

City of Salem, Massachusetts



Request for Qualifications

**S-22**

**Vintage/Flea/Salvage/Art Market in Derby Square**

January 4, 2017

**PROPOSALS DUE:**

**Thursday, February 16, 2017 2:00pm**

\*Late proposals will be rejected

Whitney C. Haskell  
Purchasing Agent  
93 Washington Street, 2<sup>nd</sup> Floor  
Salem, MA 01970  
[whaskell@salem.com](mailto:whaskell@salem.com)  
(978) 619-5695

**REQUEST FOR QUALIFICATIONS**  
**S-22**  
**VINTAGE, FLEA, SALVAGE & ART MARKET**  
**COVER SHEET**

Proposer: \_\_\_\_\_

Street Address: \_\_\_\_\_  
(Number and Street) (City) (State) (Zip)

Taxpayer  
Identification No: \_\_\_\_\_  
(Social Security Number) (Federal Identification Number)

Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Fax: \_\_\_\_\_

Authorized  
Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

<p style="text-align: center;"><b>REQUEST FOR QUALIFICATIONS</b> <b>S-22</b> <b>VINTAGE, FLEA, SALVAGE &amp; ART MARKET</b> <b>CHECKLIST</b></p>
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**Submission Requirements:**

- ☐ Completed Cover Sheet
- ☐ Checklist (this sheet)
- ☐ Technical Proposal
  - Letter of Transmittal
  - Qualifications and Experience
  - Project Approach
  - Scope of Services
  - Schedule
  - City Resources
  - Subcontractors
- ☐ Certifications Form
  - Non-Collusion
  - Tax Compliance
  - Corporate Bidder
- ☐ Acknowledgement of Addenda: \_\_\_\_\_ (if applicable)  
(#’s)

**REQUEST FOR QUALIFICATIONS**  
**S-22**  
**VINTAGE, FLEA, SALVAGE & ART MARKET**  
**CERTIFICATIONS**

**FORM A**  
**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 other organization, entity, or group of individuals.

\_\_\_\_\_  
(Signature of authorized individual submitting proposal)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Name of Proposer)

\_\_\_\_\_  
(Date)

**FORM B**  
**TAX COMPLIANCE**

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

\_\_\_\_\_  
(Signature of authorized individual submitting proposal)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Name of Proposer)

\_\_\_\_\_  
(Federal Tax Identification or Social Security Number)

\_\_\_\_\_  
(Date)

**FORM C**  
**CERTIFICATE OF CORPORATE AUTHORITY** *(if applicable):*

I, \_\_\_\_\_ certify that I am the \_\_\_\_\_ of the corporation named as Bidder in the Bid included herein, that \_\_\_\_\_, who signed said Bid on behalf of the Bidder was then \_\_\_\_\_ of said corporation, that I know his signature, that his signature thereon is genuine and that said Bid was duly signed, sealed and executed for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

\_\_\_\_\_  
(Secretary-Clerk)

\_\_\_\_\_  
(Signature of authorized individual submitting proposal)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Name of Proposer)

\_\_\_\_\_  
(Date)

## **PART 1. GENERAL INFORMATION**

### **1.1 PROCUREMENT DESCRIPTION**

The City seeks proposals from qualified organizations to manage a Vintage/Flea/Salvage/Art Market (5) in Derby Square the third Saturday of the month from May – September, 2017 and two set dates on October.

The term of any resulting contract shall be on the following dates and times:  
May 20, June 17, July, 15, August, 19, September 16 and two dates in October 21 & 28<sup>th</sup>, 8am – 6pm, with the option to renew for up to two additional seasons, in one year increments.

#### **1.1.2. SITE DESCRIPTION**

Derby Square



### **1.2 APPLICABLE LAW**

This procurement will be conducted pursuant to M.G.L. ch. 30B, sec. 6.

### **1.3 APPROVAL**

Any contract that may result from the procurement shall be subject to the approval of the Mayor of the City of Salem.

### **1.4 INCORPORATION BY REFERENCE**

All requirements, specifications, terms and conditions described in this Request for Qualifications ('RFQ') shall be incorporated by reference into any contract that may result.

