

TOWN OF WESTWOOD

CONTRACT & GENERAL CONDITIONS

DPW-20-C-015

(Contract Number)

Date: November 11, 2019

This Contract is entered into on, or as of, this date by and between the Town of Westwood (the "Town"), and

CONTRACTOR

("Contractor")

ADDRESS

(Mailing Address of the Contractor)

XXX-XXX-XXXX

(Telephone)

XXX-XXX-XXXX

(Fax)

XXXXX.com

(Website)

1. This is a Contract for the procurement of the following:

DPW Retaining Wall Replacement Project

2. The Contract price to be paid to the Contractor by the **Town of Westwood** is:

XXX dollars (\$xx.00)

3. Payment will be made as follows:

Within 30 days of invoice received.

4. Definitions:

4.1 Acceptance: All Contracts require proper acceptance of the described good or services by the Town of Westwood. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance of services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.

4.2 Contract Documents: All documents relative to the Contract including (where used) Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications Included in IFB, Drawings, and all Addenda issued during the bidding period. The Contract Documents are

complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.

4.3 The Contractor: The "other party" to any contract with the Town. The term shall (as the sense and particular contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract, Use of the term "Contractor" shall be understood to refer to any other such label used.

4.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract Documents, as modified by Amendments and Change Orders.

4.5 Goods: Goods, Supplies, or Materials.

4.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.

4.7 Work: The services or materials contracted for, or both

5. Terms of Contract and Time for Performance:

The work shall commence upon contract award and reach Substantial Completion by December 18, 2019. Final Completion shall be not later than April 15, 2020. All work shall be complete within the stated timeframe unless extended pursuant to a provision for extension contained in the Contract Documents at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds.

6. Subject to Appropriation:

Notwithstanding anything in the Contract Documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant.

7. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid by the Contractor.

8. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Westwood shall have all the rights and remedies provided in the Contract Documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract including damages and specific performance and the right to select among the remedies available to it by all of the above.

9. Statutory Compliance:

9.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract Documents shall conflict with any provision or requirement of federal, state or

local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of General Laws are incorporated by reference into this Contract, including but not limited to the following:

General Laws Chapter 25A: Division of Energy Resources.

General Laws Chapter 30B: Procurement of Goods and Services.

General Laws Chapter 30, Sec. 39, et seq: Public Works Contracts.

General Laws Chapter 149, Sec. 44A, et seq: Public Buildings Contracts.

- 9.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 9.3 The Contractor shall give all notices and comply with all laws and regulations bearing on the performance of this Contract. If the Contractor performs the Contract in violation of any applicable law or regulation, the Contractor shall bear all costs arising there from.
- 9.4 The Contractor shall keep itself fully informed of all existing and future State and National Laws and Municipal Bylaw and regulations and of all orders and decrees of any bodies or tribunals having jurisdiction in any manner affecting those engaged or employed in the work, of the materials used in the work, or in any way affecting the conduct of the work, if any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with and shall cause all its agents, employees and Subcontractors to observe and comply will all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town of Westwood, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or Subcontractors or any such law, by-law, regulation or decree.
10. Conflict of Interest:
- Both the Town and the Contractor stipulate to the applicability of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity, which shall constitute a violation of that law. The Contractor shall be deemed to have investigated its applicability to the performance of this Contract; and by executing the Contract Documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.
11. Certification of Tax Compliance:
- This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A, (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).
12. Debarment:

The Town (as a non-federal entity) is prohibited from contracting with or making sub awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred (Excluded Parties List System). The Contractor, by executing the Contract, certifies that it is not currently debarred or suspended by the Commonwealth of Massachusetts, or the Federal Government, under any Commonwealth or Federal Law or regulation. Furthermore, if, during the duration of this contract, the Contractor becomes suspended or debarred, the Contractor shall notify the Town via registered mail of this occurrence.

13. Discrimination:

The Contractor will carry out the obligation of this Contract in full compliance with all of the requirements imposed by or pursuant to General Laws Chapter 151B (Law Against Discrimination,) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended.

14. Assignment:

Assignment of this Contract is prohibited, unless assignment is provided for expressly in the Contract Documents.

15. Condition of Enforceability against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Chief Procurement Officer or his/her designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Westwood unless and until the Contractor complies with this section.

