

## Request For Qualifications [RFQ]

For Designer Services

For the Tremont Nail Factory Renovation

For the Wareham Redevelopment Authority,  
Wareham, Massachusetts

December 6, 2018

The Town of Wareham, Massachusetts, acting through the Wareham Redevelopment Authority [WRA], is seeking qualifications and applications from designers for services related to the renovation and rehabilitation of the historic Tremont Nail Factory. Qualified firms providing a full range of designer services are invited to submit their qualifications statement by **2:00PM, Wednesday January 16, 2019** to:

**Derek Sullivan, Town Administrator**  
**Town Hall**  
**54 Marion Rd**  
**Wareham, MA 02571**

The Town reserves the right to modify any requirements of this RFQ if it is in the public interest.

### **Background**

The Tremont Nail Factory (TNF) is a National Register Historic Site, built as a complex of wooden industrial buildings originating in 1819. The Town of Wareham purchased the complex of buildings, with about 48,000 SF of space on a parcel of about 7.2 acres. Architectural and structural assessments of the buildings were completed in 2009 by Menders, Torrey & Spencer, and the document is available for download from the Town website at:

<https://www.wareham.ma.us/community-preservation-committee/files/tremont-nail-factory-feasibility-study-2009>

In 2017, a Vision Plan was prepared by Union Studios and was accepted with strong public support. The Vision Plan recommended rehabilitation of the structures in a campus-like setting, with a phased approach that reuses the structures for cafe, restaurant, event center, artists and crafts studios, museum spaces, offices, retail spaces, within a site populated with parks, a kayak launch, new green spaces and hardscapes, walking trails and bridges. The Vision Plan may be downloaded at:

<https://www.wareham.ma.us/redevelopment-authority/files/tremont-nail-vision-plan>

These plans and studies form the basis for the current project.

### **Current Project**

The WRA has been tasked with advancing the TNF Vision Plan. The Town received an allocation in the CDBG program for this fiscal year of funds to be used for design services related to the Tremont Nail Factory. The potential services include:

Strategic Planning and Programming - Recommendations for projects and phasing based on outcomes consistent with the Vision;  
Design and Development - Historic renovations, repairs and/or modern upgrades to key buildings that advance the Vision Plan.

These are a number of proposals from entities interested in the TNF. A co-op pottery studio has been proposed patterned after Mudstone Studios in Warren RI, that would use the Packaging Building. The Town is considering ways to renovate the Freight Building for events with a preliminary construction budget of \$200,000, and the WRA believes that improving the grounds may be a first step, with a riverfront park and kayak launch.

The Town has recently been approached with several other proposals for uses and activities at the Tremont Nail Factory, one of which may provide a source of money dedicated to renovations of the TNF. While a modest sum, the money could be used to advance a program of improvements. This is where the WRA is looking for assistance.

### **Request for Qualifications**

The Wareham Redevelopment Authority will accept statements of qualification and applications from designers and design firms delivered no later than **2:00PM, Wednesday January 16, 2019** to:

**Derek Sullivan, Town Administrator**  
**Town Hall**  
**54 Marion Rd**  
**Wareham, MA 02571**

Package should be labeled as “TNF Qualifications Statement” and include two [2] paper copies and one digital copy on a thumb drive.

The qualifications statements should include the resumes of the personnel available to work on the project and the firm’s experience in historic renovations, cultural facilities, activity centers, and planning community projects. Given the nature of the project, qualifications will be evaluated on experience and knowledge of a broad range of design-related services with preference given to experience at the TNF and consideration of the similarity of the firm’s other past projects to the TNF project. Evaluations will be made on quality of experience and successful completion and not quantity. Designers should include the “Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (updated July 2016).”

The Town reserves the right to waive informalities, to cancel this solicitation or to reject any and all proposals, if so deemed as to be the best interest of the Town. The Wareham Town Administrator will be the awarding and contracting authority on the Town’s behalf. The Town does not discriminate on the basis of race, color, national origin, sex religion and disability in employment or provision of services.

