECKLIST

Required for bid submittals:

- Bid Price Form By Category
- Bid Response form
- Non-collusion form
- Tax compliance certificate
- Reference list
- Signature page from Town of Nantucket contract agreement
- Proof of Insurance
- W9