



REQUEST FOR QUALIFICATIONSS

RFP 2019-007

ENGINEERING SERVICES FOR SCHOOL STREET RECONSTRUCTION

TOWN OF WESTERLY, RHODE ISLAND

Town of Westerly
Request for Proposals
2019-007

ENGINEERING SERVICES FOR SCHOOL STREET RECONSTRUCTION

Please respond to this request no later than **10:00 a.m. on February 20, 2019.**

Questions regarding this Request for Quotation may be addressed to Mark Bednarski - Purchasing Agent via email to: mbednarski@westerlyri.gov or **Westerly Town Hall, Purchasing Department, 45 Broad St., Westerly, RI 02891; Attn: Mark Bednarski - Purchasing Agent. Phone: 401-348-2625**

Introduction

I. Purpose:

ENGINEERING SERVICES FOR SCHOOL STREET RECONSTRUCTION. Provide Professional Engineering services to produce plans, details and specifications for the removal of existing vehicular and pedestrian, and potentially drainage infrastructure within the right-of-way and the installation of new facilities. Work is performed under the direction of the Town Engineer or their designee.

1.1 Background

School Street runs from Granite St to Main St. There are 2 four-way intersections and 5 three-way intersections along its length and the elevation drops from approximately 128' at Granite St to 8' at Main St. over a length of approximately 2800 feet.

The existing roadway is badly deteriorated, and a visual inspection indicates that the base likely consists of rocks and other unsuitable material. There are limited drainage facilities which are poorly mapped, although further inspection is ongoing. Other underground utilities include water, sanitary sewer, and gas, as well as various telecommunications.

The existing curbs and sidewalks are in poor condition and do not meet ADA in most areas, although full ADA compliance is likely impossible with existing grades and within the existing right-of-way. The Town allocated funds in their 2018 Road Bond for the reconstruction of this road. The Town will hire a design consultant with expertise in this area to develop plans and specifications to bid out this project. It will be necessary to secure a Physical Alteration Permit from RIDOT for work at the Granite Street intersection. It may be necessary to secure a permit from RIDEM depending on the final scope of work.

1.2 Description

The project involves designing roadway and accessible sidewalk improvements. The Engineering Consultant is expected to provide all required engineering services necessary for the design of this project. As a minimum, the Design Consultant shall perform the following services:

1.2.1 Assessment of Existing Conditions

Review all available data, including State Highway Plats, and perform a field inspection to observe existing conditions and State Highway bounds. Based on this review, the Consultant shall provide recommendation to the Town on how to proceed. It is assumed, based on the Town's recent experience with Cross Street, that extensive subsurface investigation work will be required. Pre-design evaluation will require particular attention to a large tree on the southwesterly corner of Spring St and School St, mostly on the property of a multi-family house, built in 1870.

1.2.2 Evaluation of Repair Options

The Consultant shall, as a minimum, consider the existing conditions, property lines, roadway width, drainage patterns, retaining walls, and utility poles, along with the ADA requirements and develop recommendations and options and recommendations for replacement of or improvements to drainage, curbs, sidewalks, road base and roadway. The consultant shall also meet with the appropriate representative of RIDOT to receive direction on the project as required. This phase of the work shall also include the development of preliminary cost estimates.

The Consultant shall provide a letter a preliminary recommendations report to the Town with sketches, photographs, and details. The Consultant shall meet with the Town to determine if adjustments to the scope or design of the project are necessary to remain within project budget limits.

1.2.3 Design Engineering Tasks

The following tasks outline the work to be performed by the consultant:

Task I: Preliminary recommendations report and meeting with Town. After doing field investigations and reviewing all available documents, meet with the Town to discuss recommended scope of work for the project. Contact RIDOT and RIDEM to ascertain permit requirements and include those tasks in subsequent design phases.

Task II 65% Design Submittal

- a. Consultant shall prepare preliminary drawings, details, and project specifications.
- b. Consultant shall provide an updated construction cost estimate.

Deliverables: O n e (1) full size set, one (1) project specifications of the 65% design plans and

project specifications and construction cost estimate, and all submittals also in .pdf format.

Schedule: Submittal shall be within sixty (60) calendar days following the Notice to Proceed.

Task III 100% Design Submittal

- a. The consultant shall prepare 100% construction drawings and project specifications. These documents shall be considered construction ready. The plans, details, specifications, quantity estimates and bid documents shall be prepared thoroughly and with enough detail, along with sufficient risk-reducing language so as to minimize the need for contract change orders and to maximize the accuracy of the bid.
- b. Consultant shall provide a detailed construction cost estimate based on the 100% design.

Deliverables: One (1) full size set of 100% plans, one (1) project specifications and construction cost estimate, as well as a .pdf file of plans, specs, and estimate.

Schedule: Submittal shall be within thirty (30) calendar days following Receipt of comments on the 65% design submittal.

Task IV Final Design Submittal

- a. Based upon the 100% comments, the consultant shall prepare final construction drawings and contract specifications.
- b. Consultant shall provide a final detailed construction cost estimate.

Deliverables: One (1) full size set of final plans, one (1) project specification and construction cost estimate. Provide an electronic copy of the plans in both a format readable by AutoCAD and in pdf. Provide an electronic copy of the final specifications in Microsoft Office Word 2016 for Windows or compatible format and cost estimate in Excel 2016 compatible format.

Schedule: Submittal shall be within twenty-one (21) calendar days following Receipt of comments on the 100% design submittal.

Task V Bidding Phase

The consultant, following the Town's approval of the Construction Documents and the latest construction cost estimate, shall assist the Town as follows:

- a. Assist the Town in responding to contractor questions and requests for clarification regarding the design and/or Construction Documents.

Task VI Construction Phase

The consultant will represent the Town, shall advise and consult with the Town during construction, and oversee construction until final payment to the Contractor is due. The consultant shall provide the following construction support services:

- a. Provide clarifications, as required, of construction documents and respond to contractor requests for information (RFI).
- b. Review and approval of sample and material submittals specified in the Contract

Documents dealing specifically with design program elements.

c. Review and approval of all project submittals including traffic control plans.

d. Oversee and provide related management for construction monitoring and engineering services related to construction of the project.

f. Provide a full-time Resident Engineer who is experienced on this type of construction project to provide construction oversight, with leadership qualities to ensure the project is completed on time and under budget.

- 1) Arrange and attend a pre-construction conference.
- 2) Prepare and submit to the Town weekly progress reports with photos containing a summary of the contractor's progress, general conditions, problems and resolutions, or proposed resolution of problems in a form acceptable to the Town.
- 3) Arrange and run progress meetings to review construction progress and engineering management procedures.
- 4) Maintain a record of all conferences, meetings, discussions and verbal directions (including telephone and email communications as required) between the Consultant, the Town, the contractor, utility companies, and the public including coordination efforts where necessary on matters relative to the project.
- 5) Monitor Contractor's compliance with the Construction Contract Documents, and OSHA Construction Safety regulations and requirements.
- 6) Evaluate, prepare and review shop drawings and technical data of materials proposed for the construction work for compliance with the plans and specifications. Change extra and claims. Review and recommend approval of progress payments, certified payrolls, apprentice utilization and adherence to local construction trade employment ordinances.
- 7) As project liaison, attend regular site meetings with the Town, contractor and their representatives to anticipate construction potential problems, progress, and for other necessary reasons.
- 8) Provide a final inspection, to be undertaken with the Town personnel and contractor (punch list).
- 9) Monitor project budget and schedules. Provide information regularly to the Town.
- 10) Review and evaluate the contractor's work schedules and recommend their acceptance to the Town.
- 11) Assist Town in the preparation and negotiation of Change Orders as requested.

