



Town of Mansfield
6 Park Row, Mansfield, Massachusetts 02048

Department of Public Works
Public Buildings / Special Projects
Michael Ahern, Operations Manager

MEMORANDUM

TO: Potential Bidders and Area Landowners
FROM: Mike Ahern, Public Buildings / Special Projects
DATE: January 23, 2017
SUBJECT: House to be auctioned and moved

The Town of Mansfield acting through the MFN Regional Wastewater Authority is hereby notifying nearby residents and landowners that we are auctioning off a house only near the intersection of Hill St. and Crane St. in the Town of Norton MA.

We are receiving bids for the sale of the house only. The house MUST be moved offsite to another lot of the bidder's choice.

Please see attached Legal Notice and Auction Information. Additional pictures and information is available by visiting the following auction website: www.municibid.com



NOTICE



The Town of Mansfield acting through the MFN Regional Wastewater Authority is accepting bids for the sale of a house only near the intersection of Hill St. and Crane St. in the Town of Norton MA.

The house **MUST** be moved offsite to another lot of the bidder's choice.

Additional pictures and information is available by visiting the following auction website:

www.municibid.com





Town of Mansfield

Request for Bids House Only for Sale

The Town of Mansfield, acting on behalf of the MFN Regional Wastewater District will receive internet bids thru a municipal auction website for **“A 2500 Square foot Colonial House, constructed in 2004, located in the Town of Norton, Mass in the area of Hill and Crane Street. This house must be moved offsite and is being offered to highest bidder for the house/structure only.** The auction closing date and time is March 08, 2017 at 11:00AM and at the end of the specific item listing time the auction shall be closed, unless extended. In the event of a bid arriving within 2 minutes of the bid closing, the closing may be extended by 2-minute increments until no further bids are received.

The municipal auction site web address is as follows: www.municibid.com All rules and regulations of said site shall govern including general conditions as specified with this bid item. Additional terms and conditions are contained on the website. The site is open to all interested parties, including the general public, wishing to submit a bid.

Payment shall be made by **cash, bank check or money order** payable to the MFN Regional Wastewater District within (5) days of the bid closing. A contract will be issued between the MFN District attorney and the highest bidder prior to any work happening at the site.

Prior to submitting a bid, all bidders must acknowledge the following and the highest accepted bidders must sign a non collusion and tax compliance statement as follows at time of payment and pickup.

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

Pursuant to M.G.L. c. 62C, Sec 49A, the bidder must certify under the penalties of perjury that, to the best of my knowledge and belief, the bidder is in compliance with

all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. In the event that the highest bidder does not make payment within (5) days after the bid closing, the Town may choose to offer the bid item to the next highest bidder.

Bidders are responsible for examining this house and structure prior to bidding and are therefore strongly urged to do so. This house may be viewed by setting up an appointment with Mike Ahern by calling Mansfield Town Hall DPW office at 508-261-7335 and scheduling an appointment in advance. The auction site contains many pictures of house and its interior/exterior.

The Town of Mansfield and the MFN is not responsible for damage to the house and ownership passes to the buyer only after full payment has been made to the District.

The winning bidder shall be notified after the close of the bid for this house only auctioned by the auction website. The winning bidder agrees to remove the house from the property within 6 months of written notification, unless other arrangements are made with the district in advance.

All bidders are advised that this house is being sold "as is" "where is" with no warrantee expressed or implied. Buyer assumes all responsibility for house after its sold. Bidders are advised that this home is surplus to the districts needs.

The Town of Mansfield acting on behalf of the MFN District reserves the right to reject any and all bids, or to accept the bid deemed to be in the best interest of the MFN District.

William Ross
Town Manager

Town of NORTON - Fiscal Year 2017

12/6/2016 2:23 pm SEQ #: 2,761

Key:

CURRENT OWNER			LOCATION			CLASS			DESCRIPTION			BN ID			CARD		
MFN REGIONAL WASTEWATER DISTRICT			8 PARK ROW			9810			IMP, SELECTICITY COUN			1			1 of 1		
G A			MANSFIELD, MA 02045			PMT NO			TY			BY			181		

TRANSFER HISTORY			DOS			BK-PG (Cart)		
MFN REGIONAL WASTEWATER D			02/20/2015			K		
MANSFIELD TOWN OF			G			G		

CD			ADJ BASE			LPI			VC			CREDIT AMT			ADJ VALUE		
100 S			80,000 R60			1.00 100			1.00 R03			142,830			101,720		
300 A			39,853 R60			1.00 100			1.00 ELP								

