TOWN OF BARNSTABLE

Request for Proposals

for

Professional Engineering Services

Cost of Service Study and Rate Structure Analysis

for the

Hyannis Water System

Department of Public Works

Issued: February 12, 2009

This document and any addenda thereto are issued electronically only. It is the responsibility of every bidder who receives this bid and all associated documents to check the Town of Barnstable Bid & RFP System (www.town.barnstable.ma.us) for any addenda or modification to this solicitation, if they intend to respond. The Town of Barnstable accepts no liability to provide accommodation to bidders who submit a response based upon an out of date solicitation document. Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>I. GENERAL OVERVIEW</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Introduction</td>
<td>3</td>
</tr>
<tr>
<td>B. Background</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. GENERAL REQUIREMENTS</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Key Project Dates and Schedule</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>III. PROPOSAL INSTRUCTIONS</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Instructions to Proposers</td>
<td>5</td>
</tr>
<tr>
<td>B. Pre-Response Conference and Site Visit</td>
<td>7</td>
</tr>
<tr>
<td>C. Questions and Clarifications</td>
<td>8</td>
</tr>
<tr>
<td>D. Notification of Award</td>
<td>8</td>
</tr>
<tr>
<td>E. Contract</td>
<td>8</td>
</tr>
<tr>
<td>F. Insurance Requirements</td>
<td>8</td>
</tr>
<tr>
<td>G. Monitoring</td>
<td>8</td>
</tr>
<tr>
<td>H. Interview</td>
<td>8</td>
</tr>
<tr>
<td>I. Licenses and Permits</td>
<td>9</td>
</tr>
<tr>
<td>J. Miscellaneous Information</td>
<td>9</td>
</tr>
<tr>
<td>K. Minority or Woman Business Enterprise Participation</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>IV. PROPOSAL REQUIREMENTS</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Minimum Requirements</td>
<td>10</td>
</tr>
<tr>
<td>B. Staffing Requirements</td>
<td>11</td>
</tr>
<tr>
<td>C. Technical Scope of Services</td>
<td>11</td>
</tr>
<tr>
<td>D. Additional Narrative Information</td>
<td>14</td>
</tr>
<tr>
<td>E. Financial Scope of Services</td>
<td>15</td>
</tr>
<tr>
<td>F. Payments</td>
<td>15</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>V. PROPOSAL EVALUATION</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Evaluation Criteria</td>
<td>15</td>
</tr>
<tr>
<td>Comparative Evaluation Criteria</td>
<td>16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VI. PROPOSAL SUBMISSION REQUIREMENTS</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Submission</td>
<td>18</td>
</tr>
<tr>
<td>B. Contact Information</td>
<td>19</td>
</tr>
</tbody>
</table>

**ATTACHMENTS**

- ATTACHMENT “A” – Proposed Contract | 20 |
- ATTACHMENT “B” – Non Collusion / Tax Certification Forms | 35 |
- ATTACHMENT “C” – Legal Advertisement | 36 |
- ATTACHMENT “D” – PRICE SUBMITTAL | 37 |
Request for Proposals
Consultant Services

SECTION I. GENERAL OVERVIEW

A. Introduction
The Purchasing Agent of the Town of Barnstable, on behalf of the Department of Public Works (DPW) and the Hyannis Water Board, hereby requests the submittal of proposals from qualified consultants to provide professional services for the successful and timely completion of a Cost of Service Study & Rate Structure Analysis. The services include performing a study to determine the cost of system services for water with special attention to the fire protection services and develop a rate and fee structure that will accurately reflect these costs. In addition, this structure should be modeled to provide recommended rates and fees for fiscal years 2011 through 2015. The study must be completed by June 2009 to meet the schedule for setting rates for fiscal year 2011. The cost of these contracted services are not expected to exceed $40,000.00. Award of the contract will be contingent upon appropriation by the Town Council for this purpose. Contract will be awarded within 60 days or less and proposal is to remain valid for that timeframe.

The contract and its award process is subject to the Uniform Procurement Act pursuant to M.G.L. c. 30B. Issuance of this Request for Proposal does signify the Town’s submission of this service to the provisions of the Act, and the contract and award will be made at the Town’s discretion. If it becomes necessary to revise any part of this RFP or otherwise provide additional information, an addendum will be issued to all prospective proposers who received copies of the original request.

The “Awarding Authority” will be the Town Manager of the Town of Barnstable, acting by and through the Purchasing Agent and the Department of Public Works.

B. Background
The Town of Barnstable is located on Cape Cod and was incorporated in 1639. The Town has an annual year-round population of over 48,000 (2000 Fed.) and approximately 125,000 - 150,000 seasonal residents. The average per capita income of the residents of Barnstable is $46,811 (2000 census). Of the residents over age 25, approximately 88.7% have a high school degree, and 28.1% have a bachelor’s degree or greater. The Town encompasses an area of 64.1 square miles and consists of seven distinct villages: Barnstable, Centerville, Cotuit, Hyannis, Marstons Mills, Osterville, and West Barnstable. It serves as the County Seat for Barnstable County. The Town of Barnstable is located approximately 65 miles from Boston and approximately 75 miles from Providence.

The Town of Barnstable serves as the commercial center for Cape Cod. It houses the main hospital, regional social service agencies, the superior court, and the regional shopping mall to name a few. The Town functions under a Council-Manager form of government, with a charter-supported strong Manager, and thirteen Town Councilors elected by precinct. The Barnstable Town Council is the legislative and policy-making branch of the Town government. The council
develops, adopts, and enacts policies and ordinances, which it believes promote and enhance the general welfare of the Town.

C. Water Supply Division

The Hyannis Water Supply Division is located in the Town of Barnstable on 47 Old Yarmouth Road, Hyannis, MA.

The Water Supply Division, an enterprise account-funded division under the Department of Public Works, was created by action of the Town Council following the acquisition by the Town of Barnstable of the assets of the Barnstable Water Company in May, 2005. This Division is responsible for management of the water distribution system primarily utilized by the residents and businesses in Hyannis.

The Town currently contracts with the WhiteWater, Ind. to perform the daily operation and management of the water system under the oversight of the Department of Public Works, Hyannis Water Supply Division.

The mission of the Water Supply Division is to provide commercial and residential properties in the Hyannis service area with a safe, efficient and effective means of obtaining drinking water and providing fire protection.

The Water Supply infrastructure system consists of two water treatment facilities, 12 well pumping stations, a number of which have self-contained corrosion control systems, two storage standpipes and approximately 100 miles of distribution piping. The system has approximately 7,249 service connections and supplied approximately 1,011 million gallons of water in the year 2007.

D. Hyannis Water Board

Excerpted from the Town of Barnstable Administrative Code:

§ 241-38.A. Hyannis Water Board. [Added 1-19-2006 by Order No. 2006-05]

   a. There is hereby established a Hyannis Water Board, which shall consist of five members who are ratepayers of Hyannis Water, the water supply operation administered by and through the Water Supply Division of the Department of Public Works, appointed by the Town Manager for three-year overlapping terms. Two members of said Board will be resident owners of Hyannis business property located in Hyannis Water, and three members of said Board shall be residents of Hyannis in the area served by Hyannis Water. Said Board shall be responsible for the oversight of the Water Supply Division of the Department of Public Works and shall have the authority, subject to the authority and responsibility of the Town Manager and the Town Council under the Charter, to:

      (1) Review and approve the operating budget for the Division;

      (2) Review and approve the capital outlay plan and budget for the Division;

      (3) Organize itself into subcommittees as needed;
(4) Review and approve the rate schedules for the Division;

(5) Prepare an inventory and master plan for all assets of the Water Supply Division, including all real and personal property acquired from the Connecticut Water Company in the course of the acquisition which will conclude in the year 2006; and

(6) Make any recommendations to enhance the performance and operation of the Division which, in its opinion, are appropriate.

b. In addition, the Division shall be entitled to, to the extent permissible by law, having the proceeds of any sale or change of use of property acquired in the acquisition of the Barnstable Water Company by the Town of Barnstable dedicated to the capital outlay budget of the Division, debt reduction then to the operation thereof.

c. The Town Manager shall annually cause a review to be completed with respect to the provisions of this section of the Administrative Code, and report on said review to the Town Council.

