TOWN OF CUMBERLAND

REQUEST FOR PROPOSALS

2016-1107-10
Stainless Steel Clean Energy CE-250 Waste Oil Furnace, with new tank & stand

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1.0 - Bid/Solicitation Information

Schedule

Pre-Bid/Proposal Conference: ☒ No ☐ Yes

Requests for Further Information:
November 29, 2016 at 10:00 AM

Requests for information or clarification must be made electronically to the attention of:
Brian Silvia – Finance Director
E-mail: bsilvia@cumberlandri.org

Please reference the RFP number on all correspondence. Answers to questions received, if any, will be posted on the internet as an addendum to this bid solicitation.

RFP Submission Deadline:
November 30, 2016 @ 10:00 AM
Late submittals will not be considered.

Proposals must be mailed or hand-delivered in a sealed envelope **marked with the RFP/Bid # and Project Name** to:

Cumberland Town Hall – Finance Department
45 Broad Street
Cumberland, RI 02864

Bonds/Surety Required

Surety Bond: ☒ No ☐ Yes
Bidder is required to provide a bid surety in the form of a bid bond or certified check payable to the Town of Cumberland in an amount not less than five percent (5%) of the bid price.

Fidelity Bond: ☒ No ☐ Yes

Performance Bond: ☒ No ☐ Yes

Miscellaneous

The bid process and resulting contract are subject to the Rules and Regulations and General Terms and Conditions of Purchase. Submission of a bid in response to this solicitation is acknowledgement and acceptance of these Rules and Regulations and General Terms and Conditions of Purchase.

The Town of Cumberland reserves the right to award on the basis of cost alone, accept or reject any or all bids, and to act in its best interest including, but not limited to, directly negotiating with any vendor who submits a proposal in response to this RFP and to award a contract based upon the results of those negotiations alone. Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further. The Town of Cumberland may, at its sole option, elect to require presentations(s) by bidders clearly in consideration for award.

2.0 - Instructions and Notifications to Bidders

- It is the vendor's responsibility to examine all specifications and conditions thoroughly, and comply fully with specifications and all attached terms and conditions. Vendors must comply with all Federal, State, and City laws, ordinances and regulations, and meet any and all registration requirements where required for contractors as set forth by the State of Rhode Island. Failure to make a complete submission as described herein may result in a rejection of the proposal.

- All costs associated with developing or submitting a proposal in response to this Request, or to provide oral or written clarification of its content shall be borne by the bidder. The Town of Cumberland assumes no responsibility for these costs.

- A submittal may be withdrawn by written request to the Finance Director by the proposer prior to the stated RFP deadline.

- Prior to the proposal deadline established for this RFP, changes may be made to a proposal already received by the Town if that vendor makes a request to the Finance Director, in writing, to do so. No changes to a proposal shall be made after the RFP deadline.

- Proposals are considered to be irrevocable for a period of not less than ninety (90) days following the opening date, and may not be withdrawn, except with the express written permission of the Finance Director. Should any vendor object to this condition, the vendor must provide objection through a question and/or complaint to the Finance Director prior to the proposal deadline.

- All pricing submitted will be considered to be firm and fixed unless otherwise indicated herein.

- The vendor has full responsibility to ensure that the proposal arrives at the Finance Department Office prior to the deadline set out herein. The Town assumes no responsibility for delays caused by the U.S. Postal Service or any other delivery service. Postmarking by the due date will not substitute for actual receipt of response by the due date. Proposals arriving after the deadline may be returned, unopened, to the vendor, or may simply be declared non-responsive and not subject to evaluation, at the sole discretion of the Finance Director. **For the purposes of this requirement, the official time and date shall be that of the time clock in the Town of Cumberland's Council Chambers.**

- It is intended that an award pursuant to this Request will be made to a prime contractor, who will assume responsibility for all aspects of the work. Joint venture and cooperative proposals will not be considered, but subcontracts are permitted, provided that their use is clearly indicated in the bidder's proposal, and the subcontractor(s) proposed to be used are identified in the proposal.

- Bidders are advised that all materials submitted to the Town of Cumberland for consideration in response to this Request for Proposals shall be considered to be public records as defined in Title 38 Chapter 2 of the Rhode Island General

Laws, without exception, and may be released for inspection immediately upon request once an award has been made.

- Vendors are responsible for errors and omissions in their proposals. No such error or omission shall diminish the vendor's obligations to the Town.

- The Town reserves the right to reject any or all proposals, or portions thereof, at any time, with no penalty. The Town also has the right to waive immaterial defects and minor irregularities in any submitted proposal at its sole discretion. All material submitted in response to this RFP shall become the property of the Town of Cumberland upon delivery to the Finance Director.

3.0 - Overview

The Town of Cumberland (Town) is seeking one (1) new Stainless Steel Clean Energy CE-250 Waste Oil Furnace on a new tank & stand, or comperable.