ZONING			R60			FRNT			0		
NGH 2			NIFFCV FISCAL 2007 680,700								
INT1											
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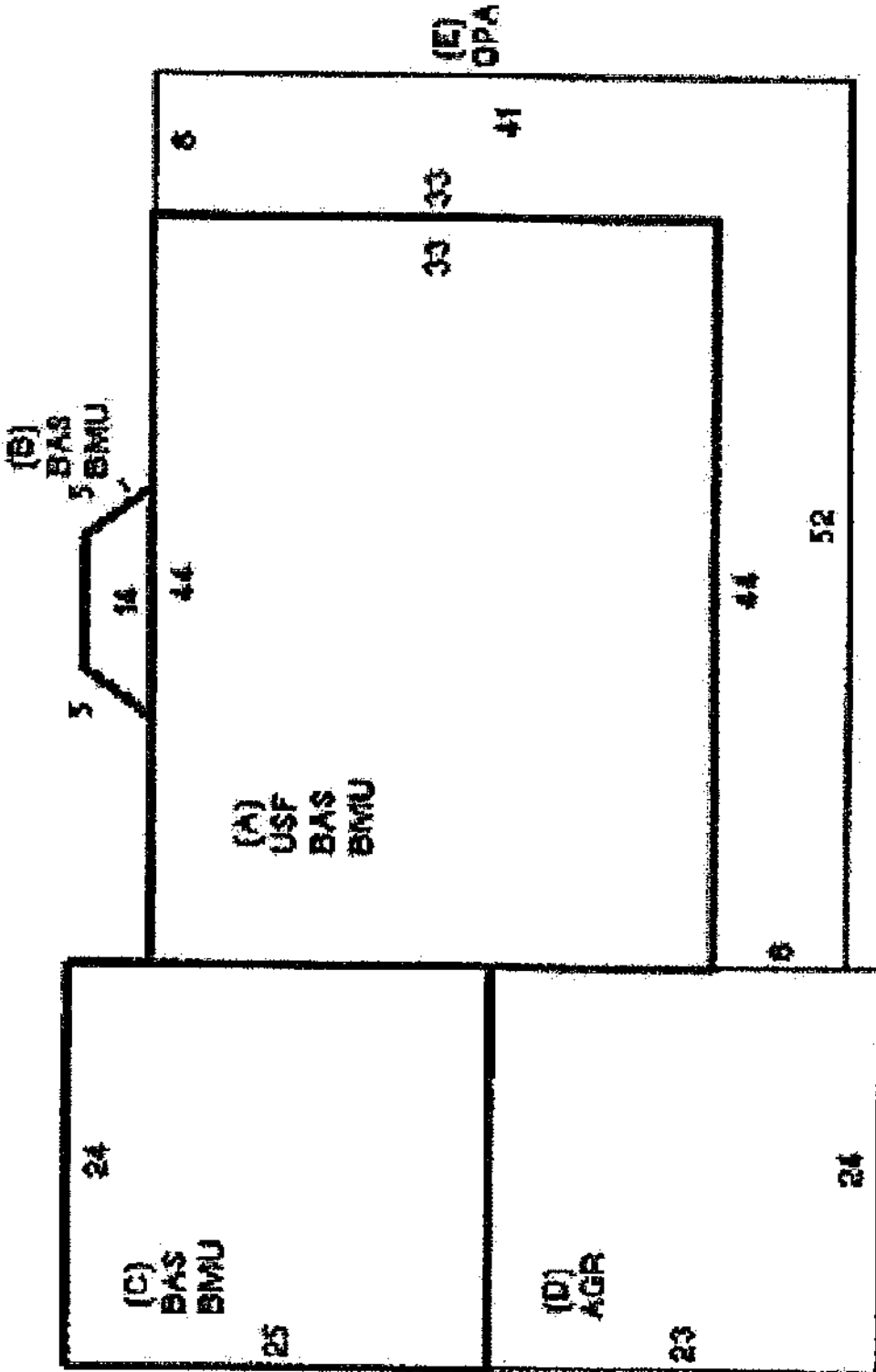
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Background.

The Town of Mansfield acting on behalf of the MFN Regional Wastewater District known as (MFN) has acquired a parcel of land in the Town of Norton. The parcel presently has a house as described in the legal notice, (attached) that's in very good condition. This home is surplus to the districts needs and the district has decided that they would consider bids for said house only, prior to considering demolition of said property.

The only known defects with this property, we are aware of, is the geothermal heating system has failed and will need replacement. The house has electric backup presently in use. The covered porches in a past winter suffered some rafter damage from falling snow but these porches would have to be removed in order to move the structure.

