



## **INVITATION FOR BIDS**

**JANITORIAL SERVICES FOR TOWN OWNED BUILDINGS  
WAREHAM, MA**

**IFB's DUE:**

**June 12, 2017 by 10:00 AM**  
Late Proposals Will Be Rejected

**DELIVER COMPLETED SUBMISSIONS TO:**

Municipal Maintenance Department  
95 Charge Pond Road  
Wareham, MA 02571  
Attn: David Menard, Director  
dmenard@wareham.ma.us

TOWN OF WAREHAM  
INVITATION FOR BID  
JANITORIAL SERVICES

Legal Notice to Bidders

SEALED BIDS for Janitorial Services for Town Owned Buildings commencing July 1, 2017 through June 30, 2018, with renewal options for two additional one year periods, shall be received at the Municipal Maintenance Building, 95 Charge Pond Road, Wareham, MA 02571 on behalf of the Awarding Authority, Derek Sullivan, Town Administrator, until 10:00 a.m., Monday, June 12, 2017 and at that time brought to the Memorial Town Hall when and where they will be publicly opened and read. Phone calls, telegrams, postmarks, etc. shall not be considered. Bids not submitted on original bid forms shall be deemed non-responsive. Bid submissions must be made in a sealed envelope clearly marked “**Janitorial Services for Town Owned Buildings - 10:00 a.m., Monday, June 12, 2017.**” The Town of Wareham assumes no liability for bids mistakenly opened due to improperly marked envelopes and will return same to bidder without notice.

The Town of Wareham reserves the right to reject any and all bids, in whole or in part and to make awards in a manner deemed in the best interest of the Town.

The Town of Wareham is an Equal Opportunity Employer. Bids from Woman/Minority Business Enterprises are strongly encouraged.

## I. SUBMISSION REQUIREMENTS

- A. The bid may be withdrawn or amended without prejudice between the time of submission and the time of opening.

All bid amounts will be considered firm and may not be withdrawn for a period of no less than thirty (30) days from the date of opening, unless stated otherwise.

- B. Bid submissions shall be made in a sealed envelope clearly marked “**Janitorial Services for Wareham Town Owned Building- 10:00 p.m., Monday, June 12, 2017.**” In the event that Town Hall is closed due to any reason, including but not limited to inclement weather, this bid will be opened at the same time and place on the next week day that Town Hall is in operation. The Town of Wareham assumes no liability for bids mistakenly opened due to improperly labeled envelopes and will return same to bidder without notice.
- C. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, it is suggested that all bids submitted comply with the following guidelines:
- 1.) All copies should be printed double sided.
  - 2.) All submittals and copies should be printed on recycled paper with a minimum of 20% post-consumer content.
  - 3.) All proposals and copies should minimize or eliminate the use of non-recyclable, or re-usable materials, such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
  - 4.) Vendors should submit materials in a format, which allows for easy removal and recycling of paper materials.
  - 5.) Vendors are encouraged to use other products, which contain reduced content in their bid documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc.
  - 6.) Unnecessary samples, attachments or documents not specifically requested, should not be submitted. Bidders should avoid superfluous use of paper, such as separate title sheets or chapter dividers.
- D. Where the word "signed" appears, it refers to the hand written signature of the individual authorized to execute the contract. Bids "signed" by any way other than described here will be considered non-responsive.
- E. Use of the corporate seal is required only when applicable and available.
- F. Certificates of insurance must be submitted by the apparent low bidder within ten (10) business days of the request from the Town (Also see Section VII, “Insurance”).
- G. Signed (and sealed when applicable) certification that the bidder has not colluded with any other party in the preparation and submission of his/her bid.
- H. Signed (and sealed when applicable) certificate of indemnification to save harmless the Town of Wareham for all damages to life and property due to his/her negligence or that of his/her subcontractors, etc. during the term of this contract (use form attached).
- I. Signed (and sealed when applicable) certification that the bidder has paid all State taxes due (use form attached).
- J.. Signed and sealed certification of vote (for use by Corporations). Bidders may submit their own certificate of corporate vote.