#### **1.5 TIME FOR AWARD**

Any contract that may result from the procurement shall be awarded within forty five (45) days after the proposal due date. The time for award may be extended for up to 45 additional days by mutual agreement between the City and the most advantageous proposer.

#### **1.6 RIGHT TO CANCEL/REJECT**

The City reserves the right to cancel this RFQ or reject in whole or in part any and all proposals if the City determines that cancellation or rejection serves the best interests of the City.

#### **1.7 TAXATION**

Purchases made by the City are exempt from the payment of Federal excise tax and the payment of Commonwealth of Massachusetts sales tax and any such taxes must not be included in the proposal pricing.

Copies of the City's tax exempt paperwork shall be available upon request of the selected contractor.

#### **1.8 OBTAINING THE REQUEST FOR PROPOSALS**

The RFQ shall be available beginning, Wednesday, January 4, 2017.

The RFQ and related documents shall be available for free download from the City's Purchasing Department website at [www.salem.com/purchasing](http://www.salem.com/purchasing) under "Open Procurements"

Hardcopies of the RFQ and related documents may be obtained at the Office of the Purchasing Agent, 93 Washington Street, 2nd Floor, Salem, MA 01970, during regular office hours:

Monday-Wednesday:	8:00 AM – 4:00 PM
Thursday:	8:00 AM – 7:00 PM
Friday:	8:00 AM – 12:00 PM



## **PART 2. INSTRUCTIONS TO PROPOSERS**

### **2.1 REQUIREMENTS AND SUBMISSIONS**

Below please find a description of the requirements and submissions that must be included as part of a proposal.

#### **2.1.1 PROPOSAL COMPONENTS**

The following items must be submitted in order for the proposal to be considered:

##### **TECHNICAL PROPOSAL**

Each proposal must include a Non-Price/Technical, which shall be separately sealed and labeled as “Non-Price/Technical Proposal,” and contains the following:

##### ☐ **NON-COLLUSION FORM**

Every proposal must include a certification of good faith, certifying that the proposal was made in good faith and without collusion or fraud. See ‘Non-Collusion Form’ attached.

##### ☐ **TAX COMPLIANCE FORM**

Every proposal must include a written certification that the proposer has complied with all state laws relating to taxes, reporting of employees and contractors, and child support. See ‘Tax Compliance Form’ attached.

##### ☐ **CERTIFICATE OF CORPORATE BIDDER**

If the proposal is being submitted by a corporation the proposal must include a certification that the individual submitting the bid has been authorized to bind the corporation. See ‘Certificate of Corporate Authority’ attached.

##### ☐ **PLAN OF SERVICES**

- A detailed description for proposed services.

### **2.2 PROPOSAL DELIVERY**

Below please find a description of the manner in which sealed proposals must be submitted. Price and Non-Price proposals must be separately sealed and labeled.

#### **2.2.1 DUE DATE AND TIME**

Proposals shall be received by the Office of the Purchasing Agent on or before **2:00pm, Thursday, February 16, 2017**

Any proposal received after that time shall be rejected as non-responsive.

#### 2.2.2 ADDRESS

Sealed proposals shall be delivered to the Office of the Purchasing Agent, 93 Washington Street, 2<sup>nd</sup> Floor, Salem, MA 01970.

Facsimile and email submissions will not be accepted.

#### 2.2.3 HOURS OF OPERATION

Proposals must be delivered during the normal hours of operation of the City of Salem:

Monday-Wednesday:	8:00 AM-4:00 PM
Thursday:	8:00 AM-7:00 PM
Friday:	8:00 AM-12:00 PM

#### 2.2.4 COPIES

Proposers must submit one (1) original and three (3) copies of the proposals.

#### 2.2.5 LABELING

The outside of the envelope containing the sealed proposal must be labeled with 1) the solicitation number 2) the proposal due date and time and 3) the name of the proposer.

### 2.3 SIGNATURES

A proposal must be signed as follows: 1) if the proposer is an individual, by her/him personally; 2) if the proposer is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the proposer is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with the corporate seal affixed.