The value of this disposal has been deemed to be less than \$35,000.00.

This bid is only for the house and garage only and does **NOT** include the property that it's sitting on.

The bidder will be responsible to enter into a contract with the MFN similar to the one attached to this request for bids.

The bidder's contractor shall be responsible to supply the MFN with 100% performance and 100% payment bonds as well as full insurance coverage for all parties that take part in the process. Insurance requirements are as detailed in the sample contract. The bonding amount will be based on either a contractual cost to do all work necessary or \$100,000.00 whichever is higher.

A breach of any of the terms and conditions of this bid shall invoke a Forfeiture penalty if the successful bidder fails to comply with the terms of purchase and removal within 6 months. By submitting a bid, the bidder agrees to a forfeiture clause consisting of their contract bid price paid to the MFN without recourse for breach of terms and conditions of bid.

The bidder shall be responsible for all costs and permits required to move the house off of the existing foundation, completely remove any trees necessary to move the house offsite and any and all work and costs associated with such move within 6 months of contract execution.

The bidder shall be responsible for total site cleanup of any debris that is generated, maintaining the site in a safe and clean manner on a daily basis and restoring the site

to a safe condition at completion.

The successful bidder shall be responsible for supplying the MFN with a letter, from a lender or bank, stating the bidder has the financial capacity to execute a project of this nature.

The Town will be responsible for the demo and disposal of the foundation the necessary fill needed to grade the foundation hole level. Additionally the abandonment and filling in of the septic system and final site grading and planting.

Any areas in the enclosed contract that refer to Town of Mansfield shall also mean MFN Regional Wastewater District.

Sample Contract

Mansfield Department of Public Works Contract & General Conditions for Goods and Services and General Construction Contracts

This Contract is entered into on, or as of, this date by and between the Town of Mansfield (the "Town"), and (the "Contractor").

Contractor: _____
Address: _____
Voice: _____
Fax: _____

In consideration of the mutual promises and covenants contained herein, the Town and the Contractor agree as follows:

1. PROCUREMENT DESCRIPTION:

This is a Contract for the procurement of the following: *Removal of surplus property by Contractor*

This request for bid specification shall be considered part of this contract document. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

Highest Priority: Amendments to Contract (if any)
Second Priority: Contract
Third Priority: Addenda to Request for Bids
Fourth Priority: Request for Bids
Fifth Priority: Contractor's Bid

2. CONTRACT PRICE:

The Contract Price is to be paid to the town by the Contractor is:

BID PRICE INFO

3. PAYMENT SCHEDULE: **INTENTIONALLY LEFT BLANK**

4. DEFINITIONS:

4.1 Acceptance: All contracts require acceptance of the described goods or services by the Town Of Mansfield. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance of services by authorized representatives of the Town Of Mansfield to insure that the goods or services are complete and are as specified in the contract documents.

4.2 Contract Documents: All documents relative to the contract including (where used) Instruction to Bidders, Proposal Form, General conditions, Supplementary General Conditions, General Specifications, Other Specifications included in the Project Manual, Drawings, and all Addenda issued during the bidding period. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper performance of the contract.

4.3 The Contractor: The "other party" to any contract with the Town Of Mansfield. This term shall (as the sense and particular contract so require) include Seller, Bidder, Vendor, Supplier, Contractor, Engineer, Company or other label used to identify the other party in the particular contract. Use of the term "Contractor" shall be understood to refer to any other such label used.

4.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with contract documents, as modified by Amendments and Change Orders.

4.5 Subcontractor: Those having a direct contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.

4.6 Goods: Goods, Supplies, Equipment, or Materials.

4.7 Services: Shall mean the furnishing of labor, time or effort by the Contractor. This term shall not include employment agreements, collective bargaining agreements or grant agreements.

4.8 Work: The services or materials contracted for, or both.

5. TERM OF CONTRACT AND TIME FOR PERFORMANCE; LIQUIDATED DAMAGES:

5.1 The Term of this contract shall be: Within 6 months of contract execution.

5.2 This contract shall be fully performed by the Contractor on or before *Add Date?* unless extended pursuant to a provision for extension contained in the contract documents at the sole discretion of the Town Of Mansfield, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds. The time limits in the contract documents are of the essence of the contract.

5.3 The Contractor and the Contractor's surety shall be liable for and shall pay the Town as further described in the specification hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially completed.

6. SUBJECT TO APPROPRIATION: INTENTIONALLY LEFT BLANK

7. PERMITS AND APPROVALS:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the contract shall be secured and paid for by the Contractor.