SECTION II. GENERAL REQUIREMENTS

A. Key Project Dates and Schedule (tentative – subject to change at the Town’s discretion)

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/15/09</td>
<td>Advertised in the Cape Cod Times</td>
</tr>
<tr>
<td>2/23/09</td>
<td>Last Day for Questions to the Purchasing Agent</td>
</tr>
<tr>
<td>3/4/09</td>
<td>Responses due by 2:00 PM, Purchasing Agent’s Office</td>
</tr>
<tr>
<td>TBD</td>
<td>Optional Interview period (if required)</td>
</tr>
<tr>
<td>3/20/09</td>
<td>Recommend Selected Consultant for Approval by Awarding Authority and Award Notification</td>
</tr>
<tr>
<td>4/15/09 or sooner</td>
<td>Contracted services to begin (approximate date)</td>
</tr>
<tr>
<td>6/30/09</td>
<td>Final approved report submitted</td>
</tr>
</tbody>
</table>

SECTION III. PROPOSAL INSTRUCTIONS

A. Instructions to Proposers

1. The Town of Barnstable may cancel this RFP, in whole or in part, or may reject all Proposals, or may procure only some goods and/or services outlined in this RFP whenever such action is determined to be fiscally advantageous to the Town, or if it is otherwise in the best interest of the Town of Barnstable.

2. The Town of Barnstable may request that supplementary information be furnished to assure the Town that a proposer has the technical competence, the business and technical
organization, and the financial resources adequate to successfully perform the necessary work.

3. Required forms are provided by the Awarding Authority in the Attachments. All Proposals shall be in ink or typewritten and must be presented in an organized and clear manner. Proposals shall be submitted in accordance with Section VI, Proposal Submission Requirements.

4. Questions or clarifications rising from these documents shall be submitted to the Purchasing Agent in writing. They must be submitted in accordance with Section II “Key Project Dates and Schedule”.

5. Each proposer shall acknowledge receipt of any and all addendum issued to the Request for Proposals by so indicating in the Cover Letter/General Response. Failure to do so shall be cause to reject the Proposal as being unresponsive.

6. The proposer shall sign the Proposal correctly in ink; or in the case of an organization, firm, partnership or corporation, a person having the legal authority from said organization to sign the Proposal will sign the document.

7. Proposers may correct, modify or withdraw the original Proposals on or before the date and time as stated in the “Legal Advertisement” (see Attachment “C”). Corrections or modifications shall be in sealed envelopes, clearly marked to indicate the contents, with the name and address of the proposer. Any late correction or modification to the Proposal will not be accepted. A proposer who wishes to withdraw a Proposal must make a request in writing.

8. Each proposer shall be presumed to have read and be thoroughly familiar with these documents. Unfamiliarity with these documents shall in no way relieve any proposer from any obligation in respect to his/her Proposal.

9. It is understood that the proposer’s Proposal to the Town of Barnstable to provide said services and products will remain valid for 90 days past the submission deadline. At the Town’s sole discretion, the successful proposer’s Proposal shall be attached thereto and become a part of the contractual Contract between the Town of Barnstable and the proposer the same as though herein written out in full.

10. The proposer’s attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over these services shall apply to the Contract throughout, and they shall be deemed to be included in the contractual Contract the same as though herein written out in full.

11. It is understood that the proposer has submitted the Proposal in good faith and without collusion or fraud with any other individuals, firms, or corporations in creating the Proposal to subvert the market process. See attached Certificate of Non-Collusion and Tax Certification Form. (see Attachment B).

12. All costs involved in preparing the Proposal will be borne by the proposer; the Town of Barnstable will not be liable for any costs associated with the creation of the Proposal. The proposer shall be familiar with all state, local and other laws relating to this type of work and shall obtain all permits required and shall pay all expenses for same.
13. All responses are to include a statement that the Proposal is in accordance with this Request for Proposals and that the proposer has read and understands all sections and provisions herein. Exceptions, if any, are to be clearly stated.

14. Proposals, which are incomplete, conditional or obscure, will be rejected. No award will be made to any proposer who cannot satisfy the Awarding Authority that he/she has sufficient ability and sufficient capital to enable him/her to meet the requirements of these specifications. The Awarding Authority’s decision or judgment on these matters shall be final, conclusive and binding.

15. Any Proposal received after the due date and time stated in the “Legal Advertisement” will be deemed “non-responsive” and shall not be opened. Unopened Proposals will be returned to the proposer.

16. The evaluation of the Non-Price Proposals will be conducted by an Evaluation Committee appointed by the Chief Procurement Officer. The judgment of the evaluators will be based upon the evaluation criteria set forth in this RFP and shall be final.

17. The Non-Price Proposals will be opened on the date and at the time stated in the “Legal Advertisement” and the name of the person or organization submitting a Proposal will be read and recorded. The contents of all Proposals will be opened privately and not be disclosed to the public or competing proposers until the evaluation process is completed. A register of Proposals will be completed indicating the name of the proposer. This register may be viewed upon request. The names of the witnesses will also be recorded. The Price Proposals will be opened only after the evaluation has been completed.

18. Any Contract resulting from this RFP shall be awarded to the proposer whose Proposal is deemed to be the most Highly Advantageous to the Town of Barnstable. The Evaluation Committee will be the sole judge in determining whether a proposer’s Proposal satisfies the requirements of this RFP and whether or not the Proposal will prove advantageous to the Town. The selected proposer will be under Contract to the Town of Barnstable per the attached sample Contract.

19. Response to this Request for Proposals acknowledges the proposer’s acceptance of all sections and requirements of this document. The proposer’s response to the Request for Proposal will be incorporated within the Contract. If the proposer’s submittal does not comply with the requirements of this Request for Proposals, or if an item is not understood in any way, a copy of that section of the Request for Proposals must then be included in the Proposal and all its copies clearly stating the deviation, additions, or other comments.

20. Services provided by the successful proposer shall be rendered through the Town of Barnstable’s standard Contract for consultant/contractor services; the successful proposer will not be considered an employee of the Town and will not receive any benefits of an employee.

B. Pre-Response Conference and Site Visit

There is no pre-response conference scheduled for this project. Question to be submitted in writing to Johanna Boucher, Purchasing Agent at johanna.boucher@town.barnstable.ma.us.

C. Questions and Clarifications
Questions requiring clarification shall be submitted in writing or faxed to the Purchasing Agent prior to the deadline stated in Section II, Key Project Dates and Schedule, in order to afford the Town of Barnstable adequate time to respond with a correction or additional information prior to the deadline for submission of Proposals. Should it be found necessary, a written addendum will be incorporated into the RFP and will become part of the Contract. Those who have received a copy of the RFP will be notified of such changes.

D. Notification of Award

All proposers will be notified of the selection decision within 60 days of the date Proposals are due to the Town of Barnstable unless otherwise notified by the Town. In no case will the award be made beyond 90 days unless the proposer agrees to extend the period of time in which the Proposal is valid.

E. Contract

This Request for Proposals, as well as the selected Contractor’s Proposal, and any addenda to that RFP will become part of the final Contract. See Attachment A for sample Contract.

The Contract shall be subject to Force Majeure considerations as outlined in Article 15, Force Majeure, of the sample Contract (Attachment A).

The Town shall have the right to terminate this Agreement in accordance with the provisions of Article 16, Termination, No Award, of the sample Contract (Attachment A).

F. Insurance Requirements

See Article 19, Insurance, of the sample Contract for required insurance coverages and limits (Attachment A)

G. Monitoring

On a regular basis, appropriate members of the Town of Barnstable may review the Contractor’s operations and inform the Contractor if there are any issues associated with the service provided by the Contractor.

H. Interview

After their review of the technical proposals, the Evaluation Committee may interview the qualified, responsive and responsible proposers. Proposers whose submittals are determined to be not advantageous or did not meet the minimum requirements will not be interviewed.

Reimbursement for expenses incurred for this interview will not be forthcoming to either the awarded Contractor or any other candidate asked to be interviewed. The Town of
Barnstable reserves the right to change the interview period or to extend the dates during which interviews may be undertaken.

I. Licenses and Permits

The proposer is responsible for attaining and holding in good standing all relevant permits, licenses and certificates associated with the completion of these services, as applicable. Evidence of these requirements is to be made part of the Proposal. If a permit is not currently held or the application process is pending, the proposer should indicate such. The Town of Barnstable reserves the sole right to decide if the Contract may be awarded to the successful proposer despite the failure to produce the actual permits or copies thereof. Licenses and permits must be held in force throughout the terms of the services as contracted. See Section IV, Proposal Requirements, and, Scope of Services, for additional information.

