

**Town of Sterling**  
Contact Tom Rutherford  
Facilities Manager  
1 Park Street  
Sterling, MA 01564  
978-422-8111 ext 2318  
[trutherford@sterling-ma.gov](mailto:trutherford@sterling-ma.gov)

### **INVITATION FOR BIDS FY2019**

The Town of Sterling [the Town] is accepting sealed bids for the supply and delivery of approximately 15,535 gallons of #2 Fuel Oil, including some 6,000 gallons of winter mix diesel, for six (6) municipal buildings for the period of September 1, 2018 through June 30, 2019.

Sealed bids will be received at the Office of the Facilities Manager at 1 Park Street Sterling MA 01564 before 10:00 AM, **Oct. 1 2018**. Bids received after this time and date will be returned unopened to the vendor. No exceptions will be allowed.

Sealed envelopes containing bids shall be clearly marked, "Sterling Bid - #2 Fuel Oil - FY2019."

Note: One original and two (2) copies of bid shall be submitted. NO faxed bids will be accepted.

The Town reserves the right to accept or reject any or all bids, to waive any informality in a bid, and to award the contract as decided to be in the best interest of The Town.

The Town fully complies with federal, state, and local laws and directives governing equal opportunity and non-discrimination in all County activities and actively solicits bids from MBE/WBE businesses in accordance with County policy.

The full text of this document is available on the town website <http://www.sterling-ma.gov>. Select current bid opportunities

Ross Perry  
Chief Procurement Officer  
Town Administrator

9/5/18 Changes and Updates noted in **bold** and by ~~strikeouts~~.

## 1. PROCUREMENT CALENDAR:

The SCHEDULE for the bid process is as follows:

1. Local Advertisement: August
2. Bids Available for Distribution: August, amendment available Sept. 6th
3. Deadline for written questions: Sept. 25 2018
4. Deadline for bids to be received: 10:00 Oct. 1, 2018
5. Anticipated Award Date: Oct. 3 or Oct. 17, 2018

## 2. CONTACT INFORMATION

Contact:

Tom Rutherford  
Facilities Manager  
1 Park Street  
Sterling, MA 01564  
978-422-8111 ext 2318  
[trutherford@sterling-ma.gov](mailto:trutherford@sterling-ma.gov)

Alternate

Kama Jayne  
Administrative Assistant  
1 Park St  
Sterling MA 01564  
978 422 8111 ext 2316  
[kjayne@sterling-ma.gov](mailto:kjayne@sterling-ma.gov)

## 3. GENERAL INFORMATION:

Questions regarding this IFB may be submitted in writing or email to Tom Rutherford Facilities Manager at the address listed above no later than **Sept 25, 2018**. Responses to questions will be sent to all vendors who are recorded as having received the bid no later than three days prior to the bid opening via e-mail or fax.

Bids shall be typewritten or written in ink and signed on the enclosed forms. No electronic bids may be submitted. Officials of Corporations shall designate their official title. Partners or Sole Owners shall so state, giving names of all interested parties.

If this bid is distributed electronically, bidders are solely responsible for obtaining and completing required attachments that are identified in this bid and for checking for any addenda or modifications that are subsequently made to this bid or attachments. The Town accepts no liability and will provide no accommodation to bidders who fail to check for amended bids and submit inadequate or incorrect responses.

Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.

All information submitted in response to this IFB is subject to Massachusetts Public Records Law, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 7, Subsection 26. Any statements in submitted responses that are inconsistent with these statutes will be disregarded.

Estimates of gallons required by each municipal entity are included for the convenience of bidders as the best information available to estimate the number of gallons in this procurement. The Town makes no guarantee that any entity will purchase the number of estimated gallons listed on ATTACHMENT D.

Bidders shall not base Proposals on verbal information from any employee of The Town or other political subdivision.

~~The Town and/or each other political subdivision reserves the right to reject its section of the bid and unless otherwise specified by the bidder, to accept any item in the bid, or make a total award to one bidder. Rejection by any governmental entity or its section shall not be grounds for withdrawal by any bidder.~~

The Town reserves the right to reject any and all bids if, in its sole opinion, it is in the best interest of The Town to do so, waive any minor informalities in the bid requirements, or request additional clarifying information be provided after the deadline for submitting bids.