### 2.4 QUESTIONS, CHANGES, MODIFICATIONS AND WITHDRAWALS

#### 2.4.1 QUESTIONS

Questions concerning this RFQ must be submitted in writing to: Whitney Haskell at [whaskell@salem.com](mailto:whaskell@salem.com) at least five (5) days prior to the bid opening date. Written responses will be mailed to all bidders on record as having picked up the RFQ.

#### 2.4.2 CHANGES

If any changes are made to this Request for Qualifications, addenda will be issued. Addenda will be posted in the Office of the Purchasing Agent, on the website and e-mailed to all plan holders on record as having picked up the Request for Qualifications.

#### **2.4.3 MODIFICATIONS AND WITHDRAWALS**

A proposer may correct, modify, or withdraw a proposal by written notice received by the City of Salem prior to the time and date set for receipt of proposals.

Modifications must be submitted in a sealed envelope clearly labeled "Modification No.\_\_\_\_" to the address listed in part one of this section. Each modification must be numbered in sequence, and must reference the Request for Qualifications.

After the bid opening a bidder may not change any provision of the bid in a manner prejudicial to the interests of the City or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the bid document, the mistake will be corrected to reflect the intended correct bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident.

#### **2.5 UNFORESEEN OFFICE CLOSURES**

If, at the time of the scheduled due date, 93 Washington Street, 2nd Floor, Salem, MA 01970, is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the due date will be postponed until 2:00 PM on the next normal business day. Proposals will be accepted until that date and time.

### PART 3. SCOPE OF SERVICES

The City seeks proposals from qualified organizations to manage a Vintage/Flea/Salvage/Art Market (5) in Derby Square the third Saturday of the month from May – September and an extended, smaller market option in Artists' Row, October 21 & 28, 2017.

The Management organization selected shall be responsible for soliciting vendors, preparing an application for vendors, communicating with the list of vendors provided by the city, selecting vendors, notifying vendors of selection and rules and regulations, managing the set-up and take-down of vendor sites, managing logistical issues and disputes that may arise, meeting with city officials on a regular basis, designating one or more individuals from the organization as being responsible to city officials, and collecting fees from vendors. The Management organization is responsible for all marketing and promotions for the Vintage/Flea/Salvage/Art Market.

Vendor locations may total between approximately 30-40, 10x10' spaces in Derby Square. Extended, smaller market total of 10-12, 10x10' spaces in Artists' Row in October.

- Preference given to Salem businesses/residents that fit the criteria of Vintage/Flea/Salvage/Art.
- Must guarantee a minimum number of vendor spaces to be occupied on each day of the proposed license period.
- The management organization shall propose to provide management, including management of vendors for the following dates and times:

May 20, June 17, July, 15, August, 19, September 16, 10am – 5pm (8-10am, Set-Up), 5-6:30pm, Break down) in Derby Square

Option for 2 dates in October in Artists' Row (October 21 & 28<sup>th</sup>, 2017) 8am-6:30pm

The Management organization shall be responsible for:

- soliciting vendors,
- preparing an application for vendors,
- communicating with the list of vendors provided by the city,
- selecting vendors,
- notifying vendors of selection and rules and regulations,
- managing the set-up and take-down of vendor sites,
- managing logistical issues and disputes that may arise,
- meeting with city officials on a regular basis
- designating one or more individuals from the organization as being responsible to city officials, and collecting fees from vendors.
- all marketing and promotional materials
- setting vendor fees\*

\*Fees are approved by Deborah Greel, Manager of Derby Square

**Price Proposal:**

The price the proposer to pay the City shall be \$2,400.00 in two payments:

\$1,200.00 due upon signature of the contract.

