

The City of Gardner, acting on behalf of the

**NORTH CENTRAL REGIONAL EMERGENCY
COMMUNICATIONS CENTER (NCRECC)
#2017-119**

Deadline to submit proposals: December 28, 2016 at 2:00 pm

Deliver to: 95 Pleasant Street, Room 217, Gardner MA 01440

Contact

Jennifer Dymek
City of Gardner, Director of Purchasing
95 Pleasant Street, Gardner MA 01440
Phone 978-632-0426 Fax 978-632-9320
jdymek@gardner-ma.gov

LEGAL NOTICE
OF REQUEST FOR PROPOSALS

Agency: North Central Regional Emergency Communications Center

RFP Number: 2017-119

Description: North Central Regional Emergency Communications Center

Contract Info: The City of Gardner will administer the RFP Process and will be the awarding authority. A contract will be awarded to the responsible and eligible firm(s) whose proposal(s) is responsive to the RFP and deemed to be the most highly advantageous and in the best interest of the City of Gardner

Other: The City of Gardner reserves the right to reject any and all proposals.

Contact: The RFP may be obtained online at www.gardner-ma.gov.

A. General Information & Proposal Submission

1. This request for proposals (RFP) invites proposals for project management services to implement the necessary technology infrastructure and operational procedures for the City of Gardner and the Town of Athol, in order to establish a Regional Emergency Communications Center (RECC) in the City of Gardner, located at the new Police Station, to consolidate their 911 call taking and dispatching services.
2. All questions and requests for clarification must be submitted, in writing, at least seven (7) business days before proposals are due to Jennifer Dymek, City of Gardner, 95 Pleasant Street, Gardner MA 01440, Email jdymek@gardner-ma.gov.

Firms should not contact individual municipalities. All correspondence must go through the City of Gardner, Director of Purchasing.

3. The City of Gardner may cancel this RFP, in whole or in part, or may reject, in whole or in part, any and all proposals submitted in response to this RFP whenever it determines such action to be in its best interest or that of the eligible parties. Reasons for cancellation or rejection will be provided in writing. All parties that obtained this RFP directly from the City of Gardner by providing the required contact information will be considered *registered*.
4. The City of Gardner will administer this RFP process and will sign the contract. The City of Gardner will also be responsible for payment(s).
5. This RFP, as well as any successful proposal, will become part of the resulting contract.
6. The City of Gardner has determined that the selection of the most highly advantageous offer for the solicited goods and/or services requires comparative evaluation of factors in addition to cost.

7. An evaluation committee will review and rank proposals, rendering an opinion as to which is/are the “most highly advantageous” proposal(s).
8. If any changes are made to this RFP, an addendum will be issued. Addenda will be e-mailed to all registered. Alternative delivery methods may be arranged by request. The absence of a “failed delivery” message will be considered proof of receipt of e-mail communication.
9. A firm may correct, modify, or withdraw a proposal via written notice received prior to the time and date set for the proposal opening. Proposal modifications must be submitted in a sealed envelope clearly labeled “Modification No. ___”. Each modification must be numbered in sequence, and must reference the original RFP.
10. After the proposal opening, a firm may not change any provision of the proposal in a manner prejudicial to the interests of the City or fair competition. Minor informalities will be waived or the vendor will be allowed to correct them. If a mistake and the intended correct wording are clearly evident on the face of the proposal document, the mistake will be corrected to reflect the intended correct meaning and the vendor will be notified in writing. Corrected proposals may not be withdrawn; however a vendor may withdraw an opened proposal if a mistake is clearly evident on the face of the proposal document, but the intended correct wording is not similarly evident.
11. The City of Gardner reserves the right to waive or permit cure of minor informalities, and to conduct discussions with all qualified firms in any manner that serves the best interests of the participating municipalities and reserves the right, in its sole discretion, to make an award(s) based upon written proposals received without prior discussions or negotiations.
12. Proposals submitted in response to this solicitation are irrevocable for ninety (90) days following the closing date. This period may be extended at The City’s request with the firm’s written agreement.
13. Proposals must be signed by a properly authorized individual or individuals.
 - If a partnership, signatures must be by the name of the partnership, followed by the signature of each general partner.
 - If a corporation, by an authorized officer whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed, or it must be accompanied by an appropriate certificate of authorization.

B. Scope of Services

The firm will provide the partnering municipalities with development of equipment documents, plans and drawings for the layout of a radio system, communication with the SWIC for SEIC approval, facilitate monthly meetings for radio, information technology and security systems, and provide direction and oversight for contractors who will be installing the necessary equipment.