4.0 - Scope of Project

Section One

Scope of Work

1. One (1) 500 Gallon Tank & Stand
2. Promotion: Chimney Pack – Through Roof
3. Smoke Pipe & Miscellaneous Fittings
4. Installation & Labor
5. Delivery Charges, as Applicable
6. Permit & Fees, by the Town
7. Electrical Costs Assocaited with Installation, to be paid by the Town

Warranty

Limited Lifetime Combustion Chamber / Heat Exchanger Warranty (at minimum):

1. 0-3 years, less than 6,000 hours repair or replace, free of charge
2. 4-10 years, repair or replace shared cost 50/50
3. Over 10 years, purcahse pays 90% of replacement cost
4. Parts are covered by a two (2) year warranty. All labor for warranty parts covered for one (1) year

Payment Schedule

1. Equipment costs – Due upon execution of purchase agreement
2. Balance – Due upon completion of test firing unit.

Other Information

1. The Town is responsible for reporting any damages found to equipment immediately following installation.
2. The Town is responsible for routine maintenance.
3. The Town is responsible for having at least a quarter tank of oil.

Bidder's Objectives

Bidders shall submit a detailed operational plan which demonstrates understanding of, and capability to assume responsibility for, the installation of a new stainles streel clean engery CE-250 waste oil furnace or comperable.

PROPOSED FEES

The Town of Cumberland intends to award this contract to the Vendor that it deems most responsive and will provide the most comprehensive and high quality service to the Town inclusive of fee considerations. The Town reserves the right to accept other than the lowest price offer and to reject all proposals that are not responsive to this request.

5.0 - Evaluation Criteria

The evaluation of proposals will be conducted in a time frame convenient to the Town.

The Town of Cumberland reserves the right to award on the basis of cost alone, accept or reject any or all proposals, and to otherwise act in its best interest including, but not limited to, directly negotiating with any Supplier who submits a proposal in response to this RFP and to award a contract based upon the results of those negotiations alone. Further, the Town reserves the right to waive irregularities it may deem minor in its consideration of proposals.

Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further. The Town of Cumberland may elect to require presentations(s) by vendors in consideration for award.

6.0 - Miscellaneous

Vendors shall at all times comply with all federal, state, and local laws, ordinances and regulations and shall defend, indemnify and save harmless the Town of Cumberland against any claims arising from the violation of any such laws, ordinances and regulations, including but not limited to challenges as to the legality of any and all vendor installations.

The Town is exempt from the payment of the Rhode Island State Sales Tax under the 1956 General Laws of the State of Rhode Island, 44-18-30, Paragraph 1, as amended. Further, the Town is also exempt from the payment of any excise or federal transportation taxes. The proposal prices submitted must be exclusive of same, and will be so construed.

The Town of Cumberland reserves the right to cancel an agreement with the Vendor with thirty (30) days written notice and to award the contract to the next highest evaluated bidder.

The Town of Cumberland reserves the right to renegotiate the terms of this contract with the Vendor for subsequent years provided the Vendor agrees to the contract terms for the renewal period.

7.0 – Bid Form

2016-1102-09 - Collection Agency Services

Date: _____

Submitted By: _____

(Include Name, Address and Telephone No.) _____

_____

_____

Name and remittance address that will appear on invoices:	Physical address of business:
_____	_____
_____	_____
_____	_____
_____	_____

General Information

Is your firm a sole proprietorship doing business under a different name? ____Yes _____ No

If yes, please indicate sole proprietorship, a name, and the name you are doing business under.

_____

_____

Is your firm incorporated? ____Yes _____ No

Will any of the work spelled out in this bid be outsourced? ____Yes _____ No

If so, please explain below:

_____

_____

_____

Have you or your firm been subject to suspension, debarment or criminal conviction by the Town of Cumberland, the State of Rhode Island, or any other jurisdiction?
Yes: _____ No: _____

Have the Town of Cumberland and/or the State of Rhode Island ever terminated contracts with your firm for cause?
Yes: _____ No: _____

Has your firm ever withdrawn from a contract with the Town of Cumberland and/or the State of Rhode Island during its performance?
Yes: _____ No: _____

Have you or your firm been involved in litigation against the Town of Cumberland and/or the State of Rhode Island.
Yes: _____ No: _____

If you answered yes to any of the foregoing, please explain the circumstances below. If you or your firm has been involved in litigation against the Town of Cumberland and/or the State of Rhode Island, please include the case caption, case number and status. (If more space is needed, please attach separate sheet and submit with the bid.)

_____

_____

_____

Is your company bonded? Yes ____ No ____

Please describe the nature and extent of all insurance coverage:

_____

_____

_____

Bid Form Signature

_____
(Bidder Name – Please Print)

By:_____
(Signature)

Title:_____

***** ***BID FORM MUST BE SIGNED*** *****

Appendix A

ANTI-KICKBACK ACKNOWLEDGMENT

ALL BIDDERS/OFFERORS MUST ATTEST TO THE FOLLOWING:

The vendor acknowledges, under the pains and penalties of perjury, that he/she has not been offered, paid, or solicited for any contribution or compensation, nor has he/she been granted a gift, gratuity, or other consideration, either directly or indirectly by any officer, employee or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this contract pertains.

Further, the vendor acknowledges, under the pains and penalties of perjury, that he/she has not offered, paid, or solicited by way of any contribution or compensation, nor has he/she granted a gift, gratuity or other consideration either directly or indirectly to any officer, employee, or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this project or contract pertains.

_____ _____

SIGNATURE OF OFFEROR DATE

_____

TITLE

_____

COMPANY

Title of RFP:

_____

Appendix B

TOWN OF CUMBERLAND
GENERAL TERMS AND CONDITIONS OF PURCHASE

Preamble

The Town of Cumberland's Finance Department may, from time to time, make amendments to the General Terms and Conditions when the Town of Cumberland's Finance Director determines that such amendments are in the best interest of the Town of Cumberland. Amendments shall be made available for public inspection at the Finance Department located in Cumberland Town Hall but shall not require formal public notice and hearing. Copies of the Terms and Conditions shall be provided to any individual or firm requesting them.

