CITY OF NEWTON

PURCHASING DEPARTMENT

CONTRACT FOR THE EXECUTIVE DEPARTMENT

REQUEST FOR PROPOSAL:

MUNICIPALITY AGGREGATION BROKER

RFP #17-90

Submittal Date: April 13, 2017 at 11:00 a.m.

MARCH 2017

Setti D. Warren, Mayor

CITY OF NEWTON

PURCHASING DEPARTMENT

REQUEST FOR PROPOSAL #17-90

The City of Newton (City) invites sealed proposals from Contractors for:

MUNICIPALITY AGGREGATION BROKER

Proposals will be received until: **11:00 a.m., Thursday, April 13, 2017**
at the Purchasing Department, Room 201, Newton City Hall, 1000 Commonwealth Ave., Newton, MA 02459.

Immediately following the deadline for proposals a list will be created of all proposers' names received and will be posted to the City's website: **www.newtonma.gov/bids** .

Contract Documents will be available on line at **www.newtonma.gov/bids** or for pickup at Newton City Hall, Room 201, Purchasing Department, 1000 Commonwealth Avenue, Newton Centre, MA 02459 after **10:00 a.m., March 30, 2017.**

There will be no charge for contract documents. Bid surety is not required with this bid.

The initial term of the awarded contract shall be two (2) years, extending from January 1, 2018 through December 31, 2019 and may be renewed by the City at its sole discretion for two (2) additional terms of two (2) years each.

The selected proposer's compensation will be derived solely from a percentage of the cost of each kilowatt hour it procures from energy providers. See "Price Proposal" at p. 7 below.

All proposals are subject to the provisions of M.G.L. c.30B. F.O.B. Destination inside designated department, Newton, MA.

All proposals shall be submitted as follows: **one (1) ORIGINAL and two (2) COPIES of the Technical Proposal and one (1) ORIGINAL COPY of the Price Proposal.**

All City bids are available on the City's web site at **www.newtonma.gov/bids**. It is the sole responsibility of the contractor downloading these bids to ensure he/she has received any and all addenda prior to the bid opening.

Addenda will be available online within the original bid document as well as a separate file. If you download bids from the internet site and would like to make it known that your company has done so, you may fax the Purchasing Department (617) 796-1227 or email to purchasing@newtonma.gov with your NAME, ADDRESS, PHONE, FAX AND INVITATION FOR BID NUMBER.

The City will reject any and all bids in accordance with the above referenced General Laws. In addition, the City reserves the right to waive minor informalities in any or all bids, or to reject any or all bids (in whole or in part) if it be in the public interest to do so.

In the event that any person wishes to attend a bid opening or pre-bid meeting, accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. For Telecommunications Relay Service, please dial 711.

CITY OF NEWTON



Nicholas Read
Chief Procurement Officer
March 30, 2017

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

REQUEST FOR PROPOSAL #17-90

MUNICIPALITY AGGREGATION BROKER

DECISION TO USE COMPETITIVE SEALED PROPOSALS

The Chief Procurement Officer has determined that in order to select the most advantageous proposal for a municipal aggregation consultant/broker (the "Consultant"), comparative judgments of technical factors, in addition to price, will be necessary. This proposal is being sought to insure that the best services available from the Consultant are received by the City and its employees at competitive costs.

INTRODUCTION

The Consultant will assist the City in understanding and implementing the requirements of M.G.L. ch. 164, sec. 134(a) relative to aggregation of the electricity bills of the City's electricity ratepayers who currently receive electricity through Eversource's basic service procurements.

A. GOVERNING LAW and DEADLINE FOR SUBMISSION: All proposals must be submitted in accordance with Massachusetts General Laws Chapter 30B, § 6, to the Chief Procurement Officer in the Purchasing Department, Newton City Hall, 1000 Commonwealth Avenue, Room 201, Newton, MA 02459 **NO LATER THAN 11:00 a.m. April 13, 2017. Proposals must be submitted in two separate sealed envelopes, one marked "Technical Proposal" the other marked "Price Proposal." Price Proposals shall NOT be submitted with Technical Proposal. Any Technical Proposal containing any part of a Price Proposal may be deemed non-responsive**. The proposals shall be submitted as follows:

1. **One Original and two copies of the Technical Proposal** must be submitted in a sealed envelope, plainly marked:

Technical Proposal, RFP #17-90 - "Municipal Aggregation Consultant/Broker"
along with your company name on the front of the envelope.