All expenses incurred by bidders, whether successful or unsuccessful, in preparing and delivering their bids are the sole responsibility of the bidders.

As soon as the award(s) is made, the Bidder shall be requested to execute a proper contract with The Town. (Attachment E).

The contract term is for nine months beginning on September 1, 2018 and concluding on June 30, 2019. Automatic deliveries as listed in attachment D, may be switched to "will call" at customer discretion

The bid must be submitted in a sealed envelope marked " Sterling Bid - #2 Fuel Oil - FY2019." All items shall be guaranteed from date of award through June 30, 2019. The Town is not responsible for any bids that are mislabeled.

**Bidding Format** -Vendors must bid on a price per gallon delivered.

**Determination of Winning Award:**

The bid will be awarded to the vendor offering the lowest delivered price per gallon In case of a tie, cash discount will determine the award. If a tie continues to exist after the cash discount is considered, as soon as possible, the tied bidders will be invited to a mutually agreeable time and place where, in the presence of impartial witnesses, the names of the tied bidders will be placed in a receptacle, and the name of the winning bidder will be drawn by the Chief Procurement Office.

Bids will be evaluated by the Facilities Manager and Chief Procurement Officer.

**Notice of Award:** The Contract recommendation will be awarded as soon as possible after bid opening pending formal award by the Board of Selectmen at their next available meeting, but no later than thirty days after the bid opening.

#### 4. OIL SPECIFICATIONS:

All grades of fuel oil, with regard to sulfur content, MUST conform to regulations of the Commonwealth of Massachusetts Department of Public Health, Division of Environmental Health and Bureau of Air Use Management.

Fuel Oil must comply with the following specifications:

- ❑ The most updated Federal Specifications that replaced Spec. VV-F-815C published on July 10, 1972 Federal Supply Service, General Services Administration, or specifications currently in use for GSA procurements.
- ❑ D396-98 Standard Specification for Fuel Oils – Copyright 1999 AMERICAN SOCIETY FOR TESTING AND MATERIALS, West Conshohocken, PA. *All rights reserved.* The American Society for Testing Materials; and fuel oil specification ASTM D-396 amended to comply with regulations of the Massachusetts Department of Environmental Protection; and any other applicable Federal and/or Commonwealth regulations and laws.
- ❑ Colonial 76 pipeline specifications.

If any of the specifications listed conflict, the Facilities Manager will determine the specifications that meet or exceed the needs of the Town. The decision of the Facilities Manager will be final.

#### **The contractor is responsible for cold weather operability for the two outdoor tanks**

~~During exceptional weather conditions it will be the responsibility of the vendor to ensure that the two outdoor tanks (police and fire) have proper and adequate cold protection, from winter mix to 80/20 kerosene, to additives as required to keep these facilities operational. Customer shall be promptly advised of any product changes~~

#### 5. DELIVERY REQUIREMENTS:

The Contractor is obligated to supply the full oil requirements of the contract user including the purchase, transport, and delivery of oil to each contract user. The Contractor is responsible for all costs associated with the transport of oil to the contact user's tank.

Deliveries must be in compliance with all applicable local, state, and federal laws and regulations.

Contractors are responsible for paying for any damage they cause at a site.

While performing work under this contract, the Contractor shall be responsible for completing cleanup for any spills or accidental release to the environment **that are a direct result of the contractor's delivery** (pursuant to M.G.L. Chapter 21 E and other relevant regulations) at no cost to any of the entities listed on Attachment B.

The Contractor shall notify all local, state, and federal authorities as required by law in the event of such a release or threat of release. The Contractor will make every effort to contact the customer's emergency contact first, if time frames and conditions allow.