TOWN OF CUMBERLAND'S FINANCE DEPARTMENT GENERAL CONDITIONS OF PURCHASE

All Town of Cumberland purchase orders, contracts, solicitations, delivery orders and service requests shall incorporate and be subject to the provisions of Rhode Island General Laws 8-15-4 and the Town of Cumberland purchasing rules and regulations adopted pursuant thereto, all other applicable provisions of the Rhode Island General Laws, the Cumberland Town Charter, specific requirements described in the Request or Contract, and the following General Conditions of Purchase:

1. GENERAL

   All purchase orders, contracts, solicitations, delivery orders, and service requests are for specified goods and services, in accordance with express terms and conditions of purchase, as defined herein. For the purposes of this document, the terms "bidder" and "contractor" refer to any individual, firm, corporation, or other entity presenting a proposal indicating a desire to enter into contracts with the Town of Cumberland, or with whom a contract is executed by the Town of Cumberland's Finance Director, and the term "contractor" shall have the same meaning as "vendor".

2. ENTIRE AGREEMENT

   The Town of Cumberland's Finance Director, or other Town of Cumberland contract endorsed by the Town of Cumberland Finance Department, shall constitute the entire and exclusive agreement between the Town of Cumberland and any contractor receiving an award. In the event any conflict between the bidder's standard terms of sale, these conditions or more specific provisions contained in the solicitation shall govern.

   All communication between the Town of Cumberland and any contractor pertaining to any award or contract shall be accomplished in writing.

   a. Each proposal will be received with the understanding that the acceptance, in writing, by contract or Purchase Order by the Town of Cumberland Finance Director of the offer to do work or to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the bidder and the Town of Cumberland. This shall bind the bidder on his part to furnish and deliver at the prices and in accordance with the conditions of said accepted proposal and detailed specifications and the Town of Cumberland on its part to order from such contractor (except in case of emergency) and to pay for at the agreed prices, all materials, equipment, supplies or services specified and delivered. A contract shall be deemed executory only to the extent of funds available for payment of the amounts shown on Purchase Orders issued by the Town of Cumberland to the contractors.

   b. No alterations or variations of the terms of the contract shall be valid or binding upon the Town of Cumberland unless submitted in writing and accepted by the Town of Cumberland's Finance Director. All orders and changes thereof must emanate from the Town of Cumberland Finance Department: no oral agreement or arrangement made by a contractor with a department or employee will be considered to be binding on the Town of Cumberland Finance Director, and may be disregarded.

   c. Contracts will remain in force for the contract period specified or until all articles or services ordered before date of termination shall have been satisfactorily delivered or rendered and accepted and thereafter until all terms and conditions have been met, unless:

1. terminated prior to expiration date by satisfactory delivery against orders of entire quantities, or
2. extended upon written authorization of the Town of Cumberland Finance Director and accepted by the contractor, to permit ordering of the unordered balances or additional quantities at the contract price and in accordance with the contract terms, or
3. canceled by the Town of Cumberland in accordance with other provisions stated herein.

d. It is mutually understood and agreed that the contractor shall not assign, transfer, convey, sublet or otherwise dispose of this contract or his right, title or interest therein, or his power to execute such contract, to any other person, company or corporation, without the previous consent, in writing, of the Town of Cumberland Finance Director.

e. If, subsequent to the submission of an offer or issuance of a purchase order or execution of a contract, the bidder or contractor shall merge with or be acquired by another entity, the contract may be terminated, except as a corporate resolution prepared by the contractor and the new entity ratifying acceptance of the original bid or contract terms, condition, and pricing is submitted to the Town of Cumberland Finance Department, and expressly accepted.

f. The contractor or bidder further warrants by submission of an offer or acceptance of a purchase order or other contract that he has no knowledge at the time of such action of any outstanding and delinquent or otherwise unsettled debt owed by him to the Town of Cumberland, and agrees that later discovery by the Town of Cumberland Finance Director that this warranty was given in spite of such knowledge, except where the matter is pending in hearing or from any appeal there from, shall form reasonable grounds for termination of the contract.

3. SUBCONTRACTS

No subcontracts or collateral agreements shall be permitted, except with the Town of Cumberland's express written consent. Upon request, contractors must submit to the Town of Cumberland Finance Department a list of all subcontractors to be employed in the performance of any Purchase Order or other contract arising from this Request.

4. RELATIONSHIP OF PARTIES

The contractor or bidder warrants, by submission of an offer or acceptance of a purchase order or other contract, that he is not an employee, agent, or servant of the Town of Cumberland, and that he is fully qualified and capable in all material regards to provide the specified goods and services. Nothing herein shall be construed as creating any contractual relationship or obligation between the Town of Cumberland and any sub-bidder, subcontractor, supplier, or employee of the contractor or offeror.

5. COSTS OF PREPARATION

All costs associated with the preparation, development, or submission of bids or other offers will be borne by the offeror. The Town of Cumberland will not reimburse any offeror for such costs.