8. THE CONTRACTOR'S BREACH AND THE TOWN OF MANSFIELD'S REMEDIES:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town Of Mansfield shall have all the rights and remedies provided in the contract documents. Additionally the right to cancel, terminate, or suspend the contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract including damages and specific performance, and the right select among the remedies available to it by all of the above.

9. STATUTORY COMPLIANCE:

9.1 This contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations: and wherever any provision of the contract or contract documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the contract, the provisions of General Laws are incorporated by reference into this contract, including but not limited to the following:

- A. General Laws Chapter 30B - Procurement of Goods and Services.
- B. General Laws Chapter 30 Sec.39, et seq~ - Public Works Contracts.
- C. General Laws Chapter 149, Sec 44A, et seq: Public Buildings Contracts.

9.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this contract. To whatever extent any provision of this contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.

9.3 The Contractor shall give all notices and comply with all laws and regulations bearing on the performance of the contract. If the Contractor performs the contract in violation of any applicable law or regulation, the Contractor shall bear all costs arising there from.

9.4 The Contractor shall keep itself fully informed of all federal, state, and Town of Mansfield/Norton laws, rules, and regulations affecting building codes and/or sound engineering standards and practices: and, municipal and/or local building by-laws or regulations as identified to the Contractor by local authorities. The Contractor shall report any discrepancies or inconsistencies discovered in the conduct of this contract forthwith in writing to the Town. It shall, at all times, itself

observe and comply with and shall cause all its agents, employees and subcontractors to observe and comply with all existing federal, state, and Town of Mansfield/Norton laws, by-laws, regulations, orders and decrees: and shall protect and indemnify the Town of Mansfield/Norton and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors or any such law, by-law, regulation or decree.

10. CONFLICT OF INTEREST:

Both the Town Of Mansfield and the Contractor stipulate to the applicability of the State Conflict of Interest Law (General Laws Chapter 268A), and this contract expressly prohibits any activity, which shall constitute a violation of that law. The Contractor shall be deemed to have investigated its applicability to the performance of this contract; and by executing the contract documents the Contractor certifies to the Town Of Mansfield that neither it nor its agents, employees, or subcontractors are hereby in violation of General Laws Chapter 268A.

11. CERTIFICATION OF TAX COMPLIANCE:

This contract must include a certification of compliance by the Contractor, as required by General Laws Chapter 62C, Sec. 49A, (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

12. DISCRIMINATION:

The Contractor will carry out the obligations of this contract in full compliance with all of the requirements imposed by or pursuant to General Laws Chapter 151B (Law Against Discrimination,) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended.

The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The

Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their employment, without regard to race, color, religious creed, national origin, sex, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.

13. ASSIGNMENT:

The Contractor shall not assign in whole or in part this Contract or in any way transfer any interest in this Contract without the prior express written approval of the Town of Mansfield.

14. CONDITION OF ENFORCEABILITY AGAINST THE TOWN OF MANSFIELD:

This contract is only binding upon, and enforceable against, the Town if: (1) the contract is signed by the Town Manager, signifying approval and availability of funds; (2) signed by the Town Accountant pursuant to M.G.L. c. 44 § 31(c); and the Contract is endorsed with the approval of the following additional individuals:

15. CORPORATE CONTRACTOR:

15.1 If the Contractor is a corporation, it shall endorse upon this contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the contract is executed by the Contractor. This contract shall not be enforceable against the Town unless and until the Contractor complies with this section.

15.2 The Contractor and Subcontractors, if a foreign corporation shall comply with the provisions of the General Laws, Ch. 181, Sections 3 & 5, and any Acts and Amendments thereof, and in addition thereto, relating to the appointment of the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

16. LIABILITY OF PUBLIC OFFICIALS:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Mansfield shall be individually or personally liable on any obligation of the Town under this contract.

17. NOTICES:

Except as otherwise provided in this Contract, all notices required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail, return receipt requested, to the parties at the following address or such other address or addresses as to which a party shall have notified the other party in accordance with this Section.

If to the Town:

Mansfield DPW
Town of Mansfield Town Hall
6 Park Row
Mansfield, MA 02048
Attn: Mike Ahern

If to the Contractor:

Attn: _____

18. BINDING ON SUCCESSORS:

This contract shall be binding upon the Contractor, its assigns, transferees, and/or successors in interest (and where not incorporate, the heirs and estate of the Contractor).

19. COMPLETE CONTRACT:

This instrument, together with its endorsed supplements, and other components of the contract documents, constitutes the entire contract between the parties, with no agreements other than those incorporated herein.