~~The Contractor will immediately notify the user facility contact person, in writing, in the event of a spill, release, or threat of a release to the environment and prior to initiating~~

~~clean up response actions. If prior notification of the facility contact person is not possible, then the Contractor shall take appropriate response actions, as directed by the Contractor's Licensed Site Professional, and notify the contact person, in writing, as soon as possible thereafter~~

**The first action taken by the delivery driver in case of a spill will be to contain and/or clean up the spill assuming it is a minor event. Driver will call contractor's office and notify people within the building being delivered to. Driver will have all emergency contact information immediately available**

The Contractor must provide a written summary of all response(s) action taken in any instance within the timelines established for reporting of spills and/or contamination, as set forth in M.G.L. Chapter 21 E.

The successful Bidder will protect The Town and the other entities listed on Attachment B from any and all infringements of patents, royalties, or damages arising from this contract's transactions.

If at any time the Contractor is unable to furnish materials or services as ordered individually by The Town or other political subdivisions, the Contractor shall be obligated to obtain delivery from another supplier and the Contractor will in turn invoice The Town or other political subdivision so affected, at the price specified in such Contract with The Town or other political subdivision affected, or, The Town or other political subdivision may order such materials or services from such places as are available, and the Contractor shall pay to the affected Town or other political subdivision all expenses incurred above such contract price.

## **6. PAYMENT:**

Invoices shall be in cents per gallon. Thirty (30) day payment schedules are offered for such quantities of materials or services as have been accepted by The Town. Discounts offered for payment within thirty (30) days shall be so specified.

The Town of Sterling is specifically exempt from state sales tax. The prices quoted shall be exclusive of said taxes.

## **7. ANALYSIS AND DISPOSITION OF OIL NOT MEETING THE SPECIFICATIONS IN SECTION 4 OF THIS IFB:**

The paramount goal of this contract is the supply and delivery of high quality oil that meets the specifications listed in Section 4 in this IFB. The Contractor is required to assure The Town that there are quality control mechanisms in place to assure the quality of delivered oil. If a customer has reason to believe that the Contractor has delivered oil of an inferior quality, questionable grade of oil, or oil with contaminants within (including water), the Town will have independent testing performed at the Town's request at a testing lab selected by the Town. The Contractor will agree to abide by the testing results obtained from the independent testing lab and will pay for the cost of testing if it does not meet the standards.

All oil may be regularly and continually analyzed; or only part or parts thereof may be analyzed by The Town. Each contract will provide that upon such an analysis being made, the Contractor shall receive reasonable notice and shall be entitled to have a representative present when samples for analysis are taken and shall be entitled to

take samples like the sample to be analyzed.

The Contractor will be notified of any oil rejected for not having complied with the analysis as required this IFB and is to immediately remove same and any other oil previously in the tank, and immediately replace all with a like quantity of acceptable that complies with the specifications. All applicable local, state, and federal regulations must be complied with to meet the requirements of this Section. This process must begin as soon as possible upon the Contractor's receipt of notice that the oil does not meet the specifications listed in this IFB, and in no event later than 24 hours after said receipt. On failure to do so, The Town may remove it at the expense of said Contractor, and if the Contractor fails to provide proper oil within a reasonable length of time The Town may cancel the Contract or may, at the expense of the Contractor, purchase a proper oil which will comply with the specifications listed in this IFB, charging said Contractor for any excess in cost thereof. Oil rejected under this paragraph, if partially used, shall be paid for at the contract price.

## 6. QUALIFICATIONS:

Bidders must have been regularly engaged, for a least three years prior to the date of bid opening, in the business of supplying the product bid upon, in the grade bid upon and in the manner of organization, facilities and assurance of supply to insure prompt and satisfactory service as called for with all delivery in Massachusetts calibrated tank trucks.

Bidders must submit a list of at least three customer references, naming the organization, contract name, address and telephone number.

Bidders must have firm sources of fuel.

The Town will not pay more than the awarded bid price. Invoices must be calculated using the awarded bid price **except in the case of force majeure being enforced upon the contractor by its suppliers due to an act of God or other item that would affect the contractor's price/ability to obtain fuel for sale**

Upon notice of the award of the contract, the successful bidder shall submit names and telephone numbers, including twenty-four hour beeper or answering machine numbers, for those individuals involved in the direct customer service aspects of this contract(s). These contacts will be shared with **all building managers** for the purpose of communicating routine or emergency information with the Contractor(s).