Addenda must be acknowledged on the Technical Proposal form. Any proposal without an acknowledgement on the Technical Proposal form may be rejected as non-responsive.

2. **One copy of the Price Proposal** must be submitted in a sealed envelope, plainly marked:

Price Proposal, RFP #17-90 - "Municipal Aggregation Consultant/Broker"
along with your company name on the front of the envelope.

Faxed proposals will not be accepted.

Proposals will not be opened publicly. Proposal contents will be kept confidential and not disclosed until after the evaluation and award. A listing of proposers will be available online at: **www.newtonma.gov/bids**.

The submission proposals must be addressed to:

City of Newton
Purchasing Department
Room 201
1000 Commonwealth Avenue
Newton, MA 02459

Proposals received after the deadline will not be considered. The name of all parties submitting proposals will be recorded but no proposal content will be made public until the City has completed the evaluation of the submittals.

B. QUESTIONS: Inquiries involving procedural or technical matters shall be in writing no later than **Friday, April 7, 2017 at 12:00 noon** to purchasing@newtonma.gov or faxed to:

City of Newton Purchasing Department
1000 Commonwealth Avenue
Newton, MA 02459
(617) 796-1227

C. EXAMINATION OF DOCUMENTS: Each proposer shall be satisfied as to the requirements of the contemplated services to enable the intelligent preparation of this proposal. The proposer shall be familiar with all RFP Documents before submitting the proposals in order that no misunderstanding shall exist in regard to the nature and character of the contemplated services to be performed. No allowance will be made for any claim that the proposal is based on incomplete information. All questions must be submitted in writing to the Chief Procurement Officer at the above address, by email to **purchasing@newtonma.gov** or may be faxed to 617-796-1227.

D. EVALUATION OF PROPOSALS: The technical proposals shall be evaluated by the City's municipal aggregation evaluation team. The City shall prepare its evaluation based on the criteria contained herein. An interview may be required as part of the evaluation of this proposal.

E. The contract award will be made within 30 days after the proposal submission date to the responsive and responsible proposer which is determined to be the most advantageous based on its technical and price proposals. Each proposal will be screened in order to determine whether it meets all of the proposal submission requirements as described in the RFP.

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SCOPE OF WORK

The Consultant will assist the City in understanding and implementing the requirements of M.G.L. ch. 164, sec. 134(a) relative to aggregation of the electricity bills of the City's electricity ratepayers who currently receive electricity through Eversource's basic service procurements.

The Consultant will assist the City in preparing a municipal aggregation plan (the "Plan") and in working with the Massachusetts Department of Energy Resources (DOER), and in securing approval of the Plan by the Massachusetts Department of Public Utilities (DPU).

The Consultant will assist the City in taking all necessary steps to involve ratepayers in development of the Plan, in educating ratepayers about the provisions of the Plan, and in allowing ratepayers to opt out of the Plan and to exercise their options pursuant to the Plan.

The Consultant will assure that any renewable energy purchased pursuant to the Plan consists of Class I renewable energy certificates under M.G.L. ch. 25A, sec. 11F, and that the aggregation will contribute to additionality.

The Consultant will advise the City as to when to contract for electricity pursuant to the Plan, and will keep the City advised on a regular basis, as required by the City, as to performance pursuant to such contract.

INFORMATION TO BE SUBMITTED WITH PROPOSALS: In order that your proposal be deemed responsive, a Consultant should provide the following with its technical proposal:

1. A list of at least three client references with which it has had contracts over the last two years. Information should include a contact person and telephone number, and the date the contract began and ended.

2. A description of all services it would provide under this proposal.

3. Copies of the communication material that it has used in three other cities and towns to educate ratepayers about municipal aggregation and of their rights and options under their city's/town's aggregation plan; and a complete description of its communications with municipal ratepayers pursuant to your last three aggregation plans, and a complete description of public meetings, social media, mailings, paid advertising, earned media, and other forms of outreach.