6. SPECIFIED QUANTITY REQUIREMENT

Except where expressly specified to the contrary, all solicitations and contracts are predicated on a specified quantity of goods or services, or for a specified level of funding.

a. The Town of Cumberland reserves the right to modify the quantity, scope of service, date of delivery or completion, or funding of any contract, with no penalty or charge, by written notice to the contractor, except where alternate terms have been expressly made a part of the contract.

b. The Town of Cumberland shall not accept quantities in excess of the specified quantity except where the item is normally sold by weight (where sold by weight, the Town of Cumberland will not accept quantities greater than ten per cent [10%] of the specified quantity), or where the Request or Contract provides for awards for other than exact quantities.

c. Purchase Orders or other contracts may be increased in quantity or extended in term without subsequent solicit with the mutual consent of the contractor and the Town of Cumberland, where determined by the Town of Cumberland Finance Director to be in the Town of Cumberland's best interest.

7. TERM AND RENEWAL

Where offers have been requested or contracts awarded for terms exceeding periods of twelve (12) months, it is mutually understood and agreed that the Town of Cumberland's commitment is limited to a base term not to exceed twelve (12) months, subject to renewal annually at the Town of Cumberland's sole option for successive terms as otherwise described, except where expressly specified to the contrary. Purchase orders appearing to commit to obligations of funding or terms of performance may be executed for administrative convenience, but are otherwise subject to this provision, and in such cases the Town of Cumberland's renewal shall be deemed to be automatic, conditional on the continued availability of appropriated funds for the purpose, except as written notice of the Town of Cumberland's intent not to renew is served.

8. DELIVERY/COMPLETION

Delivery must be made as ordered and/or projects completed in accordance with the proposal. If delivery qualifications do not appear on the bidder's proposal, it will be interpreted to mean that goods are in stock and that shipment will be made within seven (7) calendar days. If the project completion date is not specified in the proposal, the date shall be determined by the Town of Cumberland Finance Director. The decision of the Town of Cumberland Finance Director, as to reasonable compliance with the delivery terms, and date of completion shall be final. Burden of proof of delay in receipt of order shall rest with the contractor. No delivery charges shall be added to invoices except when authorized on the Purchase Order.

9. FOREIGN CORPORATIONS

In accordance with Title 7 Chapter 1.1 ("Business Corporations") of the General Laws of Rhode Island, no foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the Secretary of State.

10. PRICING

All pricing offered or extended to the Town of Cumberland is considered to be firm and fixed unless expressly provided for to the contrary. All prices shall be quoted F.O.B. Destination with freight costs included in the unit cost to be paid by the Town of Cumberland, except, where the Request or Contract permits, offers reflecting F.O.B. Shipping Point will be considered, and freight costs may then be prepaid and added to the invoice.

11. COLLUSION

Bidder or contractor warrants that he has not, directly or indirectly, entered into any agree participated in any collusion or otherwise taken any action in restraint of full competitive bidding. In special circumstances, an executed affidavit will be required as a part of the bid.

12. PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES

Bidder or contractor warrants that he has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the Town of Cumberland for the purpose of obtaining any contract or award issued by the Town of Cumberland. Bidder or contractor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by the Town of Cumberland, except as shall have been expressly communicated to the Town of Cumberland Finance Director in writing prior to acceptance of the contract or award in question. Subsequent discovery by the Town of Cumberland of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts and suspension or debarment of the bidder(s) or contractor(s) involved.

13. AWARDS

Awards will be made with reasonable promptness and by written notice to the successful bidder (only); bids are considered to be irrevocable for a period of ninety (90) days following the bid opening unless expressly provided for to the contrary in the Request, and may not be withdrawn during this period without the express permission of the Town of Cumberland Finance Director.

a. Awards shall be made to the bidder(s) whose offer(s) constitutes the lowest responsive price offer (or lowest responsive price offer on an evaluated basis) for the item(s) in question or for the Request as a whole, at the option of the Town of Cumberland. The Town of Cumberland reserves the right to determine those offers which are responsive to the Request or which otherwise serve its best interests.

b. The Town of Cumberland reserves the right, before making award, to initiate investigations as to whether or not the materials, equipment, supplies, qualifications or facilities offered by the bidder meet the requirements set forth in the proposal and specification, and is ample and sufficient to insure the proper performance of the contract in the event of award. If upon such examination it is found that the conditions of the proposal are not complied with or that articles or equipment proposed to be furnished do not meet the requirements called for, or that the qualifications or facilities are not satisfactory, the Town of Cumberland may reject such a bid. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the Town of Cumberland to make any examinations before awarding a contract; and it is further understood that if such examination is made, it in no way relieves the contractor from fulfilling all requirements and conditions of the contract.

c. Qualified or conditional offers which impose limitations of the bidder's liability or modify the requirements of the bid, offers for alternate specifications, or which are made subject to different terms and conditions than those specified by the Town of Cumberland may, at the option of the Town of Cumberland, be
   1. rejected as being non-responsive, or
   2. set aside in favor of the Town of Cumberland's terms and conditions (with the consent of the bidder), or
   3. accepted, where the Town of Cumberland Finance Director determines that such acceptance best serves the interests of the Town of Cumberland.

