

TOWN OF SWAMPSCOTT
MAINTENANCE AND MOWING OF TOWN PARKS AND TRAFFIC ISLANDS
DEPARTMENT OF PUBLIC WORKS
CONTRACT NO. 17-13

This Contract is made this 5th day of May, 2017, by and between the Town of Swampscott, a municipal corporation located within the Commonwealth of Massachusetts, acting through its Board of Selectmen (hereinafter, the "Town"), and Leahy Landscaping, Inc. a corporation with a business address at 56 Sanderson Avenue, Lynn, MA 01902 (hereinafter, the "Contractor").

ARTICLE I
SCOPE OF SERVICES

The Contractor shall furnish all labor, materials, and equipment to perform the above referenced services, in accordance with the bid specifications contained in Invitation for Bids (IFB) # 17-13 issued by the Town. Contract documents shall include, in addition to said IFB, addenda, the Contractor's bid, bonds, and insurance certificates, all of which are incorporated herein by reference.

ARTICLE II
TERM OF CONTRACT

The term of the contract shall commence upon issuance of the 'Notice to Proceed' and terminate April 30, 2018, with the option to renew for up to two additional years in one year increments, at the sole discretion of the Town.

ARTICLE III
COMPENSATION

1. Contract Sum. The Town shall pay the Contractor in current funds for the performance of the work described in the Invitation to Bids, a Contract Sum of SIXTY NINE THOUSAND FIVE HUNDRED DOLLARS (\$69,500) per year.

ARTICLE IV
AFFIRMATIVE ACTION/PREVAILING WAGES

1. The parties hereto agree that it shall be a 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 or privileges of employment because of race, color, religion, sex, national origin, ancestry, age, sexual orientation or disability.

2. This Contract shall be subject to the Minimum Wage Schedule, as determined by the Commission of Labor and Industries pursuant to the provisions of Chapter 149, Section 26 to 27D inclusive, of the General Laws concerning wages.

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 G.L.

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, and shall not be considered an employee or agent of the Town for any purpose.

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 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, then or thereafter due to the Contractor, a sufficient amount to protect the Town against such claims, costs and expenses.

ARTICLE X
INSURANCE

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

2. All policies shall identify the Town as an additional insured (except Workers' Compensation) and 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 is as required by the Contract. Failure to provide or to continue in force such insurance shall be deemed a material breach of the Contract and shall be grounds for immediate termination.

ARTICLE XI
PAYMENT BOND

The Contractor shall furnish a bond in a form and with a surety company approved by the Town and authorized to do business in the Commonwealth of Massachusetts, conditioned upon the Contractor making full payment for all labor performed or materials furnished in the work. The penal sum of the bonds shall be fifty percent (50%) of the full amount of the Contract price, including all services of whatever kind required thereby. Failure to provide such performance bond shall be grounds for termination.

ARTICLE XII
ASSIGNMENT

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

ARTICLE XIII
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 operation under this Contract in such detail and with such information as the Town may request.

ARTICLE XIV
TERMINATION FOR CAUSE

If at 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 such 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 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 or 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 the 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, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, except for provisions with regard to conflicts of laws, and the Contractor submits to the jurisdiction of any of the appropriate Massachusetts courts for the adjudication of disputes arising out of this Contract.


ARTICLE XVIII
ENTIRE AGREEMENT


This contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the 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.

IN WITNESS WHEREOF the parties have hereto and to three other identical instruments set forth their hands the day and year first above written.

THE TOWN:


Sean Fitzgerald,
Town Administrator


Whitney Haskell,
Designated Purchasing Agent


Gino Cresta,
Director of Public Works

I certify that funds have been
encumbered in the amount of :
\$69,500.00


Town Accountant

THE CONTRACTOR:


Authorized Signature

Matthew Leahy
Print Name

President
Print Title

Leahy Landscaping, Inc.
Company

Corporation
Status (Corporate/Non- Corporate)

04-2820839
Taxpayer Identification Number

5/15/17
Date