4. Copies of sample reports it would use to make reports to the City on a regular basis as to performance pursuant to the Plan.

5. Resumes of key personnel who would direct, oversee and provide service to the City of Newton pursuant to the Plan.

6. Metrics it would use to evaluate the aggregation, e.g., money saved (or not) for ratepayers relative to basic service, percent of ratepayers who opted out of the aggregation.

7. Cover/Transmittal sheet acknowledging any/all addenda.

END OF SECTION

MINIMUM CRITERIA

Each proposal must have a section in it labeled MINIMUM CRITERIA. It shall list the following submitted documentation as evidence that the proposer meets each of the following minimum criteria in order to be considered for further evaluation:

1. Proposers must be in the business of preparing and implementing municipal aggregation plans and have at least three years experience in such business.

2. Proposers must have prepared and implemented at least eight municipal aggregation plans, at least four of which must have received final approval.

COMPARATIVE EVALUATION CRITERIA

Proposals from Consultants which meet or exceed the Minimum Criteria will be evaluated and rated on the basis of the following Comparative Criteria. The City reserves the right to ask any proposer to provide additional supporting documentation in order to verify its response.

Ratings of Highly Advantageous (HA); Advantageous (A); Not Advantageous (NA); or Unacceptable (U) will be given to each of the following criteria for each respondent. A composite rating will then be determined. A composite rating of Highly Advantageous or Advantageous may be assigned only if a proposal has received at least one such rating among the criteria listed below.

To the extent that an Evaluation Criterion requires the certification of fact, the proposer's certification as to that fact shall be an adequate response provided, however, that on request the proposer shall provide to the City such evidence as the City may request to support that fact.

1. **The number of municipal aggregation plans the Proposer has prepared and implemented in any state.**

   HA—15 or more
   A—10 or more
   NA—3 or more
   U—Fewer than 3

2. **The number of municipal aggregation plans the Proposer has submitted to the Massachusetts DPU that the DPU has approved**.

   HA—12 or more
   A—8 or more
   NA—3 or more
   U—Fewer than 3

3. **The number of municipal aggregation plans with a renewable energy opt-in or opt-out component the Proposer has submitted to the Massachusetts DPU.**

   HA—8 or more
   A—4 or more
   NA—2 or 3
   U—Fewer than 2

4. **The number of municipal aggregation plans in which the Proposer has purchased or has endeavored to purchase Class I renewable energy certificates or renewable energy certificates of equivalent value from the perspective of additionality.**

   HA—8 or more
   A—4 or more
   NA—2 or 3
   U---Fewer than 2

5. **The number of years the Proposer has been in the business of preparing and implement municipal aggregation plans.**

HA—10 or more
A—5 or more
NA—Between 2 and 4
U—Fewer than 2

6. **Reference Checks.**

HA—2 or more of satisfied references were highly satisfied with the Proposer's performance on their municipal aggregation plans
A—All 4 references were satisfied with the Proposer's performance on their municipal aggregation plans
NA—1 reference was not satisfied with the Proposer's performance on its municipal aggregation plan
U—2 or more references were not satisfied with the Proposer's performance on their municipal aggregation plans

7. **Live personnel available to answer questions from prospective participants and participants in the municipal aggregation plan**

HA—Live operators available for extended weekday business hours (such as 7am to 9pm) or partial weekend coverage (such as Saturdays 9am to 1pm)
A—Live operators available during normal business hours (Mon - Fri 8:30 a.m. to 5:00 p.m. EST).
NA—Automated answering system to a live customer service representative during normal business hours
U—Automated answering system to a voice mail system

PRICE PROPOSAL

The Consultant's sole compensation pursuant to this RFP shall be paid by the energy provider selected by the Consultant. The City shall have no compensation liability or obligation to the Consultant. The Consultant's compensation shall be expressed as a percentage of each kilowatt hour ("kWh") cost times the number of kWhs sold pursuant to Consultant's energy Contract.