   Acceptance or rejection of alternate or counter-offers by the Town of Cumberland shall not constitute a precedent which shall be considered to be binding on successive solicitations or procurements.

d. Bids submitted in pencil, or which do not bear an original signature, in ink, by an owner or authorized agent thereof, will not be accepted.

e. Bids must be extended in the unit of measure specified in the Request. In the event of any discrepancy between unit prices and their extensions, the unit price will govern.

f. The Town of Cumberland Finance Director reserves the right to determine the responsibility of any bidder for a particular procurement.

g. The Town of Cumberland Finance Director reserves the right to reject any and all bids in whole or in part, to waive technical defects, irregularities, and omissions, and to give consideration to past performance of the offerors where, in his judgment the best interests of the Town of Cumberland will be served by so doing.

h. The Town of Cumberland Finance Director reserves the right to make awards by items, group of items or on the total low bid for all the items specified as indicated in the detailed specification, unless the bidder specifically indicates otherwise in his bid.

i. Preference may be given to bids on products raised or manufactured in the Town of Cumberland or State of Rhode Island, other things being equal.

j. The impact of discounted payment terms shall not be considered in evaluating responses to any Request.

k. The Town of Cumberland Finance Director reserves the right to act in the Town of Cumberland's best interests regarding awards caused by clerical errors by the Town of Cumberland Finance Department.

14. SUSPENSION AND DEBARMENT

The Town of Cumberland Finance Director may suspend or debar any vendor or potential bidder, for good cause shown:

a. A debarment or suspension against a part of a corporate entity constitutes debarment or suspension of all of its divisions and all other organizational elements, except where the action has been specifically limited in scope and application, and may include all known corporate affiliates of a contractor, when such offense or act occurred in connection with the affiliate's performance of duties for or on behalf of the contractor, or with the knowledge, approval, or acquiescence of the contractor or one or more of its principals or

directors (or where the contractor otherwise participated in, knew of, or had reason to know of the acts).

b. The fraudulent, criminal or other serious improper conduct of any officer, director, shareholder, partner, employee, or any other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval or acquiescence. The contractor's acceptance of benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

c. A vendor or contractor who knowingly engages as a subcontractor for a contract awarded by the Town of Cumberland to a vendor or contractor then under a ruling of suspension or debarment by the Town of Cumberland shall be subject to disallowance of cost, annulment or termination of award, issuance of a stop work order, or debarment or suspension, as may be judged to be appropriate by the Town of Cumberland's Finance Director.

15. PUBLIC RECORDS

Contractors and bidders are advised that certain documents, correspondence, and other submissions to the Town of Cumberland's Finance Department may be voluntarily made public by the Town of Cumberland absent specific notice that portions of such submittals may contain confidential or proprietary information, such that public access to those items should be withheld.

16. PRODUCT EVALUATION

In all specifications, the words "or equal" are understood after each article when manufacturer's name or catalog are referenced. If bidding on items other than those specified, the bidder must, in every instance, give the trade designation of the article, manufacturer's name and detailed specifications of the item the bidder proposes to furnish; otherwise, the bid will be construed as submitted on the identical commodity described in the detailed specifications. Town of Cumberland's Finance Director reserves the right to determine whether or not the item submitted is the approved equal the detailed specifications.

a. Any objections to specifications must be filed by a bidder, in writing, with the Town of Cumberland's Finance Director at least 96 hours before the time of bid opening to enable the Town of Cumberland's Finance Department to properly investigate the objections.

b. All standards are minimum standards except as otherwise provided for in the Request or Contract.

c. Samples must be submitted to the Town of Cumberland's Finance Department in accordance with the terms of the proposals and detailed specifications. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating whether or not the bidder desires their return and specifying the address to which they are to be returned (at the bidder's risk and expense), provided they have not been used or made useless by tests; and absent instructions, the samples shall be considered to be abandoned. Award samples may be held for comparison with deliveries.

d. All samples submitted are subject to test by any laboratory the Town of Cumberland's Finance Director may designate.

17. PRODUCT ACCEPTANCE

All merchandise offered or otherwise provided shall be new, of prime manufacture, and of first quality unless otherwise specified by the Town of Cumberland. The Town of Cumberland reserves the right to reject all nonconforming goods, and to cause their return for credit or replacement, at the Town of Cumberland's option. Contract deliverables specified for procurements of services shall be construed to be work products, and subject to the provisions of this section.

a. Failure by the Town of Cumberland to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the Town of Cumberland's right to subsequently reject the goods in question.

b. Formal or informal acceptance by the Town of Cumberland of non-conforming goods shall not constitute a precedent for successive receipts or procurements.

c. Where the contractor fails to promptly cure the defect or replace the goods, the Town of Cumberland reserves the right to cancel the Purchase Order, contract with a different

contractor, and to invoice the original contractor for any differential in price over the original contract price.

d. When materials, equipment or supplies are rejected, the same must be removed by the contractor from the premises of the Town of Cumberland within forty-eight (48) hours of notification. Rejected items left longer than two days will be regarded as abandoned and the Town of Cumberland shall have the right to dispose of them as its own property.

18. PRODUCT WARRANTIES

All product or service warranties normally offered by the contractor or bidder shall accrue to the Town of Cumberland's benefit, in addition to any special requirements which may be imposed by the Town of Cumberland. Every unit delivered must be guaranteed against faulty material and workmanship for a period of one year unless otherwise specified, and the Town of Cumberland may, in the event of failure, order its replacement, repair, or return for full credit, at its sole option.