C. Deliverables

- Development of a Project Plan identifying the sub-project components, project performance measures, project milestones and delivery of reports.
- Planning and facilitation of project meetings.
- Monthly and quarterly project reports.
- Completion of final report.
- Design of Athol's radio system for two site simulcast system to enhance radio system coverage.
- Provide oversight of the procurement and installation of the security system the Athol Police Station.
- Provide oversight of the procurement and installation of the additional radio system components for Athol and Gardner that have been awarded through the FY17 State 911 Grant.
- Complete the design and implementation of Fiber Optic Data System Interfaces, and vendor hardware specification, using MBI backhaul from three (3) other sites: (a) Gardner City Hall for Gardner Fire Department (GFD); (b) Athol Police and dispatch; and (c) Athol Fire Station, for the following systems:
 - Gardner Fire UHF mutual-aid channels, five (5) channels
 - Gardner Fire and Athol Fire, station alert systems and door control
 - Athol FD/PD and Gardner FD Security video systems
 - Administrative phone system for the Athol FD and PD
- Create RFPs (end to end bid process) for vendor equipment and to assist with the appropriate contractors.
- Plan and facilitate a table top exercise to test procedures and systems with the North Central Regional Emergency Communications Center (NCRECC) Staff and the Athol and Gardner Police and Fire Departments one month prior to the "go live" date for the NCRECC.
- Plans and Drawings
- Final acceptance of equipment

D. Terms & Conditions

CONFIDENTIALITY OF RECORDS

The selected firm will be required to submit the names, social security numbers, contact information and resumes of all personnel assigned to or contributing to the project to the Executive Office of Public Safety and Security (EOPSS) for possible security clearance. Personnel will be required to sign a non-disclosure agreement with EOPSS prior to starting any work, pledging not to release certain types of information or data related to the contract or work on the project at any time during or after the term of the contract. Furthermore, the firm must submit and follow a plan for ensuring the security of project information and data both during and after the contract period.

PAYMENT FOR SERVICES RENDERED

The payment schedule for this project will be on a reimbursement basis according to a deliverables schedule

consistent with the firm's price proposal and negotiated at the time a contract is signed which includes all fees and material costs. Payments will not be made until deliverables have been received and approved by the City.

CONTRACTOR EXPENSES

The firm will not be reimbursed for normal business expenses such as office supplies, meals, or travel to and from work locations.

INDEMNIFICATION

The vendor shall indemnify, hold harmless and defend the City of Gardner, the Town of Athol, and the Executive Office of Public Safety and Security, their officers, agents, and employees from all liability of any nature or kind, including costs and expenses for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission or negligent or wrongful acts of the Vendor, subcontractor or anyone directly or indirectly employed by them in performance of this contract.

PUBLICITY AND NEWS RELEASES

The selected firm shall not make any pronouncements or news releases pertaining to this solicitation for proposals or the award of a contract for this proposal without prior approval.

OWNERSHIP AND CONFIDENTIALITY OF WORK PRODUCT

Upon completion of this project the work product in its entirety becomes the property of the Massachusetts Executive Office of Public Safety and Security.

ACCEPTANCE

A schedule of deliverables will be included in the contract with the selected firm. Three (3) copies of all interim deliverables will be delivered to the City at times agreed upon in the contract and the City will have ten business days to either accept the deliverable or request modifications. If modifications are requested, a written agreement will be attached to the contract reflecting the scope of the modifications and changes to payment terms.

Final project deliverables are also subject to these "acceptance" terms except with regard to the number of copies, which is subject to requirements detailed at the beginning of this document.

TAXES

Purchases incurred by the City of Gardner are exempt from Federal Excise Taxes, Massachusetts Sales Tax, and RFP prices must exclude any such taxes. Tax Exemption Certificates will be furnished upon request. City of Gardner's Massachusetts Tax Exempt Number is M04-6001389.

BONDS

Where required, the successful proposer shall furnish a satisfactory performance bond and/or payment bond within fifteen (15) working days after notification of the RFP award. Failure to furnish required performance/payment bond within the period specified may be cause for rejections of the RFP and any deposit may be retained by the City of Gardner.

INSURANCE

Vendor's liability insurance shall be purchased and maintained by the Vendor to protect him from claims

under Worker's Compensation Acts and other employee benefits acts, claims from damages because of bodily injury, including death, and from claims for damages, other than to the work itself, to property which may arise out of or result from the Vendor's operation under this agreement, whether such operation by himself or anyone employed by them. This insurance shall be written for not less than any limits of law, whichever is the greater and shall include contractual liability applicable to Vendor's obligations. The Vendor shall deposit with the City of Gardner standard certificates of insurance thereof for any insurance about to expire at least ten (10) days before such expiration. All such insurance policies shall contain an endorsement or provision requiring thirty (30) days written notice to the City of Gardner prior to cancellations or material change in coverage, scope, or amount of any such policy or policies. Compliance by Vendor with the insurance requirement, however, shall not relieve Vendor from liability under the indemnity provisions. Vendor shall require subcontractors to provide and maintain the required insurance at subcontractors' expense. Subcontractors shall list the City of Gardner and Contractor as additional insured where applicable.

INDEPENDENT CONTRACTOR

Vendor is not an agent or employee of the City of Gardner and is not authorized to act on behalf of the City of Gardner.

COMPLETE AGREEMENT

This agreement supersedes all prior agreements and understandings between the parties and may not be changed unless mutually agreed upon in writing by both parties.