1.3 Desired qualifications

The successful RFP submittal shall demonstrate that the consultant firm has the appropriate professional and technical background and experience as well as access to adequate resources to fulfill the stated scope of services.

2. Proposal Submission Requirements and Instructions

A. Sealed Proposals must contain an Original, 3 hard copies, a digital copy and public

copy, described below.

B. To be considered responsive, Proposal submissions must include the following administrative and technical information:

1. A Letter of Transmittal must accompany each response signed by an owner, officer, or other authorized agent of the firm, with the Proposer's complete name, address, telephone number, email address, and employer identification number.
2. Company Introduction: Qualified Respondents must provide evidence of expertise relative to the services requested. Respondents are also required to include a complete description and other relevant information documenting organizational structure, business background and specific office locations.
- 3.) Respondents are to include a narrative description of the proposed process, activities and approach.
- 4.) Respondents must provide a comprehensive listing of similar current or past projects and/or clients served providing services related to this Scope of Work and at least (3) references for whom the Consultant has provided similar services, detailing client name/address, complete contact information, type of project description of services provided, and timeframe completed. By including these references, proposer grants to Town permission to contact said individuals regarding the satisfactory performance of services provided.
- 5.) Schedule: Proposed schedule of work including duration of tasks.
- 6.) Project Manager and Resident Engineer: The name, qualifications and experience of the Project Manager who will be the Town's principal contact as well as the Resident Engineer who will oversee the work in the field.
- 7.) List of other staff to be involved in the work, with current resume(s)
- 8.) If applicable, a comprehensive listing of any and all Subcontractors which will be engaged to perform services with respect to the Work. Please include each Subcontractor's name, address, and a description of the services to be provided by the Subcontractor. You must include each sub-consultant's organizational structure, business background, office location and the type of work they will perform in response to this solicitation. Proof of professional certifications must also be provided.
- 9.) The following Forms must be filled out and submitted with the Proposal (see Federal contract provisions):
 1. Certification of Bidder Pages 1 through 7
 2. Cost Proposal (Appendix B) Page 1 of 1
 3. Certificate Regarding Debarment, Suspension, Ineligibility and Voluntary

Exclusion Pages 1 through 6

4. Certificate Regarding Disclosure of Lobbying Activities Page 1 of 1

5. Affidavit of Non-Discrimination Page 1 of 1

- 10.) Provide the name and contact information for the individual who will be the prime company contact during the proposal review stage.

NOTE: It is intended that an award pursuant to this RFP will be made to a prime Consultant, who will assume responsibility for all aspects of the Work. Joint venture and cooperative proposals will not be considered. Subcontracts are permitted, provided that their use is clearly indicated in the proposal and the Subcontractors to be used are identified in the Proposal.

C.) Cost Proposal

A separate, signed and sealed Cost Proposal **using Appendix B: Cost Proposal Form** reflecting the proposed costs for carrying out the Work, including number of estimated hours for each task and any estimated out of pocket costs, with a not-to-exceed figure based on Contractor's proposed schedule.

D.) Submission

Sealed Proposals must contain an Original, 3 hard copies, a digital copy and public copy.

Each proposal must include a "public copy" to be available for public inspection upon the opening of bids. The public copy must be submitted in .pdf (portable document file). The file must include all the documents submitted in response to the solicitation merged into one file.

The public copy must be separately enclosed and marked "Public Copy" and include the following information: (1) Solicitation Title; (2) name of bidder; (3) Solicitation Number; and (4) bid proposal submission deadline. The .pdf file must be named in the following manner:

Solicitation Number_Solicitation Name_Proposal Submission
Deadline_BidderName.pdf

The bid proposal submission deadline must appear as mm-dd-yyyy. The bidder name must appear as one word, with no spaces or punctuation. Underscores must separate the fields.

Example: 2019-007 ENGINEERING SERVICES FOR SCHOOL STREET
RECONSTRUCTION 02-20-2019 Bidder Company name.pdf

Bidders may redact in the public copy any trade secrets or commercial or financial

information which is of a privileged or confidential nature pursuant to the Access to Public Records Act. If a “hard” public copy is furnished at time of bid, the bidder may follow up with the pdf. copy before the end of the business on the Bid Due Date day.

Proposals are considered to be irrevocable for a period of not less than 120 days following the opening date, and may not be withdrawn, except with the express written permission of the Town. All pricing submitted will be considered to be firm and fixed for the duration of the project.

3. STANDARD INSURANCE AND INDEMNIFICATION REQUIREMENTS

General Conditions: Within ten (10) business days of the award or notice, or prior to the start of work, whichever comes first, the contractor will provide, pay for, and maintain in full force and affect the insurance outlined here for coverage’s at not less than the prescribed minimum limits of liability. Such coverage is to remain in force during the life of the contract and for such additional time as may be required, and will cover the contractor’s activities, those of any and all subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

- A. Certificates of Insurance: The contractor will give the owner a certificate of insurance completed by a duly authorized representative of their insurer certifying that at least the minimum coverage’s required here are in effect and specifying that the liability coverage’s are written on an occurrence form and that the coverage’s will not be canceled, non-renewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without thirty (30) days advance written notice to: Town of Westerly, 45 Broad Street, Westerly, Rhode Island, 02891 Attn: Purchasing Agent. Failure of the owner to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the owner to identify a deficiency from evidence provided will not be construed as a waiver of the contractor’s obligation to maintain such insurance.
- B. Insurer Qualification: All insurance will be provided through companies authorized to do business in the State of Rhode Island and considered acceptable by the owner, with an A.M. Best Rating of A-/VIII.
- C. Additional Insured: To the extent commercially available at no additional cost, the policy or policies providing insurance as required, except for professional liability and workers’ compensation, will defend and include the owner and owner’s architects, directors, officers, representatives, agents, and employees as additional insureds on a primary basis for work performed under or incidental to this contract.
- D. Retroactive Date and Extended Reporting Period: If any insurance required here is to be issued or renewed on a claims-made form as opposed to the occurrence form, the retroactive date for coverage will be no later than the commencement date of the project and will state that in the event of cancellation or nonrenewal, the discovery period for insurance claims (tail coverage) will be at least 36 months.

- E. Subcontractors' Insurance: The contractor will cause each subcontractor employed by contractor to purchase and maintain insurance of the types specified below. When requested by the owner, the contractor will furnish copies of certificates of insurance evidencing coverage for each subcontractor.
- F. Waiver of Subrogation: The contractor will require all insurance policies in any way related to the work and secured and maintained by the contractor to include clauses stating each underwriter will waive all rights of recovery, under subrogation and otherwise, against owner, architect, and all tiers of contractors or consultants engaged by them. The contractor will require of subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section.
- G. Indemnification/Hold Harmless: The contractor shall indemnify, defend, and hold harmless the owner and, if applicable, the engineer and their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees of counsel selected by the owner, arising out of or resulting from the performance of the work and /or the supplying of materials, 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 including the loss of use resulting therefrom, 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 they are caused in part by a party indemnified hereunder.