\$1,200.00 - June 1, 2017

## **PART 4. EVALUATION AND SELECTION**

### **4.1 MINIMUM REQUIREMENTS**

1. The successful proposer must meet City requirements including fees and satisfy all other municipal regulations.
2. The successful proposer must cooperate with the City in maintaining vendor booths in pristine condition, suitable to a market environment. Proposer must be especially sensitive to handicapped access and safety.
3. The successful proposer shall not be delinquent in the payments of taxes, rents, fees or any other financial or contractual obligation to the City of Salem, or any of its boards, commissions or committees. The Purchasing Agent shall verify same.
4. Each proposer must provide sufficient information and documentation with its bid describing the proposed service and its ability to comply with all requirements herein.
5. The attached agreement (Sample Contract) will be executed with the successful proposer and includes additional specifications.
6. Management organization shall have a set rate for each vendor spot which shall include the Management organization's own vending spot, if any. City shall be paid a percentage, as proposed in the price proposal, for each spot utilized and based solely on the fee charged for a vending spot and not on actual receipts.
7. Managing organization representative shall meet at least monthly with designated City staff to discuss/resolve any issues or concerns.
8. Proposals shall include:
  - a.) Name and address of vendor;
  - b.) Name, title and telephone number of principal contact;
  - c.) Summary of qualifications and experience in vendor management for organization and designated staff for Salem event;
  - d.) Statement of services to be provided;
  - e.) Amount of proposed fees to be charged vendors and revenue generated. Include dates proposed and number of vendors on each date;
  - f.) List of three (3) professional references; and
  - g.) Response to comparative criteria listed below

### **4.2 COMPARATIVE CRITERIA**

The City will consider the following criteria in reviewing all the proposals:

4.2.1 The proposed management organization's experience in vendor management:

Not Advantageous:	Less than two years
Advantageous:	Two years up to five years
Highly Advantageous:	More than five years

4.2.2 Vendor management experience of designated staff:

Not Advantageous:	Less than one years' experience
Advantageous:	One to three years' experience
Highly Advantageous:	More than three years' experience

4.2.3 Quality and thoroughness of proposed management organizations vendor application and plan for soliciting a wide variety of quality vendors the Vintage, Flea, Salvage & Art Market:

Not Advantageous:	Min. application requirements and limited vendor outreach
Advantageous:	Sufficient application and outreach plan
Highly Advantageous:	Extensive application and outreach plan

4.2.4 The successful proposed management organization must demonstrate their ability to screen vendors and select a variety of vendors suitable for Salem's visitors and residents.

Not Advantageous:	Little or no demonstrated ability to screen and select suitable vendors
Advantageous:	Demonstrated ability to screen and select suitable vendors
Highly Advantageous:	Exceeds expected ability to screen and select suitable vendors

#### 4.3 RULE FOR AWARD

Each site's contract will be awarded to the proposer deemed most advantageous. Multiple contracts/sites may be awarded to a single proposer.

#### 4.4 INTERVIEWS

The Selection Committee will conduct interviews as part of the selection process in accordance with *Section 4.1 Minimum Requirements* and *Section 4.2 Evaluation Criteria*.

#### 4.5 SELECTION PROCESS

Proposals will be evaluated upon the basis of the criteria for selection set forth and will then be ranked in order of qualification. The first, second, and third ranked proposals will be further reviewed and evaluated, including reference checks and possible interviews by the committee.

The City reserves the right to request further information from the three (3) highest ranked applicants.

The Owner reserves the right to reject any and all responses as if the Owner determines, within its own discretion, that it is in the Owner's best interests to do so. This RFQ does not commit the Owner to select any Respondent, award any contract, pay any costs in preparing a response, or procure a contract for any services. The Owner also reserves the right to cancel or modify this RFQ in part or in its entirety, or to change the RFQ guidelines. A Respondent may not alter the RFQ or its components.

#### **4.5 POST INTERVIEW EVALUATION GUIDELINES**

- Qualifications and Experience
- Technical Qualifications
- Response to the Scope of Work
- Consulting Team project experience, project approach and references (4.2 Criteria)
- Allocation of Resources and Schedule



## **PART 5. TERMS AND CONDITIONS**

### **5.1 TERM OF CONTRACT**

The term of any resulting lease shall commence on April 1, 2017 and terminate October 31, 2017, with the option to renew for up to two additional seasons, in one year increments.