ASSIGNMENT

Vendor shall not assign the Agreement, or any interest therein, without prior written consent of the City of Gardner.

SUBCONTRACTORS

Vendor shall not engage any other company, sub-contractor or individual to perform any obligation hereunder, without the prior written consent of the City of Gardner.

GOVERNING LAW

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

ENFORCEABILITY

In the event any provision of this Agreement is found to be legally unenforceable, such unenforceability shall not prevent enforcement of any other provision of the Agreement.

CONFLICT OF INTEREST

The Proposer certifies that no official or employee of the City of Gardner has a financial interest in this proposal or in the contract which the proposer offers to execute or in the expected profits to arise therefrom, unless there has been compliance with provisions of Massachusetts General Laws Chapter 43, sec. 27 (Interest in Public Contract by Public Employees), and Massachusetts General Laws, Chapter 268A, sec. 20 (Conflict of Interest), and that this proposal is made in good faith without fraud or collusion or connection with any other person submitting a proposal.

TERMINATION

For Cause: The City of Gardner shall have the right to terminate this agreement if (i) Vendor neglects or fails to perform or observe any of these obligations hereunder and a cure is not affected by Vendor within fifteen

(15) days next following its receipt of a termination notice issued by the City of Gardner, or (ii) if a judgment or decree is entered against Vendor approving a petition for any arrangement, liquidations, dissolution or similar relief relating to bankruptcy or insolvency and such judgment or decree remains unvacated for thirty (30) days; or (iii) immediately if Vendor shall file a voluntary petition in bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to bankruptcy, insolvency or other relief or debtors shall seek or consent or acquiesce an appointment of any trustee, receiver of liquidation of any of Vendor's property; or (iv) funds are not appropriated or otherwise made available to support continuation of performance in any fiscal year succeeding the first year of this Agreement. The City of Gardner shall pay all reasonable and supportable costs incurred prior to termination, which payment shall not exceed the value of service provided.

Return of Property: Upon termination, Vendor shall immediately return to the City of Gardner, without limitation, all documents, plans, drawings, tools and items of any nature whatsoever, supplied to the Vendor by the City of Gardner or developed by the Vendor in accordance with this Agreement.

DISCRIMINATION

It is understood and agreed that it shall be a material breach of any contract resulting from this RFP for the contractor to engage in any practice which shall violate any provision of Massachusetts General Laws, Chapter 151B, relative to discrimination in hiring, discharge, compensation, or terms, conditions or privileges of employment because of race, color, religion, creed, national origin, sex, or ancestry.

CANCELLATION OF RFP

To withdraw, cancel or modify a RFP at any time prior to the RFP opening date, a proposer must submit such request in writing the Purchasing Director. Correction or modifications must be sealed when submitted.

FINANCIAL AND OPERATIONAL INFORMATION

By submitting a proposal, the proposer authorized the City of Gardner to contact any and all parties referenced by the proposer regarding financial and operational information.

E. Minimum Qualifications

The City of Gardner seeks a contractor that demonstrates the following minimum qualifications:

- Knowledge of the principles and practices of E911, Emergency Communications and Emergency Management Services
- Evidence of integral involvement with Regional E911 for a moderate-sized metropolitan area (linking communities with more than 50,000 residents in aggregate)
- At least five (5) years experience with Regional E911 feasibility studies, implementation plans or project management
- Provide at least five acceptable references with contacts (no more than two from the same jurisdiction)
- Knowledge of Massachusetts Executive Office of Public Safety and Security E911 Department standards – <http://www.mass.gov/Eeops/docs/setb/standards.pdf>
- Firm must not sell or be affiliated in any manner with equipment providers, including those that provide radios, dispatch center consoles etc.

F. Proposal Requirements

At a minimum, firms must submit all materials requested in accordance with the specifications of this request for proposal. Firms who meet these minimum proposal requirements will have their proposals reviewed. Meeting minimum requirements does not mean that a firm will be selected for the project.

GENERAL PROPOSAL REQUIREMENTS

1. All signatures must be original and signed in ink by the person authorized to sign the proposal. Initialed surrogate signatures will not be accepted.
2. Periods of time, stated as a number of days, shall be calendar days unless otherwise indicated.
3. Submit one (1) original and three (3) copies of the non-price proposal as well as one (1) copy on a USB (flash) drive.
4. Submit one (1) original and one (1) copy of the price proposal.
5. All proposals must contain all required documents included in the RFP as well as a letter of transmittal containing statements that the firm is a) not currently barred from doing business with any governmental entity; b) not a party to any pending or current litigation that might adversely affect its performance on this project; and c) has not filed for bankruptcy protection in the last seven years. If this statement cannot be made, the firm must describe the circumstances that lead to the filing, the ultimate disposition of the matter, the current situation and substantial detailed evidence of the firm's financial ability to complete this project if selected.
6. Faxed pages will not be accepted.
7. It is the responsibility of all firms to examine the entire RFP packet, to seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after the due time and date.
8. Proposal packaging must prominently and clearly display the RFP number.
9. A single proposal package may include the required copies of the non-price proposal and the separate **sealed** envelope bearing the price proposal.