### **Designer Evaluation Criteria**

#### **A. Minimum Requirements**

The Town will reject Qualification submittals which do not meet the following minimum requirements:

1. Each response shall be accompanied by a fully complete Standard Designer Application Form for Municipalities and Public Agencies Not within DSB Jurisdiction (A copy can be downloaded here: <https://www.mass.gov/service-details/dsb-forms>).
2. Each Qualification submittal 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.
3. Responses shall be signed as follows: (A) if the respondent is an individual, by her/him personally; (B) if the respondent is a partnership, by the name of the partnership, followed by the signature of each general partner; and (C)

if the respondent is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed.

4. The proposer must have signed the Certificate of Non-Collusion and the State Taxes Certification Clause, and all other required submittal forms and shall include them in the Qualification submittal package.

5. Not be debarred under M.G.L. c.149, §44C or disqualified under M.G.L. c.7C, §47.

6. All responses are to include a statement that the Qualification submittal is in accordance with this Request for Qualifications and that the proposer has read and understands all sections and provisions herein. Exceptions, if any, are to be clearly stated.

7. Assigned Project Director must be registered in the Commonwealth of Massachusetts as an architect or professional engineer and have a minimum of five years' experience in the construction and supervision of construction and design of public and or historic buildings.

8. The primary firm and its subconsultants must have the following disciplines and registered licensed in Massachusetts professionals:

1. Architecture,
2. MEP (Mechanical, Electrical, Plumbing) Engineering,
3. Structural Engineer, and
4. Cost Estimator (no license required).

#### B. Qualitative Evaluation Criteria

Designers meeting the Minimum Requirements stated above will then be evaluated on qualitative criteria. These will serve as the basis for rating and ranking for all submissions. The criteria will be rated as follows: *Highly Advantageous*, *Advantageous*, *Not Advantageous*, or *Unacceptable*. Not all of these ratings will be used for all criteria.

1. Experience of Team (Firms) and Assigned Staff
2. Design Experience with Historically Significant Structures
3. Adaptive Reuse Design Experience
4. Demonstrated experience of public building construction laws and regulations, including without limitation, M.G.L. Chapter 149, Section 44A-1/2.
5. Demonstrated ability to adhere to budget limitations and time schedules.
6. Presentation and communication skills (both written and verbal)
7. References (the Town may make independent inquiries beyond those provided by the applicant)

#### **Fee**

The Town has established a not-to-exceed design fee of \$50,000.00. This fee shall include all professional fees for anticipated sub-consultants. The actual fee will be negotiated with the top-ranked designer. The design fee limit does not include direct reimbursables for production (copying and printing) of plans and specifications, renderings, or similar types of work products.

#### **Insurance Requirements**

Each firm submitting qualifications and an application package in response to this RFQ shall provide a sample "Certificate of Insurance" for the items listed below. Before the work commences, the selected designer shall send to the Town a "Certificate of Insurance" indicating that such insurance is in force. The "Town of Wareham" shall be named an "Additional

Party Insured.” Arrangements shall be made with the said insurer(s) to notify the Town of any termination or material change in insurance coverage at least thirty (30) days prior to the date on which the termination or change takes place.

The firm shall take out and maintain insurance as provided in the preceding paragraph, as follows:

1. Worker’s Compensation Insurance for the protection of all employees throughout the entire period that this contract is in effect with coverage of not less than \$500,000.
2. Comprehensive General Liability for bodily injury, including death, in the amount of \$1,000,000 (for one person) and \$1,000,000 (on account of one accident), including the Town as an additional insured.
3. Property Damage in the amount of \$1,000,000 each occurrence and \$1,000,000 aggregate. The property damage insurance shall include comprehensive for premises/operations, collapse, explosion, and underground damage to public utilities, products/completed operations, contractual, independent contractor, broad form property damage, and including the Town as an additional insured.
4. Professional Liability (errors and omissions on an occurrence basis) in the amount of \$500,000 for any one claim, and in the annual aggregate with not more than \$100,000 deductible for each claim.
5. Automotive vehicles, both owned and non-owned, used in conjunction with the job both on and off the public highway shall carry the same rates of insurance for bodily injury and property damage as stated above.