II. Insurance Limits and Coverage:

- A. To the extent applicable, the amounts and types of insurance will conform to the minimum terms, conditions and coverages of Insurance Services Office (ISO) policies, forms, and endorsements.
- B. If the contractor has self-insured retention's or deductibles under any of the following minimum required coverage's, the contractor must identify on the certificate of insurance the nature and amount of such self- insured retention's or deductibles and provide satisfactory evidence of financial responsibility for such obligations. All self-insured retention's or deductibles will be the contractor's sole responsibility.
- C. Commercial General Liability: The contractor will maintain commercial general liability insurance covering all operations by or on behalf of the contractor on an occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Such insurance will have these minimum limits:

Minimum Limits: \$1,000,000 each occurrence

\$2,000,000 each occurrence if blasting is required

\$2,000,000 general aggregate with dedicated limits per project site

\$2,000,000 products and completed operations aggregate

\$1,000,000 personal and advertising injury

Should blasting be required, all necessary permits for the use of explosives shall be

obtained by the contractor or insured from the Fire Marshall.

Special hazards shall be covered if needed by endorsement to the Commercial Liability policy/policies as follows:

1) Property damage liability arising out of the collapse of or structural injury to any building or structure due to excavation (including burrowing, filling or backfilling in connection therewith), tunneling, pile driving, cofferdam work or caisson work; or to moving, shoring, underpinning, razing or demolition of any building or structure, or removal or rebuilding of any structural support thereof.

2) Property damage liability for injury to or destruction of property arising, directly or indirectly, from blasting or explosions however caused, other than explosions of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment.

3) Property damage liability for injury to or destruction of wires, conduits, pipes, mains, sewers or other similar property, or any apparatus in connection therewith, below the surface of the ground, arising from and during the use of mechanical equipment for the purpose of excavating or drilling within project limits; injury to or destruction of property at any time resulting therefrom.

D. Automobile Liability: The contractor will maintain business auto liability coverage for liability arising out of any auto, including owned, hired, and non-owned autos.

Minimum Limits: \$1,000,000 combined single limit each accident

E. Workers' Compensation: The contractor will maintain workers' compensation and employer's liability insurance. Waiver of subrogation in favor of the Town of Westerly shall apply.

Minimum Limits: Workers' Compensation: statutory limit

Employer's Liability: \$500,000 bodily injury for each accident

\$500,000 bodily injury by disease for each employee

\$500,000 bodily injury disease aggregate

F. Umbrella/Excess Liability: The contractor will maintain coverage applying over the underlying Commercial General Liability, Automobile Liability, Pollution Liability (where applicable), and Employer Liability section of the Workers Compensation coverage. **The Town of Westerly shall have the sole discretion in increasing or reducing the Umbrella/Excess Liability coverage requirements depending on the scope and/or size of the work to be performed by Contractor/Bidder.**

Minimum Limits: \$2,000,000 per occurrence/\$2,000,000 annual aggregate

Coverage applies over the underlying Commercial General Liability, Automobile Liability, pollution liability

(where applicable), and Employer Liability section of the Workers Compensation Coverage.

- G. Professional Liability (for consultants, engineers, and others providing professional services)
- | | |
|--------------------------|-------------|
| Each Claim/Wrongful Act: | \$1,000,000 |
| Annual Aggregate | \$1,000,000 |

The Town of Westerly reserves the right to amend amounts of coverage required and type of coverages provided based on work or service to be performed.

4. SCHEDULE

The Town expects to award this contract in Mid-March. Work may begin any time after the Notice of Award.

5. SELECTION CRITERIA

Proposals will be reviewed by a technical committee comprised of at least the Town Engineer and Purchasing Agent.

To advance to the Cost Evaluation phase, the Technical Proposal must receive a minimum of 55 out of a maximum of 70 technical points. Any technical proposals scoring less than 55 points will not have the cost component opened and evaluated. The proposal will be dropped from further consideration.

The Town reserves the exclusive right to select the individual(s) or firm (Consultant) that it deems to be in its best interest to accomplish the project as specified herein; and conversely, reserves the right not to fund any proposal(s).

Proposals will be reviewed and scored based upon the following criteria:

<i>Criteria</i>	<i>Possible Points</i>
Staff Qualifications	20 Points
Capability, Capacity, and Qualifications of the Consultant	15 Points
Approach and Quality of Work Plan and Methodologies	15 Points
Experience Working with Westerly and other communities	20 Points
Total Possible Technical Points	70 Points

Cost Proposal:

The consultant will provide a cost proposal for the design phase based on their experience with such projects, the salaries and benefits provided to the staff who will be dedicated to the project. The cost proposal and amount of time estimated for the Construction Phase is also to be estimated based on the consultant’s experience with such projects.

QUESTIONS

Direct any questions related to this RFP to Mark Bednarski, Purchasing Agent, by emailing: mbednarski@westerlyri.gov no later than **February 13, 2019 @ 12PM. Please include “RFP 2019-007” in the subject line.**

SUBMISSION PROCEDURE

Sealed Proposals (an original, a copy, digital copy and public copy) will be accepted until 10:00 a.m. on February 20, 2019 at the Office of the Purchasing Agent, Westerly Town Hall, 45 Broad Street, Westerly, RI 02891.

All Proposals must comply with the terms of this Request for Proposals.

Each Proposal must be submitted in a sealed envelope addressed to the Purchasing Agent, Westerly Town Hall, 45 Broad Street, Westerly, RI 02891. Each sealed envelope containing a Proposal must be plainly marked on the outside as "**Proposal for RFP 2019-007 ENGINEERING SERVICES FOR SCHOOL STREET RECONSTRUCTION.**" The envelope containing the Proposal should list on the outside the Proposer's name and address.

NOTE: Proposals received after the above-referenced due date and time will not be considered.

Appendix B: Cost Proposal Form

Consultants are required to provide pricing in the following format:

Team Member Title	Hourly Rate	Est. Hours	Estimated Total
	\$		\$
	\$		\$
	\$		\$
	\$		\$
	\$		\$
	\$		\$
Reimbursable Allowance*			\$
TOTAL ESTIMATED FEE			\$
TOTAL NOT TO EXCEED FIXED FEE			\$

*Any reimbursable expense is subject to approval by the Town. Backup (invoices, expense reports, etc.) must be attached to draw requests with reimbursable expenses.

CERTIFICATION

I have read the above and agree to the terms and conditions of the Town of Westerly, and the terms and conditions of solicitation number 2019-007.

Authorized Signature and Date

Affidavit of Non-Discrimination

Upon behalf of _____
(Bidder's Name),

I, _____
(Name of Person Making Certification),

being its _____, hereby certify that:
(Title or "Self")

1. Bidder does not unlawfully discriminate on the basis of race, color, national origin, gender, sexual orientation and/or religion in its business and hiring practices.
2. All of Bidder's employees have been hired in compliance with all applicable federal, state and local laws, rules and regulations.

I affirm by signing below that I am duly authorized on behalf of Bidder, on this _____ day of _____
_____ 2019.

Signature of Representative

Printed Name

Bidder Certification Form

ALL OFFERS ARE SUBJECT TO THE REQUIREMENTS, PROVISIONS AND PROCEDURES CONTAINED IN THIS CERTIFICATION FORM. Offerors are expected to read, sign and comply with all requirements. Failure to do so may be grounds for disqualification of the offer contained herein.

Rules for Submitting Offers

This Certification Form must be attached in its entirety to the front of the offer and shall be considered an integral part of each offer made by a vendor to enter a contract with the Town of Westerly. As such, submittal of the entire Bidder Certification Form, signed by a duly authorized representative of the offeror attesting that he/she (1) has read and agrees to comply with the requirements set forth herein and (2) to the accuracy of the information provided and the offer extended, is a mandatory part of any contract award.