19. PAYMENT

Unless otherwise provided for by the Request or Contract, payment shall not be made until delivery has been made, or services performed, in full, and accepted. Payment shall not be due prior to thirty (30) working days following the latest of completion, acceptance, or the rendering of a properly submitted invoice.

a. Payment terms other than the foregoing may be rejected as being nonresponsive.

b. No partial shipments, or partial completion will be accepted, unless provided for by the Request or Contract.

c. Where a question of quality is involved, or failure to complete a project by the specified due date, payment in whole or part against which to charge back any adjustment required, shall be withheld at the direction of the Town of Cumberland's Finance Director. In the event a cash discount is stipulated, the withholding of payments, as herein described, will not deprive the Town of Cumberland from taking such discount.

d. Payments for used portion of inferior delivery or late delivery will be made by the Town of Cumberland on an adjusted price basis.

e. Payments on contracts under architectural or engineering supervision must be accompanied by a Certificate of Payment and Statement of Account signed by the architect or engineer and submitted to the Town of Cumberland's Finance Department for approval.

20. THIRD PARTY PAYMENTS

The Town of Cumberland recognizes no assigned or collateral rights to any purchase agreement except as may be expressly provided for in the bid or contract documents, and will not accede to any request for third party or joint payment(s), except as provided for in specific orders by a court of competent jurisdiction, or by express written permission of the Town of Cumberland's Finance Director. Where an offer is contingent upon such payment(s), the offeror is obligated to serve affirmative notice in his bid submission.

21. SET-OFF AGAINST PAYMENTS

Payments due the contractor may be subject to reduction equal to the amount of unpaid and delinquent state taxes (or other just debt owed to the State), except where notice of delinquency has not been served or while the matter is pending in hearing or from any appeal there from.

22. CLAIMS

Any claim against a contractor may be deducted by the Town of Cumberland from any money due the contractor in the same or other transactions. If no deduction is made in such fashion, the contractor shall pay the Town of Cumberland the amount of such claim on demand. Submission of a voucher and payment, thereof, by the Town of Cumberland shall not preclude the Town of Cumberland's Finance Director from demanding a price adjustment in any case when the commodity delivered is later found to deviate from the specifications and proposal.

a. The Town of Cumberland's Finance Director may assess dollar damages against a vendor or contractor determined to be non-performing or otherwise in default of their contractual obligations equal to the cost of remedy incurred by the Town of Cumberland, and make payment of such damages a condition for consideration for any subsequent award. Failure by the vendor or contractor to pay such

damages shall constitute just cause for disqualification and rejection, suspension, or debarment.

23. CERTIFICATION OF FUNDING
The Director of Finance shall provide certification as to the availability of funds to support the procurement for the current fiscal year ending June 30th only. Where delivery or service requirements extend beyond the end of the current fiscal year, such extensions are subject to both the availability of appropriated funds and a determination of continued need.

24. UNUSED BALANCES
Unless otherwise specified, all unused Blanket Order quantities and/or unexpended funds shall be automatically canceled on the expiration of the specified term. Similarly, for orders encompassing more than one fiscal year, unexpended balances of funding allotted for an individual fiscal year may be liquidated at the close of that fiscal year, at the Town of Cumberland's sole option.

25. MINORITY BUSINESS ENTERPRISES
Pursuant to the provisions of Title 37 Chapter 14.1of the General Laws, the Town of Cumberland reserves the right to apply additional consideration to offers, and to direct awards to bidders other than the responsive bid representing the lowest price where:

a. the offer is fully responsive to the terms and conditions of the Request, and
b. the price offer is determined to be within a competitive range (not to exceed 5% higher than the lowest responsive price offer) for the product or service, and
c. the firm making the offer has been certified by the R.I. Department of Economic Development to be a small business concern meeting the criteria established to be considered a Minority Business Enterprise.

26. PREVAILING WAGE REQUIREMENT
In accordance with Title 37 Chapter 13 of the General Laws of Rhode Island, payment of the general prevailing rate of per diem wages and the general prevailing rate for regular, overtime and other working conditions existing in the locality for each craft, mechanic, teamster, or type of workman needed to execute this work is a requirement for both contractors and subcontractors for all public works.

27. EQUAL OPPORTUNITY COMPLIANCE, HANDICAPPED ACCESS AND AFFIRMATIVE ACTION
Contractors of the Town of Cumberland are required to demonstrate the same commitment to equal opportunity as prevails under federal contracts controlled by Federal Executive Orders 11246, 11625, 11375 and 11830, and Title 28 Chapter 5.1 of the General Laws of Rhode Island. Affirmative action plans shall be submitted by the contractor for review by the State Equal Opportunity Office. A contractor's failure to abide by the rules, regulations, contract terms and compliance reporting provisions as established shall be grounds for forfeiture and penalties as shall be established, including but not limited to suspension.

28. DRUG-FREE WORKPLACE REQUIREMENT
Contractors who do business with the Town of Cumberland and their employees shall abide by the State's drug-free workplace policy and the contractor shall so attest by signing a certificate of compliance.

29. TAXES
The Town of Cumberland is exempt from payment of excise, transportation and sales tax imposed by the Federal or State Government. These taxes should not be included in the proposal price. Exemption Certificates will be furnished upon request.