The Contractor (and Subcontractors as defined in Paragraph 4.6 of the General Conditions), if a foreign corporation shall comply with the provisions of the General Laws, Chapter 181, Sections 3 and 5, and any Acts and Amendments thereof, and in addition thereto, relating to the appointment of the Commissioner of Corporations as its attorney, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

16. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Westwood shall be individually or personally liable on any obligation of the Town under this Contract.

17. Notice:

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 of the Contract, and to the Town of Westwood, Town Hall, 580 High Street, Westwood, Massachusetts.

18. Binding on Successors:

This Contract shall be binding upon the Contractor, its assignees, transferees, and/or successors in interest (and where not corporate, the heirs and estate of the Contractor).

19. Complete Contract:

This instrument together with its endorsed supplements, and the other components of the Contract Documents, constitutes the entire contract between the parties, with no agreements other than those incorporated herein.

20. Contract Type Supplements:

The foregoing provisions apply to all contracts to which the Town of Westwood shall be a party. One of the following "Supplements" must be "checked" as applicable to this Contract, shall be attached hereto, and shall in any event apply as the nature of the Contract requires. The Supplement contains additional terms governing the Contract:

Goods Supplement "G" Applicable to Contracts for the procurement of Goods (governed by the provisions of General Laws Chapter 30B).

Services Supplement "S" Applicable to Contracts for the procurement of Services, (governed by the provisions of General Laws Chapter 30B).

Construction Supplement "C" Applicable to Contracts for the construction of:

- (1) Public Buildings and Public Works (governed by the provision of General Laws Chapter 30B);
- (2) Public Buildings (governed by the provision of General Laws Chapter 149, Sec. 44A, et seq.); and
- (3) Public Works (governed by the provisions of General Laws Chapter 30, Sec. 39M, et seq.).

SUPPLEMENT "C"

1. This form supplements the Town of Westwood, "Contract and General Conditions," and applies only to contracts for the construction, reconstruction, alteration, remodeling or repair of public works or public buildings.
2. Wherever the law requires one contracting with a city or town to be bonded, such obligation shall be understood to be a term and condition of this Contract. The Contractor agrees to secure such bond (where required) and provide an original thereof to the Town of Westwood prior to the commencement of performance.
3. Equality:
 - 3.1 In the case of a Closed Specification written for a specific item or items to be furnished under the Base Bid, such Specifications shall, as applicable, be in compliance with the Massachusetts General Laws, Chapter 30F Section 39M and Chapter 149, Section 44A et seq.
 - 3.2 Where the name of an item, material or manufacturer is mentioned in the Specifications or on the Drawings, except as above noted, the intent is to establish a standard and in no way should be construed to exclude any item or manufacturer not mentioned by name, but whose product meets the Specifications as to design, utility and quality. Final decision shall rest with the Project Representative as to its acceptability.
4. Change orders to contracts governed by General Laws Chapter 30B may not increase the quantity of goods or services provided by more than twenty five percent (25.0%), in compliance with Section 13 of Chapter 30B.
5. The Contractor will carry out the obligations of this Contract in full compliance with all of the requirements imposed by or pursuant to General Laws Chapter 151, Section 1, et seq. (Minimum Wage Law) and any executive orders, rules, regulations, and requirements of the Commonwealth of Massachusetts as they may from time to time be amended. The Contractor will at all times comply with the wage rates as determined by the Commissioner of the Department of Labor and Industries, under the provisions of General Laws Chapter 149, Section 26 to 27D (Prevailing Wage) as shall be in force and as amended. The Contractor will provide documentation of compliance with prevailing wage law to the Town.
6. The Contractor shall continuously maintain adequate protection of all work from damage and shall protect the property of the Town and others, including adjacent property, from injury or loss arising in connection with the Contract. The Contractor shall make good any such damage, injury or loss, except as may be directly due to errors in the Contract Document or caused by agents or employees of the Town, or due to causes beyond the Contractor's control and not the Contractor's fault or negligence.
7. The Contractor shall take all necessary precautions for the safety of employees on the work, and shall comply with all applicable provisions of federal, state and local laws and codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. The Contractor will erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and

the public, shall post danger signs warning against the hazards created by such features of construction as pits, protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, and falling materials; and shall designate a responsible member of its organization on the work, whose duty shall be the prevention of accidents.