### **5.2 ASSIGNMENT AND SUBCONTRACTING**

The selected vendor shall not assign, sell, subcontract or otherwise transfer any interest in this contract without the prior written consent of the City. The successful bidder shall be fully responsible to the City for the acts and omissions of his subcontractor, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

### **5.3 INSURANCE REQUIREMENTS**

General- The Vendor shall before commencing performance of the Contract be responsible for providing and maintaining insurance coverage in force for the life of the Contract of the kind and in adequate amounts to secure all of the obligations under the Contract and with insurance companies licensed to write insurance in the Commonwealth of Massachusetts. All such insurance carried shall not be less than the kinds and amounts designated herein, and the Vendor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Vendor to any such kinds and amounts of insurance coverage. All policies issued shall indemnify and save harmless the City of Salem, its agents and employees from any and all claims for damages to persons or property as may rise out of the performance of this Contract.

Vendor's Comprehensive General Public Liability and Property Damage Liability Insurance - The Vendor shall carry Comprehensive General Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of bodily injury to or death of one person, and subject to that limit for each person, a total limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries or death of two or more persons in any one accident; and Vendor's Comprehensive Property Damage Liability Insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of injury to or destruction of property in any one accident, and subject to that limit per accident, a total (or aggregate) limit or not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property during the policy period.

Comprehensive Automotive and Property Damage Insurance - The Vendor shall carry Automobile Insurance covering all owned vehicles, hired vehicles or non-owned vehicles under the control of the Vendor while performing work under the Contract in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out of bodily injuries to or death of one person and subject to that limit for each person, a total of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of two or

more persons in any one accident; and Property Damage coverage in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages to or destruction of property.

The Vendor must carry Workman's Compensation Insurance in the amounts prescribed under Massachusetts State Law and meet all other City and State Laws and Regulations.

No cancellation(s) of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the City of Salem at least fifteen (15) days prior to the intended effective date thereof, which date shall be expressed in said notice, which shall be sent by registered mail, return receipt requested. These provisions shall apply to the legal representative(s), trustee in bankruptcy, receiver, assignee, trustee, and successor(s) in interest of the Vendor.

All insurance coverage shall be at the sole expense of the Vendor and shall be placed with such company as may be acceptable to the City of Salem and shall constitute a material part of the contract documents.

Failure to provide written proof to City and continue in force such insurance as aforesaid shall be deemed a material breach of the contract, and may constitute sufficient grounds for immediate termination of the same.

#### **5.4 INDEMNIFICATION**

Unless otherwise provided by law, the Vendor will indemnify and hold harmless the City against any and all liability, loss, damages, costs or expenses for personal injury or damage to real or tangible personal property which the City may sustain, incur or be required to pay, arising out of or in connection with the performance of the Contract by reason of any negligent action/inaction or willful misconduct by the Contractor, its agents, servants or employees.

#### **5.5 FEDERAL AND STATE LAW**

The selected contractor shall comply with all applicable Federal, State and Local laws and ordinances.

#### **5.6 SAMPLE CONTRACT**

See 'Sample Contract' attached.

**CITY OF SALEM  
VINTAGE, FLEA, SALVAGE & ART MARKET  
COMMUNITY DEVELOPMENT & PLANNING DEPT.  
CONTRACT # S-XX**

This Contract made this XXX day of XXXXXX XXXX, by and between the City of Salem, a municipal corporation located within the Commonwealth of Massachusetts, 93 Washington Street, Salem, MA 01970 (hereinafter, the “City”), and XXXXXX a corporation with a business address at XXXXXXXX (hereinafter, the “Vendor”).

Article 1  
Scope of Services

The Vendor shall furnish XXXXX in accordance with terms and conditions of the application package which is incorporated herein in full. Contract documents shall include said application package, equipment form, and Insurance Certificates, all of which are incorporated by reference.

Article II  
Term of Contract

This contract shall become effective April 1, 2017 and terminate October 31, 2017.

Article III  
Compensation

Compensation products furnished pursuant to the Contract shall be paid in compliance with the rates listed in Attachment A.

Article IV  
Affirmative Action

The parties hereto agree that it shall be a material breach of the contract for the Vendor to engage in any practice which shall violate any provision of the Massachusetts General Laws. Chapter 151B, relative to discrimination or privileges of employment because of race, color, religion, sex, national origin, ancestry, age, sexual orientation or disability.