## **II. CONTRACT DOCUMENT**

The contract documents will consist of all bid forms as attached hereto. In addition, the following documents will be included:

1. IFB for Janitorial Services
2. All submissions required by Sect. I 'Submissions'
3. Any IFB addendum
4. Notification of Award
5. Contract – sample attached
6. Any other documents by mutual agreement of the Town and successful bidder

## **III. TERM OF CONTRACT**

A. TIME IS OF THE ESSENCE.

B. It is anticipated that this bid will be awarded within 15 days after the bid opening.

C. One contract will be awarded.

D. The successful bidder agrees to execute a contract with the Town of Wareham and provide insurance documents and any bonds required within ten (10) days after notification of award, unless stated otherwise. Failure or refusal to comply with this requirement may result in withdrawal of the bid award. In the event of bid award withdrawal, the Town reserves the right to issue a new Invitation For Bid or award to the second low responsive and responsible bidder.

E. This contract shall be in effect for one (1) year commencing July 1, 2017 through June 30, 2018 with renewal options for two (2) additional twelve month periods. The option to renew will be at the sole discretion of the awarding authority, the Town Administrator. The renewal is not subject to agreement or acceptance by the Contractor.

F. All bids for this project are subject to applicable public bidding laws of Massachusetts, including G.L. Chapter 30, §30B

G. Where the bidder fails to complete the contract as specified, the Town reserves the right to terminate the contract and enter into other agreements to complete the lease and the Town shall nevertheless have the right to recover damages for breach of contract, either by suit on the contract and/or the bond securing it. Additionally, any bidder whose bid is selected and fails to complete the lease of said property shall forfeit the bid deposit.

## **IV. EVALUATION CRITERIA**

The successful bid will be the bid providing the "best price" (see "Price Evaluation" below) chosen from all bids considered to be responsive and responsible. The Town retains the right to waive minor informalities.

A. **RESPONSIVE** bid meets all of the following criteria:

1. Answers all questions as required by this bid document including all forms and certifications required by Sect. I "Submission Requirements"

B. **RESPONSIBLE** bidder meets all of the following criteria:

1. Has operated a janitorial service for no less than three (3) years
2. Provides no less than three (3) favorable references of previous work where they have provided cleaning services over the past two years.
3. Demonstrates the ability to work within the term of the contract as described in Section III. above.
4. It is the intention of this Public Agency not to award a contract for this work under this or any other proposal if the bidder cannot furnish satisfactory evidence that he has the ability and experience to perform this class of work and that he has sufficient capital and equipment to enable him to prosecute the work successfully and to complete it within the time named in the contract; and the Public Agency reserves the right to reject this or any other proposal or to award the contract as is deemed to be in the best interest of said Public Agency.

**V. PRICE EVALUATION**

Quoted prices are guaranteed to be fixed for the term of this contract.

Best Price will be based on the lowest total price for the period 7/1/2016 to 6/30/2017 offered by a responsive and responsible bidder.

**VI. INSURANCE**

A. Commercial General Liability Insurance - Contractor is to maintain Casualty Insurance as follows:

Commercial General Liability Insurance with an insurance company qualified to do business in the Commonwealth of Massachusetts and acceptable to the Town, providing a limit of liability of not less than \$1,000,000 per occurrence and general aggregate. Such insurance is to include the following extension of coverage.

- 1.) Contractual Liability - \$1,000,000 per occurrence
- 2.) Premises Operation Liability - \$1,000,000 per occurrence
- 3.) Independent Contractors Liability - \$1,000,000 per occurrence
- 4.) Explosion, Collapse and Underground Property Damage - \$1,000,000 per occurrence
- 5.) Personal Liability - \$1,000,000 per occurrence
- 6.) Products Liability - \$1,000,000 per occurrence

B. Automobile Liability Insurance with an Insurance Company qualified to do business in the Commonwealth of Massachusetts and acceptable to the Town providing a limit of liability not less than those specified below. Such insurance is to include claims arising out of vehicles owned by contractor, hired by contractor, or owned by others acting on behalf of or under the direction of the contractor.