20. PROJECT GUARANTEE:

The Contractor guarantees that the work and services to be performed under the Contract and all workmanship, material and equipment performed, furnished, used or installed in the construction of the same, shall be free from defects and flaws

and shall be performed and furnished in strict accordance with the Drawings, Specifications, and other Contract Documents; the strength of all parts of all manufactured equipment shall be adequate and as specified; and that the performance test requirements of the Contract shall be fulfilled. This guarantee shall be for a period of one (1) year from and after the date of completion and acceptance of the work. If the Town accepts part of the work, the guarantee for that part of the work shall be for a period of one (1) year from the date fixed for such acceptance. The Contractor shall assign and pass through to the Town any and all standard Warranties from the manufacturer previously submitted in its bid proposal package. Any and all warranties shall conform to the specifications issued by the Town in its Request for Bids.

If at any time within said period of guarantee any part of the work requires repairing, correction or replacement, the Town may notify the Contractor in writing to make the required repairs, corrections, or replacements. If the Contractor neglects to commence making such repairs, corrections or replacements to the satisfaction of the Town within three (3) days from the date of receipt of such notice, or having commenced, fails to prosecute such work with diligence, the Town may employ other persons to make the same and all direct and indirect costs of making said repairs, corrections or replacements, including compensation for additional professional services, shall be paid by the Contractor.

21. DEFICIENCIES, SUSPENSION AND UNANTICIPATED CONDITIONS:

A. Deficiencies. (Applicable to public construction contracts) If the Contractor shall neglect to perform the terms of this Contract promptly, the Town, by its Town Manager or his duly authorized representative may, after twenty-four (24) hours written notice to the Contractor, without prejudice to any other remedy it may have, make good such deficiencies, and may deduct the cost thereof from any payments then or thereafter due to the Contractor.

B. Unanticipated Subsurface or Latent Physical Conditions (Applicable to public construction contracts). Pursuant to G.L. c. 30, §39N if, during the progress of the work, the Contractor or the Town discovers that the actual subsurface or latent physical conditions encountered at the site differ substantially or materially from those shown on the plans or indicated in the contract documents, either the Contractor or the contracting authority may request an equitable adjustment in the contract price of the Contract applying to work affected by the differing site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible.

after such conditions are discovered. Upon receipt of such a claim from a contractor, or upon its own initiative, the contracting authority shall make an investigation of such physical conditions, and, if they differ substantially or materially from those shown on the plans or indicated in the contract documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and contract documents and are of such a nature as to cause an increase or decrease in the cost of performance of the work or a change in the construction methods required for the performance of the work which results in an increase or decrease in the cost of the work, the contracting authority shall make an equitable adjustment in the contract price and the Contract shall be modified in writing accordingly.

C. Suspensions and delays by the Town. (Applicable to public construction contracts) In the event a suspension or delay, interruptions or failure to act of the Town increases the cost of performance to any subcontractor, that subcontractor shall have the same rights against the general contractor for payment for an increase in the cost of his performance as sections A. and B. below give the general contractor against the Town, but nothing in provisions A. and B. below shall in any way change, modify or alter any other rights which the general contractor or the subcontractor may have against each other.

Should the Town be prevented or enjoined from proceeding with Work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Town, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay but time for completion of the work will be extended to such reasonable time as the Town may determine will compensate for time lost by such delay with such determination to be set forth in writing.

D. Suspensions, Delays, Interruptions. (Applicable to public construction contracts) The Town may order the general contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the Town; provided however, that if there is a suspension, delay or interruption for fifteen days or more due to a failure of the Town to act within the time specified in this Contract, the Town shall make an adjustment in the contract price for any increase in the cost of performance of this contract, but shall not include any profit to the general contractor on such increase; and provided further that the Town shall not make any adjustment in the contract price under this provision for

any suspension, delay, interruption or failure to act to the extent that such is due to any cause for which this Contract provides for an equitable adjustment of the contract price under any other contract provisions.

E. Claims. (Applicable to public construction contracts) Chapter 30, §39O(b) provides that the general contractor must submit the amount of a claim under provision (a) to the Town in writing as soon as practicable after the end of the suspension, delay, interruption or failure to act and, in any event, not later than the date of final payment under this contract and, except for costs due to a suspension order, the Town shall not approve any costs in the claim incurred more than 20 days before the general contractor notified the Town in writing of the act or failure to act involved in the claim.