### **Miscellaneous Provisions**

- A proposal must remain valid until the award of a contract or rejection of the proposal for the services sought herein, or to a maximum period of ninety (90) days.
- The Town of Wareham may modify or cancel this RFQ, in whole or in part, at any time whenever such an act is deemed in its best interest.
- The Town of Wareham will not be responsible for any costs incurred by a proposer in preparing and submitting a proposal in response to this RFQ.
- Wareham’s Town Administrator is the Awarding and Contracting Authority. The Administrator expects to award a contract within thirty (30) days of the qualifications due date. Activities will commence upon selection of a Designer (or Contractor) and issuance of a Notice to Proceed.
- Questions pertaining to this RFQ should be directed in writing to Kenneth Buckland, Director of Planning and Community Development, by mail to Town Hall 54 Marion Road, Wareham, MA 02571, or via email to [kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us).
- The resulting contract from this solicitation will be funded from monies derived from Community Development Block Grant (CDBG) funds and will be subject to the provisions of the CDBG program. See **Attachment G**.

### **Scope of Services**

A scope of services is provided in Attachment A. It is intended as a starting point for defining tasks.

## **ATTACHMENT A**

### **SCOPE OF SERVICES**

#### **Designer Services for the Tremont Nail Factory Renovation**

There are generally two areas of services needed that will be performed on a task order basis:

1. Strategic Planning and Programming - Recommendations for projects and phasing based on outcomes consistent with the Vision;
2. Design and Development - Historic renovations, repairs and/or modern upgrades to key buildings that advance the Vision Plan.

**ATTACHMENT B**

**CERTIFICATE OF NON-COLLUSION**

**Designer Services for the Tremont Nail Factory Renovation**

**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, union, committee, club, or other organization, entity, or group of individuals.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name & Title of Person Signing)

\_\_\_\_\_  
(Name of Business)

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

**ATTACHMENT C**

**NON-DISCRIMINATION AND AFFIRMATIVE ACTION CERTIFICATION**

**Designer Services for the Tremont Nail Factory Renovation**

**Non-Discrimination and Affirmative Action Certification**

The Designer (or Contractor) agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment, including but not limited to, the Americans with Disabilities Act 42 USC 12101, 28 CFR Part 35, or as amended; 29 USC S.791 et. seq.; Executive Orders 227, 237, 246; MGL C. 151B; and MGL C. 272, S. 92A, S98 et.seq., or any amendments to these provisions. Pursuant to Executive Orders 227 and 246, the Designer (or Contractor) is required to take affirmative actions designed to eliminate the patterns and practices of discrimination including providing written notice of its commitment to non-discrimination to any labor association with which it has an employment agreement, and to certified minority and women-owned businesses and organizations or businesses owned by individuals with disabilities. The Town of Wareham shall not be liable for any costs associated with the Designer (or Contractor)'s defense of claims of discrimination.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name & Title of Authorized Signer)

\_\_\_\_\_  
(Name of Business)

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

**ATTACHMENT D**

**COMPLIANCE CERTIFICATIONS**

**Designer Services for the Tremont Nail Factory Renovation**

**Qualifications:** The Designer (or Contractor) represents that it is qualified to perform the services required under this contract and possesses or shall obtain all requisite licenses and permits.

**Tax Compliance Certification**

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

**Employment Security Contributions and Compulsory Workers' Compensation Insurance:** Pursuant to MGL C.151A, S.19 and MGL C.152, the Designer (or Contractor) certifies with all laws of the Commonwealth relating to payments to the Employment Security System and all Commonwealth laws relating to required workers' compensation insurance policies.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name & Title of Person Signing)

\_\_\_\_\_  
(Name of Business)

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

TIN #: \_\_\_\_\_

DUNS #: \_\_\_\_\_





**ATTACHMENT E**

**EQUAL OPPORTUNITY CERTIFICATION**

**Designer Services for the Tremont Nail Factory Renovation**

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

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Individual or Corporate Name of Proposer

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Signature of Authorized Agent

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Printed Name of Authorized Agent

---

Title

---

Date

**ATTACHMENT F**  
**DESCRIPTION OF APPLICANT BUSINESS/ORGANIZATION**  
**AND**  
**CERTIFICATE OF VOTE/SIGNATURE**

**Designer Services for the Tremont Nail Factory Renovation**

**DESCRIPTION OF APPLICANT BUSINESS/ORGANIZATION**

Check appropriate box(es):