In the Price Proposal, the Consultant shall offer a management fee per kWh that the selection Committee will consider in making an award for the Contract. The price per kWh shall be the complete price for all services and expenses incurred by the Consultant, and shall be paid directly to the Consultant by the supplier of electric power.

It is expected, given the fact that the principal portion of the Consultant's services will be rendered in the Contract's first two-year term, that the management fee percentages for the second and third contract terms will be lower than that for the initial term.

All Bidders are advised to review and take into consideration in their bids the Massachusetts Inspector General's report on energy broker fees found at http://www.mass.gov/ig/publications/guides-advisories-other-publications/advisory-for-municipalities-and-other-public-awarding-authorities-using-energy-broker-services-october-2016.pdf.

The proposer submitting the lowest price for purposes of this RFP shall the one that submits the lowest percentages over the initial three terms of the contract.

CONTRACT PERIOD

The initial contract term shall be two (2) years from **January 1, 2018 through January 1, 2019** with options to renew for two (2) additional two (2) year terms. Options are exercised at the sole discretion of the City.

END OF SECTION

CITY OF NEWTON

DEPARTMENT OF PURCHASING

PRICE PROPOSAL #17-90

A. The undersigned proposes to supply the services specified below in full accordance with the Contract Documents for the contract price(s) specified below, subject to additions and deduction according to the terms of the specifications.

B. This bid includes addenda number(s) _____, _____, _____, _____,

C. The proposed per/kWh percentage for the Initial Term is: _____%

The proposed per/kWh percentage for the First Option Term of the contract is:_____%

The proposed per/kWh percentage for the Second Option Term of the contract is: _____%

Average proposed per/kWh percentage for all Terms of the Contract is:_____%

COMPANY:_____

CONTACT:_____ **PHONE#**_____

D. The undersigned has completed and submits herewith the following documents:

- Bidders Qualifications and References Form, 2 pages
- Certificate of Non-Collusion, 1 page
- Signed Price Proposal, 2 pages
- Debarment Letter, 1 page
- IRS W-9 Form, 1 page

E. The undersigned agrees that, if selected as contractor, s/he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the City of Newton, execute a contract in accordance with the terms of this bid. The undersigned hereby certifies that s/he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that's/he will comply fully with all laws and regulations applicable to awards made subject to M.G.L. Chapter 30B.

The undersigned further certifies under the penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this section the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from public contracting or subcontracting in the Commonwealth under the provisions of M.G.L. Chapter 29, Section 29F or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder or under the laws of any other state or jurisdiction.

Date _____

_____
(Name of Bidder)

BY: _____

_____
(Printed Name and Title of Signatory)

_____
(Business Address)

_____
(City, State Zip)

_____
(Phone / FAX)

_____
(Email Address)

NOTE: If the bidder is a corporation, indicate state of incorporation under signature, and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address; and, if operating as a d/b/a, give full legal identity. Attach additional pages as necessary.

END OF SECTION

MUNICIPALITY AGGREGATION BROKER

Technical Proposal Cover Sheet

This form and accompanying materials must be completed and placed in a **separate** sealed envelope marked

"**RFP #17-90 MUNICIPALITY AGGREGATION BROKER – TECHINICAL PROPOSAL"**

This proposal includes addenda number(s) _____, _____, _____, _____,

Name of Firm or Individual Submitting Bid: _____

Address: _____
_____

Telephone: _____

Fax: _____

Signature of Proposer _____

Name of Proposer: _____

Address: _____

_____

_____

Date: _____

CITY OF NEWTON

BIDDER'S QUALIFICATIONS AND REFERENCES FORM

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the City for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

1. FIRM NAME: _____

2. WHEN ORGANIZED: _____

3 INCORPORATED? _____ YES _____ NO DATE AND STATE OF INCORPORATION: _____

4. IS YOUR BUSINESS A **MBE**? _____YES _____NO **WBE**? _____YES _____NO or **MWBE**? _____YES _____NO

* 5. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OFCOMPLETION:

_____

_____

_____

_____

_____

* 6. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU?
_____ YES _____ NO
IF YES, WHERE AND WHY?

_____

_____

* 7. HAVE YOU EVER DEFAULTED ON A CONTRACT? _____ YES _____ NO
IF YES, PROVIDE DETAILS.