30. INSURANCE
All construction contractors, independent tradesmen, or firms providing any type of maintenance, repair, or other type of service to be performed on Town of Cumberland premises, buildings, or grounds are required to purchase and maintain coverage with a company or companies licensed to do business in the state as follows:

a. Comprehensive General Liability Insurance

1) Bodily Injury $500,000 each occurrence/ $1,000,000 annual aggregate
2) Property Damage $500,000 each occurrence /$500,000 annual aggregate
Independent Contractors
Contractual - including construction hold harmless and other types of contracts or agreements in effect for insured operations
Completed Operations
Personal Injury (with employee exclusion deleted)

b. Automobile Liability Insurance
Combined Single Limit not less than $150,000 each occurrence
Bodily Injury
Property Damage, and in addition non-owned and/or hired vehicles and equipment

c. Workers' Compensation Insurance
As required by the General Laws of Rhode Island.

The Town of Cumberland's Finance Director reserves the right to consider and accept alternate forms and plans of insurance or to require additional or more extensive coverage for any individual requirement. Successful bidders shall provide certificates of coverage, reflecting the Town of Cumberland as an additional insured, to the Town of Cumberland's Finance Department, forty-eight (48) hours prior to the commencement of work, as a condition of award. Failure to comply with this provision shall result in rejection of the offeror's bid.

31. BID SURETY

When requested, a bidder must furnish a Bid Bond or Certified Check for 5% of his bid, or for the stated amount shown in the solicitation. Bid Bonds must be executed by a reliable Surety Company authorized to do business in the State of Rhode Island. Failure to provide Bid Surety with bid may be cause for rejection of bid. The Bid Surety of any three bidders in contention will be held until an award has been made according to the specifications of each proposal. All others will be returned by mail within 48 hours following the bid opening. Upon award of a contract, the remaining sureties will be returned by mail unless instructed to do otherwise.

32. PERFORMANCE AND LABOR AND PAYMENT BONDS

A performance bond and labor and payment bond of up to 100% of an award may be required by the Town of Cumberland's Finance Director. Bonds must meet the following requirements:

a. Corporation: The Bond must be signed by an official of the corporation above his/her official title and the corporate seal must be affixed over his/her signature.
b. Firm or Partnership: The Bond must be signed by all of the partners and must indicate that they are " Doing Business As (name of firm)."
c. Individual: The Bond must be signed by the individual owning the business and indicate "Owner."
d. The Surety Company executing the Bond must be licensed to do business in the State of Rhode Island or Bond must be countersigned by a company so licensed.
e. The Bond must be signed by an official of the Surety Company and the corporate seal must be affixed over his signature.
f. Signatures of two witnesses for both the principal and the Surety must appear on the Bond.
g. A Power of Attorney for the official signing of the Bond for the Surety Company must be submitted with the Bond.

33. SUSPENSION, DEFAULT AND TERMINATION

a. Suspension of a Contract by the Town of Cumberland.

The Town of Cumberland reserves the right at any time and for any reason to suspend all or part of this contract, for a reasonable period, not to exceed sixty days, unless the parties agree to a longer period. The Town of Cumberland shall provide the contractor with written notice of the suspension order signed by the Finance Director or his or her designee, which shall set forth the date upon which the suspension shall take effect, the date of its expiration, and all applicable instructions. Upon receipt of said order, the contractor shall immediately comply with the order and suspend all work under this contract as specified in the order. The contractor shall take all

reasonable steps to mitigate costs and adverse impact to the work specified in the contract during the suspension period. Before the order expires, the Town of Cumberland shall either:

1. cancel the suspension order;
2. extend the suspension order for a specified time period not to exceed thirty (30) days; or
3. terminate the contract as provided herein.

The contractor shall resume performance once a suspension order issued under this section is canceled or expires. If as a result of the suspension of performance, there is a financial or schedule impact upon the contract, an appropriate adjustment may be made by, or with the approval of, the Town of Cumberland's Finance Director. Any adjustment shall be set forth in writing. After a suspension order has been canceled or expires, the contractor shall provide any request for adjustment to the Town of Cumberland's Finance Director within thirty (30) days after resuming work performance.

b. Termination of a Contract by the Town of Cumberland

1. Termination for Default or Nonperformance

If, for any reason, the contractor breaches the contract by failing to satisfactorily fulfill or perform any obligations, promises, terms, or conditions, and having been given reasonable notice of and opportunity to cure such default, fails to take satisfactory corrective action within the time specified by the Town of Cumberland, the Town of Cumberland may terminate the contract, in whole or in part, the termination of all outstanding contracts or sub-contracts held by the contractor, and the suspension or debarment of the contractor from future procurements by giving written notice to the contractor specifying the date for termination. The Town of Cumberland shall endeavor to provide such notice at least seven (7) calendar days before the effective date of the termination.

A contractor who fails to commence within the time specified or complete an award made for repairs, alterations, construction, or any other service will be considered in default of contract. If contractor consistently fails to deliver quantities or otherwise perform as specified, the Town of Cumberland's Finance Director reserves the right to terminate the contract and contract for completion of the work with another contractor and seek recourse from the defaulting contractor or his surety. In the event of a termination for default or nonperformance, in whole or in part, the Town of Cumberland may procure similar goods or services in a manner and upon terms it deems appropriate, and the contractor shall be liable for the excess costs incurred by the Town of Cumberland as a result of the contractor's default. The contractor, or its surety, agrees to promptly reimburse the Town of Cumberland for the excess costs, but shall have no claim to the difference should the replacement cost be less.

2. Termination without Cause

The Town of Cumberland may terminate the contract in whole or in part without cause at any time by giving written notice to the contractor of such termination at least thirty (30) days before the effective date of such termination. The notice shall specify the part(s) of the contract being terminated and the effective termination date.