- 1.) Bodily Injury Liability of not less than \$500,000 per accident, bodily injury and property damage combined

C. Workmen's Compensation Insurance - The contractor shall furnish the Town with certificates of insurance showing that all his/her employees who shall be connected with this work are protected under Workmen's Compensation Insurance Policies.

- 1.) Coverage A – Massachusetts
- 2.) Coverage B - \$500,000 per insuring agreement

D. Prior to the commencement of the work, contractor will cause to be delivered to the Procurement Office, Town of Wareham Certificates of Insurance evidencing the foregoing. The Certificates of Insurance are to provide that the Town of Wareham in care of its Procurement Officer shall be given at least 30 days advance notice of cancellation, intent not to renew, or material change in coverage.

E. Bidder hereby agrees to save and hold the Town of Wareham, its agents, servants, and employees, harmless from any and all claims arising out of the activities of contractor, its agents, servants, employees, and invitee or subcontractors.

F. The Town of Wareham is to be included as an additional insured under contractor's policies of general liability insurance for claims arising out of the activities of the contractor, or anyone acting in conjunction with the contractor.

## **VII. AFFIRMATIVE ACTION**

It is understood and agreed that it shall be a material breach of any contract resulting from this bid for the contractor to engage in any practice which shall violate any provision of Massachusetts General Laws, Chapter 151B, relative to discrimination in hiring, discharge, compensation, or terms, conditions or privileges of employment because of race, color, religion, sex, national origin, ancestry, age, sexual orientation or disability.

## **VIII. SUBSTITUTION**

A. All specifications provided are considered to be minimum quality and/or quantity acceptable.

B. In the event that a proprietary specification is used, the intent is to clearly and best describe a minimum acceptable standard of quality and in no way reduce the competitiveness of the bid. Where proprietary specifications are used, alternate items of 'equal to or better than' standard may be substituted unless stated otherwise.

C. When a substitution is made, the burden of proof shall be on the bidder to demonstrate that the substitute is in fact equal to or better than the standard used. The bidder shall submit such proof as part of the bid document. Bids not containing said documentation may be considered non-responsive at the sole discretion of the Town.

## **IX. ASSIGNMENT OF CONTRACT**

The contractor shall not be permitted to either assign or underlet the contract, nor assign either legally or equitable any monies hereunder, or its claim thereto without the previous written consent of the Town. Such consent shall not be unreasonably withheld.

## **X. PERMITS, FEES AND NOTICES**

The Contractor shall obtain and pay for all permits, licenses, certificates, inspections and other legal fees required, both permanent and temporary.

## **XI. SUMMARY OF TASKS AND RESPONSIBILITIES TO BE COMPLETED**

1. The Town plans to award a cleaning services contract for the 2 buildings, Wareham Memorial Town Hall, Multi-Service Center, with 3 buildings to be alternates, Wareham Free Library, Spinney Memorial Library and the Wareham Police Station.
2. Buildings:
  - a. Memorial Town Hall
  - b. Multi-Service CenterAlternates
  - c. Wareham Free Library
  - d. Spinney Memorial Library
  - e. Wareham Police Station
3. Terms of Contract:
  - a. This contract shall be in effect for one (1) year commencing July 1, 2017 through June 30, 2018 with renewal options for two (2) additional twelve month periods.
  - b. All bidder employees will be required to pass a CORI background check in order to work in Town buildings.
  - c. The Town has the right to have the bidder remove any employees from the cleaning crew that it feels is unfit.
  - d. Vendor shall provide all labor, cleaning supplies, cleaning equipment and supervision.
  - e. Bathroom supplies including toiletries will be purchased and supplied by the Town, but re-stocked into the bathrooms by the bidder.
  - f. Work should be scheduled to be completed either the early mornings before 7:00 or scheduled to start after 4:30 in order to avoid disrupting Town Services.
  - g. The Town will specify the Town Representative(s) who will be in contact with the bidders during normal business hours for purposes of communication and coordination.
  - h. Successful bidder will also designate a contact person with a cell phone that can be reached during normal business hours for purposes of communication and coordination.
  - i. The quote provided shall be inclusive of all travel expenses.