8. The Town shall at all times have access to the work wherever it is in preparation or progress and the Contractor shall provide suitable accommodations for such access.
9. The Contractor shall appoint a competent superintendent and any necessary assistants satisfactory to the Town.
10. The Contractor shall give efficient supervision to the work, using its best skill and attention. The Contractor shall carefully study and compare all drawings, specifications and other instructions and shall at once report to the Town any error, inconsistency or omission which shall be discovered, but will not be liable to the Town for any damage resulting from errors or deficiencies in the Contract Documents. Included in this responsibility shall be supervision of all work performed by subcontractors on the work.
11. If the Contractor should neglect to prosecute the work properly, or fail to perform the contract or any of its provisions, the Town, upon three days written notice, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.
12. Inspection by the Town's Project Representative:
 - 12.1 The Town shall have the right to designate a Project Representative who may make periodic visits to the site to familiarize the Town generally with the progress and quality of the work, and to determine in general if the work is proceeding in accordance with the Contract Documents. The Project Representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, and will not be responsible for the Contractor's failure to carry out the construction work in accordance with the Contract Documents. During such visits and on the basis of these observations while at the site, the Project Representative will keep the Town informed on the progress of the work, will endeavor to guard the Town against defects and deficiencies in the work of contractors, and may condemn structural work as failing to conform to the Contract Documents. The Project Representative shall have authority to act on behalf of the Town only to the extent expressly delegated by the Town, which shall be shown to the Contractor, and shall have authority to stop the work whenever such stoppage may reasonably be necessary to insure the proper execution of the Contract.
 - 12.2 In connection with the work, the Project Representative shall not be responsible for construction methods, means, techniques, sequences or procedures employed by the Contractor or the Contractor's safety programs, requirements, regulations or precautions.
13. Decisions of the Project Representative:
 - 13.1 The Project Representative shall, within a reasonable time, make decisions on all claims of the Town or the Contractor and on all other matters relating to the execution and progress of the structural work or the interpretation of the Contract Documents.

13.2 The Project Representatives decision in matters relating to the project, shall be final, if within the terms of the Contract Documents.

13.3 If, however, the Project Representative fails to render a decision, within ten (10) days after the parties have presented their evidence, either party may then avail itself of the remedies provided in this contract or available to it by law. If the Project Representative renders a decision after such remedies have commenced, such decision may be entered as evidence but shall not disturb or interrupt such proceedings except where such decisions is acceptable to the parties concerned.

14. Use of Premises by the Contractor:

14.1 The Contractor shall confine its apparatus, the storage of materials, and the operations of its workmen to limits indicated by law, by-laws, permits or directions of the Town and shall not unreasonably encumber the premises with its materials.

14.2 The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.

15. Maintenance of Premises:

The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by its employees or work, and at the completion of the work it shall remove all its rubbish from and about the work site and all its tool, scaffolding and surplus materials and shall leave its work "broom-clean", or its equivalent, unless more exactly specified. In case of dispute, the Town may remove the rubbish and charge the cost to the several contractors, as the Town shall determine to be just. Any paved areas disturbed during construction shall be swept by a motorized highway sweeper every two (2) work days.

16. Right to Terminate:

If the Contractor should (1) be adjudged a bankrupt, (2) make a general assignment for the benefit or creditors, (3) have a receiver appointed on account of its solvency, (4) persistently or repeatedly refuse or fail to supply enough personnel and resources to perform the contract, (5) fail to make prompt payment to subcontractors or to providers of materials or labor, (6) persistently disregard laws and regulations or lawful directives of the Town, or (7) be guilty of a substantial violation of any provision of the Contract, then the Town may, without prejudice to any other right or remedy and after giving the Contractor (and any surety) seven days written notice, terminate the contract and the employment of the Contractor and take possession of the premises and of all materials, tools and appliance thereon and finish the work by whatever method it deems appropriate.

In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price shall exceed the expense of finishing the work, including compensation for additional architectural, managerial and administrative services, such excess shall be paid to the Contractor. If such expenses shall exceed such unpaid balances, the Contractor shall pay the difference to Town.

17. Progress Payments:

17.1 The Contractor shall submit to the Town and itemized Application for Payment, supported to the extent required by the Town by invoices or other vouchers, showing payments for materials and labor, payments to Subcontractors and such other evidence of the Contractor's right to payment.