The named organizational entity submitting this proposal is:

- Corporation     Partnership     Proprietorship  
 Minority Owned     Woman Owned

**SIGNATURES:**

This page must be signed by a(n) individual(s) with authority to commit the proposing entity to a binding agreement. Corporations must attach required certification:

COMPANY NAME: \_\_\_\_\_

AUTHORIZED SIGNATURE: \_\_\_\_\_

PRINT NAME OF AUTHORIZED OFFICIAL: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE #: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_ EMAIL: \_\_\_\_\_

DATE: \_\_\_\_\_

FEDERAL TAX ID #: \_\_\_\_\_

DUNS #: \_\_\_\_\_

*If a corporation, a notarized attestation of the signature(s) is required, or in the case of corporate seal affixed, that the signature is the signature of an officer authorized to bind the corporation to a contractual agreement.*

**CERTIFICATE OF CORPORATE VOTE  
(If Applicable)**

I, \_\_\_\_\_, Clerk of \_\_\_\_\_,  
hereby certify that, at a meeting of the Board of Directors of said Corporation duly held on \_\_\_\_\_, at which  
a quorum was present and voting throughout, the following vote was duly passed and is now in full force and effect:

“VOTED: That \_\_\_\_\_  
(NAME OF OFFICER AUTHORIZED TO SIGN FOR CORPORATION)

be and hereby is authorized, directed and empowered for, in the name and on behalf of this Corporation to sign, seal with the  
corporation seal, execute, acknowledge and deliver all contracts, bonds, and other obligations of this Corporation: the execution  
of any such contract, bond or obligation by such \_\_\_\_\_

(NAME OF OFFICER)

to be valid and binding upon this Corporation for all purposes, and that a certificate of the Clerk of this Corporation setting forth  
this vote shall be delivered to the Town of Wareham; and that this vote shall remain in full force and effect unless and until the  
same has been altered, amended, or revoked by a subsequent vote of such directors and a certificate of such later vote attested  
by the Clerk binding this Corporation is delivered to the Town of Wareham.

I further certify that \_\_\_\_\_ is the duly elected \_\_\_\_\_  
(NAME OF OFFICER) (TITLE)

of said Corporation.

Signed: \_\_\_\_\_  
(CLERK/SECRETARY)

Place of Business: \_\_\_\_\_

**AFFIX CORPORATE SEAL HERE**

COUNTERSIGNATURE: \_\_\_\_\_  
(NAME AND TITLE OF OFFICER)

In the event that the Clerk or Secretary is the same person as the Officer authorized to sign that contract or other instrument for the Corporation, this certificate must be countersigned by another officer of the Corporation.

## **ATTACHMENT G**

### **GENERAL PROVISIONS APPLICABLE TO USE OF CDBG FUNDS**

1. **RETENTION OF RECORDS:** The Designer (or Contractor) shall maintain in accordance with 2 CFR Part 200.333, and any regulations, procedures or guidelines issued by the U.S. Department of Housing and Urban Development (HUD) or the Massachusetts Department of Housing and Community Development (DHCD), including those books, records and any other documents, including but not limited to payroll records, accounting records, and purchase orders, that are sufficient to document that activities carried out were in accordance with this Agreement, and the primary objectives of the Act, and any other applicable laws and regulations. Such records shall contain all information pertaining to Grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. The Designer (or Contractor) shall maintain such records for a period of seven (7) years from the date of expiration of this Agreement, or if such records become the subject of audit findings, they shall be retained until such findings have been resolved, whichever is later.

2. **ACCESS TO RECORDS:** The Designer (or Contractor) shall make all books, accounts, records, files, and other papers, things or property, that relate to its activities under this Agreement, available at all reasonable times for inspection, review, and audit by the Town, DOH, their authorized representatives, authorized representatives of HUD, the Inspector General of the United States, or of the Commonwealth of, the Auditor of the Commonwealth, and the Attorney General of the United States, or of the Commonwealth, the right of the Governor or his designee, the Secretary of Administration and Finance, and the State Auditor and his designee, at reasonable times and upon reasonable notice, to examine the books, records, and other compilative data of the Contractor which pertain to the performance of the provisions and requirements of this Agreement., as provided by Executive Order 195.