To assure that offers are considered on time, each offer must be submitted with the specific Bid/RFP/RFQ number, date and time of opening marked in the upper left-hand corner of the envelope. Each bid/offer must be submitted in separate sealed envelopes. A complete signed (in ink) offer package must be delivered to the Town of Westerly Purchasing Agent at the location indicated within the bid by the time/date specified for the opening of responses in a sealed envelope.

Bids must be submitted¹ on the bid solicitation forms provided, indicating brand and part numbers of items offered, as appropriate. Bidders must submit detailed cuts and specs on items offered as equivalent to brands requested WITH THE OFFER. Bidders must be able to submit samples if requested.

Documents misdirected to other Town locations or which are not present in the Town of Westerly Purchasing Office at the time of opening for whatever cause will be deemed to be late and will not be considered. Postmarks shall not be considered proof of timely submission. The Town of Westerly reserves the right to reject any and all proposals, to waive any informality in the proposals received and to accept the proposal deemed to be most favorable to the best interests of the Towns.

SOLICITATIONS. To assure maximum access opportunities for users, public bid/RFP solicitations shall be posted on the website for a minimum of seven days and no amendments shall be made within the last five days before the date an offer is due. Except when access to the website has been severely curtailed and it is determined by the Purchasing Agent that special circumstances preclude extending a solicitation due date, requests to mail or fax hard copies of solicitations will not be honored. When the result of an internet solicitation is unsuccessful, the Town of Westerly will cancel the original solicitation and re-solicit the original offer directly from vendors.

PRICING. Offers are irrevocable for ninety (90) days from the opening date (or such other extended period set forth in the solicitation), and may not be withdrawn, except with the express permission of the Purchasing Agent. All pricing will be firm and fixed unless otherwise indicated. (R.I Sales Tax under

the 1956 General Laws of the State of RI, 44-18-30 Para1, as amended.) The Town of Westerly is exempt from Federal excise taxes and State Sales and Use Taxes. Such taxes shall not be included in the bid price.

DELIVERY and PRODUCT QUALITY. All offers must define delivery dates for all items; if no delivery date is specified, it is assumed that immediate delivery from stock will be made. The contractor will be responsible for delivery of materials in first class condition. Rejected materials will be at the vendor's expense. PRICES QUOTED ARE FOB DESTINATION. No additional shipping, handling, or fuel surcharge costs will be honored by the Town. Only inside delivery and set-up, where required, will be accepted. TAILGATE DELIVERIES WILL BE REFUSED. Deliveries must consist only of new merchandise or equipment (unless otherwise specified) and shall be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. No delivery shall become due or be acceptable without an authorized Purchase Order issued by the Purchasing Agent.

PREVAILING WAGE, OSHA SAFETY TRAINING and APPRENTICESHIP REQUIREMENTS. Bidders must comply with the provisions of the Rhode Island labor laws, including R.I. Gen. Laws §§ 37-13-1 et seq. and occupational safety laws, including R.I. Gen. Laws §§ 28-20-1 et seq. These laws mandate *for* public works construction projects the payment of prevailing wage rates, the implementation and maintenance of occupational safety standards, and for projects with a minimum value of \$1 Million, the employment of apprentices. The successful Bidder must submit certifications of compliance with these laws from each of its subcontractors prior to their commencement of any work. Prevailing wage rates, apprenticeship requirements, and other workforce and safety regulations are accessible at www.dlt.ri.gov.

PUBLIC RECORDS. Offerors are advised that all materials submitted to the Town of Westerly for consideration in response to this solicitation will be considered without exception to be Public Records pursuant to Title 38 Chapter 2 of the Rhode Island General laws, and will be released for inspection immediately upon request once an award has been made. Offerors are encouraged to attend public bid/RFP openings to obtain information; however, bid/RFP response summaries may be reviewed after award(s) have been made by visiting www.westerlyri.gov or appearing in person at Westerly Town Hall, Purchasing Office, Mondays through Fridays between 8:30am-3:30pm. Telephone requests for results will not be honored. Written requests for results will only be honored if the information is not available on the website.

Award will be made to the responsive and responsible offeror quoting the lowest net price in accordance with specifications, for any individual item(s), for major groupings of items, or for all items listed, at the Town's sole option.

BID SURETY. Where bid surety is required, for construction/labor services, bidder must furnish a bid bond or certified check for 5% of the bid total with the bid, or for such other amount as may be specified. Bids submitted without a required bid surety will not be considered. Contractor awarded a contract with a contract price in excess of fifty thousand dollars (\$50,000) for construction, buildings or public works is to file with the proper authority good and sufficient bond with surety furnished by any surety company authorized to do business in the State of Rhode Island and in accordance with Chapter

13 of the General Laws of Rhode Island entitled "Labor and Payment of Debts by Contractors".

SPECIFICATIONS. Unless specified "no substitute", product offerings equivalent in quality and performance will be considered (at the sole option of the Town) on the condition that the offer is accompanied by detailed product specifications. Offers which fail to include alternate specifications may be deemed nonresponsive.

VENDOR AUTHORIZATION TO PROCEED. When a purchase order, change order, contract/agreement or contract/agreement amendment is issued by the Town of Westerly, no claim for payment for services rendered or goods delivered contrary to or more than the contract terms and scope shall be considered valid unless the vendor has obtained a written change order or contract amendment issued by the Towns PRIOR to delivery.

Any offer, whether in response to a solicitation for proposals or bids, or made without a solicitation, which is accepted in the form of an order OR pricing agreement made in writing by the Town's Purchasing Department, shall be considered a binding contract.

GENERAL TERMS AND CONDITIONS OF CONTRACTS. This solicitation and any contract or purchase order arising from it are issued in accordance with the specific requirements described herein, and the State's Purchasing Laws and Regulations and other applicable State Laws. The General Terms and Conditions are incorporated into all the Town of Westerly contracts.

ARRA SUPPLEMENTAL TERMS AND CONDITIONS. Contracts and sub-awards funded in whole or in part by the American Recovery and Reinvestment Act of 2009. Pub. No. 111-5 and any amendments thereto, such contracts and sub-awards shall be subject to the Supplemental Terms and Conditions for Contracts and Sub-awards funded in whole or in part by the American Recovery and Reinvestment Act of 2009. Pub. l. No. 111-5 and any amendments thereto located on the Division of Purchases website at www.purchasing.ri.gov.

EQUAL EMPLOYMENT OPPORTUNITY. Compliance certificate and agreement procedures will apply to all awards for supplies or services valued at \$10,000 or more. Minority Business Enterprise policies and procedures, including subcontracting opportunities as described in Title 37 Chapter 14.1 of the Rhode Island General Laws also apply.

PERFORMANCE BONDS. Where indicated, successful bidder must furnish a 100% performance bond and labor and payment bond for contracts subject to Title 37 Chapters 12 and 13 of the Rhode Island General Laws. All bonds must be furnished by a surety company authorized to conduct business in the State of Rhode Island. Performance bonds must be submitted within 21 calendar days of the notice of award.

DEFAULT and NON-COMPLIANCE Default and/or non-compliance with the requirements and any other aspects of the award may result in withholding of payment(s), contract termination, debarment, suspension, or any other remedy necessary that is in the best interest of the Town of Westerly.

COMPLIANCE Vendor must comply with all applicable federal, state and local laws, regulations and ordinances.

SPRINKLER IMPAIRMENT AND HOT WORK. The Contractor agrees to comply with the practices of the Town/Town's Insurance carrier for sprinkler impairment and hot work. Prior to performing any work, the Contractor shall obtain the necessary information for compliance from the Risk Management Office at the Department of Administration or the Risk Manager at the Town of Westerly.