17.2 The Contractor shall, before the first application, submit to the Town a schedule of values of the various parts of the work, including quantities if requested, aggregating the total sum of the Contract, divided so as to facilitate payments to Subcontractors, made out in such form as the Town and the Contractor may agree upon, and, if required, supported by such evidence as to its correctness. This schedule, when approved by the Town, shall be used as basis for payment, unless it is found to be in error. If applying for payments, the Contractor shall submit a statement based upon this schedule.

18. Withholding of Payments:

18.1 The Town may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary in its reasonable opinion to protect the Town of Westwood from loss on account of:

18.1.1 Defective work not remedied.

18.1.2 Claims filed or reasonable evidence indicating probable filing of claims.

18.1.3 Failure of the Contractor to make payments promptly to Subcontractors or for material or labor.

18.1.4 A reasonable doubt that the Contract can be completed for the balance then unpaid.

18.1.5 Damage to another contractor.

18.2 Withholding of payments shall be in strict compliance with statutory requirements.

19. Damages:

Should either party to the Contract suffer damages because of any wrongful act or neglect of the other party, or of anyone employed by him, a claim shall be made in writing to the party liable within a reasonable time of the first observance of such damage and not later than the Final Payment, except as expressly stipulated otherwise in the case of faulty work or materials, and shall be adjusted by agreement, or by recourse to remedies provided by law or by provisions of the contract.

20. Liens:

Neither the Final Payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Town a complete release of all liens arising out of the Contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that as far as it has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed. The Contractor shall comply with all statutory provisions of the

General Laws of the Commonwealth of Massachusetts with regard to liens, Chapter 254 and 149 as amended (as a minimum requirement).

21. The Contractors Mutual Responsibility:

Should the Contractor cause damage to any separate contractor on the work, the Contractor agrees, upon due notice, to settle with such contractor by agreement, or by recourse to remedies provided by law or by the provisions of the contract. If such separate contractor sues the Town on account of any damage alleged to have been sustained, the Town shall notify the Contractor, who shall defend such proceedings at the Town's expense and, if any judgment against the Town arises there from, the Contractor shall pay or satisfy it and pay all costs incurred by the Town.

22. Separate Contracts:

22.1 The Town reserves the right to let other Contracts in connection with this work under similar General Conditions. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs.

22.2 If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the Town any defects in such work that render it unsuitable for such proper execution and results. Failure of the Contractor to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of its work except as to defects which may develop in the other contractor's work after the execution of its work.

22.3 To insure the proper execution of its subsequent work, the Contractor shall measure work already in place and shall at once report to the Town any discrepancy between the executed work and the Drawings.

23. Subcontracts:

23.1 All subcontracts shall be awarded in conformity with the requirements of the General Laws, Commonwealth of Massachusetts, Chapter 149, Sections 44A to 44L inclusive.

23.2 The Contractor agrees that it is as fully responsible to the Town for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

23.3 Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the Town.

24. Contractor-Subcontractor Relations:

The Contractor agrees to bind every Subcontractor and every Subcontractor agrees to be bound by the terms of the Agreement, the General Conditions of the Contract, the Supplementary General Conditions, the Drawings and Specifications, as far as applicable to its work, including the provisions of the General Laws, Commonwealth of Massachusetts, Chapter 149, Section 44A, et seq.

25. Indemnification:

- 25.1 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.
- 25.2 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representative of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of , use resulting there from and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 25.3 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 25.4 In any and all claims against the Town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 25.5 The obligations of the Contractor under this paragraph shall not extend to the liability of the Town, its agents or employees arising out of (a) the preparation or approval of Maps, Drawings, Opinions, Reports, Surveys, Change Orders, Designs or Specification, or (b) the giving of or the failure to give directions or instruction by the Town, its agents or employees provided such giving or failure to give directions or instructions is the primary cause of the injury or damage.

26. The Contractor's Insurance:

- 26.1 The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims set forth below which may rise out of or result from the Contractor's operation under the Contract, whether such operation be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

- 26.1.1 Claims under Worker's Compensation, disability benefit and other similar employee benefits acts;
- 26.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of its employees and claims insured by usual personal injury liability coverage;
- 26.1.3 Claims for damage because of bodily injury, sickness or disease, or death of any person other than its employees, and claims insured by usual personal injury liability coverage; and
- 26.1.4 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.