4. Scope of Work:

The successful bidder shall clean and maintain the buildings described above.

A. Daily activities are listed below for all buildings:

The bathrooms are required to be cleaned on a daily basis which includes re-stocking and refilling all soaps and paper products, wiping all sinks, mirrors and water fountains, toilet surfaces and stalls, all bright work including chrome and metal surfaces, as well as the scrubbing of all bowls and urinals. All trash barrels are to be emptied daily, as well as the cleaning of the entrance ways. The Multi-Service Center's cafeteria and gym area and Police blankets must be cleaned on a daily basis. All recycling and paper shredding, should to be completed on an as needed basis.

B. Monday-Wednesday-Friday activities are listed below:

Dry-mopping or sweeping of all non-rug and stairway surfaces, collecting recycling bins, wiping of the kitchen and employee lounges' counters and sinks, and cleaning the front entrance's floors and doors.

C. Weekly as-needed activities are listed below for all buildings:

Spot cleaning on a weekly as-needed basis refers to issues that might not happen on a daily basis, but when issues do occur they cannot wait for a weekly cleaning. Weekly spot cleaning may be more necessary in winter months or on days of inclement weather and includes stains, spills, sticky surfaces, marks, trash issues, and any major issues that either the cleaning service sees or a specified Town Representative designates. This may require either wet-mopping, trash removal, wiping, sweeping and dry-mopping, or vacuuming certain areas.

D. Weekly activities are listed below for all buildings:

Vacuuming every room's floors and wet-mopping every room's floors.

E. The activities listed below are for all buildings and must be completed at a minimum of four months per calendar year.

Shampooing every room's carpets, scrubbing and buffing every hard-wood floor (except in September because of the stripping and waxing), scrubbing counters as well as kitchen and lounge sinks, wiping all wall moldings, cleaning all glass doors and other glass paneling, shampooing all rugs, as well as scrubbing and wiping down all doors and door frames.

F. Annual activities are listed below for all buildings:

Stripping, scrubbing, and waxing all hard wood and VCT flooring in September of each year (in place of scrubbing and buffing) with one coat on the edges and two coats in the center, scrubbing and washing all windows, high dusting every room in the buildings and cleaning ventilation grates and covers, as needed.



**APPENDIX A- FORM OF BID**

This bid is submitted in accordance with the Invitation for Bids (IFB) for the Town of Wareham. The undersigned, having examined carefully the Instructions to Bidders, including all related bulletins and/or addenda promulgated with any and all other documents and/or material bound therewith, (all of the foregoing being referred to in this bid as the "Contract Documents") and having examined carefully the various conditions which may affect the services provided, bidders will be responsible for all square footage, to do all things necessary to provide the services, in strict accordance with the Contract Documents, to your complete satisfaction and acceptance for the lease covered for the total sum as follows:

YEAR	Town Hall Bid Price	Multi-Service Bid Price	Bid Price
1	\$ _____	\$ _____	\$ _____
2	\$ _____	\$ _____	\$ _____
3	\$ _____	\$ _____	\$ _____
Grand Total Price			\$ _____

Alternates

YEAR	Wareham Library	Spinney Library Bid Price	Wareham Police Station
1	\$ _____	\$ _____	\$ _____
2	\$ _____	\$ _____	\$ _____
3	\$ _____	\$ _____	\$ _____
Grand Total Price Alternates			\$ _____

Total Bid Price: \$ \_\_\_\_\_

Signature of Bidder: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

## CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section the word 'person' shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