3. **COMPLIANCE WITH LOCAL LAWS:** The Designer (or Contractor) shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Designer (or Contractor) shall save the Town harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.

4. **NON-DISCRIMINATION:** The Designer (or Contractor) shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD; Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Massachusetts General Laws Chapter 151B Section 1 et seq.; State Executive Order 74, as amended and revised by Executive Orders 116, 113 and 227; and Mass. CDBG regulations, procedures or guidelines.

The Designer (or Contractor) shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, or national origin. The Designer (or Contractor) shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Designer (or Contractor) shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Designer (or Contractor) shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap or national origin.

5. **PROCUREMENT STANDARDS:** The Designer (or Contractor) shall adhere to the requirements set forth in 2 CFR Part 200.318 through 200.326 and Mass. CDBG regulations, procedures and guidelines with respect to standards governing procurement,

and any applicable provisions of State laws and regulations relative thereto, including Chapter 30, section 39M; Chapter 149, section 44A through 44J; Chapter 484 of the Acts of 1984; and Chapter 30B. All procurement transactions without regard to dollar value shall be conducted in a manner that provides maximum free and open competition. It is national and state policy that the recipient take affirmative steps to award a fair share of contracts taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. The SUBRECIPIENT shall maintain records sufficient to detail the process for procurement.

6. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

7. EMPLOYMENT OPPORTUNITIES: Where applicable, the Designer (or Contractor) shall comply with provisions of Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u) and the HUD regulations issued pursuant thereto (24 U.S.C. 135), which shall serve as guidance for the implementation of said section.

8. FAIR HOUSING: In addition to the laws and regulations set forth herein with respect to ensuring fair housing opportunities, the DESIGNER (OR CONTRACTOR) shall adhere to the provisions of State Executive Orders 215 and 227.

9. LABOR STANDARDS: Where applicable, the DESIGNER (OR CONTRACTOR) shall adhere to the provisions of Section 110 of the Act, and the Massachusetts General Laws Chapter 149 sections 26 to 27D inclusive (as amended by Chapter 484 of the Acts of 1984). In the case of the rehabilitation of commercial property, or rehabilitation of residential property designed for residential use of eight or more families, the DESIGNER (OR CONTRACTOR) shall adhere to the Federal Labor Standards Provisions (HUD Handbook 1344.1), the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) and the Copeland Anti-Kickback Act.

10. CONFLICT OF INTEREST: The Designer (or Contractor) shall adhere to the mandates of the Massachusetts Conflict of Interest Statute, M.G.L. c.268A, the federal Conflict of Interest Provisions at 24 CFR 570.489 and the federal Hatch Act, 5 U.S.C. ss 1501 et seq.

11. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS, AND Mass. CDBG REGULATIONS, PROCEDURES, AND GUIDELINES: All activities authorized by this Agreement shall be subject to and performed in accordance with the provisions of the Town’s Grant Agreement with Mass. CDBG and all its attachments (including, where relevant, Section 4.14, Flood Disaster Protection, 4.15, Historic Preservation, 4.16, Additional Environmental Requirements, 4.17, Lead Paint Hazards, and 4.18 Relocation Assistance), all applicable federal, state, and local laws and regulations, including but not limited to any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time, 2 CFR Part 200, all applicable State and local laws and regulations, including but not limited to those specifically stated herein, any additional regulations, procedures or guidelines as may be established or amended by DHCD.

12. AVAILABILITY OF FUNDS: The compensation provided by this agreement is subject to the continued availability of federal funds for the CDBG Program, and to the continued eligibility of the Commonwealth and the Town to receive such funds.

13. INDEMNIFICATION: The Designer (or Contractor) shall indemnify, defend, and hold the Town harmless from and against any and all claims, demand, liabilities, actions, causes of actions, cost and expenses caused by or arising out of the Designer’s (or Contractor’s) breach of this agreement or the negligence or misconduct of the Designer (or Contractor), or the agents or employees.