J. Miscellaneous Information

The Proposals will be accepted until **2:00 pm on March 2, 2009**. They shall be delivered to the Town of Barnstable, Purchasing Agent’s Office, 230 South Street, Hyannis, MA. 02601.

The name(s) of the Proposer’s key individual who will be performing the consultant services must be submitted along with their resume(s) and professional registration(s). The individuals listed shall attend the interview, if requested. The Proposal firm must have sufficient qualified staff to undertake and complete the project in a timely manner.

All information acquired by the Proposer from the Town of Barnstable, or from others at the expense of the Town, in performance of the Contract, shall be and will remain the property of the Town. All records, data files, computer records, work sheets, deliverable products complete and incomplete, and all other types of information prepared or acquired by the proposer for delivery to the Town shall be and will remain the property of the Town of Barnstable.

The Proposer agrees that he will use this information only as required in the performance of this Contract and will not, before or after the completion of this Contract, otherwise use said information, nor copy, nor reproduce the same in any form except pursuant to the sole written instructions of the Town of Barnstable.

K. Minority or Woman Business Enterprise Participation

Minority-Owned Business Enterprises (MBE) or Woman-Owned Business Enterprises (WBE) are strongly encouraged to submit proposals in response to the Request for Proposals (RFP). For the purposes of this RFP, the term MBE or WBE shall mean a vendor who is certified as a minority business enterprise by the State Office of Minority and Women-Owned Business Assistance (SOMWBA), and who is still certified at the time the contractor’s Proposal is submitted.
All minority owned businesses are encouraged to apply for SOMWBA certification. For further information on SOMWBA qualifications, or access to SOMWBA vendor lists, contact the State Office of Minority and Women-Owned Business Assistance at (617) 727-8692.

The Town of Barnstable will require contractors and subcontractors involved in local municipal projects to abide by the Equal Employment Opportunity Anti-Discrimination Program guidelines below, which form a part of the Contract generating from this RFP.

**EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION PROGRAM**

During the performance of this contract, the Contractor and all of his/her Sub-Contractors (hereinafter collectively referred to as the Contractor), for himself, his assignees, and successors in interest, agree as follows:

The Contractor, in the performance of all work after award and prior to completion of the contract work, will not discriminate on grounds of race, color, religious creed, national origin, age or sex in employment practices, in the selection or retention of subcontractors, or in the procurement of materials and rentals of equipment. Fair Employment Practices Law of the Commonwealth (M.G.L. Chapter 151B).

See MGL Chapter 7, Section 40N regarding an affirmative marketing program for state-assisted local projects, and the Town of Barnstable’s Minority or Women Business Enterprise Participation programs for additional D/M/WBE requirements.

The contractor by signing the Contract offered by the Town of Barnstable agrees to abide by the above paragraphs to the best of his/her ability.

**SECTION IV. PROPOSAL REQUIREMENTS**

**A. MINIMUM REQUIREMENTS**

The evaluation committee shall reject proposals which do not meet the following minimum requirements:

1. The proposal must be from an established business, corporation, partnership or firm who normally furnish such services, with a minimum of five (5) years of providing similar services. A description of the business including a list of clients and number of employees is required.

2. All proposals shall be submitted to **Purchasing Agent’s Office, 230 South Street, Hyannis, MA 02601** as stated in “Legal Advertisement”- Attachment C. Each proposal shall be in SEALED envelopes, clearly marked on the outside of the envelope to indicate the contents, and the name and address of the proposer.
Sealed Non Price Proposals must be submitted in a separate, sealed envelope from the Sealed Price Proposal.

3. The proposal must be received in the Purchasing Agent’s Office before the deadline for receipt of proposals, and must be complete (must include or address all items specified in Section VI -- Proposal Submission Requirements).

4. The consultant must have signed both the Certificate of Non Collusion and the State Taxes Certification Clause (Attachment B) and include them in the proposal package.

5. The proposal must be signed by an agent of the company who has authority to bind the company to a firm bid price.

6. All responses are to include a statement that the Proposal is in accordance with this Request for Proposal and that the proposer has read and understands all sections and provisions herein.

B. STAFFING REQUIREMENTS

1. The Proposer must set forth the staffing to be utilized for the specified services, the management structure of the team, the project manager and the qualifications of each member of the team. Resumes shall be included for all employees assigned to this project.

2. The Proposer must include a listing by Task identifying individuals, their duties, work assignment and responsibilities.

3. Proposers must be prepared to contractually commit all individuals as submitted in their proposal, to the services specified. Any deviation from the proposed individuals will constitute a breach of agreement to any contractual agreement, which may result from this Request for Proposals.

4. Should it become impossible for a contractually committed individual to complete their duties, for a reason such as termination of employment, any change in the contractors staffing as outlined in the proposal will be subject to the approval of the Town Manager or his Designee assigned to manage this project. The Town Manager or his Designee assigned to manage this project shall notify the contractor within fifteen (15) business days of the acceptance or rejection of any such staff substitutions. Any substituted person must be of an experience level equal to or greater than the person being replaced unless approved by the Town Manager or his Designee assigned to manage this project.

C. Technical Scope of Services

1. Overview:

Determine the cost of system services for water with special attention to the fire protection services and develop at minimum four (4) rate and fee structures that will accurately reflect these costs. Cost to provide water service for domestic use should be costed separately from cost to provide fire protection services. Use the maximum hour allocation factor for fire protection cost development. In addition, these structures should be modeled to provide recommended rates and fees including system development charges for fiscal years 2011
through 2015. The study must be completed by June 2009 to meet the schedule for setting rates for fiscal year 2011.

All classes of the customer base will need to be analyzed including residential, industrial, commercial, and governmental.

The study should address the impending loss of revenue from the fire department, the capital plan anticipated over the three years, the existing and anticipated debt service, the significant number of tax-exempt property owners and the rising number of irrigation systems.

An impact analysis of these rate and fee structures must be prepared to show what the effects on customers of each class and usage level will be relative to finances, insurance, taxes and benefits. Revenue and cost projections for the three years to be studied must be included. A final rate and fee structure will be developed after presentations and deliberations by the Hyannis Water Board.

The vendor will develop or modify the existing computer program for calculating the specific rates, costs and revenues in any given year. The model must allow for adjustments to be made in response to economic conditions. The computer program will be turned over to the town’s ownership and use. Four hours of onsite training will be required in the use of this program.

Presentations by the vendor will be required at the board meeting reviewing the proposal and at a meeting with town leadership to present the recommended model.

The final report will document the key elements considered in making the fee and rate recommendations and review the science of the model.

2. Objectives:

Study and rate model tool update to:

1. Determine the cost of system services
2. Evaluate alternative rate structures
3. Update rate model for economic conditions adjustments
4. Update rate model to reflect tax-exempt properties
5. Update rate model to reflect trends in irrigation system use
6. 5-year look ahead financial plan for:
   • Phasing out of public fire hydrant fee
   • Implementation of capital improvements and resulting debt service
3. Scope of Services:

1.0 Meetings, Communications and Training

1.1 Kickoff meeting — discuss study goals and objectives, refine scope and review schedule milestones.

1.2 Workshop No. 1 - Upon completion of data collection and identification of alternative rate structures.

1.3 Workshop No. 2 — Upon completion of first draft alternatives evaluation.

1.4 Workshop No. 3 — Upon completion of final draft of alternatives evaluation and written report.

1.5 Presentation of recommendations and completed report and rate model tool

1.6 On-site training of the rate tool

2.0 Update O&M Budget Work Sheet

2.1 Collect data.

2.2 Modify rate tool work sheet.

3.0 Update Revenue Sources and Phase Out Public Hydrant Fee

3.1 Collect data.

3.2 Modify rate tool work sheet.

4.0 Update Planned Capital Improvements and Resulting Debt Service

4.1 Collect data.

4.2 Modify rate tool work sheet.

5.0 Identify and Evaluate Alternative Rate Structures

5.1 Identify alternatives.

5.2 Develop rate tool work sheets for selected alternatives.

5.3 Perform user charge predictions for selected alternatives.

5.4 Prepare comparison summary of analysis and predicted user charges.
6.0 Develop 5-Year Look Ahead for 3 Selected Rate Structure Alternatives

6.1 Populate rate tool work books and perform analysis for each.

6.2 Prepare comparison summary of predicted user charges.

7.0 Report

7.1 Prepare and submit a draft report and rate tool.

7.2 prepare, submit and present the final report and rate tool.