22. PAYMENT TO CONTRACTORS:

A. Payment to Contractors. (Applicable to public construction contracts) Payments shall be made in accordance with Chapter 30, §39G of the General Laws of the Commonwealth of Massachusetts including all current amendments, generally as follows:

1. The Town shall pay the amount due pursuant to any periodic, substantial completion or final estimate within thirty-five (35) days after receipt of written acceptance of said estimate from the Contractor.
2. In case of periodic payments, the Town may deduct from its payment a retention based on its estimate of the fair value of its claims against the Contractor, a retention of direct payment to subcontractors based on demands for same in accordance with the provisions of G.L. c. 30, §39F, and a retention to secure satisfactory performance of the contractual work not exceeding five percent of the approved amount of any periodic payment.
3. The same right to retention shall apply to bonded subcontractors entitled to direct payment under G.L. c. 30, §39F.

B. Final Payment. (Applicable to public construction contracts) Final payment shall be made by the Town to the Contractor when (A) a final Application for Payment, certified for payment by the Architect, Engineer, or the Town as the case may be, has been submitted to the Town, and (B) whichever of the following first occurs: (i) the Contractor has substantially completed the work so that the value of the work remaining to be done is, in the estimate of the Town,

less than one (1%) percent of the original Contract Price, or (ii) the Contractor has substantially completed the work and the Town takes possession for occupancy.

Final payment shall constitute payment of the entire balance due on the Contract less (1) a retention based on the Town's estimate of its claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of Work and less (2) a retention for direct payments to subcontractors pursuant to the provisions of G.L. C. 30, §39F. Interest on overdue payments shall be paid pursuant to the provisions of G.L.C. 30, §39K.

The final payment for work done under this Contract shall be made only after the Contractor has signed a statement under the penalty of perjury certifying that the work described in this Contract has been completed by him. The payments of the amounts due under this Contract or in accordance with any written alterations of the same by the parties hereto shall release the Town, the Town Manager, the Public Works Department head and all of its/his officers, agents and employees from any and all claims and liability in any way relating to this Contract or any such alternation thereof or anything relating thereto.

All financial reporting requirements stated in M.G.L. c. 30, §39R shall be followed by the Contractor at all times under any contract explicitly governed by that statute.

C. Goods and Services Contracts Defined by 30B. Payments shall be made in accordance with Chapter 30B of the General Laws of the Commonwealth of Massachusetts including all current amendments.

23. TERMINATION:

A. Termination for Cause. The Town may terminate this Contract for cause by written notice in accordance with Article 8 if it determines that any of the following circumstances have occurred:

1. The Contractor is adjudged bankrupt or has made a general assignment for the benefit of its creditors;
2. A receiver has been appointed for the Contractor's property;
3. All or a part of the work has been abandoned;
4. The Contractor has sublet or assigned all or any portion of the Work,

the Contract, or claims thereunder, without the prior written consent of the Town, except as provided in the Contract.

5. The Architect, Engineer or the Town has determined that the rate of progress required on the project is not being met; or
6. The Contractor has substantially violated any provisions of this Contract.

In the event of such termination, the Town may hold the Contractor and its sureties liable in damages as for a breach of contract, and/or the Town may notify the Contractor to discontinue all work, or any part thereof, and the Contractor shall discontinue all work, or any part thereof, as the Town may designate.

The Town may complete the work, or any part thereof, and charge the expense of completing the work or part thereof, to the Contractor.

The Town may take possession of any use materials, machinery, implements and tools found upon the site of said Work. The Town shall not be liable for any depreciation, loss or damage to said materials, machinery, implements or tools during said use and the Contractor shall be solely responsible for their removal from the Project site after the Town has no further use for them.

The Town may, at its option, require the surety or sureties to complete the Contract.

A. Termination of Liabilities. All expenses charged under Paragraph A shall be deducted and paid by the Town out of any monies then due or to become due the Contractor under this Contract; and in such accounting the Town shall not be held to obtain the lowest figures, by competitive bid or otherwise, for the work of completing the Contract or any part thereof.

All sums actually paid by the Town to complete the Work shall be charged to the Contractor. In case the expenses charged are less than the sum which would have been payable under this Contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference. In case such expenses shall exceed the said sum, the Contractor shall pay the amount of the excess to the Town.

B. Termination – No Fault. In the event that this Contract is terminated by the Town, by written notice in accordance with Article 8, and termination is not based

on a reason listed in Paragraph A, the Contractor shall be compensated for its costs incurred on the Project, including reasonable costs of de-mobilization, calculated on a percent completion basis, covering the period of time between the last periodic payment and the date of termination.