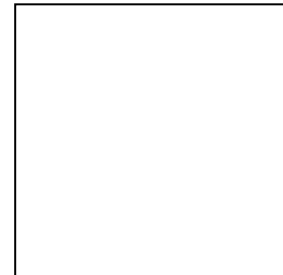
\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Social Security Number or Federal  
Identification Number

\_\_\_\_\_  
Legal Name of Business Entity (Please Print or Type)

Address: \_\_\_\_\_  
\_\_\_\_\_



Corporate Seal

**STANDARD HOLD HARMLESS AND INDEMNITY CLAUSE  
FOR USE IN  
LEASES, USE AGREEMENTS, PROCUREMENT CONTRACTS ETC.**

\_\_\_\_\_, its officers and members all,  
Legal Name of Bidder's Business Entity

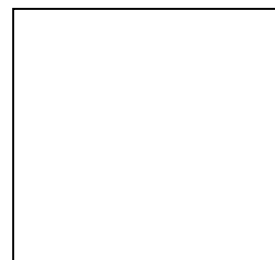
through the signing of this document by an authorized party or agent, indemnify, hold harmless and defend the Town of Wareham and its agents and employees from all suits and actions, including attorneys' fees and all costs of litigations and judgment of every name and description brought against the Town as a result of loss, damage or injury to person or property by reason of any act by \_\_\_\_\_, its agents, servants or employees.

Legal Name of bidder's Business Entity

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Date



**Corporate Seal**

**CERTIFICATION TO PAYMENT OF TAXES BY CONTRACTOR**

Pursuant to G.L. c. 62C, §49A, I hereby certify that \_\_\_\_\_  
Legal Name of Bidder's Business Entity

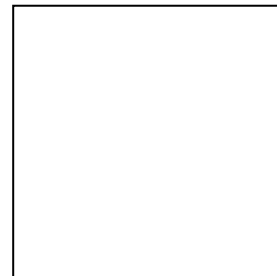
has complied with all laws of the Commonwealth of Massachusetts relating to the payment of taxes.

Signed under the penalties of perjury.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Title (Print or Type)

\_\_\_\_\_  
Date



**Corporate Seal**

**CERTIFICATE OF VOTE**

(Corporations Only)

At a duly authorized meeting of the Board of Directors of the \_\_\_\_\_  
(Name of Corporation)

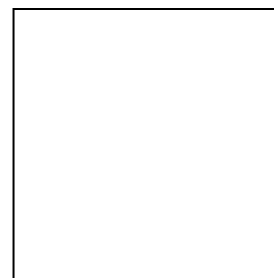
held on \_\_\_\_\_ it was voted, that \_\_\_\_\_  
(Date) (Name)

\_\_\_\_\_ of this company, be and hereby is  
(Officer)

authorized to execute contracts and bonds in the name and on behalf of said company, and affix its corporate seal hereto; and such execution of any contract or obligation in this company's name on its behalf by such officer under seal of the company, shall be valid and binding upon this company. I hereby certify that I am the clerk of the above named corporation and that \_\_\_\_\_ is the duly elected officer as above of said company, and that the above vote has not been amended or rescinded and remains in full force and effect as the date of this contract.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date



Corporate Seal

**TOWN OF WAREHAM  
CONTRACT FOR**

## **JANITIOARIL SERVICES FOR TOWN OWNED BUILDINGS**

This Contract is made this \_\_\_\_\_, 2017 by and between the Town of Wareham, a municipal corporation location within the Commonwealth of Massachusetts, acting through its Town Administrator, (hereinafter, the “Town”), and \_\_\_\_\_, a Massachusetts Corporation with a business address at \_\_\_\_\_ (hereinafter, the “Contractor”).

### **ARTICLE I--SCOPE OF SERVICES**

The Contractor shall furnish such material, equipment and labor as are necessary to perform the work, including \_\_\_\_\_ for a one (1) year period commencing July 1, 2017, with the option to renew for two additional one year periods, and in accordance with the bid specifications contain in an Invitation for Bid (IFB) issued by the Town on May 20, 2017, which IFB is incorporated herein in full. Contract documents shall include, in addition to said IFB, all documents referenced in Section II of the IFB, all of which are incorporated herein by reference.