7.3 Upon receipt of comments, finalize report and rate tool and provide final deliverables.

4. Time Schedule

1.0 The study must be completed by June 2009 to meet the schedule for setting rates for fiscal year 2011.

5. Deliverables

1.0 Ten (10) bound copies of the final report, plus an electronic copy in Word format.
2.0 One (1) copy of the updated rate tool in Excel format on disk.

D. Additional Narrative Information

1. If there are concerns on the part of the proposer in meeting the time frame for the completion of the Tasks, alternative time frames that reflect the ability of the proposer to do the work should be submitted. The Town of Barnstable seeks to contract with a vendor who can demonstrate that they have the ability and commitment to the stipulated deadlines. However, if proposers can justify a schedule that is different than the one indicated in the Key Dates section of these documents, the Town reserves the rights to select such a course of action if deemed to be advantageous to the Town of Barnstable.

2. Summarize what you believe your business offers that is unique from other businesses in this field.

3. Submit a listing of all clients (including municipalities) for which the contractor has provided similar services, along with client contacts and recently verified phone numbers.

4. List examples of and/or show list of reports demonstrating the ability of the project team to do the scope of work outlined in this RFP.
5. List the anticipated amount of support services, if any, and/or any documents the Town office would be required to provide.

6. A narrative describing the proposer's understanding of the scope of work and experience with the specific item. Include in the proposal a discussion of the methodologies that are generally accepted for the services specified, and how the proposer may apply them to this project.

7. Provide an explanation of the proposer's technical approach, identifying tasks, and products and meetings.

8. Include written assurances that the contractor has a complete knowledge and understanding of the Massachusetts General Laws that apply to this kind of work and that all work performed shall be completed in compliance with those laws.

E. Financial Scope of Services

The Price Proposal must be submitted in a separately sealed envelope and no mention of the pricing portions of the Proposal shall be mentioned in the technical or non-price portion of the Proposal. Failure to meet this stipulation may be cause for the Proposal to be rejected.

The Price Proposal shall include a complete detailed itemization for each task/subtask listing individuals name, payroll title, level of effort (hours), hourly rate, extended amount and a brief description of the services to be performed.

In addition, identify acceptable reimbursable expenses such as subcontractors and/or materials to be furnished. The Town shall not reimburse the Contractor for any telephone, copy costs, mileage or other out-of-pocket expenses.

F. Payments

Invoicing shall be furnished as per Article 18, Notices, Approvals, Invoices, of the sample Contract, Attachment A.

SECTION V. PROPOSAL EVALUATION

Under the rules established in Massachusetts General Law Chapter 30B, the Town’s Chief Procurement Officer will appoint a proposal evaluation committee. Those proposals that meet all of the minimum requirements as outlined in this RFP, and are determined to be both responsive (those that offer all of the services requested in the RFP and contain all of the required information and forms properly completed) and those that are responsible (those with the capability, integrity, and reliability to perform under the contract) will be further reviewed using the comparative criteria outlined in this section.

The evaluation committee will use the comparative criterion for each separate rating area, and based upon this criteria, will assign an overall rating to each proposal as permitted under Chapter 30B. Each of the criterion may contain ratings of:

Unacceptable
Acceptable
Not Advantageous
Advantageous
Highly Advantageous

An “Unacceptable” rating in any one of the criterions may eliminate the proposal from further consideration.

The Town reserves the right to award the contract to the responsive and responsible proposer who best meets the Town’s needs, taking into account proposal quality and proposal price. If the lowest priced proposal is not selected and has received, at minimum, a rating of advantageous, the evaluation committee shall explain the reasons for the award in writing to the Chief Procurement Officer, specifying in reasonable detail, the basis for determining that the Town should award the contract to a different proposal.

Minimum Evaluation Criteria -- Failure to meet the following minimum evaluation criteria will result in immediate rejection of the proposal.

1. Minimum Requirements: Vendors must meet the minimum requirements as specified in Section IV - A. and below
   a) Submission of all required documentation.
   b) Demonstration of the project team's experience in performing fieldwork related to this proposal.
   c) Demonstration of the project team's familiarity with and experience in analyzing and reporting the data.
   d) Demonstration that all professional members of the project team have appropriate professional and academic credentials.
   e) Demonstration of the project team's education, familiarity, and experience in the services specified.

Comparative Evaluation Criteria

2. Experience of Project Team in performing similar size and scope projects. (Minimum of 5 years experience required)

   Unacceptable – Project team has no experience in the services requested in these documents.
   Not Advantageous – Project team has less than five (5) years experience in the services requested in these documents.
   Advantageous - Project team has five (5) years, but less than eight (8) years experience in the services requested in these documents.
   Highly Advantageous - Project team has more than eight (8) years experience in the services requested in these documents.

3. Staffing Requirements (Section IV-B).
**Not Advantageous** - The Staffing information provided may meet the Town’s needs, but the plan provided is not clear enough to make a determination.

**Advantageous** - The Staffing information provided will adequately meet the needs of the Town.

**Highly Advantageous** - The Staffing information provided shows the vendor’s commitment to putting its best staff and resources into this project and a willingness to exceed the needs set forth by the Town.

Experience in providing similar studies to municipalities (Documentation is required. Information should include phone numbers and contacts)

**Acceptable** – Experience in providing similar services but with no documented for municipality experience

**Advantageous** – The provision of similar services to less than three (3) examples of documented Municipal experience.

**Highly Advantageous** - The provision of similar services to three (3) or more examples of documented Municipal experience.

Response to Technical Scope of Services (Section IV - C):

**Unacceptable** - Proposal did not adequately explain all aspects of methodology.

**Not Advantageous** - Proposal is vague; Evaluation Committee is unable to determine if it is consistent with expressed needs or project intent.

**Advantageous** - Proposal was adequate, appeared consistent with project intent, and responded to needs expressed by the documents in all areas.

**Highly Advantageous** - Proposal was very thorough, appeared to exceed the project intent, and responded to or exceeded the needs expressed by the documents in all areas. In order to be awarded this ranking the project approach must be clear, innovative, and offer unique aspects about the project or approach

Time Frame submission (Section IV-D).

**Not Advantageous** – A time frame that does not meet the Town’s needs.

**Advantageous** - A time frame for completion that meets the needs of the Town.

**Highly Advantageous** – A time frame that completes the project earlier than the Town’s projected schedule.

General impression of proposal

**Not Advantageous** - Response does not compel reviewer to believe the proposal reflects that provider is able to perform in a manner acceptable to the Town.

**Advantageous** - Response is informative, meets criteria for responsiveness. Reviewer feels proposal reflects that provider is able to perform in a manner acceptable to the Town but was not overly impressed by proposal’s expression of ability.

**Highly Advantageous** - Response is concise, informative, and highly detailed. Proposal reflects that provider is able to perform in a manner acceptable to the Town.
Team is completely convinced about the provider’s ability to provide and administer the plan as required by the Town.

SECTION VI.  PROPOSAL SUBMISSION REQUIREMENTS

A.  SUBMISSION

Two separate sealed envelopes, one containing one (1) original unbound copy and seven (7) bound copies of the non-price technical proposal marked “Technical Proposal – Cost of Service Study & Rate Structure Analysis” and one containing an original and one copy of the price proposal marked “Price Proposal – Cost of Service Study & Rate Structure Analysis” must be received per the time frame outlined in the legal advertisement- (Appendix D). It is the sole responsibility of the proposer to insure that the proposal arrives on time and at the designated place.

The Technical Proposal should be bound (heavy duty three ring loose leaf is preferred), divided and numbered into sections labeled with the same headings as appear in the Evaluation Criteria listed under Sections IV and V, and must be preceded by the Cover Letter and should include an Executive Summary.

The Price Proposal should be broken down by the tasks and sub-tasks, if possible, noted in the Scope of Services, along with an estimated time necessary for completion of each task. Proposal is to include a complete rate sheet with all applicable rates that would apply to the work to be performed under this contract.

Within your Proposal, please supply each of the following items and clearly structure and label your Proposal:

1. Cover Letter including name of Proposer, address and telephone number, signed in ink by an individual authorized to sign such documents.