PREPARATION OF PROPOSAL

1. The proposal shall detail the firm's and individuals' qualifications, experience and expertise.
 - a. Firm shall provide a brief history of their firm, organization or relevant professional experience;

- b. Firm shall list the number of current personnel that it employs if applicable;
 - c. Firm shall detail the firm's experience with similar projects completed during the past five (5) years or more;
 - d. Firm shall provide a list of specific qualifications in supplying the services listed in this proposal, including professional designations affiliations, certifications and/or licenses;
 - e. Firm shall submit the names and resumes and level of participation of staff that will be assigned to this engagement and their respective experience in these types of engagements;
 - f. Firm shall provide a reference list of all current and/or former clients for the past two years. List shall include client contact name, agency, address and phone number.
2. The proposal must confirm the firm understands the scope of services.

The narrative portion and the materials presented in response to this scope of services must contain the following information:

- a. A clear outline of the recommended approach and detailed methodology to be used for performing the overall work, including:
 - b. The work activities the firm plans to carry out
 - c. A description of how such activities will be accomplished
 - d. Identify tasks that the firm will undertake as distinguished from those which are the responsibility of the City. Absence of this distinction shall mean firm is fully assuming responsibility for all tasks.
 - e. Explain how the firm's administrative process will ensure that appropriate levels of attention are given and that the work is properly performed.
3. Firm shall affirm financial stability of organization.

In no event shall payment be made in advance of the services provided.

G. Non-Price Proposal Evaluation Criteria

To be considered responsive, proposals must address each of the following concerns, which will be used for comparative evaluation:

1. Completeness and Clarity of Proposal:

Rating Scale	
The proposal provides a very clearly presented and complete project approach that fully addresses all elements stated in the RFP.	Highly Advantageous
The proposal provides a less clearly presented and/or less complete project approach that fully addresses most, but not all of the project elements stated in the RFP.	Advantageous
The proposal does not contain a clearly presented project approach and/or a project approach that does not address all the elements stated in the RFP.	Not Advantageous / Unacceptable

2. Assessment of Approach:

Rating Scale	
Plan of approach is logical, well thought through and takes into consideration all stakeholders, regional goal, and principles and practices.	Highly Advantageous
Plan of approach is relatively logical, moderately thought through and takes into consideration some stakeholders, regional goal, and principles and practices.	Advantageous
Plan of approach is illogical, not well thought through and does not takes into consideration all stakeholders and/or neglects regional goals or principles and practices.	Not Advantageous / Unacceptable

3. Previous experience

Rating Scale	
More than 10 years	Highly Advantageous
5 – 10 years	Advantageous

Less than 5 years

Not Advantageous /
Unacceptable

4. Experience in completing Project Management Services

Rating Scale

Successful, documented completion of more than four (4) for moderate-sized metropolitan areas

Highly Advantageous

Successful, documented completion of four (4) for moderate- sized metropolitan areas.

Advantageous

Less than four (4) for moderate-sized metropolitan areas.

Not Advantageous /
Unacceptable

5. Knowledge of Massachusetts Executive Office of Public Safety and Security (EOPSS) E911 Departments standards

Rating Scale

Proven and applied knowledge of EOPSS E911 standards

Highly Advantageous

General knowledge of the EOPSS E911 standards

Advantageous

No familiarity with EOPSS E911 standards

Not Advantageous /
Unacceptable

H. Required Forms & Notices

These pages must be completed and returned with completed proposals.

PROPOSAL SIGNATURE PAGE
PROJECT MANAGEMENT SERVICES FOR GARDNER RECC

Company Name

Contact Person

Street

Phone

City, State, Zip

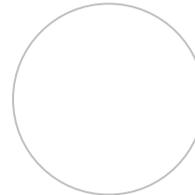
Fax

Email

Submits the attached proposal for the City of Gardner, acting on behalf of the Greater Gardner Regional Dispatch Collaborative, on the authority of the undersigned and as dated below. I confirm and pledge to abide by and be held to the requirements of this scope of services and its resulting contract, to perform any tasks and deliver any documents required, and to execute a Contract with the City of Gardner.

Authorized Agent of the Firm:

Signature



Printed Name

Title

Date

Proposal must be signed by a duly authorized officer(s) eligible to sign contract documents for the firm. Consortiums, joint ventures, or teams submitting proposals will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or one legal entity. The Proposal must indicate the responsible entity.

Vendor should be aware that joint responsibility and liability will attach to any resulting contract and failure of one party in a joint venture to perform will not relieve the other party or parties of total responsibility for performance.

PRICE PROPOSAL PAGE
PROJECT MANAGEMENT SERVICES FOR GARDNER RECC

The undersigned proposes to provide services to the City of Gardner in accordance with the response to its scope of work. This price includes all services and out of pocket expenses as per the terms and specifications stated in the non-price proposal.

Price includes but is not limited to all deliverables listed in the scope of work.

\$ _____

All inclusive fee

_____ Dollars

Written sum

On a separate page or pages, please provide details of proposed deliverables and schedule of associated payments. Please also provide a detailed breakdown of the labor rates and estimated labor hours for each staff member in the proposal.