_____

_____

8. PLEASE DESCRIBE ALL LITIGATION, MEDIATION, ARBITRATION OR LEGAL DISPUTES OF ANY KIND IN WHICH YOU ARE CURRENTLY INVOLVED OR IN WHIH YOU HAVE BEEN INVOLVED IN THE PAST FIVE YEARS.

_____

_____

_____

_____

9. PLEASE LIST ALL PARTNERS, CONTRACTORS, OR VENDORS WITH WHOM YOU REGULARLY WORK AND/OR EXPECT TO WORK ON THIS CONTRACT. INCLUDE INFORMATION ON THE SIZE, LEGAL STRUCTURE, AND LOCATION OF THE FIRMS, AND THE NUMBER OF EMPLOYEES OF THE FIRMS LOCATED IN MASSACHUSETTS.

_____

_____

_____

_____

10. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of Bidder's qualifications and experience.

DATE: _____ BIDDER: _____

SIGNATURE: _____

PRINTED NAME: _____ TITLE: _____

END OF SECTION

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and 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.

_____

(Signature of individual)

_____

Name of Business

City of Newton

Purchasing Department
Nicholas Read @ *Chief Procurement Officer*
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
purchasing@newtonma.gov

Telephone
(617) 796-1220
Fax:
(617) 796-1227
TDD/TTY
(617) 796-1089

Mayor
Setti D. Warren

Date

Vendor

Re: Debarment Letter for Invitation For Bid #17-90

As a potential vendor on the above contract, the City requires that you provide a debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

I hereby certify under pains and penalties of perjury that neither I nor any principal(s) of the Company identified below is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

_____ (Name)
_____ (Company)
_____ (Address)
_____ (Address)
PHONE _____ FAX _____
EMAIL _____

_____Signature

_____Date

If you have questions, please contact Nicholas Read, Chief Procurement Officer at (617) 796-1220.

Form **W-9**
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶
☐ Other (see instructions) ▶

X Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ▶ Date ▶ Name

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

GENERAL TERMS AND CONDITIONS

1. The right is reserved to reject any and all bids, in whole or in part, to waive informalities, and to make award as may be determined to be in the best interest of the City of Newton.

2. Prices quoted must include delivery to the City, as specified on the Purchase Order.

3. The award to the successful bidder may be canceled if successful bidder shall fail to prosecute the work with promptness and diligence.

4. The successful bidder shall comply with all applicable federal, state, and local laws and regulations.

5. Purchases made by the City are exempt from federal excise taxes and proposal prices must exclude any such taxes. Tax exemption certificates will be furnished upon request.

6. If so stated in the Request for Proposal, the successful bidder will be required to furnish a performance and/or a labor and material payment bond, in an amount, in a form and with a surety satisfactory to the City. The successful bidder shall be responsible for the cost of the bond(s).

7. If the Request for Proposal requires bid surety, this surety shall be in the form of a cash, bid bond, cashier's check, treasurer's check, or certified check on a responsible bank, payable to the City of Newton, and must be filed with the original proposal in the Office of the Purchasing Agent. Failure to do so will lead to rejection of proposal. The bid surety will be returned to the successful bidder within seven days execution of awarded, and approval by the City of performance and/or payment bond(s). In case of default, the bid surety shall be forfeited to the City.

8. Verbal orders are not binding on the City and deliveries made or work done without formal Purchase Order or Contract are at the risk of the successful bidder and may result in an unenforceable claim.

9. The successful bidder shall agree to indemnify, defend and hold the City harmless from any and all claims arising out of the performance of this contract.

10. Notice is hereby given that the City of Newton Minority/Women Business Enterprise Plan dated December 1999 is applicable to all City of Newton contracts for materials and supplies. A copy of this plan may be obtained from the Purchasing Department.

FAILURE TO COMPLY WITH THESE TERMS AND CONDITIONS COULD RESULT IN THE CANCELLATION OF YOUR CONTRACT.

END OF SECTION

CONTRACT FORMS

The awarded bidder will be required to complete and submit documents substantially similar in form to the following.

These forms may need to be modified on account of changed circumstances, and are provided for informational purposes only.