14. LICENSES: The Designer (or Contractor) shall procure and keep current any licenses, certifications, or permits required for any activity to undertaken as part of the Scope of Services, Attachment A, as required by federal, state or local laws or regulations, and shall comply with the provisions of 2 CFR Part 200.325 with respect to any bonding or other insurance requirements.

15. CONFIDENTIALITY: The Designer (or Contractor) will protect the privacy of, and respect the confidentiality of information provided by, program participants, consistent with applicable federal and state regulations, including M.G.L., C. 66 section 10, regarding access to public records.

16. COPYRIGHT: No material prepared in whole or in part under this agreement shall be subject to copyright in the United States of America or in any other country except with the prior written approval of Mass. CDBG.

17. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

18. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

19. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).(I)

20. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

21. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

22. CLOSEOUT: The Designer (or Contractor) shall follow such policies and procedures with respect to closeout of the Grant as may be required by the Commonwealth.



**ATTACHMENT G**

**SAMPLE CONTRACT AGREEMENT BY AND BETWEEN  
TOWN OF WAREHAM AND DESIGN DESIGNER (OR CONTRACTOR)  
Designer Services for the Tremont Nail Factory Renovation**

THIS AGREEMENT, was made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the Town of Wareham, Massachusetts (hereinafter referred as the TOWN) and \_\_\_\_\_ (hereinafter referred to as the DESIGNER (OR CONTRACTOR)).

WITNESSETH THAT:

WHEREAS, the Town of Wareham has entered into an agreement with the Commonwealth of Massachusetts' Department of Housing and Community Development (hereinafter "DHCD"), Massachusetts Community Development Block Grant Program (hereinafter "Mass. CDBG") to undertake a community development program (hereinafter "Program") pursuant to the Housing and Community Development Act of 1974 (hereinafter "Act"), as amended, and regulations thereunder, and

WHEREAS, professional services relating to the implementation and administration of the Program are sought to assist the TOWN in the timely achievement of its Mass. CDBG 2018 Grant Program objectives.

NOW, THEREFORE, THE PARTIES HERETO DO AGREE AS FOLLOWS:

1. **ENGAGEMENT OF DESIGNER (OR CONTRACTOR):** The TOWN hereby engages the DESIGNER (OR CONTRACTOR) to perform the services set forth herein and the DESIGNER (OR CONTRACTOR) hereby accepts the engagement.

2. **SCOPE OF SERVICES:** The DESIGNER (OR CONTRACTOR) shall perform the necessary services as described in the approved proposal to the TOWN of \_\_\_\_\_, which is incorporated by reference herein as Attachment A.

3. **RESPONSIBILITY OF THE TOWN:** The TOWN shall assume responsibility for assisting the DESIGNER (OR CONTRACTOR) insofar as possible for the purpose of efficiency and furnishing the DESIGNER (OR CONTRACTOR) with information needed to satisfactorily complete the services.

3.1 The TOWN shall designate a project representative authorized to act on its behalf with respect to the project. The TOWN'S representative is Kenneth Buckland. TELEPHONE 508-291-3100, ext. 6501.

4.1 **REPORTING:** The Designer (or Contractor) will report directly to the Director of Planning and Community Development, who is acting as the Town's agent on behalf of this project.

5. **SUBCONTRACTS:** No subcontracts may be awarded by the DESIGNER (OR CONTRACTOR) the purpose of which is to fulfill in whole or in part the services required of the DESIGNER (OR CONTRACTOR), without prior written approval of the TOWN and the Department of Housing and Community Development.

6. **TIME OF PERFORMANCE:** The services of the DESIGNER (OR CONTRACTOR) are to commence on or about \_\_\_\_\_, \_\_\_\_\_ and shall be undertaken and completed in sequence as to assure their expeditious completion.

6.1 All services required hereunder shall be completed by \_\_\_\_\_.

7. **COMPENSATION:** The TOWN will pay the DESIGNER (OR CONTRACTOR) a total fee in amount not to exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), with no reimbursements for out-of-pocket expenses, based on invoices submitted in the approved form and according to the "Method and Schedule of Compensation," found as Attachment B.