### **ARTICLE II--TIME OF CONTRACT**

The Contractor shall commence work under this contract beginning July 1, 2017 through June 30, 2018, with renewal options for two additional one year periods provided that a fully executed contract is in place. The parties hereto agree that time is of the essence of this contract.

### **ARTICLE III—COMPENSATION**

1. Contract Sum. The Town shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by amendment as provided herein, the Contract Sum of \_\_\_\_\_.
2. Payment Schedule. Compensation for work performed pursuant to this Contract will be in proportion to the percentage of completion as determined by the Town.
3. The maximum compensation is limited to the amount of the available appropriation for these purposes. In the event such funding is not provided, the Town shall cancel this contract without further liability of any kind to the Contractor.

### **ARTICLE IV--AFFIRMATIVE ACTION**

The parties hereto agree that it shall be material breach of this contract for the Contractor to engage in any practice which shall violate any provision of Massachusetts General Laws, Chapter 151B, relative to discrimination in hiring, discharge, compensation, or terms, conditions or privileges of employment because of race, color, religion, sex, national origin, ancestry, age, sexual orientation or disability.

## **ARTICLE V--COMPLIANCE WITH LAWS**

The Contractor shall comply with all Federal, State and local laws, rules, regulations, and orders applicable to the work provided pursuant to this Contract, and shall be responsible for obtaining all necessary licenses, permits, and approvals.

## **ARTICLE VI--INCORPORATION OF GENERAL LAWS**

This Contract shall be considered to include all terms required to be included by the General Laws of the Commonwealth of Massachusetts, as amended, and any other laws as though such terms were set forth in full herein, to the extent that the same are applicable to this contract and the Contractor.

## **ARTICLE VII--INDEPENDENT CONTRACTOR**

The Contractor acknowledges and agrees that it is acting as an independent contractor for all work and services rendered pursuant to this Contract.

## **ARTICLE VIII--TOWN'S LIABILITY**

The Town's liability under this Contract shall be to make all payments when they shall become due, and the Town shall be under no further obligation or other liability. Nothing in this Contract shall be construed to render the Town Administrator, the Board of Selectmen, or any other officer of the Town, or their successors in office, personally liable for any obligation under this contract.

## **ARTICLE IX—INDEMNIFICATION**

The Contractor shall indemnify and hold harmless the Town, its officers, boards, agents and employees from any loss, damage, cost, charge, expense or claim for injury to person or property, which may be made as a result of any act, omission or default on the part of the Contractor, or any of its agents or employees and will pay promptly on demand all costs and expenses of the investigation thereof, including attorney's fees and expenses. If any such claim is made, the Town may retain out of any payments, there or thereafter due to the Contractor, a sufficient amount to protect the Town against such claim, costs and expenses.

## **ARTICLE X—INSURANCE**

The Contractor shall obtain and maintain during the term of this Contract the following insurance coverage in companies qualified to do business in the Commonwealth of Massachusetts and acceptable to the Town.

A. Commercial General Liability Insurance as follows:

Commercial General Liability Insurance company qualified to do business in the Commonwealth of Massachusetts and acceptable to the Town, providing a limit of liability of not less than \$1,000,000 per occurrence and general aggregate. Such insurance is to include the following extension of coverage.

- 1.) Contractual Liability- \$1,000,000 per occurrence
- 2.) Premises Operation Liability- \$1,000,000 per occurrence
- 3.) Independent Contractors Liability- \$1,000.00 per occurrence
- 4.) Explosion, Collapse and Underground Property Damage- \$1,000,000 per occurrence
- 5.) Personal Liability- \$1,000,000 per occurrence
- 6.) Products Liability- \$1,000,000 per occurrence

B. Workmen's Compensation Insurance- The Contractor shall furnish the Town with certificates of insurance showing that all his/her employees who shall be connected with this work are protected under Workmen's Compensation Policies.