Signature

Company Name

Printed Name

Street

Title

City, State, Zip

Date

Email

Phone

Fax

CERTIFICATIONS PAGE

PROJECT MANAGEMENT SERVICES FOR GARDNER RECC

As required under Chapter 233 and 701 of the Mass. Acts and Resolves of 1983 and Chapter 30B of the Mass. General Laws certification must be made to the following by signing in the space indicated below. Failure to offer such signature will result in rejection of the proposal.

1. "The undersigned certifies under penalties of perjury that this proposal 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 other organization, entity, or group or individuals" and also;"

2. "Pursuant to M.G.L. c.62C, §49A, I certify under the penalties of perjury that to my best knowledge and belief the undersigned has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support."

Authorized Agent of the Firm:

Signature

Name (as used for tax filing)

Printed Name

SS# or Federal ID#

Title

Date

Proposal must be signed by a duly authorized officer(s) eligible to sign contract documents for the firm. Consortiums, joint ventures, or teams submitting proposals will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or one legal entity. The Proposal must indicate the responsible entity.

Vendors should be aware that joint responsibility and liability will attach to any resulting contract and failure of one party in a joint venture to perform will not relieve the other party or parties of total responsibility for performance.

ADDITIONAL CERTIFICATIONS PAGE
PROJECT MANAGEMENT SERVICES FOR GARDNER RECC

Pursuant to 28 CFR Part 42.204 (d), I certify that my employment practices comply with Equal Opportunity Requirements and complies with 28 CFR Part 42.202.; that my organization complies with the Americans with Disabilities Act.

Authorized Agent of the Firm:

Signature

Printed Name

Title

Date

Proposal must be signed by a duly authorized officer(s) eligible to sign contract documents for the firm. Consortiums, joint ventures, or teams submitting proposals will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or one legal entity. The Proposal must indicate the responsible entity.

Vendors should be aware that joint responsibility and liability will attach to any resulting contract and failure of one party in a joint venture to perform will not relieve the other party or parties of total responsibility for performance.

CERTIFICATE IN GOOD STANDING

TO: Firm
FROM: City of Gardner Purchasing Department
RE: **Certificate in Good Standing**

The **Awarded Firm** must comply with our request for a **CURRENT “Certificate in Good Standing”**.

If you require information on how to obtain the “Certificate in Good Standing” or Certificate of Registration (Foreign Corporations) from the Commonwealth of Massachusetts, please call the Secretary of State’s Office at (617) 727-2850 (Press #1) located at One (1) Ashburton Place, 17th Floor, Boston, MA 02133 or you may access their web site at: www.MA.GOV/SEC/COR

If your company is incorporated outside of Massachusetts and therefore is a “foreign corporation”, but is registered to do business in Massachusetts, please comply with our request for the Certificate of Registration from the Commonwealth of Massachusetts. If your company is a foreign corporation, but is not registered to do business in Massachusetts, please provide the Certificate of Good Standing from your state of incorporation.

Please note that without the above certificate (s), the City of Gardner cannot execute your contract.

IMPORTANT NOTICE

Requests for Certificates in Good Standing by mail may take a substantial amount of time. A certificate may be obtained immediately in person at the Secretary’s Office at the address above. Also, at this time, the Secretary of State’s Office may not have your current annual report recorded. If this is the case, and you are therefore unable to obtain the Certificate of Good Standing, please forward a copy of your annual report filing fee check with your signed contracts. Please forward your original Certificate of Good Standing to the Purchasing Department upon receipt.

Thank You,
Purchasing Director
City of Gardner

CERTIFICATE OF AUTHORITY

At a meeting of the Board of Directors of: _____, held on _____, at which a quorum was present, it was VOTED, that _____ of this company is hereby authorized to execute contracts and bonds in the name of an on behalf of said company, and affix its corporate seal thereto; and such execution of any contract or obligation in this company's name on its behalf by such: _____ under seal of this company shall be valid and binding upon this company.

A True Copy Attest:

Clerk/Secretary: _____

Signature

Print Name

Place of Business

I, _____, hereby certify that I am the clerk/secretary of the

_____ and that

is the duly authorized person of said company, and that the above vote has not been amended or rescinded and that said vote remains in full force as of this date below.

Clerk/Secretary

Date

CERTIFICATION

The vendor certifies that it has provided the City of Gardner with an accurate tax identification number (TIN). In the event that the City is fined by the IRS for an incorrect TIN provided by the vendor, the vendor agrees to reimburse the City for the amount of the fine.

TIN

Signature

Printed Name of Person signing

Company

Date

APPENDIX C – STANDARD GARDNER CONTRACT

CONTRACT
BY AND BETWEEN
THE CITY OF GARDNER ACTING THROUGH
THE PURCHASING DEPARTMENT
AND

Contract No.:

Contract Amount: \$

P.O. No.:

P.O. Amount: \$

Bid No.:

Not to Exceed: \$

Contract Period: to

Contract For:

Firm:

ACCORDING TO THE SPECIFICATIONS CONTAINED HEREIN.