Within thirty (30) days of the effective date of the termination of the contract the contractor shall compile and submit to the Town of Cumberland an accounting of the work performed up to the date of termination. The Town of Cumberland may consider the following claims in determining reasonable compensation owed to the contractor for work performed up to the date of termination:

a. contract prices for goods or services accepted under the contract;
b. costs incurred in preparing to perform and performing the terminated portion of the contract; or
c. any other reasonable costs incurred by the contractor as a result of the termination.

The total sum to be paid to the contractor shall not exceed the total contract price, less any payments previously made to the contractor, the proceeds from any sales of goods or manufacturing materials, and the contract price for work not terminated.

3. Contractor's Obligations in the Event of Termination
If the contract is terminated for any reason, or expires pursuant to its terms, the contractor shall transfer and deliver to the Town of Cumberland in the manner and to the extent directed by the Town of Cumberland:
   a. all finished or unfinished material prepared by the contractor; and
   b. all material, if any, provided to the contractor by the Town of Cumberland.

For the purposes of the contract, "material" shall include, but is not limited to, goods, supplies, parts, tools, machinery, equipment, furniture, fixtures, information, data, reports, summaries, tables, maps, charts, photographs, studies, recommendations, files, audiotapes, videotapes, records, keys, security badges, and documents.

If the contract is terminated for cause, the contractor shall not be relieved of liability to the Town of Cumberland for damages sustained because of any breach by the contractor. In such event, the Town of Cumberland may retain any amounts which may be due and owing to the contractor until such time as the exact amount of damages due the Town of Cumberland from the contractor has been determined by the Town of Cumberland's Finance Director. The Town of Cumberland may also set off any damages so determined against the amounts retained.

Upon termination of the contract, the contractor shall stop performance on the date specified, terminate any outstanding orders and subcontracts applicable to the terminated portion of the contract, and shall incur no further commitments or obligations in connection with the terminated performance. The contractor shall settle all liabilities and claims arising out of the termination of subcontracts and order generating from the terminated performance. The Town of Cumberland may direct the contractor to assign the contractor's right, title and interest under terminated orders or subcontracts to the Town of Cumberland or a third party.

Terminations of Purchase Order Contracts or Master Pricing Agreements shall require the signature of the Town of Cumberland's Finance Director or his designee. Notice of termination by either party shall be submitted in writing to the other party in accordance with the termination clause of the contract, or where no specific termination clause is included, written notice shall be provided no later than thirty (30) days before the expiration of the contract.

34. INDEMNITY
The contractor guarantees:
   a. To save the Town of Cumberland, its agents and employees, harmless from any liability imposed upon the Town of Cumberland arising from the negligence, either active or passive, of the contractor, as well as for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee or licensee.
   b. To pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the Town of Cumberland and of the State of Rhode Island.
   c. That the equipment offered is standard new equipment, latest model of regular stock product with all parts regularly used with the type of equipment offered; also, that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.

35. CONTRACTOR'S OBLIGATIONS

In addition to the specific requirements of the contract, construction and building repair contractors bear the following standard responsibilities:

a. To furnish adequate protection from damage for all work and to repair damages of any kind, for which he or his workmen are responsible, to the building or equipment, to his own work, or to the work of other contractors;

b. The contractor, its subcontractor(s) and their employees and/or agents, shall protect and preserve property in the contractor or subcontractor's possessions in which the Town of Cumberland has an interest, and any and all materials provided to the contractor or subcontractor by the Town of Cumberland;

c. To clear and remove all debris and rubbish resulting from his work from time to time, as directed or required, a completion of the work leave the premises in a neat unobstructed condition, broom clean, and in satisfactory order and repair;

d. To store equipment, supplies, and material at the site only upon approval by the Town of Cumberland, and at his own risk;

e. To perform all work so as to cause the least inconvenience to the Town of Cumberland, and with proper consideration for the rights of other contractors and workmen;

f. To acquaint themselves with conditions to be found at the site, and to assume responsibility for the appropriate dispatching of equipment and supervision of his employees during the conduct of the work;

g. To ensure that his employees are instructed with respect to special regulations, policies, and procedures in effect for any Town of Cumberland facility or site, and that they comply with such rules, including but not limited to security policies or practices and/or criminal background checks for any employees and/or subcontractors;

h. The contractor shall ensure that its employees or agents are experienced and fully qualified to engage in the activities and services required under the contract;

i. The contractor shall ensure that at all times while services are being performed under this contract at least one of its employees or agents on the premises has a good command of the English language and can effectively communicate with the Town of Cumberland and its staff;

j. The contractor and contractor's employees or agents shall comply with all applicable licensing and operating requirements required by federal or state law and shall meet accreditation and other generally accepted standards of quality in the applicable field of activity;

k. The contractor shall secure and retain all employee-related insurance coverage for its employees and agents as required by law; and

l. The contractor, subcontractor, and his or her employees and agents shall not disclose any confidential information of the Town of Cumberland to a third party. Confidential information means:

(1) any information of a sensitive or proprietary nature, whether or not specially identified as confidential or proprietary; or

(2) any information about the Town of Cumberland gained during the performance of a contract that is not already lawfully in the public domain.

36. FORCE MAJEURE

All orders shall be filled by the contractor with reasonable promptness, but the contractor shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any other acts not within the control of the contractor and which by the exercise of reasonable diligence, the contractor is unable to prevent.