CITY - CONTRACTOR AGREEMENT

CONTRACT NO. ___

THIS AGREEMENT made this _____ day of _____ in the year Two Thousand and Seventeen by and between the CITY OF NEWTON, a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, hereinafter referred to as the CITY, acting through its Chief Procurement Officer, but without personal liability to him, and hereinafter referred to as the CONTRACTOR.

The parties hereto for the considerations hereinafter set forth agree as follows:

I. **SCOPE OF WORK.** The Contractor agrees to furnish and to deliver to the City at such times, at such place or places, in such manner the following item or items:

MUNICIPALITY AGGREGATION BROKER

II. **CONTRACT DOCUMENTS.** The Contract Documents consist of the following documents, which are either attached to this Agreement or are incorporated herein by reference:

a. This CITY-CONTRACTOR Agreement;

b. The City's Request for Proposal #17-90 (RFP) issued by the Purchasing Department;

c. All documentation attached to the RFP, as applicable, including Specifications, and if included or referenced therein, any Standard Terms and Conditions, Special Conditions, Drawings or Descriptive Materials;

d. Addenda Number(s) ___;

e. The Proposal Response of the CONTRACTOR submitted for the proposed services and accompanying documents and certifications;

f. Certificate(s) of Insurance and surety bond(s), if any, submitted by the CONTRACTOR in connection with this Project;

g. Duly authorized and executed Amendments, Change Orders or Work Orders issued by the CITY after execution of this CITY-CONTRACTOR Agreement.

This CITY-CONTRACTOR Agreement, together with the other documents enumerated in this Article, constitute the entire Agreement between the CITY and the CONTRACTOR. The CONTRACTOR represents that its proposal was made without condition, qualification or reservation of any kind, except upon the written acknowledgement and consent of the CITY.

III. **PRIORITY OF DOCUMENTS.** In the event of inconsistency between the terms of this CITY -CONTRACTOR Agreement and documents at II(b), (c) and and (e) above, the terms of this Agreement shall prevail.

IV. **APPLICABLE STATUTES.** All applicable federal, state and local laws and regulations are incorporated herein by reference and the Contractor agrees to comply with same.

V. **CONTRACT TERM**. The initial term of the awarded contract shall be **two (2) years, extending from January 1, 2018 through December 31, 2019 and may be renewed by the City at its sole discretion for two (2) additional terms of two (2) years each.** Total payments under this contract shall not exceed $ _____unless the contract total has been increased by a duly approved written amendment approved by the parties.

VI. **CLAIMS FOR MATERIALS OR LABOR.** In the event any claims have been filed with the City for material or labor delivered or performed pursuant to this contract, the City shall be under no obligation to make any payment until such claims are adjusted to the satisfaction of the City. Any and all liens for supplies may be paid off by the City within 20 days after the filing for record as provided by law of a notice of such liens, except where the claim on which the lien is filed is being litigated by the Contractor, and in such case the City may pay the amount of any final judgment or decree on any such claim. All money paid by the City in settlement of liens and claims as aforesaid, with the costs and expenses incurred by the City in connection therewith shall be charged to the Contractor, bearing interest at the rate of six percent per annum, and be deducted from the next payment falling due the Contractor under the terms of this contract.

VII. **RESPONSIBILITY FOR THE WORK/INDEMNIFICATION.** In the performance of any work, including the delivery of equipment, materials or supplies, pursuant to this Contract, the Contractor shall take all responsibility for the work, and shall take all precautions for preventing injuries to persons and property in or about the work and shall defend, indemnify and hold the City harmless from all loss, cost, damage or expense arising from injuries to persons or property in or about the work. The Contractor shall be responsible for any damage, which may be caused by the failure or insufficiency of any temporary works. She shall effectively protect her work and shall be liable for all damage and loss by delay or otherwise caused by her neglect or failure so to do.

VIII. **WARRANTY.** Except as may be otherwise provided in the Project Manual, the Contractor shall replace, repair or make good, without cost to the City, any defects or faults arising within one year after date of acceptance of equipment, materials or supplies furnished hereunder (acceptance not to be unreasonably delayed) resulting from imperfect or defective work done or materials furnished by the Contractor.