2. Submission of all information requested to meet Minimum Requirements, Section IV.A.

3. Attach Financial Statement for two previous calendar years attested by a CPA or Bank Officer. In respect of confidentiality, this may be submitted (one copy) in a separate envelope. This information will only be used if financial information provided in the Proposal is not adequate to communicate financial capabilities. If you do not provide financial statements, you must include a letter to that effect and provide some other means to determine the financial status of your company.

The Town reserves the right to request additional financial information from any proposer who does not submit adequate information to allow the Town to make a reasonable determination of financial capability and stability.

Complete proposals must also include the following:

a. Cover letter with response, acknowledging any addenda, if any, which includes a statement that the Proposal is in accordance with this RFP, and that the Proposer understands all sections and provisions therein. Any exceptions must be clearly stated;
b. Certificate of Non-Collusion, State Taxes Certification (Attachment B);
c. A narrative describing the proposer’s plan to comply with all work outlined in the Scope of Services as defined in the RFP, including overall methodology and any alternative concepts;
d. A listing of all required references with name, title, and telephone number, with descriptions and costs of prior similar contracted services completed;
e. A general company profile or brochure and list of key personnel who will participate on this project with resumes included;
f. If applicable, and the company is not registered in Massachusetts, proof of registration with the Massachusetts Secretary of State as a “foreign” corporation authorized to do business in the Commonwealth of Massachusetts. See his website at http://www.sec.state.ma.us/cor/coridx.htm;
g. A detailed staffing plan;
h. The identification of any and all consultants and/or subcontractors who will work with the proposer with resumes attached; and the Proposer’s approach to management of all identified subcontractors, if any;
i. Appropriate certificates of insurance;
j. Evidence of financial stability;
k. Any other information that the proposer considers relevant for the purpose of evaluating its qualification for the project; and
l. Technical and Price proposals as required.

B. CONTACT INFORMATION

Clarification and interpretations of this Request for Proposal must be requested in writing. Responses shall be likewise furnished. The last day to submit written requests is as stated in Section II, Key Dates. After that day, no requests or questions will be accepted. Please contact the Town of Barnstable for clarification of this Request for Proposal, direct all inquiries to:

Johanna F. Boucher
Purchasing Agent
Administrative Services Division, Town of Barnstable
School Administration Building, 3rd Floor
230 South Street
Hyannis, MA 02601
Phone. (508) 862-4741 Fax: (508) 862-4717
Business Hours: 8:00 a.m. – 4:00 p.m. Monday through Friday
johanna.boucher@town.barnstable.ma.us
ATTACHMENT A

TOWN OF BARNSTABLE, MASSACHUSETTS

AGREEMENT BETWEEN CONTRACTOR AND OWNER

CONTRACT

FOR

PROFESSIONAL SERVICES FOR THE

COST OF SERVICE STUDY & RATE STRUCTURE ANALYSIS
FOR THE HYANNIS WATER SYSTEM

IN THE TOWN OF

BARNSTABLE, MASSACHUSETTS

INSERT DATE

FOR

TOWN OF BARNSTABLE

DEPARTMENT OF PUBLIC WORKS

DIRECTOR OF PUBLIC WORKS
MARK S. ELLS

CONTRACT: CONTRACT #
# TERMS OF CONTENTS

<table>
<thead>
<tr>
<th>Article</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 1</td>
<td>Definition of Terms</td>
</tr>
<tr>
<td>Article 2</td>
<td>Responsibilities of the Town</td>
</tr>
<tr>
<td>Article 3</td>
<td>Professional Responsibility and Services to be Performed Under the Basic Fee</td>
</tr>
<tr>
<td>Article 4</td>
<td>Project Permitting and Approvals</td>
</tr>
<tr>
<td>Article 5</td>
<td>Contractors, Subcontracting, Successors and Assignments</td>
</tr>
<tr>
<td>Article 6</td>
<td>RESERVED</td>
</tr>
<tr>
<td>Article 7</td>
<td>Time Records</td>
</tr>
<tr>
<td>Article 8</td>
<td>Compliance with Laws</td>
</tr>
<tr>
<td>Article 9</td>
<td>RESERVED</td>
</tr>
<tr>
<td>Article 10</td>
<td>Record Drawings, Reports, and Calculations</td>
</tr>
<tr>
<td>Article 11</td>
<td>Contractor's Basic Fee</td>
</tr>
<tr>
<td>Article 12</td>
<td>Contractor Compensation Reimbursable Expenses</td>
</tr>
<tr>
<td>Article 13</td>
<td>Contract Term</td>
</tr>
<tr>
<td>Article 14</td>
<td>Change in Law Adjustment</td>
</tr>
<tr>
<td>Article 15</td>
<td>Force Majeure</td>
</tr>
<tr>
<td>Article 16</td>
<td>Termination, No Award</td>
</tr>
<tr>
<td>Article 17</td>
<td>Release and Discharge</td>
</tr>
<tr>
<td>Article 18</td>
<td>Notices, Approvals Invoices</td>
</tr>
<tr>
<td>Article 19</td>
<td>Insurance, Performance Bond and Payment Bond</td>
</tr>
<tr>
<td>Article 20</td>
<td>Legal Requirements</td>
</tr>
<tr>
<td>Article 21</td>
<td>Equal Opportunity Anti Discrimination Program</td>
</tr>
<tr>
<td>Article 22</td>
<td>Choice of Law</td>
</tr>
<tr>
<td>Article 23</td>
<td>Waivers</td>
</tr>
<tr>
<td>Article 24</td>
<td>Amendments</td>
</tr>
<tr>
<td>Article 25</td>
<td>Severability</td>
</tr>
<tr>
<td>Article 26</td>
<td>Contractor's Contract Supplementary Data</td>
</tr>
</tbody>
</table>
The AGREEMENT made this ____________ day of _____________, 2009 by and between the Town of Barnstable, Massachusetts, hereinafter referred to as the “Town”, and __________________________with legal address and principal place of business at ____________________________________, hereinafter referred to as the “Contractor.”

WITNESSETH: That for and in consideration of payments and agreements hereinafter mentioned, to be made and performed by the Town, the Contractor hereby agrees with the Town to provide services as specified in this Contract for a not to exceed Insert Total Price/Period of Contract, as specified; and the Contractor shall at his/her own proper cost and expense furnish all materials, supplies, machinery, equipment, tools, supervision, labor, insurance, and other accessories and services necessary to complete the said work in accordance with and as defined in the following, and which are made a part hereof and collectively evidence and constitute the Contract:

1. Town of Barnstable Contract Documents
   a. Request for Proposals for Insert Type of Professional Services Desired
   b. Addendum Number(s).
   c. Written Responses to Questions and Answers.

2. (Insert Firm Name) Request for Proposals for Insert Type of Professional Services Desired
   a. Technical Proposal
   b. Cost Proposal

3. Scope of Services

4. Price Proposal

This Agreement constitutes the entire Contract and there are no Agreements other than those incorporated herein. This Agreement may not be changed, altered, amended, modified, or terminated orally, and any such change, alteration, amendment, or modification must be in writing and executed by the parties hereto.

NOW, THEREFORE, the Contractor, for the compensation set forth, agrees to furnish professional services to the Town for the Project, in accordance with the following requirements. The Contractor shall coordinate all efforts through the Town’s Insert Division Name Supervisor, Department of Public Works.

ARTICLE 1: DEFINITION OF TERMS

1. GENERAL LAWS -- The General Laws of the Commonwealth as amended including any rules, regulations and administrative procedures implementing said laws.
2. **TOWN** – The Town of Barnstable or its representative who is duly authorized to act in the execution of the work covered by this contract.

3. **DIRECTOR** -- The Director of Public Works, or his authorized representative.

4. **PROJECT** -- The services to be provided as specified in the Scope of Services as defined in the Request for Proposal.

5. **CONTRACTOR** -- The person or firm performing services under this agreement.

6. **PRINCIPALS** -- RESERVED.

7. **APPROVAL OF THE DIRECTOR** – A written communication from the Director, or his authorized representative, to the Contractor expressing the Town of Barnstable approval of services or documents prepared by the Contractor, which communication in no way relieves the Contractor from responsibilities under this contract.

8. **NOTICE TO PROCEED** – A written communication by the Town, customarily which constitutes an essential condition of this contract, authorizing the Contractor to perform the services for the project task to which such notice shall relate.

9. **SUBMITTAL DATES** - Those dates referred to in the Notice to Proceed or any subsequent amendment thereto.

10. **PROJECT MANAGER** -The Town's representative responsible for overseeing the Contractor’s compliance with this contract.