26.2 The insurance required by the above shall be written for not less than the following minimum limits of liability:

26.2.1 Worker's Compensation Act requirements

26.2.2 General Liability -

| | |
|---|--------------|
| Comprehensive form: | \$1,000,000; |
| Premises and Operations: | \$1,000,000; |
| Explosion and Collapse Hazard: | \$1,000,000; |
| Underground Hazard: | \$1,000,000; |
| Explosion and Collapse Hazard: | \$1,000,000; |
| Underground Hazard: | \$1,000,000; |
| Products/Completed Operations Hazard: | \$1,000,000; |
| Contractual Insurance: | \$1,000,000; |
| Board From Property Damage: | \$1,000,000; |
| Independent Contractors: | \$1,000,000; |
| Personal Injury: | \$1,000,000; |

Automobile Liability:

| | |
|---------------------------|-----------------------|
| Comprehensive Form: | \$1,000,000; |
| Owned: | \$1,000,000; |
| Hired: | \$1,000,000; |
| Non-Owned: | \$1,000,000; |
| Excess Liability | (As needed to provide |

\$1,000,000 coverage minimum
for each coverage listed in
this paragraph).

26.3 The above insurance policies shall also be subject to the following requirements:

26.3.1 Insurance coverage for the Contractor's Comprehensive General Liability, as specified under the foregoing paragraph and for the Town's Protective

Liability, as hereinafter specified under Paragraph entitled "Protective Liability Insurance" shall be written by one and the same insurance company to avoid the expense of duplicate and/or overlapping coverage and to facilitate and expedite the settlement of claims.

- 26.3.2 Certificates of Insurance acceptable to the Town shall be addressed to and filed with the Town prior to commencement of the work. Renewal certificates shall be addressed to and filed with the Town at least ten (10) days prior to the expiration date of required policies.
- 26.3.3 No insurance coverage shall be subject to cancellation without at least thirty (30) days prior written notice forwarded by registered or certified mail to the Town. The Town shall also be notified of the attachment of any restrictive amendments to the policies.
- 26.3.4 All Certificates of Insurance shall contain true transcripts from the policies, authenticated by the proper officer of the insurer, evidencing in particular those incurred, the extent of the coverage, the location and operations to which the insurance applies, the expiration date and the above mentioned notice clauses.
- 26.3.5 All premium costs shall be included, in the Contractor's bid.

27. Protective Liability Insurance:

- 27.1 The Contractor shall purchase and maintain such insurance as will protect the Town from claims which may arise from operations under the Contract, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured.
- 27.2 The Contractor shall also purchase and maintain such insurance as will protect both the Town against Automobile Non-Ownership Liability in connection with the Contractor's operations under the Contract, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
- 27.3 The limits of liability for coverage required under the preceding paragraphs shall be as specified under the provisions hereof governing the Contractor's General Liability Policy.
- 27.4 The said coverage shall not extend to the liability of the Town, its agents or employees arising out of (a) the preparation or approval of Maps, Drawings, Opinions, Reports, Surveys, Change Orders, Designs or Specification, or (b) the giving of or the failure to give directions or instructions by the Town, its agents or employees provided such giving or failure to give instructions is the primary cause of the injury or damage.
- 27.5 The above policies shall name the Town as the insured, including its employees, agents and representatives.

27.6 The premium costs shall be included in the Contractor's bid and the policies issued hereunder shall be assessed to and filed with the Town.

28. Property Insurance:

28.1 The Town may purchase and maintain property insurance upon the entire work at the site, including labor, materials, structure and contents, to the full insurable value thereof. This insurance shall include the interest of the Town, the Contractor, or Subcontractors in the work and shall insure against the perils of Fire, Extended Coverage, Vandalism and Malicious Mischief.

28.2 In view of its exposure to builders' risk hazards, it shall be the Town's responsibility to purchase and maintain such other insurance coverage as it may deem necessary and coverage of its liability to the Contractor. The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.

28.3 Copies of the above policy or a certificate of such insurance coverage shall be filed with the Contractor and Project Representative before an exposure to loss may occur.

29. List of Contract Attachments:

Attachment A – Prevailing Wage Rates

CONTRACTOR

By: _____
Contractor—Signature

Date: _____

Contractor—Title

TOWN OF WESTWOOD

By: _____
Michael A. Jaillet
Chief Procurement Officer

Date: _____

CERTIFIED AS TO APPROPRIATION

By: _____
Marie O’Leary, Town Accountant
G/L #

Date: _____
PO #

APPROVED TO FORM

By: _____
Patrick J. Ahearn Town Counsel

Date: _____

DRAFT