SUPPLY AND SERVICES CONTRACT

BY AND BETWEEN

THE CITY OF GARDNER

AND

This Contract made this **contract start date** day of **contract start month 2017**, by the City of Gardner, acting through its Purchasing Department (hereinafter, the "City") and **vendor name** (hereinafter, the "Vendor").

WHEREAS, the City seeks the following supplies/services: **insert name of supply/service**; (hereinafter, the "supplies/services"); and

WHEREAS, the City has followed a formal sealed bid procedure (IFB or RFP No. RFP or IFB number) to solicit competition pursuant to G.L. c. 30B, §5 for IFB - 6 for RFP, (See **Appendix A – Notice to Bidders/Copy of Ad** attached and made a part hereto); and

WHEREAS, the Vendor was found to be the lowest responsive and responsible Vendor (See **Appendix B – Proposal Page** attached and made a part hereto); and

NOW THEREFORE, the City and the Vendor in consideration of mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

ARTICLE I. VENDOR'S SERVICES/SUPPLIES

The Vendor shall provide the Services and/or Supplies described in **Appendix C**, Scope of Services/Specifications, attached and made part hereof.

ARTICLE II. TERM AND/OR DELIVERY

A. Term.

1. The term of this Contract shall commence on the day and year first written above.
2. The Vendor shall complete the Services and/or furnish the supplies, by **insert completion date** (the "Completion Date"). If this Contract is for Supplies, the Vendor agrees to deliver the Supplies upon receipt of an approved Purchase Order.
3. The term of this Contract may be extended at the sole discretion of the City, through written notice to the Vendor.

B. Delivery (Applicable to Supplies Only).

1. The Supplies are to be delivered F.O.B. to:
2. If this Contract is for Supplies, the City may at its sole discretion amend this Contract for a maximum of twenty five percent (25%) of the original Contract amount in the event that the awarding authority finds that it is in the best interests of the City. Any additional Supplies must

be billed at the same unit price as the original proposal. (Quoted or Non-Exempt Sole Source Agreements may not exceed \$24,999, including amendments and extensions).

ARTICLE III. PRICE AND/OR COMPENSATION

A. Price (Applicable To Supplies Only).

1. In case of an error in extension prices quoted herein, the unit price will govern.
2. The Supplies and the unit price for the Supplies are listed in **Appendix B**, attached and made a part hereto.

B. Payments.

1. During the initial term of this Contract, the City agrees to pay the Vendor a total not to exceed \$_____ for Services rendered and/or Supplies received as specified in **Appendix C**.
2. The City reserves the right to increase the quantity of Services and or Supplies in accordance with G.L. c. 30B.
3. The City shall make no payment for a Supply or Service prior to the execution of this Contract.
4. Payments to the Vendor will be made within sixty (60) days from receipt of a detailed invoice.

C. Invoicing.

1. Final invoices from the Vendor are due no later than ninety (90) days from the Completion Date. Any invoice received past the ninety (90) day date will not be paid.
2. If this Contract is extended, invoices related to the extension period are due no later than ninety (90) days from the Extended Completion Date. (Quoted or Sole Source Contracts may not exceed \$24,999, including any amendments or extensions.)

ARTICLE IV. DEFAULT; TERMINATION; REMEDIES

A. Events of Default.

The following shall constitute events of default under this Contract:

1. The Vendor has made any material misrepresentation to the City; or
2. A judgment or decree is entered against the Vendor approving a petition for an arrangement, liquidation, dissolution or similar relief relating to bankruptcy or insolvency; or
3. The Vendor files a voluntary petition in bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to bankruptcy, insolvency or other relief for debtors; or
4. The Vendor seeks or consents or acquiesces in the appointment of any trustee or receiver, or is the subject of any other proceeding under which a court assumes custody or control over the Vendor or of any of the Vendor's property; or
5. The Vendor becomes the defendant in a levy of an attachment or execution, or a debtor in an assignment for the benefit of creditors; or
6. The Vendor is involved in a winding up or dissolution of its corporate structure; or

7. Any failure by the Vendor to perform any of its obligations under this Contract, including, but not limited to, the following:
 - (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Vendor's reasonable control,
 - (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Vendor's reasonable control,
 - (iii) failure to perform this Contract in a manner reasonably satisfactory to the City,
 - (iv) failure to promptly re-perform within reasonable time the Services or Supplies that were properly rejected by the City as erroneous or unsatisfactory,
 - (v) discontinuance of the Services or Supplies for reasons not beyond the Vendor's reasonable control,
 - (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and nondiscrimination; or
8. Any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract.

B. Termination Upon Default.

In the event of a default by the Vendor, the City, acting through its Chief Procurement Officer, may, at its option, terminate this Contract immediately by written notice of termination. Notwithstanding the above, in the event of a default by the Vendor, the City, acting through its Chief Procurement Officer, may give notice in writing of a default, which notice shall set forth the nature of the default and shall set a date, by which the Vendor shall cure the default. If the Vendor fails to cure the default within the time as may be required by the notice, the City, acting through its Chief Procurement Officer, may, at its option terminate the Contract.