PUBLIC COPY. Each bid proposal for a *public works project* must include a "public copy" to be available for public inspection upon the opening of bids. Bid Proposals that do not include a copy for public inspection will be deemed nonresponsive.

For further information on how to comply with this statutory requirement, see R.I. Gen. Laws §§ 37-2-18(b) and (j). Also see State of Rhode Island Procurement Regulation 5.11 at <http://www.purchasing.ri.gov/rulesandregulations/rulesAndRegulations.aspx>

ALL CONTRACT AWARDS ARE SUBJECT TO THE FOLLOWING DISCLOSURES & CERTIFICATIONS

Offerors must respond to every disclosure statement and submit with your proposal. A person authorized to enter into contracts must sign the offer and attest to the accuracy of all statements.

Indicate Yes (Y) or No (N):

___ 1 State whether your company, or any owner, stockholder, officer, director, member, partner, or principal thereof, or any subsidiary or affiliated company, has been subject to suspension or debarment by any federal, state, or municipal government agency, or the subject of criminal prosecution, or convicted of a criminal offense with the previous five (5) years. If so, then provide details below.

___ 2 State whether your company, or any owner, stockholder, officer, director, member, partner, or principal thereof, or any subsidiary or affiliated company, has had any contracts with a federal, state or municipal government agency terminated for any reason within the previous five (5) years. If so, then provide details below.

___ 3 State whether your company or any owner, stockholder, officer, director, member, partner, or principal thereof, or any subsidiary or affiliated company, has been fined more than \$5000 for violation(s) of Rhode Island environmental laws by the Rhode Island Department of Environmental Management within the previous five (5) years. If so, then provide details below.

___ 4 I/we certify that I/ we will immediately disclose, in writing, to the Purchasing Agent any potential conflict of interest which may occur during the course of the engagement authorized pursuant to this

contract.

___ 5 I/we acknowledge that, in accordance with (1) Chapter §37-2-54(c) of the Rhode Island General Laws "no purchase or contract shall be binding on the state or any agency thereof unless approved by the Department of Administration or made under general regulations which the Purchasing Agent may prescribe," including change orders and other types of contracts and under State Purchasing Regulation 8.2.1.1.2 any alleged oral agreement or arrangements made by a bidder or contractor with any department or an employee of the Town of Westerly may be disregarded and shall not be binding on the Town of Westerly.

___ 6 I/we certify that I or my/our firm possesses all licenses required by Federal and State laws and regulations as they pertain to the requirements of the solicitation and offer made herein and shall maintain such required license(s) during the entire course of the contract resulting from the offer contained herein and, should my/our license lapse or be suspended, I/we shall immediately inform the Town of Westerly Purchasing Agent in writing of such circumstance.

___ 7 I/we certify that I/ we will maintain required insurance during the entire course of the contract resulting from the offer contained herein and, should my/our insurance lapse or be suspended, I/we shall immediately inform the Town of Westerly Purchasing Agent in writing of such circumstance.

___ 8 I/we certify that I/we understand that falsification of any information herein or failure to notify the Town of Westerly Purchasing Agent as certified herein may be grounds for suspension, debarment and/or prosecution for fraud.

___ 9 I/we acknowledge that the provisions and procedures set forth in this form apply to any contract arising from this offer.

___ 10 I/we acknowledge that I/we understand the State's Purchasing Laws (§37-2 of the General Laws of Rhode Island) and General Terms and Conditions available at the Rhode Island Division of Purchases Website (<http://www.purchasing.ri.gov>) apply as the governing conditions for any contract or purchase order I/we may receive from the Town of Westerly, including the offer contained herein.

___ 11 I/we certify that the bidder: (i) is not identified on the General Treasurer's list, created pursuant to

R.I. Gen. laws § 37-2.5-3, as a person or entity engaging in investment activities in Iran described in § 37-2.5-2(b); and (ii) is not engaging in any such investment activities in Iran.

___ 12 If the product is subject to Department of Commerce Export Administration Regulations (EAR) or International Traffic in Arms Regulations (ITAR), please provide the Export Control Classification Number (ECCN) or the US Munitions List (USML) Category: _____

___ 13 I/we certify that the above information is correct and complete.

IF YOU HAVE ANSWERED "YES" TO QUESTIONS #1- 3 OR IF YOU ARE UNABLE TO CERTIFY YES TO QUESTIONS #4 -11 and 13 OF THE FOREGOING, PROVIDE DETAILS/EXPLANATION IN AN ATTACHED STATEMENT. INCOMPLETE CERTIFICATION FORMS SHALL BE GROUNDS FOR DISQUALIFICATION OF OFFER.

Signature below commits vendor to the attached offer and certifies (1) that the offer has taken into account all solicitation amendments, (2) that the above statements and information are accurate and that vendor understands and has complied with the requirements set forth herein.

Vendor's Signature: _____ Bid Number: _____ Date: _____

(Person Authorized to enter into contracts; signature must be in ink) (if applicable)

Print Name and Title of Company official signing offer Telephone Number

TOWN OF WESTERLY/WESTERLY PUBLIC SCHOOLS **PROFESSIONAL SERVICES/CONSULTING AGREEMENT**

Contract/PO Number:

Resolution Number (if applicable):

THIS CONSULTING AGREEMENT, made effective as of the day of 20 by and between **TOWN OF WESTERLY/WESTERLY PUBLIC SCHOOLS**. (the "TOWN/SCHOOLS") and (the "Consultant").

1. **Engagement.** THE TOWN/SCHOOLS hereby engage the Consultant as a consultant to perform the Services (as defined herein) subject to the terms and conditions of this Agreement, and the Consultant hereby accepts such engagement for and in consideration of the compensation hereinafter provided. The Consultant shall perform its obligations hereunder in compliance with the terms of this Agreement and any and all applicable laws and regulations. The Consultant acknowledges that THE TOWN/SCHOOLS retains the right to appoint additional consultants as THE TOWN/SCHOOLS, in its sole and unrestricted judgment, may from time to time determine to be in the best interests of THE TOWN/SCHOOLS without liability or obligation to the Consultant. THE TOWN/SCHOOLS make no representation or warranty as to the aggregate compensation payable hereunder or the number or scope of projects for which it may engage the Consultant.

2. **Services.**

a. **Statements of Work.** The Consultant agrees to render services and prepare such deliverables as described in the numbered statements of work executed under this Agreement (each, a "Statement of Work"). Each Statement of Work constitutes a separate and independent contract of the Consultant which incorporates the terms and conditions of this Agreement. The tasks to be performed and the deliveries to be made by the Consultant pursuant to each Statement of Work are hereinafter collectively referred to as the "Services." The Consultant shall advise THE TOWN/SCHOOLS in writing which of its employees will be responsible for the provision of the Services subject to the approval of THE TOWN/SCHOOLS, which approval shall not be withheld unreasonably (the "Designees"). The Services shall be performed in accordance with the time schedule indicated in the respective Statement of Work. Time is of the essence in the performance of this Agreement and the Services hereunder.

b. **Benefits.** The Consultant shall be responsible for all employee benefits and compensation and employment taxes with respect to its employees and agents. The Consultant shall indemnify, defend and hold harmless THE TOWN/SCHOOLS and its affiliates, directors, officers, employees, agents and representatives and assigns of each, from and against all claims,

suits, liabilities, costs and expenses arising under the preceding sentence, including, without limitation, attorneys' fees and expenses, assessments for withholding and similar taxes, claims for benefits and any similar claims by or with respect to such employees. In no event, shall an employee or agent of the Consultant be considered an employee or agent of THE TOWN/SCHOOLS. Consultant agrees that in the event Consultant or Consultant's employees is {are} classified as an "employee(s)" by any governing authority, and THE TOWN/SCHOOLS becomes liable for any payments for insurance, penalties, or other charges, Consultant shall reimburse THE TOWN/SCHOOLS for any and all amounts charged against THE TOWN/SCHOOLS. The provisions of this Section 2(b) shall survive any termination of this Agreement.

c. Licenses. The Consultant is responsible for obtaining all licenses, certifications, registrations and authorizations necessary or advisable for the performance of the Services.