~~Pre-Qualification Statement: A pre-qualification statement may be required by The Town. This statement includes, but is not limited to, experience with government entities, legal or administrative proceedings currently pending, financial condition certified by a Certified Public Accountant, bank and credit references, a listing of equipment to be used during the term of the contract, and municipal references for which the bidder has provided similar services.~~

## 7. DELIVERIES:

**Tank Wagon** deliveries are to be by metered trucks and delivery slips shall be stamped by the metering device indicating the amount of fuel oil delivered at each delivery. ~~Deliveries shall be made on days and during hours that are acceptable to contract users.~~

All deliveries shall be automatic, based on degree-day units unless otherwise stipulated by the awarding authority. Liability for damage resulting from an oil tank running out of fuel because of a Contractor's failure to make automatic deliveries shall be the responsibility of the Contractor **except those buildings where usage is erratic and does not follow temperature based calculations.**

**Driver** signed delivery slips are to be forwarded to the purchaser with invoices. Deliveries are to be made with 48 hours from date of notification. Spillage will be the responsibility of the contractor.

## 8. TERMINATION:

~~Bid Bond/Certified Check: The Town requires as part of the bid package a certified check or Bid Bond made payable to The Town of Sterling from a surety company licensed in MA in the amount of \$2,000. Certified checks will be returned within thirty (30) days of the implementation of the contract. However, if a bidder fails to execute such contract within ten (10) days of the date of sending, the certified check will be declared forfeited as liquidated damages.~~

Cancellation: The Town can terminate its contract/ price agreement with a contractor(s) who fails to perform under the terms of the contract/price agreement. **Service and fuel quality will be the prime concern of this contract.** Notice of termination shall be in writing and notification shall be sent by registered or certified mail. Termination of contract/price agreement shall become effective upon contractor(s) receipt of notification.

## 9. INSURANCE COVERAGE:

All policies are to be issued with insurance companies "A" rated by AM Best or similar.

Workmen's Compensation: The Contractor shall, before commencing the work, provide proof of Massachusetts Statutory Workers Compensation benefits, under Chapter 152 of the General Laws (Ter. Ed.) to all persons employed under the contract, and he shall continue such insurance in force and effect during the term thereof in the amounts so required.

Comprehensive General Liability Insurance: The Contractor shall carry Public Liability Insurance with a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate so as to save subdivisions harmless from any and all claims for damages arising out of Bodily Injury OR PROPERTY DAMAGE caused by accident resulting from the use of employment, equipment, or labor used in the performance of the contract or from any neglect, default, or omission or want of proper care, or misconduct on the part of the Contractor or for anyone in his employ during the execution of the work.

Pollution Liability Policy: The Contractor shall carry a Pollution Liability policy ~~with minimum limits of \$1,000,000. The Contractor shall carry a \$1,000,000 Combined Single Limit of liability on a Commercial Automobile policy including Non-owned/Hired Automobile coverage.~~ **unless it is** part of contractor's Comprehensive General Liability Insurance policy.

Commercial Auto Policy: The Contractor shall carry no less than \$1,000,000 combined single limit coverage per accident.

Prior to starting work on this contract, the contractor shall deposit with the Chief Procurement Officer, Certificates from the insurers clearly stating that the insurance policies required in the above paragraphs have been issued to the Contractor and further indicating that The Town is listed as additional insured. The Certificate must be on a form satisfactory to the Chief Procurement Officer. All policies are to be issued with insurance companies "A" rated by AM Best or similar.

No cancellation of any insurance whether by the insurer or by the insured shall be effective unless written notice is given to the Chief Procurement Officer at least fifteen (15) days prior to the intended effective date thereof, which date has been expressed in the notice. Prior to the effective date of any such cancellation, the contractor shall take out new insurance to cover the policies so cancelled.