C. Termination For Convenience.

1. Notwithstanding any language to the contrary within the body of this Contract, the City may terminate this Contract, without cause at any time, effective upon the termination date stated in the notice of termination.
2. If the Contract is terminated under this subsection, the Vendor shall be entitled to be paid for Supplies and/or Services delivered and accepted prior to notice of termination at the prices stated in the Contract or bid documents. Any Supplies and/or Services delivered after notification of termination but prior to the effective termination date must be approved in writing in advance by the City in order to be eligible for payment. In no event shall the Vendor be entitled to be paid for any Supplies and/or Services delivered after the effective date of termination.

D. Obligations Upon Termination.

Upon termination of this Contract with or without cause, the Vendor shall immediately, unless otherwise directed by the City:

1. Cease performance upon the stated termination date;
2. Surrender to the City the Vendor's work product, which is deliverable under the Contract, whatever its state of completion; and

3. Return all tools, equipment, documents, correspondence, drawings, plans, models, or any other items whatsoever belonging to or supplied by the City;

E. Rights and Remedies.

1. The City shall have the right to:

- a) disallow all or any part of the Vendor's invoices not in material compliance with this Contract; and
- b) temporarily withhold payment pending correction by the Vendor of any deficiency; and
- c) sue for specific performance or money damages or both, including reasonable attorneys' fees incurred in enforcing any Vendor obligations hereunder; and
- d) pursue remedies under any bond provided; and
- e) pursue such other local, state and federal actions and remedies as may be available to the City.

2. Any termination shall not effect or terminate any of the rights or remedies of the City as against the Vendor then existing, or which may accrue because of any default.

3. No remedy referred to in this subsection is intended to be exclusive, but shall be cumulative, and in addition to any other remedy referred to above or otherwise available to the City or Vendor at law or in equity.

4. The Vendor shall not gain nor assert any right, title or interest in any product produced by the Vendor under this Contract.

ARTICLE V. INSURANCE

The Vendor shall deposit with the City certificates of insurance issued by companies qualified to do business in the Commonwealth of Massachusetts in form and substance satisfactory to the City, with limits equal to or greater than those set forth in Appendix D attached hereto and made a part of this Contract. Such certificates shall name the City of Gardner as an additional insured and shall contain an endorsement requiring ninety (90) calendar days written notice to the City and the City's approval prior to cancellation or change in amounts, types or scope of coverage. The Vendor shall deliver to the City new certificates of insurance at least ten (10) calendar days prior to expiration of the prior insurance and shall furnish the City with the name, business address and telephone number of the insurance agent. Vendors who are sole proprietors and who do not carry workers' compensation coverage shall certify in writing that they do not have any employees.

ARTICLE VI. GENERAL PROVISIONS

A. Governing Law. This Contract shall be governed by the laws of the Commonwealth of Massachusetts.

B. Complete Agreement. This Contract supersedes all prior agreements and understandings between the parties and may not be changed unless mutually agreed upon in writing by both parties.

C. Condition of Enforceability Against the City. This Contract is only binding upon, and enforceable against, the City if: (1) the Contract is signed by the Mayor; (2) endorsed with approval by the City Auditor as to appropriation or availability of funds; (3) endorsed with

approval by the City Solicitor as to form; and (4) funding is appropriated for this Contract or otherwise made available to the City.

- D. Taxes.** Purchases incurred by the City are exempt from Federal Excise Taxes and Massachusetts Sales Tax, and prices must exclude any such taxes. Tax Exemption Certificates will be furnished upon request. The City of Gardner's Massachusetts Tax Exempt Number is: **M04-6001389**.
- E. Indemnification.** The Vendor agrees to take all reasonably necessary precautions to prevent injury to any persons or damage to property during the term of this Contract and shall indemnify and save the City harmless against all damages, loss or expense, including judgments, costs, attorneys' fees and interest resulting in any way, from any negligent or willful act or omission on the part of the Vendor, its agents, employees or sub-contractors or resulting directly or indirectly from the Vendor's performance under this Contract.
- F. Independent Contractor.** The Vendor is an independent contractor and is not an employee, agent or representative of the City.
- G. Assignment.** The Vendor shall not assign this Contract or any interest herein, without the prior written consent of the City.
- H. Sub-Contractors.** The Vendor shall not engage any other company, sub-contractor or individual to perform any obligation hereunder, without the prior written consent of the City.
- I. Discrimination.** It is understood and agreed that it shall be a material breach of this Contract for the Vendor to engage in any practice which shall violate any provision of G.L. c. 151B, relative to discrimination in hiring, discharge, compensation or terms, conditions or privileges of employment because of race, color, religious creed, national origin, sex, sexual orientation, age, or ancestry.
- J. Severability.** In the event that any paragraph or provision of this Contract shall be held to be illegal or unenforceable, such paragraph or provision shall be severed from this Contract and the entire Contract shall not fail on account thereof, but shall otherwise remain in full force and effect.
- K. Notice.** The parties shall give notice in writing by one of the following methods: (i) hand-delivery; (ii) telegram; (iii) telecopier; (iv) certified mail, return receipt requested; or (v) federal express, express mail, or any other nationally recognized overnight delivery service,
 1. To the Vendor at the address set forth herein or the following
 2. To the City addressed to: Purchasing Director, Gardner City Hall, 95 Pleasant Street, Room 217, Gardner, MA 01440with a copy to: John Flick, City Solicitor, 95 Pleasant Street, Gardner MA 01440.