8. **GENERAL PROVISIONS:**

8.1 RETENTION OF RECORDS: The Designer (or Contractor) shall maintain in accordance with 2 CFR Part 200.333, and any regulations, procedures or guidelines issued by the U.S. Department of Housing and Urban Development (HUD) or the Massachusetts Department of Housing and Community Development (DHCD), including those books, records and any other documents, including but not limited to payroll records, accounting records, and purchase orders, that are sufficient to document that activities carried out were in accordance with this Agreement, and the primary objectives of the Act, and any other applicable laws and regulations. Such records shall contain all information pertaining to Grant awards, authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. The Designer (or Contractor) shall maintain such records for a period of seven (7) years from the date of expiration of this Agreement, or if such records become the subject of audit findings, they shall be retained until such findings have been resolved, whichever is later.

8.2 ACCESS TO RECORDS: The Designer (or Contractor) shall make all books, accounts, records, files, and other papers, things or property, that relate to its activities under this Agreement, available at all reasonable times for inspection, review, and audit by the Town, DOH, their authorized representatives, authorized representatives of HUD, the Inspector General of the United States, or of the Commonwealth of, the Auditor of the Commonwealth, and the Attorney General of the United States, or of the Commonwealth, the right of the Governor or his designee, the Secretary of Administration and Finance, and the State Auditor and his designee, at reasonable times and upon reasonable notice, to examine the books, records, and other compilative data of the Contractor which pertain to the performance of the provisions and requirements of this Agreement., as provided by Executive Order 195.

8.3 TERMINATION: The TOWN may terminate the contract, for cause, upon 15 days written notice to the DESIGNER (OR CONTRACTOR). In case of termination, all finished and unfinished documents shall become the property of the TOWN.

8.3.1 In the event of termination, the DESIGNER (OR CONTRACTOR) will be compensated for services provided to the date of termination, according to the "Method and Schedule of Compensation," Attachment B.

8.4 AMENDMENTS: This Agreement may be amended provided such amendment is in writing by the signatories hereto, and receives approval from Mass. CDBG prior to its effective date.

8.5 NON-DISCRIMINATION: The DESIGNER (OR CONTRACTOR) shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD; Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Massachusetts General Laws Chapter 151B Section 1 et seq.; State Executive Order 74, as amended and revised by Executive Orders 116, 113 and 227; and Mass. CDBG regulations, procedures or guidelines.

The DESIGNER (OR CONTRACTOR) shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, handicap, or national origin. The DESIGNER (OR CONTRACTOR) shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The DESIGNER (OR CONTRACTOR) shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The DESIGNER (OR CONTRACTOR) shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap or national origin.

8.6 PROCUREMENT STANDARDS: The DESIGNER (OR CONTRACTOR) shall adhere to the requirements set forth in 2 CFR Part 200.318 through 200.326 and Mass. CDBG regulations, procedures and guidelines with respect to standards governing procurement, and any applicable provisions of State laws and regulations relative thereto, including Chapter 30, section 39M;

Chapter 149, section 44A through 44J; Chapter 484 of the Acts of 1984; and Chapter 30B. All procurement transactions without regard to dollar value shall be conducted in a manner that provides maximum free and open competition. It is national and state policy that the recipient take affirmative steps to award a fair share of contracts taken to assure that small and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. The DESIGNER (OR CONTRACTOR) shall maintain records sufficient to detail the process for procurement.

8.7 Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

8.8 EMPLOYMENT OPPORTUNITIES: Where applicable, the DESIGNER (OR CONTRACTOR) shall comply with provisions of Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 1701u) and the HUD regulations issued pursuant thereto (24 U.S.C. 135), which shall serve as guidance for the implementation of said section.

8.8 FAIR HOUSING: In addition to the laws and regulations set forth herein with respect to ensuring fair housing opportunities, the DESIGNER (OR CONTRACTOR) shall adhere to the provisions of State Executive Orders 215 and 227.

8.9 LABOR STANDARDS: Where applicable, the DESIGNER (OR CONTRACTOR) shall adhere to the provisions of Section 110 of the Act, and the Massachusetts General Laws Chapter 149 sections 26 to 27D inclusive (as amended by Chapter 484 of the Acts of 1984). In the case of the rehabilitation of commercial property, or rehabilitation of residential property designed for residential use of eight or more families, the DESIGNER (OR CONTRACTOR) shall adhere to the Federal Labor Standards Provisions (HUD Handbook 1344.1), the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) and the Copeland Anti-Kickback Act.