IX. **ASSIGNMENT/SUB-CONTRACTING.** The Contractor agrees that she will not sell, assign or transfer this Contract or any part thereof or interest therein without the prior written consent of the City.

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X. **TERMINATION.** The City of Newton may, by written notice of default to the Contractor, terminate the whole or any part of this Contract or any Work or Purchase Order issued pursuant thereto in any one of the following circumstances:

a. If the Contractor fails to make delivery of the equipment, goods or supplies or to perform the services within the time specified herein or any extension thereof;

b. If the Contractor fails to perform any of the other provisions of this contract or, if in the opinion of the City, Contractor so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not correct such failure within 30 days (or such longer period as the City may authorize in writing) after receipt of notice from the City specifying such failure.

XI. **GOVERNING LAW.** This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

XII. **SEVERABILITY.** The provisions of this Contract are severable. If any section, paragraph, clause or provision of this Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Contract shall be unaffected by such adjudication and all of the remaining provisions of this Contract shall remain in full force and effect as though such section, paragraph, clause or provision, or any part thereof so adjudicated to be invalid, had not been included herein, unless such remaining provisions, standing alone, are incomplete and incapable of being executed in accordance with the intent of the parties to this Contract.

XIII. **AMENDMENTS TO THIS CONTRACT.** This Contract may not be amended except in writing executed in the same manner as this CITY-CONTRACTOR Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the day and year first above written.

CONTRACTOR

By_____

Print Name_____

Title_____

Date_____

Affix Corp Seal Here

City funds in the amount of_____
are available in account number:

_____

I further certify that the Mayor, or his designee, is authorized to execute contracts and approve change orders.

By_____
Comptroller of Accounts

Date _____

CITY OF NEWTON

By_____
Chief Procurement Officer

Date_____

By_____
Director of Sustainability

Date_____

Approved as to Legal Form and Character

By_____
Associate City Solicitor

Date _____

CONTRACT APPROVED

By_____
Mayor *or his designee*

Date_____

CERTIFICATE OF AUTHORITY – CORPORATE

1. I hereby certify that I am the Clerk/Secretary of _____
(insert full name of Corporation)

2. corporation, and that _____
(insert the name of officer who signed the **contract and bonds**.)

3. is the duly elected _____
(insert the title of the officer in line 2)

4. of said corporation, and that on _____
(insert a date that is ***ON OR BEFORE*** the date the officer signed the **contract and bonds**.)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. _____ the _____
(insert **name** from line 2) (insert **title** from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: _____ *AFFIX CORPORATE SEAL HERE*
(Signature of **Clerk or Secretary**)*

7. Name: _____
(Please print or type name in line 6)*

8. Date: _____
(insert a date that is ***ON OR AFTER*** the date the officer signed the **contract and bonds**.)

* The name and signature inserted in lines 6 & 7 must be that of the Clerk or Secretary of the corporation.

CERTIFICATION OF TAX COMPLIANCE

Pursuant to M.G.L. c.62C, §49A and requirements of the City, the undersigned acting on behalf of the Contractor certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.*

_____ _____

**Signature of Individual (Mandatory)

*** Contractor's Social Security Number (Voluntary) or Federal Identification Number

Print Name: _____

Date: _____

OR

_____

Company Name
(Corporation, Partnership, LLC, etc.)

By: _____
**Corporate Officer (Mandatory)

Print Name: _____

Date: _____

* The provision in this Certification relating to child support applies only when the Contractor is an individual.

** Approval of a contract or other agreement will not be granted until the City receives a signed copy of this Certification.

*** Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

CERTIFICATE OF FOREIGN CORPORATION

The undersigned hereby certifies that it has been duly established, organized, or chartered as a corporation under the laws of:

(Jurisdiction)

The undersigned further certifies that it has complied with the requirements of M.G.L. c. 30, §39L (if applicable) and with the requirements of M.G.L. c. 156D, §15.03 relative to the registration and operation of foreign corporations within the Commonwealth of Massachusetts.

Name of person signing proposal

Signature of person signing proposal

Name of Business (Please Print or Type)

Affix Corporate Seal here