Article V  
Compliance with Laws

The Vendor shall comply with all Federal, State, and local laws, rules, regulation and orders applicable to the work provided pursuant to this Contract, and shall be responsible for obtaining all necessary licenses, permits and approvals.

Article VI  
Incorporation of G.L.

This Contract shall be considered to include all terms required to be included by the General Laws of the Commonwealth of Massachusetts, as amended, and any other laws as through such terms were set forth in full herein, to the extent that the same are applicable to this Contract and the Vendor.

#### Article VII Independent Contractor

The Vendor acknowledges and agrees that it is acting as an independent contractor for all work and services rendered pursuant to this Contract, and shall not be considered an employee or agent of the City for any purpose.

#### Article VIII City's Liability

The City's liability under this Contract shall be to make all payments when they shall become due, and the City shall be under no further obligation or other liability. Nothing in this Contract shall be construed to render the Mayor, City Council or other officer in the City, or their successors in office, personally liable for any obligation under this Contract.

#### Article IX Indemnification

The Vendor shall indemnify and hold harmless the City, its officers, boards, agents and employees, commissions, and committees from any loss, damage, cost, charge, expense or claim for injury to person or property, which may be made as a result of any negligent act, omission or default on the part of the Vendor, or any of its agents or employees, and will pay promptly on demand all costs and expenses of the investigation thereof, including attorney's fees and expenses. If any such claim is made, the City may retain out of any payments, then or thereafter due to the Vendor, a sufficient amount to protect the City against such claims, costs and expenses.

#### Article X Insurance

A. The Vendor shall obtain and maintain during the term of this Contract the insurance coverage required in the Invitation for Bids

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

#### Article XI Assignment

The Vendor shall not assign, sublet, or otherwise transfer this Contract, in whole or in part, without the prior written consent of the City and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the City.

## Article XII Inspection and Reports

The City shall have the right, at any time, to inspect the work of the Vendor, including the right enter upon property owned or occupied by the Vendor, whether situation within or beyond the limits of the City. Whenever requested, the Vendor shall immediately furnish to the City full and complete written report of his operation under this Contract in such detail and with such information as the City may request.

## Article XIII Termination for Cause

If, at any time during the term of this Contract, the City determined that the Vendor has breached the terms of this Contract by negligently or incompletely performing the work, or any part thereof, or by failing to perform the same, to the satisfaction of the City, or by not complying with the direction of the City or its agents, or by otherwise failing to perform this Contract in accordance with all of its terms and provision, the City shall notify the Vendor in writing stating therein the nature of the alleged breach and directing the Vendor to cure such breach within 10 days. The Vendor specifically agrees that it shall indemnify and hold harmless the City as provided in Article IX, from any loss, damage, cost, change, expense or claim arising out of resulting from such breach, regardless of its knowledge or authorization of the actions resulting in the breach. If the Vendor fails to cure said breach within 10 days, the City may, at its election at any time after the expiration of said 10 days, terminate the Contract by giving written notice thereof to the Vendor specifying the effective date of termination. Upon the date so specified, this Contract shall terminate. Such termination shall not prejudice or waive any rights or action which the City may have against the Vendor up to the date of such termination and the Vendor shall be liable to the City for any amount which it may be required to pay in excess of the Contract sum provided herein in order to complete the work specified herein in a timely manner.

## XIV Notice

Any and all notices, or other communications required or permitted under this Contract, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party.

Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

## Article XV Severability

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

Article XVI  
Governing Law

The Contract shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the Vendor submits to the jurisdiction of any of the appropriate courts for the adjudication of disputes arising out this Contract.

Article XVII  
Entire Agreement

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

XXXXXXXXXX

By:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Officer (print name)

\_\_\_\_\_  
Title

CITY OF SALEM:

By:

\_\_\_\_\_  
Kimberley Driscoll,  
Mayor

\_\_\_\_\_  
Sarah Stanton,  
Finance Director

\_\_\_\_\_  
Tom Daniel  
Director of Planning and Community  
Development

\_\_\_\_\_  
Whitney Haskell,  
Purchasing Agent

Approved as to form:

\_\_\_\_\_  
Elizabeth Rennard, Esq.,  
City Solicitor