3. **Compensation.** As compensation for the performance of the Services, THE TOWN/SCHOOLS shall pay to the Consultant the amounts ("Fee") specified in the applicable Statement of Work. The Consultant will be responsible for all travel and other business related expenses within the Greater Southern New England Area. Outside this area travel and business related expenses will be reimbursed by THE TOWN/SCHOOLS only upon prior written authorization by THE TOWN/SCHOOLS. Any such reimbursable expenses shall conform to the limitations, guidelines, reporting and approval procedures imposed by THE TOWN/SCHOOLS upon its employees. Unless otherwise provided herein, all federal, state and local taxes, the cost of all required permits, licenses, registrations, certifications and other fees applicable to the performance of Services by Consultant, its subcontractors, if allowed, and each Consultant employee are included in the Fee. THE TOWN/SCHOOLS shall pay Consultant the Fee in the manner provided in the Statement of Work.

4. **Term.** The term of this Agreement shall commence on the date hereof and shall continue for a period of years. Notwithstanding the foregoing, this Agreement may be terminated (i) by either party at its convenience upon thirty (30) days written notice ("Early Termination") and (ii) by the non-defaulting party upon a breach or default of any material provision or obligation hereunder by, or upon the occurrence of an Insolvency Event with respect to, the other party, provided the party terminating this Agreement has, other than in connection with an Insolvency Event, first given the defaulting party 30 days written notice of such default or breach and such default or breach has not been remedied during such period to the reasonable satisfaction of the non-defaulting party ("Default Termination"). "Insolvency Event" shall mean the insolvency or general failure of a party to pay its debts as they become due; entrance of a party into receivership or any arrangement with creditors generally; filing of a voluntary or involuntary petition or other action or proceeding for bankruptcy or reorganization or dissolution or winding-up; a general assignment for the benefit of creditors; or a foreclosure or sale of a material part of a party's assets by or for the benefit of any creditor or governmental agency.

5. **Limitations.** In recognition of the Consultant's acknowledgment that the Services to be rendered to THE TOWN/SCHOOLS pursuant to this Agreement are of a special and unusual character which have a unique value to THE TOWN/SCHOOLS, loss of which cannot adequately be compensated by damages in any action at law; in view of the unique value to THE TOWN/SCHOOLS of the Services for which THE TOWN/SCHOOLS has engaged the Consultant and

the confidential information to be obtained by or disclosed to the Consultant; and as a material inducement to THE TOWN/SCHOOLS to engage the Consultant, and to pay to the Consultant the compensation for such Services to be rendered to THE TOWN/SCHOOLS by the Consultant (it being understood and agreed by the parties hereto that all of the compensation paid to the Consultant in connection with this Agreement by THE TOWN/SCHOOLS shall also be paid and received in consideration hereof), Consultant covenants and agrees as follows:

a. **No Representation.** Consultant is not authorized and shall neither purport to act nor hold itself out as an agent, representative or partner of THE TOWN/SCHOOLS. Nothing in this Agreement shall be construed to give the Consultant authority to represent or act on behalf of THE TOWN/SCHOOLS in any manner with or before any person, party, court or governmental or regulatory agency without the express prior written authorization of THE TOWN/SCHOOLS.

b. **Records and Ownership.** All files, books, accounts, records, documents, notes, drawings, designs, lists, specifications, computer programs, data and other materials and information of any nature or copies of the foregoing, however recorded or stored, and related to THE TOWN/SCHOOLS (the "Records") shall at times belong to THE TOWN/SCHOOLS and to the extent possessed by the Consultant hereunder, such possession shall be for the benefit of and as custodian for THE TOWN/SCHOOLS. The Consultant's possession of the Records is at the will of THE TOWN/SCHOOLS and is solely for enabling the Consultant to perform its obligations hereunder. The Records shall be readily separable from the records of the Consultant. All Records furnished to Consultant by THE TOWN/SCHOOLS, shall remain the property of THE TOWN/SCHOOLS and shall be returned promptly upon completion of the Services, or at any time upon written request of THE TOWN/SCHOOLS. Consultant further agrees not to make any copies of any such written materials other than as necessary to accomplish the Services, all of which shall be returned as provided above.

c. **Reasonableness of Restrictions.** The Consultant has carefully read and considered the provisions of this Section 5 and, having done so, agrees that the restrictions set forth in such Section 5 (including, but not limited to, the time period of restriction and the nature of restriction are fair and reasonable and are reasonably required for the protection of the interests of THE TOWN/SCHOOLS.

d. **Injunction.** In the event of a breach or threatened breach by the Consultant of the provisions of this Agreement, THE TOWN/SCHOOLS shall, in addition to any other rights and remedies available to it, at law or otherwise, be entitled to an injunction to be issued by any court of competent jurisdiction enjoining and restraining the Consultant from committing any present violation or future violation of this Agreement.

e. **Application.** If required by THE TOWN/SCHOOLS, prior to commencing work under any Statement of Work, the Consultant shall cause each Designee to agree in writing to be bound by the provisions of this Section 5. The Consultant shall indemnify, defend and hold harmless THE TOWN/SCHOOLS and its affiliates, directors, officers, stockholders, employees, agents and customers and the personal representatives and

assigns of each, from and against all losses, costs, expenses (including attorney's fees and expenses) occasioned by any breach of any provision of this Section 5 by any Designee, including without limitation, the type described in the second sentence of Sections 5(c) and 5(f) above.

f. **Survival.** The provisions of this Section 5 shall survive the termination of this Agreement.

6. **Insurance.** Consultant shall provide and maintain the insurance coverages required by Exhibit A, attached hereto and incorporated herein. Contractor shall agree to all terms and conditions in Exhibit A.

7. **Notices.** All notices, demands, requests or other communications which may be or are required to be given, served or sent by one party to the other party pursuant to this Agreement shall be in writing and shall be hand delivered (by prepaid courier) or mailed by certified mail, return receipt requested, postage prepaid, or sent by telefax, addressed as follows:

If to THE TOWN/SCHOOLS:

TOWN OF WESTERLY/WESTERLY PUBLIC SCHOOLS.

45 BROAD STREET

WESTERLY, RI 02891

Attention: MARK BEDNARSKI

If to the Consultant:

Name:

Employee:

Street Address:

City, State, ZIP:

Federal ID Number:

Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be delivered, given or sent. Documents delivered by hand shall be deemed to have been received upon delivery; documents sent by telefax shall be deemed to have been received when the answer back is received; and documents sent by mail shall be deemed to have been received upon their receipt, or when delivery is refused by the addressee upon presentation.

8. **Security.** The Consultant agrees that it and its personnel will at all times comply with all security regulations in effect from time to time at THE TOWN/SCHOOLS' premises or applicable outside such premises, to materials belonging to THE TOWN/SCHOOLS.