11. **FOREMAN/PROJECT MANAGER** - The on-site representative of the Contractor.

12. **CONTRACT DRAWINGS** - Graphical representation of the projects components.

**ARTICLE 2: RESPONSIBILITIES OF THE TOWN**

1. The Town is the owner of the Facility related to this contract. The Town administers this contract to ensure that the project meets the Town's needs and conforms to the guidelines and standards supplied by the Town.

2. The Town shall, without unreasonable delay, render all approvals required by this contract in writing to the Contractor, or shall notify the Contractor in writing why such approvals are being withheld. The Town shall not unreasonably withhold any approval, acceptance, or consent required under this contract.

3. For satisfactory performance of all services required in this contract, the Town shall compensate the Contractor in accordance with the provisions of Articles 11 through 15.
4. The Town shall furnish to the Contractor available data as indicated in the Scope of Services as defined in the Request for Proposal. All such data and any other data provided to the Contractor by the Town shall remain the property of the Town of Barnstable. The Contractor may use all data provided by the Town only for the purposes of this Contract, unless the Town gives the Contractor specific written permission for some other use.

5. The Town does not guarantee nor does it make any express or implied warranties concerning the accuracy of information furnished and the Contractor must satisfy himself as to the correctness of data, except in instances where the Town makes specific written exceptions. The Contractor shall, within the fee, analyze and evaluate the information furnished by the Town.

ARTICLE 3: PROFESSIONAL RESPONSIBILITY AND SERVICES TO BE PERFORMED

1. The Contractor shall perform the services in accordance with the scope of services set forth in the Request for Proposal. The Contractor shall be responsible for the professional and technical accuracy and the coordination of all reports, estimates and other work furnished by him or his subcontractors. Because time is of the essence, the Contractor shall provide the necessary staff to complete the services required under this contract in a continuous and expeditious manner, and shall meet the approved schedule and submittal dates established during the course of this contract.

2. The Contractor shall furnish appropriate competent services for each of the Tasks/Parts to the point where detail checking or reviewing by the Town will not be necessary. The Contractor, with the written approval of the Town, which shall not be unreasonably withheld, shall be permitted to determine materials, equipment, component systems and types of services to be included in the project. The decision of the Town shall be final in matters pertaining to this paragraph, but the Contractor shall not be responsible for any such decision which is inconsistent with generally accepted standards of professional practice.

3. The Town's review, approval or acceptance of, or payment for, any of the services furnished shall not be construed as a waiver of any rights under the contract or of any cause of action arising out of the performance of the contract.

ARTICLE 4: PROJECT PERMITTING AND APPROVALS

1. The Contractor warrants that his services will conform to all applicable federal, state, and local laws, regulations, ordinances, and by-laws.

2. The Contractor shall be responsible for compliance with the permitting requirements as indicated in the Scope of Services as defined in the Request for Proposal.

ARTICLE 5: CONTRACTORS, SUBCONTRACTING, SUCCESSORS AND ASSIGNMENTS
1. The Contractor shall not employ Subcontractors, sublet, assign or transfer any part of his services or obligations under this Agreement without the prior approval of and written consent of the Town. The Town shall not unreasonably withhold such approval. The Town may rescind this consent if a subcontractor is incompetent, irresponsible or otherwise unsatisfactory, and the Contractor shall remove such subcontractor from the work. The Town's written consent shall not in any way relieve the Contractor from his responsibility for the work or materials furnished.

2. When the Contractor receives payment from the Town, the Contractor shall within 14 calendar days make payment to each subcontractor whose work was included in the work for which such payment was received from the Town. The Town shall have the contractual right to investigate any breach of a subcontractor’s contract and to take corrective measures necessary for the best interest of the Town.

ARTICLE 6: PHOTOGRAPHS, SPECIAL CONTRACTORS’ SERVICES - RESERVED.

ARTICLE 7: TIME RECORDS

1. The Contractor shall cause to be maintained complete, accurate and detailed records of all time devoted to the project by the Contractor and each subcontractor employed by the Contractor. The Town may at all reasonable times audit such records. For construction contracts, the Contractor shall maintain accurate and detailed accounts for a six-year period after the final payment in accordance with General Laws Chapter 30, section 39R (b) (1). In addition, in contracts where the total fee exceeds $100,000 the Contractor shall comply with the following provisions of General Laws Chapter 30, section 39R which require the Contractor to:

   a. file regular statements of management concerning internal accounting controls [MGL C.30 s.39R (c)];

   b. file an annual audited financial statement [MGL C.30 s.39R (d)];

ARTICLE 8: COMPLIANCE WITH LAWS

1. The Contractor shall exercise due care in accordance with generally accepted standards of professional practice, to perform the work required under this contract in conformity with requirements and standards of the Town and all applicable laws of the Commonwealth of Massachusetts, its political subdivisions and the Federal Government. Unless otherwise provided by law, the Contractor shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the Contractor's failure to comply with the provisions of this Article and shall indemnify the Town against any liability incurred as a result of a violation of this section.

ARTICLE 9: PROJECT SUPPORT PERSONNEL - RESERVED.

ARTICLE 10: RECORD DRAWINGS, REPORTS, CALCULATIONS
1. All information acquired by the Contractor from the municipality or from others at the expense of the municipality in performance of the Agreement, shall be and shall remain the property of the municipality. All records, data files, computer records, work sheets, deliverable products complete and incomplete, and all other types of information prepared or acquired by the Contractor for delivery to the Town shall be and shall remain the property of the Town upon payment thereof.

2. The Contractor agrees that he/she will use this information only as required in the performance of this Agreement and will not, before or after the completion of this Agreement, otherwise use said information, nor copy, nor reproduce the same in any form except pursuant to the sole written instructions of the Town, provided that the Contractor shall be permitted to retain a copy of such information for purposes of documenting the Services.

ARTICLE 11: CONTRACTOR’S BASIC FEE

1. The Contractor shall be compensated for all services on the project based on hourly rates stipulated in the Cost Proposal Summary (Insert Date) that is included as Appendix A to this document. The noted hourly rates are appropriate for all services provided for the entire contract period, inclusive of renewals and extensions. The noted hourly rates are inclusive of all expenses, overhead and profit allowances.

ARTICLE 12: CONTRACTOR COMPENSATION – REIMBURSABLE EXPENSES

1. The Contractor shall be reimbursed for (Insert reimbursable expenses) costs incurred in performing the specified Tasks/Parts in accordance with (Insert Attachment).

2. The Town shall not reimburse the Contractor for any telephone or other out-of-pocket expenses unless specifically authorized as provided above.

ARTICLE 13: CONTRACT TERM

1. This contract shall be for a term (Insert Term) commencing on (Insert Date), with _____ optional one-year renewals. (Insert Funding Available) $ _______________ is currently available for the first year of the proposed contract. Funding of this contract for the ________ years, (Insert Dates), is contingent on the appropriation of funds for each of these years for this service by the Town of Barnstable. The Town of Barnstable shall retain sole discretion in exercising the renewal option, and no exercise of an option shall be subject to agreement or acceptance by the contractor.

ARTICLE 14: CHANGE IN LAW ADJUSTMENT

1. Change in Law Adjustments. As used herein, “Change in Law” means (A) the adoption, promulgation, issuance, modification, or official change in interpretation, after the Effective Date, of any federal, state, or local law, by-law, ordinance, code, regulation, rule, or ruling; (B) the imposition, after the Effective Date, of any condition on the issuance, reissuance, or continued effectiveness of any permit, license, or approval
relating to the Scope of Work, which establishes requirements more burdensome than those imposed as of the Effective Date; or (C) the order or judgment or other action of any federal, state or local court, administrative agency, or governmental body relating to the Scope of Work issued after the Effective Date, that relate in any manner whatsoever to the suspension, termination, interruption, or non-renewal of any permit, license, consent, authorization, or approval affecting the acquisition, design, construction, equipping, start-up, operation, maintenance, ownership, use, or possession of the Town property related to the Scope of Work. In the event that a Change in Law after the Effective Date increases the operating and capital costs incurred by the Town of Barnstable (the “CIL Costs”), the payments provided to the Contractor, if the Scope of Work on this Contract is affected, shall be adjusted on a mutually acceptable basis that is consistent with generally accepted accounting principals.