Notice shall be effective on the earlier of (i) the day of actual receipt, or (ii) one day after tender of delivery.
- L. Captions.** The captions of the sections in this Contract are for convenience and reference only and in no way define, limit or affect the scope or substance of any section of this Contract.
- M. Additional Provisions.** Other conditions governing this Contract are set forth in the following appendices:

Appendix A – Notice to Proposers/Copy of Advertisement

Appendix B – Price Proposal Page

Appendix C – Scope of Services

Appendix D – Insurance

Appendix E – Additional Terms and Conditions

The above-described appendices are, by this clause, made an integral part of this Contract.

The Contract documents are to be read collectively and complementary to one another; any requirement under one shall be as binding as if required by all. In the event of any conflict or inconsistency between the provisions of this Contract and any of this Contract's documents, the provisions of this Contract shall prevail. In the event of any conflict or inconsistency between this Contract, the Contract's documents and any applicable state law, the applicable state law shall prevail.

ARTICLE VII. REPRESENTATIONS AND CERTIFICATIONS OF THE VENDOR

The Vendor hereby represents and certifies under the penalties of perjury:

- A. Organization.** The Vendor is a duly organized and validly existing corporation/ partnership/trust/sole proprietorship, other: _____, (select one)
and is qualified to do business and is in good standing in the Commonwealth of Massachusetts, with full power and authority to consummate the transactions contemplated hereby.
- B. Authority.** (Not applicable to Sole Proprietorship). This Contract has been duly executed and delivered on behalf of the Vendor by its president/ treasurer/ general partner/trustee/other: (select one) to and in full compliance with the authority granted by its organizational documents and its votes or resolutions, which authority has not been amended, modified or rescinded as of the date hereof.
- C. Non-Collusion.** This Contract was made without collusion or fraud with any other person and was in all respects bona fide and fair. As used in this paragraph, the word, "person," shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.
- D. Tax and Contributions Compliance.** The Vendor is in full compliance with all laws of the Commonwealth of Massachusetts relating to taxes and to contributions and payments in lieu of taxes. The Vendor's federal tax identification number is: **TIN**. The vendor certifies that it has provided the City with an accurate tax identification number (TIN). In the event that the City is fined by the IRS for an incorrect TIN provided by the vendor, the vendor agrees to reimburse the City for the amount of the fine.
- E. Municipal Taxes and Liens.** The Vendor has paid all outstanding real estate, personal property or excise tax, water charges, fines and or any other municipal lien charges due to the City of Gardner.
- F. Conflict of Interest.** The Vendor certifies that no official or employee of the City has a financial interest in this Contract or in the expected profits to arise therefrom, unless there has been compliance with the provisions of G. L. c. 43, § 27 (Interest in Public Contracts by Public Employees), and G. L. c. 268A, § 20 (Conflict of Interest).
- G. Licenses and Permits:** The Vendor shall be in possession of all required licenses and permits for any activity which may occur from the Vendor's operations under this Contract. The Vendor shall submit copies of such licenses and/or permits upon request.

H. Debarment or Suspension. The Vendor certifies that it has not been debarred or suspended under G. L. c. 29, § 29F, nor will it contract with a debarred or suspended subcontractor on any public contract.

IN WITNESS WHEREOF, the City and the Vendor have executed this Contract as a sealed instrument as of the date first written above.

<p>IN WITNESS WHEREOF: the City and the Contractor certify under the pains and penalties of perjury that this Amendment Form and any information contained herein, or attached hereto, is complete and accurate and complies with all applicable laws and regulations, and is subject to its associated Contract, as evidenced by the execution by their authorized signatories as of the last date below:</p>	
<p>FOR CORPORATION</p> <p>_____</p> <p>(Authorized Signature)</p>	<p>CITY OF GARDNER, by its Mayor</p> <p>_____</p> <p>Mark P. Hawke</p>
<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>City Solicitor</p>	<p>FOR DEPARTMENT:</p> <p>_____</p> <p>Department Head</p>
<p>_____</p> <p>CITY AUDITOR who certifies, pursuant to Massachusetts General Law C.44, §31C, that the proposed expenditure is not in excess of the appropriation or the unexpended balance thereof and that the Mayor is authorized to sign this contract.</p>	<p>_____</p> <p>PROCUREMENT OFFICER who certifies that the services or supplies purchased or leased pursuant to this contract were, to the best of his belief and knowledge, procured pursuant to the procurement laws of the Commonwealth to the extent such laws apply.</p>