- 1.) Coverage A- Massachusetts
- 2.) Coverage B- \$500,000 per insuring agreement

A. The Town shall be identified as an additional insured under the Contractor's general liability policy. All policies shall provide that the Town shall receive written notification at least 30 days prior to the effective date of any amendment or cancellation. Certificates evidencing all such coverage shall be provided to the Town at the execution of this contract. Each such certificate shall specifically refer to the Contract and shall state that such insurance shall be deemed a material breach of the Contract and shall be grounds for immediate termination.

#### **ARTICLE XI—ASSIGNMENT**

The Contractor shall not assign, sublet or otherwise transfer the work required under this Contract, in whole or in part, without the prior written consent of the Town, and shall not, either legally or equitable assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

#### **ARTICLE XII--INSPECTION AND REPORTS**

The Town shall have the right at any time to inspect the work of the Contractor, including the right to enter upon any property owned or occupied by the Contractor, whether situated within or beyond the limits of the Town. Whenever requested, the Contractor shall immediately furnish to the town full and complete written reports of his operations under this Contract in such detail and with such information as the Town may request.

#### **ARTICLE XIII--PAYMENT FOR DAMAGES**

The Contractor shall pay to the Town all expenses, losses and damages, as determined by the Town, incurred in consequences of any misfeasance, omission or mistake of the Contractor or his employees or the making good thereof and it is further agreed that damage to the Town will result from a failure by the Contractor to complete the work specified in this contract within the time specified by the Contractor in the bid submission. All damages referred to in this section may be deducted by the Town from any payment then or thereafter due to the Contractor.



#### **ARTICLE XIV--TERMINATION FOR CAUSE**

If any time during the term of this contract the Town determines that the Contractor has breached the terms of this Contract by negligently or incompetently performing the work, or any part thereof, or by failing to perform the same, to the satisfaction of the Town, or by not complying with the direction of the Town or its agents, or by otherwise failing to perform this Contract in accordance with all of its terms and provisions, the Town shall notify the Contractor in writing stating therein the nature of the alleged breach and directing the Contractor to cure said breach within ten (10) days. The Contractor specifically agrees that it shall indemnify and hold harmless the Town as provided in Article IX from any loss, damage, cost, charge, expense, or claim arising out of or resulting from such breach regardless of its knowledge or authorization of the actions resulting in the breach. If the Contractor fails to cure said breach within ten (10) days, the Town may, at its election at any time after the expiration of said ten (10) days, terminate this Contract by giving written notice thereof to the Contractor specifying the effective date of the termination. Upon the date so specified, this contract shall terminate. Such termination shall not prejudice or waive any rights or action which the Town may have against the Contractor because of any default or failure in performance of this Contract up to the date of such termination, and the Contractor shall be liable to the Town for any amount which it may be required to pay in excess of the Contract Sum provided herein in order to complete the work specified herein in a timely manner.

#### **ARTICLE XV--NOTICE**

Any and all notices, or other communications required or permitted under this contract, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 furnished from time to time in writing hereafter by one party to the other party.

Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

#### **ARTICLE XVI--SEVERABILITY**

If any term or condition of this contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### **ARTICLE XVII--GOVERNING LAW**

This contract shall be governed by, constructed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the Contractor submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this contract.

**ARTICLE XVIII--ENTIRE AGREEMENT**

This contract, including all documents herein by reference, constitutes the entire integrated agreement between parties with respect to the matters described. This agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

CONTRACTOR:

TOWN OF WAREHAM:

\_\_\_\_\_

\_\_\_\_\_

Derek D. Sullivan, Town Administrator

Approved as to the Availability of funds:

\_\_\_\_\_

Judith Lauzon, Town Accountant

Approved as to Form:

\_\_\_\_\_

Atty. Richard Bowen