ARTICLE 15: FORCE MAJEURE

1. The Agreement shall be subject to Force Majeure considerations, and in the event that either party hereto shall be prevented from the performance of any act required there under by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonably within the control of the party in performing any obligations, shall be excused for the period of non-performance, and the period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the Town. In the event that the extension is not possible, the Contractor may be required to rebate to the Town a portion of the fee.

2. It is agreed, however, that since performance dates of this Agreement are important to the implementation of requested services, continued failure to perform for periods aggregating thirty (30) or more days, even for causes beyond the control of the Contractor, shall be deemed to render performance impossible, and the Town shall thereafter have the right to terminate this Agreement in accordance with the provisions of the section entitled “Termination of Agreement.”

ARTICLE 16: TERMINATION, NO AWARD

1. By written notice to the Contractor, the Town may terminate this contract in whole or in part at any time either for the Town's convenience or because of the failure of the Contractor to fulfill his contract obligations. If any such termination shall occur without the fault of the Contractor, all compensation and reimbursement due to the Contractor up to the date of termination, in accordance with all contract terms, including proportionate payment for partially completed work, shall be paid to the Contractor by the Town. Such payment shall not exceed the fair value of the work, as the Town shall reasonably determine. No amount shall be allowed for anticipated profit on unperformed services.

2. If the contract is terminated due to the failure of the Contractor to fulfill his contract obligations, the Town may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the Town for any reasonable additional cost occasioned to the Town thereby. These rights and remedies of
the Town are in addition to any rights and remedies provided by law or under this contract.

3. Upon any termination of the contract the Contractor shall deliver to the Town all records, data, drawings, specifications, reports, estimates, summaries, and such other information and materials, whether completed or in process, as may have been accumulated by the Contractor in performing this contract.

4. Subject to the provisions explaining **Force Majeure**, if the Contractor shall fail to fulfill in a timely and satisfactory manner its obligations under this agreement, or if the Contractor shall violate any of the covenants, conditions, or stipulations of this agreement, which failure or violation shall continue for seven (7) business days after written notice of such failure or violation is received by the Contractor, then the Owner shall thereupon have the right to terminate this agreement by giving written notice to the contractor of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination.

**ARTICLE 17: RELEASE AND DISCHARGE**

1. The acceptance by the Contractor of the last payment for services paid under the provisions of the contract and/or in the event of termination of the contract, shall in each instance, operate as and be a release to the Town and every member and agent thereof, from all claims and liability to the Contractor for everything done or furnished for or relating to the work, or for any act or neglect of the Town or of any person relating to or affecting the work and except that such acceptance shall not release the Town from any liability it would otherwise have for injuries to third parties resulting from the negligent acts or omissions of the Town or its employees.

**ARTICLE 18: NOTICES, APPROVALS, INVOICES**

1. Any notice required under this contract to be given by the Town to the Contractor, or by the Contractor to the Town shall be deemed to have been so given, whether or not received, if mailed by prepaid postage by, respectively, the Town to the Contractor at the address specified for the Contractor on Page 1 above, or the Contractor to the Town of Barnstable, Department of Public Works, 230 South Street, Hyannis, MA 02601.

2. Written approval is required by the Town for Additional Compensation.

3. All invoices shall be submitted (**in duplicate**) monthly and will be promptly processed by the Town if they are in conformity with the contract terms and properly documented; if not, they will be returned to the Contractor. Undisputed charges will be paid by the Town upon submittal of a corrected invoice.

4. Invoices submitted for services that have not been previously authorized in writing shall be returned to the Contractor.
5. At the option of the Town, and depending upon the size and scope of the contract, monthly invoices for services performed shall be accompanied by a complete detailed itemization including at a minimum the listing of the name and/or equipment, payroll title, date of service, number of hours each calendar month, hourly rate, extended amount, remaining balances, and a brief description of the services performed; or alternatively, the invoice shall include the hours worked by employee category, work assignment, and the total amount invoiced consistent with the billing rate provided in Appendix A, and a brief description of the services performed. In addition, the invoice shall identify reimbursable expenses, as provided in Appendix A, and provide appropriate documentation.

ARTICLE 19: INDEMNIFICATION, GENERAL INSURANCE

1. **Indemnification** - Contractor will indemnify and hold harmless the Town of Barnstable and its employees against any and all claims for damages on account of bodily injury, including death, property damage, personal injury, and advertising injury by any act or omission due to negligence of the Contractor, subcontracts, its agents, or employees to any property of or under the control of the Town of Barnstable during the term or any extension of the resultant agreement, and in case of any action or actions or other legal proceedings shall be brought or instituted against the Town of Barnstable on account of any such claims, Contractor shall indemnify and hold harmless the Town of Barnstable. However, should the claim be due to the negligence of the Town of Barnstable and/or its employees, Contractor shall be held harmless.

2. **General Insurance** - The Contractor 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 acceptable to the Town of Barnstable. All such insurance carried should not be less than the kinds and amounts designated herein, and the Contractor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Contractor to any such kinds and amounts of insurance coverage. Under all insurance coverage, required or not required by the Town, the Contractor shall indemnify, and hold harmless the Town of Barnstable, its elected or duly appointed offices, directors and employees against any claim based upon negligent, accidental or intentional acts or omissions of the contractor, its employees or its agents in providing its services to employees of the municipality or their dependants pursuant to the agreement.

With the exception of Professional Services Liability for architects, designers and engineers, and Worker’s Compensation, the Town of Barnstable and its employees must be named as an additional insured and a certificate of insurance will be provided indicating such for each of the insurance policies or surety bonds obtained pursuant to the requirements established by the issuance of the contract. Upon execution of the contract the Contractor will provide copies of certificates of insurance to the Town of Barnstable, Administration & Technical Support Division and Procurement & Risk Management.
Failure to provide and continue in force such insurance as aforesaid may be deemed a material breach of this contract, and may constitute sufficient grounds for immediate termination of the same. All insurance maintained as provided for in the above shall be taken out and maintained at the sole expense of the Contractor. Annually, at time of vendor’s policy renewal, updated insurance certificates shall be sent to the Town of Barnstable.

No cancellations 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 Town of Barnstable at least thirty (30) days prior to the intended effective date thereof, which date shall be expressed in said notice, and which shall be sent out by registered mail, return receipt requested. These provisions shall apply to the legal representatives, trustees in bankruptcy, receiver, assignee, and/or the successor in interest of the Contractor.

All insurance coverage shall be placed with such company as may be acceptable to the Town of Barnstable and shall constitute a material part of the contract documents.

3. **Comprehensive General Liability Insurance**

The Contractor shall carry Commercial General Liability Insurance with an each occurrence limit of liability no less than One Million Dollars ($1,000,000.00) and a general aggregate limit of liability no less than Two Million Dollars ($2,000,000.00); and a Products/Completed Operations *(as may be required)* Aggregate limit no less that Two Million Dollars ($2,000,000.00) for all injury and damages to or destruction of property during the policy period.

4. **Automobile Liability and Property Damage Insurance**

The Contractor shall carry business Automobile Liability Insurance covering all owned vehicles with a combined single limit no less than One Million Dollars ($1,000,000.00) to cover all damage caused by contracted employees of the awarded Contractor. Level of insurance must adequately cover the liability exposure of project site and is subject to Town of Barnstable Risk Manager approval.

5. **Workers’ Compensation Insurance**

The Contractor shall carry Workers’ Compensation Insurance as required by Massachusetts General Law, c. 152, and Section 25, with a minimum limit of Employer’s Liability as per Massachusetts General Law requirements.

**ARTICLE 20: LEGAL REQUIREMENTS**

1. **Non-resident Processing; Signatures**

   Every Contractor who is a nonresident of the Commonwealth of Massachusetts, or a non-resident co-partner of a Contractor, hereby appoints the Secretary of the Commonwealth
of Massachusetts and his successor in office to be his true and lawful attorney in and for Massachusetts, upon whom all lawful processes in any action or proceeding arising out of this contract may be served. When legal process against any such person is served upon the Secretary of State, a copy of such process shall forthwith be sent by registered mail with a return receipt requested by the Town or its lawful Attorney to said Contractor or non-resident co-partner at the address set forth in the contract. Said Contractor or said non-resident co-partner hereby stipulates and agrees that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served on said Contractor or said co-partner. Such authority shall continue in force so long as any liability remains outstanding against said Contractor or said co-partner.