### **13. REQUIRED BID DOCUMENTS:**

All bid submissions must include the following documents. Failure to include these documents could result in disqualification of your bid:

- Certificate of Non-Collusion & Tax Compliance – Attachment A – *Please use this sheet as the front page of your bid.*
- Fuel Oil Bid Sheet – Attachment B
- W-9 – Attachment C
- 3 References

**Attachment A**

**CERTIFICATE**

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

In accordance with MGL Chapter 30B, Section 10, I certify under the penalties of perjury that this bid/proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certificate, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other legal organization, entity or group of individuals.

COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

Signature of Individual Signing Bid or Corporate Officer:

\_\_\_\_\_

Telephone Number:

\_\_\_\_\_

Social Security Number or Federal Identification Number

\_\_\_\_\_

Date \_\_\_\_\_

Any person or corporation who fails to execute this document may be considered a non-responsive bidder and may be rejected pursuant to MGL Chapter 30B

**Attachment B**

**No. 2 FUEL OIL BID SHEET FY 2019**

**#2 TANK WAGON DELIVERIES**

Date \_\_\_\_\_

**Per Gallon Price Bid**

**X Day Payment Discount %**

\_\_\_\_\_

\_\_\_\_\_

Authorized Agent \_\_\_\_\_

Telephone No. \_\_\_\_\_

Email address \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

(Attachment C – W-9 Form attached at the end)

## Attachment D

### #2 Fuel Usage for FY2019 in Gallons Total = 15,535 gallons (estimated)

<u>LOCATIONS FOR DELIVERY</u>	<u>TANK CAPACITY</u>	<u>Estimated FY 2019 USAGE</u>
Butterick Municipal Bldg (one time fill)	5000	4400
Old Town Hall (auto delivery)	660	2390
DPW (customer will call)	550	1600
Sterling Light Dept (customer will call)	550	1370
Fire Dept (auto delivery) #2	1000	785
Fire Dept (auto delivery) winter blend	same tank	2425
Police Dept (auto delivery) #2	1000	550
Police Dept (auto delivery) winter blend	same tank	2015
Total		15,535

## Attachment E

### SAMPLE MUNICIPAL PURCHASE AGREEMENT (completed upon award)

THIS AGREEMENT made this day \_\_\_\_\_ of \_\_\_\_\_, 2018 by and between the Town of Sterling, a municipal corporation duly organized under the laws of Massachusetts and having a usual place of business at 1 Park Street, Sterling MA 01564, hereinafter referred to as the "TOWN", and, \_\_\_\_\_ having a usual place of business at \_\_\_\_\_, hereinafter referred to as the "CONTRACTOR".

WHEREAS, the TOWN invited the submission of bids for the purchase and delivery of FISCAL YEAR 2019 HEATING OIL, hereinafter "the Product"; and

WHEREAS, the CONTRACTOR submitted a bid to perform the work required completing the Product, and the TOWN has decided to award the contract therefore to the CONTRACTOR.

NOW, THEREFORE, the TOWN and the CONTRACTOR agree as follows:

1. Contract Documents. The Contract Documents consist of this Agreement, the Invitation to Bid, Instructions to Bidders and the CONTRACTOR's Bid. The Contract Documents constitute the entire Agreement between the parties concerning the work, and all are as fully a part of this Agreement as if attached hereto.
2. The Work. The Work consists of furnishing and delivering heating oil to various Town owned buildings.
3. Term of Contract. This Agreement shall be in effect from July 1 2018 and shall expire on June 30, 2019, unless terminated earlier pursuant to the terms hereof.
4. Compensation. The TOWN shall pay, as full compensation for items and/or services furnished and delivered in carrying out this agreement, at a firm price of \_\_\_\_\_ per gallon, including appropriate taxes and delivery charges.
5. Payment of Compensation. The TOWN shall make payments within thirty (30) days after its receipt of Invoice.
6. Liability of the TOWN. The TOWN's liability hereunder shall be to make all payments when they shall become due, and the TOWN shall be under no further obligation or liability. Nothing in this Agreement shall be construed to render the TOWN or any elected or appointed official or employee of the TOWN, or their successors in office, personally liable for any obligation under this agreement.
7. Independent Contractor. The CONTRACTOR acknowledges and agrees that it is acting as an independent CONTRACTOR for all work and services rendered pursuant to this

Agreement, and shall not be considered an employee or agent of the TOWN for any purpose.