9. **Independent Consultant.** The Consultant shall perform Services hereunder only as an independent contractor. Under no circumstances shall the Consultant or any of its employees or agents be construed to be an employee, partner or agent of THE TOWN/SCHOOLS and neither the Consultant nor any of its employees or agents shall be entitled to participate in THE TOWN/SCHOOLS' profit sharing, pension, bonus or other plans for the benefit of THE TOWN/SCHOOLS employees.

10. **Assignment.** Neither this Agreement or any interest herein or any rights hereunder shall be sold or assigned by the Consultant, nor shall any of the duties of the Consultant hereunder be delegated to any person, firm or corporation, without prior notice to and written consent of THE TOWN/SCHOOLS. For purposes of this provision, assignment shall be deemed to include any change of control or transfer by operation of law.

11. **Standard of Care.** The Consultant hereby represents and affirms to THE TOWN/SCHOOLS that the Consultant and each Consultant employee or subcontractor, if allowed, possess the knowledge, ability, professional skills, qualifications and expertise necessary to perform the Services in accordance with the terms hereof. Upon request, the Consultant will furnish to THE TOWN/SCHOOLS reasonable evidence of the professional qualifications and experience of each Consultant employee supplied pursuant to this Agreement. It is expressly agreed by the Consultant that the initiation and continuation of this Agreement shall be contingent upon Consultant's continuing satisfaction of the requirements of this section. The Consultant represents and affirms that it will exercise due diligence to perform the Services in accordance with the highest professional standards applicable to such or similar Services and in compliance with all applicable laws and regulations and the highest ethical standards. Any Services which do not meet these standards shall be reperfomed by the Consultant without cost to THE TOWN/SCHOOLS until it meets THE TOWN/SCHOOLS' reasonable satisfaction. No cost or allowance incurred by Consultant in the performance of such rework shall be reimbursable hereunder. In addition, the Consultant represents and warrants that any information which it may supply THE TOWN/SCHOOLS during the term of this Agreement (i) will have been obtained by the Consultant lawfully and (ii) will not be confidential or proprietary to any third person except for information related to customers of THE

TOWN/SCHOOLS which was learned in the course of the performance of the Services and is disclosed to THE TOWN/SCHOOLS in connection therewith. Nothing in this Agreement shall be construed as authorizing or encouraging the Consultant to obtain information for THE TOWN/SCHOOLS in violation of any third party's rights to copyright or trade secret protection.

12. Adherence To Laws and THE TOWN/SCHOOLS Policies.

a. **Illegal Acts.** Consultant agrees that in carrying out its duties and responsibilities under this Agreement, it will neither undertake nor cause, nor permit to be undertaken, any activity which either (i) is illegal under any laws, decrees, rules, or regulations in effect in either the United States or foreign country if applicable; or (ii) would have the effect of causing Company to be in violation

of any laws, decrees, rules, or regulations in effect in either the United States or foreign country if applicable.

- b. **Payments.** Consultant agrees that in connection with this Agreement or with any resultant contract, it will not, directly or indirectly, give, offer, or promise, or authorize to tolerate to be given, offered, or promised, anything of value to any official, entity, or employee with the intent to (i) influence any act or decision of such official, entity, or employee, or (ii) induce such official, entity, or employee to use his influence to affect or influence any act or decision of any individual or entity in order to assist THE TOWN/SCHOOLS in obtaining or retaining business, or in directing business to any person.
- c. **Notice.** Consultant agrees to notify THE TOWN/SCHOOLS immediately of any extortive solicitation, demand, or other request for anything of value, by or on behalf of any official, entity, or employee relating to the subject matter of this Agreement.
- d. **Conformance with THE TOWN/SCHOOLS Policies.** Consultant acknowledges that THE TOWN/SCHOOLS has certain policies regarding, but not limited to, such things as drug use, alcohol, firearms, safety, security, smoking, sexual harassment, and similar actions which will also apply to the representatives of Consultant engaged to provide services hereunder. Consultant undertakes to have all of Consultant's representatives providing services at any THE TOWN/SCHOOLS facility (including any facility of a customer or supplier of THE TOWN/SCHOOLS) and all of Consultant's representatives providing direct services hereunder, whether on or off THE TOWN/SCHOOLS facilities, to agree to observe all applicable THE TOWN/SCHOOLS' policies and to sign agreements so indicating. Should THE TOWN/SCHOOLS, for any reason, deem any of Consultant's representatives unacceptable, THE TOWN/SCHOOLS shall notify Consultant and Consultant shall, thereafter, neither send such representatives to the TOWN/SCHOOLS facility nor engage such representative in direct service for THE TOWN/SCHOOLS, on or off THE TOWN/SCHOOLS facilities, but shall perform its obligations hereunder using other representatives acceptable to THE TOWN/SCHOOLS.
- e. **Criminal Background Check and Substance Screening.** Each representative of Consultant providing services at any TOWN/SCHOOLS facility and each of Consultant's representatives providing direct services hereunder, whether on or off THE TOWN/SCHOOLS facilities, shall be required to successfully undergo a Criminal Background Check and Substance Screening prior to performing any services under this Agreement. Consultant shall require such representatives to cooperate in such Check and Screening. Provided, however, that such Check and Screening shall not be required of any representative of Consultant for whom Consultant can demonstrate successfully passed a similar Check and Screening within one calendar year prior to the proposed commencement of such representative's services under this Agreement. THE TOWN/SCHOOLS shall have the final decision in determining whether any such Check and Screening is similar to THE TOWN/SCHOOLS' Check and Screening.

14. **Miscellaneous.**

a. **Waiver and Remedies.** The provisions of this Agreement may be waived, altered, amended or repealed, in whole or in part, only on the written consent of THE TOWN/SCHOOLS and the Consultant. The remedies provided THE TOWN/SCHOOLS and Consultant herein shall be cumulative, and in addition to any other remedies provided by law or equity. A waiver of a breach of any provision hereof shall not constitute a waiver of any other breach.

b. **Titles; Recitals.** Section headings and numbers used in this Agreement are included for convenience of reference only, and, if there is any conflict between any such numbers and headings, and the text of this Agreement, the text shall control. Each of the statements set forth in the premises of this Agreement is incorporated into the Agreement as a valid and binding representation of the party or parties to whom it relates.

c. **Governing Law; Severability.** This Agreement is entered in Rhode Island and shall be construed in accordance with and governed by the substantive laws of the State of Rhode Island without regard to the conflict of laws provisions thereof. Whenever possible, each provision (including without limitation any subparagraph or part thereof in Section 5 above) of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, and if any provision of this Agreement is held illegal, invalid or void, such provision may be changed to the extent reasonably necessary to make it valid and enforceable and the remainder of this Agreement shall not be affected or impaired thereby.

d. **Entire Agreement.** This Agreement, together with all Statements of Work now and hereafter attached hereto (which are hereby incorporated herein by reference), represent the entire agreement of the parties with respect to the subject matter hereof and supersede in their entirety all prior written or oral agreements, side letter, proposal, bid, quote or the like with respect thereto.

IN WITNESS, WHEREOF, the duly authorized representatives of the parties have executed this Consulting Agreement as of the date and year first above written.