2. Anti-Boycott Covenant (Executive Order #130)

The contractor warrants, represents and agrees that during the time this contract is in effect, neither it nor any affiliated company, as hereafter defined, will participate in or cooperate with an international boycott, as defined in Section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by General Laws Chapter 151E, sections 2 and 3. If there shall be a breach in the warranty, representation and agreement contained in this paragraph, then without limiting such other rights as it may have, the Town shall be entitled to rescind this contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the contractor, or by a person or persons, or business entity or entities, directly or indirectly owning at least 51% of the ownership interests of the contractor.

3. Access to Contractor's Records (Executive Order #195)

The Town shall have the right, at reasonable times and upon reasonable notice, to examine the books, records, and other compilations of data of the Contractor which pertain to the performance and requirements of this contract.

4. Truth-In-Negotiations Certificate (G.L. Chapter 7, Sec. 38H) (Public Building Construction only)

The Contractor must file a truth-in-negotiations certificate prior to being awarded the contract by the Town, which must be incorporated into the contract. The certificate must contain:

a. a statement that the wage rates and other costs used to support the Contractor's compensation are accurate, complete, and current at the time of contracting; and

b. an agreement that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the Town determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.
ARTICLE 21: EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION PROGRAM

1. During the performance of this agreement, the Contractor, for him/herself, his/her assignees, and successors in interest, agree as follows:

   a. The Contractor, in the performance of all work after award and prior to completion of the contract work, will not discriminate on grounds of race, color, religious creed, national origin, age or sex in employment practices, in the selection or retention of subcontractors, or in the procurement of materials and rental of equipment. Fair Employment Practices Law of the Commonwealth (M.G.L. Chapter 151B).

   b. The Contractor by signing the Agreement offered by the Town agrees to abide by the above paragraph to the best of his/her ability.

ARTICLE 22: CHOICE OF LAW

1. This Contract shall be construed under and governed by the laws and regulations of the Commonwealth of Massachusetts, and the Town of Barnstable. The Contractor, and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the Town is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, in any court or wherever, pending, in which the other is a party.

ARTICLE 23: WAIVERS

1. The provisions of this contract can be waived only by written agreement, except where otherwise stated herein. Forbearance or indulgence by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

ARTICLE 24: AMENDMENTS

1. No amendment to this Contract shall be effective unless it is executed in writing by authorized representatives of both parties.

ARTICLE 25: SEVERABILITY

1. If any provision of this Contract is declared or found illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law.

ARTICLE 26: CONTRACTOR'S CONTRACT SUPPLEMENTARY DATA
1. No changes are to be made in this Article at any time during the life of this contract without written notification to the Town and when required, receipt of written approval by the Town.

2. In accordance with the provisions of General Laws Chapter 7A, section 6, no contract to provide Consultant services shall be awarded by the Town, or by any department, board, commission, or other agency acting in its behalf, unless the person signing such contract on behalf of the party contracting to provide such services files with the Town a statement under the penalties of perjury setting forth the names and addresses of all persons having a financial interest therein, not including, however, any person whose only financial interest therein consists of the holding of one percent or less of the capital stock of a corporation contracting to provide such services.

NOTE: Individuals who sign a contract in their own behalf must also complete the certification below as well as sign the contract. For the purpose of this directive, the term "person having a financial interest" will generally refer to any person who, in some direct manner, will benefit financially from a given contractual relationship with the Town. However, this may not, in every case, preclude the possibility of an existing financial interest within the meaning of the statute where a financial benefit is to be realized in some indirect manner. Where doubts arise in a specific case, it is advisable that names and addresses be included.

IN WITNESS WHEREOF, the parties executed this contract under their several seals the day and year first written above. The cost of services authorized by this Agreement shall not exceed $________________ without written authorization from the Owner.

By:

______________________________
Principal,

Approved as to form

______________________________
Ruth J. Weil, Esq., Town Attorney

By:
This is to certify the Town of Barnstable has an appropriation that is adequate to cover the cost of this contract:

__________________________________
Mark A. Milne, Finance Director
ATTACHMENT “B”

STATE TAXES CERTIFICATION CLAUSE

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes under law. I have addressed any tax liability and am in the process of setting up a plan to satisfy said liability.

_________________________________   BY:__________________________
* Signature of individual or Coroporate Officer
  Corporate Name (Mandatory)   (Mandatory, if applicable)

**Social Security # or Federal Identification #

* Approval of a contract or other Contract will not be granted unless this certification clause is signed by the applicant.

** 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 Contract issued, renewed, or extended. This RFP is made under the authority of Mass. G.L. 62C s. 49.A.

******************************************************************************

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 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.

Company __________________________ Signature __________________________

Address __________________________ Name (print) __________________________

_________________________________Title __________________________

Telephone __________________________ Date __________________________
ATTACHMENT “C”

LEGAL ADVERTISEMENT
TOWN OF BARNSTABLE
REQUEST FOR PROPOSALS
COST OF SERVICE STUDY & RATE STRUCTURE ANALYSIS

The Purchasing Agent of the Town of Barnstable, on behalf of the Department of Public Works (DPW) and the Hyannis Water Board, hereby requests the submittal of proposals from qualified consultants to provide professional services for the successful and timely completion of a Cost of Service Study & Rate Structure Analysis. The services include performing a study to determine the cost of system services for water with special attention to the fire protection services and develop a rate and fee structure that will accurately reflect these costs. In addition, this structure should be modeled to provide recommended rates and fees for fiscal years 2011 through 2015. The study must be completed by June 2009 to meet the schedule for setting rates for fiscal year 2011. The cost of these contracted services are not expected to exceed $40,000.00. Award of the contract will be contingent upon appropriation by the Town Council for this purpose. Contract will be awarded within 60 days or less and proposal is to remain valid for that timeframe.

The contract and its award process is subject to the Uniform Procurement Act pursuant to M.G.L. c. 30B. Issuance of this Request for Proposal does signify the Town’s submission of this service to the provisions of the Act, and the contract and award will be made at the Town’s discretion. If it becomes necessary to revise any part of this RFP or otherwise provide additional information, an addendum will be issued to all prospective proposers who received copies of the original request.

Request for Proposal documents are available on the Town of Barnstable website, Bid & RFP System at www.town.barnstable.ma.us. Questions pertaining to this RFP should be submitted in writing to the Purchasing Agent at johanna.boucher@town.barnstable.ma.us

Responses are due on March 2, 2009 at 2:00 p.m. in the Purchasing Agent’s Office, 230 South Street, Hyannis, MA 02601. The Request for Proposals shall be available at the Purchasing Agent’s office beginning immediately (Monday through Friday from 7:00 a.m. to 4:00 p.m., excluding holidays). Non-price proposals will be opened on March 2, 2009, 2:00 pm in the office of the Purchasing Agent. The opening of the responses is not public. All responses must be received in a sealed envelope properly marked prior to the deadline.

An interview may be conducted with any proposer who is deemed Highly Advantageous or Advantageous during the evaluation of the proposals. An award will be made within 30 days. The Town reserves the right to reject any or all proposals when it deems it to be in the best interest of the Town.
ATTACHMENT D

Price Proposal – Consultant Services for:

COST OF SERVICE STUDY & RATE STRUCTURE ANALYSIS

The total “not to exceed” cost associated with the services as outlined in the technical scope of services

$_________________________ (Not to exceed $40,000)

Price submitted must be a “Not to Exceed” price for all tasks as described in the Request for Proposal document. The CONSULTANT’s fee will be subject to downward negotiation and should be anticipated to be an amount not to exceed $40,000.00. The CONSULTANT will execute the Town's Standard Contractor CONSULTANT Services (sample attached).

Attached to this pricing sheet include:

1. Complete rate structure including all hourly rates by discipline/position and any other associated charges.
2. Price breakdown, itemized by Part and Subtask, as outlined in the scope of services.

The Price Proposal shall include a complete detailed itemization for each task/subtask listing individuals name, payroll title, level of effort (hours), hourly rate, extended amount and a brief description of the services to be performed.

In addition, identify acceptable reimbursable expenses such as subcontractors and/or materials to be furnished. The Town shall not reimburse the Contractor for any telephone, copy costs, mileage or other out-of-pocket expenses.

The final fee will be subject to downward negotiation with selected firm.

The Town will not pay for any additional work on this project without the prior written approval.

Your signature below acknowledges your understanding of these parameters and your willingness to live within the stated financial constraint of the project.

Company: ___________________________________________________

Authorized Signature: __________________________________________

Print Name: __________________________________________________

Title: ________________________________________________________

Date: ________________________________________________________