8. Indemnification. The CONTRACTOR shall indemnify, defend, and hold the TOWN harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of the CONTRACTOR's breach of this Agreement or the negligence or misconduct of the CONTRACTOR, or the CONTRACTOR's agent or employees.

9. Insurance.

A. The CONTRACTOR shall obtain and maintain during the term of this Agreement the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the TOWN.

B. All policies shall indemnify the TOWN as an additional insured (except Worker's Compensation) and shall provide that the TOWN shall receive written notification at least 30 days prior to the effective date of any amendment or cancellation. Certificates evidencing all such coverage shall be provided to the TOWN upon the execution of this Agreement. Each such certificate shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement. Failure to provide or to continue in force such insurance shall be deemed a material breach of this Agreement and shall be grounds for immediate termination.

10. Assignment. The CONTRACTOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the TOWN, and shall not assign any of the moneys payable under this Agreement, except by and with the written consent of the TOWN.

11. Termination for Cause. If at any time during the term of this Agreement the TOWN determines that the CONTRACTOR has breached the terms of this Agreement, **except in the case of force majeure being enforced upon the contractor by its suppliers due to an act of God or other item that would affect the contractor's ability to deliver under this contract**; by negligently or incompetently performing the work, or any part thereof, or by failing to perform the work in a timely fashion, or by failing to perform the work to the satisfaction of the TOWN, or by supplying poor quality or out of specification products or by not complying with the direction of the TOWN or its agents, or by otherwise failing to perform this Agreement in accordance with all of its terms and provisions, the TOWN shall notify the CONTRACTOR in writing stating therein the nature of the alleged breach and directing the CONTRACTOR to cure such breach within ten (10) days. The CONTRACTOR specifically agrees that it shall indemnify and hold the TOWN harmless from any loss, damage, cost, charge, expense or claim arising out of or resulting from such breach regardless of its knowledge or authorization of the actions resulting in the breach. If the CONTRACTOR fails to cure said breach within ten (10)

days, the TOWN may, at its election at any time after the expiration of said ten (10) days, terminate this Agreement by giving written notice thereof to the CONTRACTOR specifying the effective date of the termination. Upon receipt of said notice, the CONTRACTOR shall cease to incur additional expenses in connection with this Agreement. Upon the date specified in said notice, this Agreement shall terminate. Such termination shall not prejudice or waive any rights or action which the TOWN may have against the CONTRACTOR up to the date of such termination, and the CONTRACTOR shall be liable to the TOWN for any amount which it may be required to pay in excess of the compensation provided herein in order to complete the work specified herein in a timely manner. Upon such termination, the CONTRACTOR shall be entitled to compensation for all satisfactory Product delivered or work completed prior to the termination date, as determined by the TOWN.

~~12. Inspection and Reports. The TOWN shall have the right at any time to inspect the work or Product of the CONTRACTOR. Whenever requested, CONTRACTOR shall immediately furnish to the TOWN full and complete written reports of his operation under this Contract in such detail and with such information as the TOWN may request.~~

13. Successor and Assigns. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the TOWN nor the CONTRACTOR shall assign or transfer any interest in the Agreement without the written consent of the other.

14. Compliance with Laws. The CONTRACTOR shall comply with all Federal, State and local laws, rules, regulations and orders applicable to the work provided pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.

15. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U. S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

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

17. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the

CONTRACTOR submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

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

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

I certify that an appropriation is available for this Contract.

TOWN OF Sterling, MA

By its \_\_\_\_\_  
\_\_\_\_\_ (Town Accountant Signature)

\_\_\_\_\_  
(Name & Title) (Name & Title) (Authorized Signature)

CONTRACTOR: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name & Title)