8.10 CONFLICT OF INTEREST: The DESIGNER (OR CONTRACTOR) shall adhere to the mandates of the Massachusetts Conflict of Interest Statute, M.G.L. c.268A, the federal Conflict of Interest Provisions at 24 CFR 570.489 and the federal Hatch Act, 5 U.S.C. ss 1501 et seq.

8.11 COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS, AND Mass. CDBG REGULATIONS, PROCEDURES, AND GUIDELINES: All activities authorized by this agreement shall be subject to and performed in accordance with the provisions of the TOWN’s Grant Agreement with Mass. CDBG and all its attachments (including, where relevant, Section 4.14, Flood Disaster Protection, 4.15, Historic Preservation, 4.16, Additional Environmental Requirements, 4.17, Lead Paint Hazards, and 4.18 Relocation Assistance), all applicable federal, state, and local laws and regulations, including but not limited to any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time, 2 CFR Part 200, all applicable State and local laws and regulations, including but not limited to those specifically stated herein, any additional regulations, procedures or guidelines as may be established or amended by DHCD.

9. AVAILABILITY OF FUNDS: The compensation provided by this agreement is subject to the continued availability of federal funds for the CDBG Program, and to the continued eligibility of the Commonwealth and the TOWN to receive such funds.

10. INDEMNIFICATION: The DESIGNER (OR CONTRACTOR) shall indemnify, defend, and hold the TOWN harmless from and against any and all claims, demand, liabilities, actions, causes of actions, cost and expenses caused by or arising out of the DESIGNER (OR CONTRACTOR)’s breach of this agreement or the negligence or misconduct of the DESIGNER (OR CONTRACTOR), or the agents or employees.

11. LICENSES: The DESIGNER (OR CONTRACTOR) shall procure and keep current any licenses, certifications, or permits required for any activity to undertaken as part of the Scope of Services, Attachment A, as required by federal, state or local

laws or regulations, and shall comply with the provisions of 2 CFR Part 200.325 with respect to any bonding or other insurance requirements.

12. CONFIDENTIALITY: The DESIGNER (OR CONTRACTOR) will protect the privacy of, and respect the confidentiality of information provided by, program participants, consistent with applicable federal and state regulations, including M.G.L., C. 66 section 10, regarding access to public records.

13. COPYRIGHT: No material prepared in whole or in part under this agreement shall be subject to copyright in the United States of America or in any other country except with the prior written approval of Mass. CDBG.

14. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or Designer (or Contractor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or Designer (or Contractor) must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

15. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

16. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).(l)

17. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

18. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has

not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

19. CLOSEOUT: The DESIGNER (OR CONTRACTOR) shall follow such policies and procedures with respect to close-out of any associated grant as may be required by Mass. CDBG.

20. The following Certificate of Tax Compliance must be completed and submitted as part of this contract

<b>Certificate of Tax Compliance</b>	
pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, I certify under the penalties of perjury that to the best of his/her knowledge and belief I am in compliance with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.	
Contractor: By: _____	
(signature of authorized representative & title)	(date)

21. SEVERABILITY: If any provision of this agreement is held invalid, the remainder of the agreement shall not be affected thereby, and all other parts of this agreement shall nevertheless be in full force and effect.

IN WITNESS THEREOF, the TOWN and the DESIGNER (OR CONTRACTOR) have executed this AGREEMENT under seal in triplicate as of the date above written.

**Approvals and Signatures**

By: TOWN OF WAREHAM:	By: DESIGNER
Derek Sullivan                      Date Town Administrator	Name:                                      Date Title:
<u>Certification as to Availability of Funds:</u>	<u>Approval of Contract as to Form:</u>
Judith Lauzon                      Date Town Accountant	Richard Bowen, Esq.                      Date Town Counsel
<u>Approval of Contract as to Appropriate Procurement Method</u>	
Derek Sullivan                      Date Chief Procurement Officer	