Payment by the Town pursuant to this paragraph shall be considered to fully compensate the Contractor for all claims and expenses and those of any consultants, subcontractors, and suppliers, directly or indirectly attributable to the termination, including any claims for lost profits.

24. MUNICIPAL TAXES AND LIENS:

The Contractor has paid all outstanding real estate, personal property tax, excise tax, water and sewer bills and charges, fines and/or any other municipal charges and liens due to the Town.

25. DEBARMENT:

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal or state department or agency.

26. FORCE MAJEURE:

Neither the Town, as acting through its Public Works Department, nor the contractor shall be deemed in default of this Contract if the performance of any of their respective obligations hereunder is delayed or becomes impossible for any reason, beyond their reasonable control respectively, including, without limitation, war, invasion, act of foreign enemy, hostilities, civil war or rebellion, (whether war be declared or not), strike, lockout or other industrial dispute, or Act of God; provided however, that the party interfered with provides written notice thereof to the other party within (10) working days of any such force majeure, condition or event.

27. INSURANCE:

The successful Contractor will not commence work under the terms of specifications until he has furnished a Certificate of Insurance to the Town providing and including full coverage for all subcontractors, the Town of Mansfield and its agents and employees as follows: The following insurance limits shall be considered the minimum acceptable for specific contracts that do not have specific insurance requirements in the Request for Bid documents. Request for Bid documents that have specific insurance coverage requirements shall be supplied as stated in the Request for bid document.

Commercial Liability: General Aggregate: \$2,000,000;
Products Completed Operations Aggregate \$2,000,000;
Personal Injury & Advertising Limit \$1,000,000; Each Occurrence \$1,000,000
Owner's Commercial Liability: General Aggregate: \$2,000,000;
Protective Liability: Each Occurrence/Aggregate \$1,000,000/\$1,000,000;
Automobile Liability-For All Owned, Non-Owned, Hired & Leased Vehicles:
Bodily Injury: Each Person/Each Accident \$1,000,000;
Property Damage: Each Occurrence \$1,000,000;
Pollution coverage: 1,000,000;
Excess Liability: Each Occurrence/Aggregate – Umbrella Form \$3,000,000;
Workers Compensation: Statutory.

The above insurance policies shall also be subject to the following requirements:

Each policy shall contain a thirty (30) day written notice of cancellation, change or non-renewal to the Town. Carriers must have an A.M Best rating of AX or better. Insurance policy must cover the entire contract period. The description *BID DESCRIPTION* on certificate of insurance shall name the Town of Mansfield as additional insured on a primary and non-contributory basis with a hold harmless agreement. Additionally the Contractor shall waive the subrogation of rights in favor of the Town of Mansfield. For out of state companies, Workman's Compensation Coverage shall be equal to or greater than coverages required by the Commonwealth of Massachusetts, and be so stated on the insurance certificate. All premium cost's shall be borne by the Contractor. Said certificates shall be filed with the Town's Project Manager prior to commencement of contract.

Contractor agrees to defend, indemnify, and hold Town of Mansfield harmless from and against any and all claims, suits, losses or liability, including attorneys' fees and litigation expenses caused, in whole or in part, by any act or omission or alleged act of omission

The Contractor shall also be required to provide to the Town of Mansfield, with the Contractor's proof of insurance coverage, endorsements or riders to the policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Town of Mansfield is named as an additional insured on each such policy.

The Contractor shall make no claims against the Town of Mansfield or its officers for any injury to any of its officers or employees or for damage to its equipment

arising out of work contemplated by the Contract. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work.

No insurance shall be obtained from an insurer which:

- (1) is not licensed to sell insurance in the Commonwealth of Massachusetts;
- (2) is not authorized to provide insurance as an excess or surplus lines insurer, and does not have a current Best's rating of A or better; or
- (3) is a risk retention group lawfully providing insurance to its members in Massachusetts.

Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach.

28. BONDS:

Where required by law or the contract documents, the Contractor shall furnish performance and payment Bonds, each in an amount at least equal to the contract price as security for the faithful performance and payment of all contractor's obligations under the contract documents. These bonds shall remain in effect at least one year after the date when final payment becomes due, except as provided otherwise by laws or regulations or the contract documents. All bonds shall be executed by such sureties as are licensed to do such business in the Commonwealth of Massachusetts. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. If the surety on any bond furnished by the contractor is declared bankrupt or becomes insolvent or its right to do business is terminated or it ceases to meet the requirements of this paragraph, the contractor shall within 20 days thereafter substitute another bond and surety, both of which shall comply with the requirements of this paragraph.