**THE TOWN OF WESTERLY/
SCHOOLS**

CONSULTANT WESTERLY PUBLIC

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

Title: _____
(Print)

Title: _____
(Print)

Date: _____

Date: _____

TOWN MANAGER / SUPERINTENDENT

By:

Name:

Date:

STATEMENT OF WORK NO. 001

THIS STATEMENT OF WORK dated this the day of 20 , between THE TOWN/SCHOOLS (the “THE TOWN/SCHOOLS”) and . (the “Consultant”) is entered into pursuant to the terms and conditions of that certain Consulting Agreement dated as of , 20 , between THE TOWN/SCHOOLS and the Consultant (the “Agreement”) which Agreement is incorporated herein by this reference. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Agreement.

1. SERVICES:

The Consultant agrees to:

2. DUE DATES:

The above Services are to be performed as follows:

3. COMPENSATION:

Consultant will be paid for all services rendered. Consultant shall submit invoices to THE TOWN/SCHOOLS for all services performed under this agreement. Each invoice shall identify the services performed and . Invoices shall be submitted directly to for approval. Such invoices shall be payable within thirty (30) calendar days of approval by THE TOWN/SCHOOLS.

IN WITNESS, WHEREOF, THE TOWN/SCHOOLS and the Consultant have executed this Statement of Work as of the date first set forth above, subject to the provisions of the Agreement.

**TOWN OF WESTERLY/
WESTERLY PUBLIC SCHOOLS**

CONSULTANT

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

Title: _____
(Print)

Title: _____
(Print)

TOWN MANAGER/SUPERINTENDENT

By: _____

Name: _____

Date:

Exhibit A

Standard Insurance and Indemnification Requirements

General Conditions: Within ten (10) business days of the award or notice, or prior to the start of work, whichever comes first, the contractor will provide, pay for, and maintain in full force and affect the insurance outlined here for coverage's at not less than the prescribed minimum limits of liability. Such coverage is to remain in force during the life of the contract and for such additional time as may be required, and will cover the contractor's activities, those of any and all subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

- A. Certificates of Insurance: The contractor will give the Town/Schools a certificate of insurance completed by a duly authorized representative of their insurer certifying that at least the minimum coverage's required here are in effect and specifying that the liability coverage's are written on an occurrence form and that the coverage's will not be canceled, non-renewed, or materially changed by endorsement or through issuance of other policy(ies) of insurance without thirty (30) days advance written notice to: Town of Westerly, 45 Broad Street, Westerly, Rhode Island, 02891 Attn: Purchasing Agent. Failure of the Town/Schools to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Town/Schools to identify a deficiency from evidence provided will not be construed as a waiver of the contractor's obligation to maintain such insurance.
- B. Insurer Qualification: All insurance will be provided through companies authorized to do business in the State of Rhode Island and considered acceptable by the owner, with an A.M. Best Rating of A-/VIII.
- C. Additional Insured: To the extent commercially available at no additional cost, the policy or policies providing insurance as required, with the exception of professional liability and workers' compensation, will defend and include the Town/Schools directors, officers, representatives, agents, and employees as additional insureds on a primary basis for work performed under or incidental to this contract.
- D. Retroactive Date and Extended Reporting Period: If any insurance required here is to be issued or renewed on a claims-made form as opposed to the occurrence form, the retroactive date for coverage will be no later than the commencement date of the project and will state that in the event of cancellation or nonrenewal, the discovery period for insurance claims (tail coverage) will be at least 36 months.
- E. Subcontractors' Insurance: The contractor will cause each subcontractor employed by contractor to purchase and maintain insurance of the types specified below. When requested by the owner, the contractor will furnish copies of certificates of insurance evidencing coverage for each subcontractor.
- F. Waiver of Subrogation: The contractor will require all insurance policies in any way related to the work and secured and maintained by the contractor to include clauses stating each underwriter will waive all rights of recovery, under subrogation and otherwise, against Town/Schools, and all tiers of contractors or consultants engaged by them. The contractor will require of subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section.
- G. Indemnification/Hold Harmless: The contractor shall indemnify, defend, and hold harmless the Town/Schools and, if applicable, their agents and employees from and against all claims, damages, losses and expenses, including attorney's fees of counsel selected by the Town/Schools, arising out of or resulting from the performance of the work and /or the supplying of materials, 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 including the loss of use resulting therefrom, 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 they are caused in part by a party indemnified hereunder.

II. Insurance Limits and Coverage:

- A. To the extent applicable, the amounts and types of insurance will conform to the minimum terms, conditions and coverages of Insurance Services Office (ISO) policies, forms, and endorsements.
- B. If the contractor has self-insured retention's or deductibles under any of the following minimum required coverage's, the contractor must identify on the certificate of insurance the nature and amount of such self-insured retention's or deductibles and provide satisfactory evidence of financial responsibility for such obligations. All selfinsured retention's or deductibles will be the contractor's sole responsibility.
- C. Commercial General Liability: The contractor will maintain commercial general liability insurance covering all operations by or on behalf of the contractor on an occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Such insurance will have these minimum limits:

Minimum Limits: \$1,000,000 each occurrence

\$2,000,000 each occurrence if blasting is required

\$2,000,000 general aggregate with dedicated limits per project site

\$2,000,000 products and completed operations aggregate

\$1,000,000 personal and advertising injury

Should blasting be required, all necessary permits for the use of explosives shall be obtained by the contractor or insured from the Fire Marshall.

Special hazards shall be covered if needed by endorsement to the Commercial Liability policy/policies as follows:

- 1) Property damage liability arising out of the collapse of or structural injury to any building or structure due to excavation (including burrowing, filling or backfilling in connection therewith), tunneling, pile driving, cofferdam work or caisson work; or to moving, shoring, underpinning, razing or demolition of any building or structure, or removal or rebuilding of any structural support thereof.
- 2) Property damage liability for injury to or destruction of property arising, directly or indirectly, from blasting or explosions however caused, other than explosions of air or steam vessels, piping under pressure, prime movers, machinery or power transmitting equipment.
- 3) Property damage liability for injury to or destruction of wires, conduits, pipes, mains, sewers or other similar property, or any apparatus in connection therewith, below the surface of the ground, arising from and during the sue of mechanical equipment for the purpose of excavating or drilling within project limits; injury to or destruction of property at any time resulting therefrom.

- D. Automobile Liability: The contractor will maintain business auto liability coverage for liability arising out of any auto, including owned, hired, and non-owned autos.

Minimum Limits: \$1,000,000 combined single limit each accident

- E. Workers' Compensation: The contractor will maintain workers' compensation and employer's liability insurance. Waiver of subrogation in favor of the Town of Westerly shall apply.

Minimum Limits: Workers' Compensation: statutory limit

Employer's Liability: \$500,000 bodily injury for each accident

\$500,000 bodily injury by disease for each employee

\$500,000 bodily injury disease aggregate

- F. Umbrella/Excess Liability: The contractor will maintain coverage applying over the underlying Commercial General Liability, Automobile Liability, Pollution Liability (where applicable), and Employer Liability section of the Workers Compensation coverage. **The Town of Westerly shall have the sole discretion in increasing or reducing the Umbrella/Excess Liability coverage requirements depending on the scope and/or size of the work to be performed by Contractor/Bidder.**

Minimum Limits: \$5,000,000 per occurrence/\$5,000,000 annual aggregate

Coverage applies over the underlying Commercial General Liability, Automobile Liability, pollution liability (where applicable), and Employer Liability section of the Workers Compensation Coverage.

- G. Professional Liability (**for consultants, engineers, and other individuals/businesses providing professional services**)

Each Claim/Wrongful Act: \$1,000,000

Annual Aggregate \$1,000,000

Town of Westerly/Westerly Schools reserves the right to amend amounts of coverage required and type of coverage's provided based on work or service to be performed.