29. INDEMNIFICATION:

The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damages to property caused by, resulting from or arising out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or if anyone for whose acts any of them may be liable in connection with operations under this Contract.

29.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

29.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.

29.3 In any and all claims against the Town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation by or for the Contractor or any Subcontractor under Workmen's Compensation Acts, disability benefit acts or other employee benefit acts.

Notwithstanding any provision to the contrary in the Contractor's proposal, the Town of Mansfield shall not indemnify the Contractor in any way under the Contract.

Neither the Town of Mansfield nor its officers, employees, boards, committees, commissions, agents and representatives shall be under any personal obligation or incur any personal liability by reason of this Contract, the execution thereof or anything relating thereto which arises out of the breach or violation of any provision of this Contract, or the violation of any Federal, Massachusetts or Town of Mansfield statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Contractor or its employees, regarding the subject matter of this Contract.

30. INDEPENDENT CONTRACTOR:

Contractor is not an agent or employee of the Town and is not authorized to act on behalf of the Town.

No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the Town of Mansfield, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

31. CONTRACT TYPE SUPPLEMENTS:

The foregoing provisions apply to all contracts to which the Town shall be a party. One of the following "Supplements" must be "checked" as applicable to this Contract, shall be attached hereto, and shall in any event apply, as the nature of the contract requires. The Supplement contains additional terms governing the contract:

☒ [X] CERTIFICATE OF NON-COLLUSION SUPPLEMENT "A"

☒ [X] SERVICES SUPPLEMENT "S" Applicable to Contracts for the procurement of Services (governed by the provision of General Laws Chapter 30B).

32. MISCELLANEOUS PROVISIONS

a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Bristol County, MA, and in no other court or jurisdiction.

b. No action or failure to act by the Town shall constitute a waiver of a right or duty afforded to the Town under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by the Town shall be construed as a waiver or in any way limit the legal or equitable remedies available to the Town. No waiver by the Town of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.

c. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.

d. The Contractor shall maintain the confidentiality of information designated by the Town as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public, or unless the Contractor has been required to release such information by final judgment or order of a court of competent jurisdiction, or unless the Town has expressly waived such confidentiality in advance in writing.

e. The Contractor shall not represent or purport to represent that it speaks for the Town vis-à-vis the media or the public at-large without the Town's express, written consent in advance.

f. Prior to commencing services under this Contract, the Contractor shall furnish the Town, in writing, the names, addresses and telephone numbers of not fewer than two (2) principal employees of his business who are to be contacted in the event of an after-hours emergency.

g. By entering into this Agreement, the Contractor certifies under penalties of perjury that its proposal was 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.

h. By entering into this Agreement, the Contractor certifies under the penalties of perjury, pursuant to M.G.L. c.62C, Section 49A(b), that it has complied with all laws of the Commonwealth relating to taxes, to reporting of employees and contractors, and to withholding and remitting child support.

i. The Contractor understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, applies to the Contractor with respect to the services required to be provided under this Contract. The Contractor and its officers, employees, agents, subcontractors and affiliated agencies shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.

j. Prevailing wage rates, as contained in the proposal documents, shall be paid, pursuant to M.G.L. c.149, §§26-27G, if they are applicable. NA

k. The Contractor shall not participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code, as amended, or engage in conduct declared to be unlawful by Section 2 of Chapter 151E of the Massachusetts General Laws.

l. To the extent that any of the foregoing sections required by Massachusetts law are inconsistent with other, non-statutory sections in this agreement, any statutorily-mandated provisions contained herein shall control.

m. This Contract may be amended only by written consent of the parties.

n. If any provision, or portion thereof, of this Contract shall be adjudged to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law.

o. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, regardless of choice of law issues or principles.

p. This Contract is executed as a sealed instrument.

Town Of Mansfield by:

Town Manager

Date

Witness

Date

The Contractor by:

* Contractor or Authorized Signature

Date

Witness

Date

*If the Contractor is a corporation, the undersigned hereby certifies that he/she is an authorized agent of the contractor. Additionally he/she certifies they are in compliance with the provisions of Article 15 of this contract and shall submit the required documentation as required in Article 15.

Authorized Signature

Date

SUPPLEMENT "A"
CERTIFICATION OF NON-COLLUSION

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

Signature of individual submitting bid or proposal

Printed name of person submitting bid or proposal

Printed title of person submitting bid or proposal

Name of business

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c. 62C, Sec 49A, I certify under the penalties of perjury that, , the Contractor is in compliance with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature of person submitting bid or proposal

Printed name of person submitting bid or proposal

Printed title of person submitting bid or proposal

Name of business

Federal Identification Number

