CITY OF NEWTON
PURCHASING DEPARTMENT

CONTRACT FOR THE
DEPARTMENT OF PUBLIC WORKS
UTILITIES DIVISION

PROJECT MANUAL:

DPW-UTILITIES, GRASS CUTTING & TRIMMING, REMOVAL OF LEAVES AND BRANCHES, MULCHING AND PRUNING OF SHRUBS

(6 Locations)

INVITATION FOR BID #25-03

Bid Opening Date: August 15, 2024, at 10:30 a.m.

AUGUST 2024

Ruthanne Fuller, Mayor

CITY OF NEWTON

PROJECT MANUAL TABLE OF CONTENTS

GRASS CUTTING & TRIMMING, REMOVAL OF LEAVES, MULCHING & PRUNING OF SHRUBS (6 LOCATIONS)

	Page #
Cover Page	1
Table of Contents	2

Part 1 - Bidding Documents, Contract Forms, and Conditions of the Contract

1.	- Invitation for Bid	3-4
2.	- Instructions to Bidders	5-7
3.	- Bid Form	8-9
	▪ Price Schedules *All prices on price schedules must appear in Paragraph "C" of the bid form.*	10-14
4.	- Bidder's Qualification Forms	
	▪ Bidders Qualification and References Form	15-16
	▪ Certificate of Non-Collusion	17
	▪ Certification of Tax Compliance	18
	▪ Certificate of Foreign Corporation	19
	▪ Debarment Letter	20
	▪ IRS W-9 Form	21
	▪ Business Category Information Form	22
5.	- Contract Forms	23
	▪ City - Contractor Agreement	24-27
	▪ Certificate of Authority – Corporate	28
	▪ Performance Bond	29
6.	- General Conditions of the Contract	30-34

Part 2 - General Requirements and Project Specifications

1.	- Scope of Work	35-41
2.	- Appendicies	
	▪ Appendix A – Grass Cutting & Trimming (Worksites & Est. Acreage)	42
	▪ Appendix B – Leaf and Branch Removal (Worksites & Est. Acreage)	43
	▪ Appendix C – Mulching Sites	44
	▪ Appendix D – Pruning Sites	45
	▪ Appendix E – Addresses of Grass Mowing	46
	▪ Appendix F – City of Newton Noise Ordinance	47-52
	▪ Appendix G – City Maps	53-59

END OF SECTION

CITY OF NEWTON

PURCHASING DEPARTMENT

INVITATION FOR BID #25-03

The City of Newton (City) invites sealed bids in accordance with M.G.L. c.30B from Contractors for:

Grass Cutting & Trimming, Removal of Leaves and Branches, Mulching & Pruning of Shrubs (6 Locations)[1]

Bids will be received until: **10:30 a.m., Thursday, August 15, 2024**
at the Purchasing Department, Room 108, Newton City Hall, 1000 Commonwealth Avenue, Newton, MA 02459. Bids will not be accepted nor may submitted bids be corrected, modified or withdrawn after the deadline for bids. Following the deadline for bids, all bids received within the time specified will be publicly opened and read aloud.

Documents relating to this Invitation For Bids will be available on line at **www.newtonma.gov/bids** or pickup at Newton City Hall, Room 108, Purchasing Department, 1000 Commonwealth Avenue, Newton Centre, MA 02459 after **10:00 a.m., August 1, 2024.** The contractor's scope of work is set forth in this Project Manual, including Appendices A-G attached hereto.

There will be no charge for contract documents.

All bids shall be submitted as **one (1) ORIGINAL and one (1) COPY.**

All bids must be accompanied by a bid surety in an amount that is not less than five percent (5%) of the value of the Total Combined Base Bid.

Bidders are reminded that the bid deposit covers the City for damages when a bidder withdraws its bid after the bid submisssion date.

Be advised that to the extend permitted by the law the City will retain all bid deposits for withdrawn bids.

Award will be made to the lowest, responsible, and responsive bidder for services based on the Combined Base Bid. Any bidder not providing prices for all line items may be deemed unresponsive and therefore rejected. **Provision of services is required to start upon the execution of this contract.** The dollar value of the contract may be increased only in accordance with M.G.L. c.30B, §13, and then by an aggregate amount not more than twenty five percent (25%) of the contract total. The successful bidder will be required to furnish a **Performance Bond in the amount of 50%** of the contract total.

The term of the awarded contract **shall extend for 12 months from the date of contract execution.** The City shall have the option, at its sole discretion, to **extend the agreement for two (2) additional one (1) year terms with no change in the contract price and terms and conditions.** The exercise of each option to renew shall be subject to appropriation and /or continuation of funding.

If for any part thereof during the term of this Agreement, funds for the discharge of the City's obligations under this Agreement are not appropriated and authorized, or funds so appropriated and authorized are reduced or withdrawn, then this Agreement shall terminate.

All City bids are available on the City's web site at **www.newtonma.gov/bids**. It is the sole responsibility of the contractor downloading these bids to ensure they have received any and all addenda prior to the bid opening. Addenda will be available online within the original bid document as well as a separate file. If you download bids from the internet site and would like to make it known that your company has done so, you may fax the Purchasing Department (617) 796-1227 or email to **purchasing@newtonma.gov** with your NAME, ADDRESS, PHONE, FAX AND INVITATION FOR BID NUMBER.

The City will reject any and all bids in accordance with the above referenced General Laws. In addition, the City reserves the right to waive minor informalities in any or all bids, or to reject any or all bids (in whole or in part) if it be in the public interest to do so.

[1] Locations are set forth in Appendices A through E attached hereto.

Note that Massachusetts law imposes certain documentation requirements for public contracts, including but not limited to (if applicable), contractor DCAMM certification, bid, performance and payment bonds, and non-collusion and tax certifications. A contract is not effective until it is signed by the City Mayor, and the Mayor will not sign until all documentation requirements have been met. Once an award is made, a contract must be executed promptly so the City can start scheduled work. The City cannot pay for work done without a contract. If a vendor unduly delays submitting all required paperwork, the City will be under no obligation to pay a vendor promptly even after a contract is effective, it could bar the vendor from future bids as not responsible and may require the City to obtain services from another vendor or contractor.

In the event that any person wishes to attend a bid opening or pre-bid meeting, accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting**:** **jfairley@newtonma.gov** or (617) 796-1253. For Telecommunications Relay Service, please dial 711.

CITY OF NEWTON

Nicholas Read
Chief Procurement Officer
August 1, 2024

CITY OF NEWTON

DEPARTMENT OF PURCHASING

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - BIDDER'S REPRESENTATION

1.1 Each General Bidder (hereinafter called the "Bidder") by making a bid (hereinafter called "bid") represents that:

1. The Bidder has read and understands the Bidding Documents, Contract Forms, General Conditions, Conditions of the Contract, General Requirements and Project Specifications (collectively, referred to as the "Contract Documents") and the bid is made in accordance therewith.

2. The Bidder has visited and/or is familiar with the 24 work sites and is familiar with the local conditions under which the work has to be performed.

1.2 Failure to so examine the Contract Documents or work sites will not relieve any Bidder from any obligation under the bid as submitted.

ARTICLE 2 - REQUEST FOR INTERPRETATION

2.1 Bidders shall promptly notify the City of any ambiguity, inconsistency, or error which they may discover upon examination of the Contract Documents, the site, and local conditions.

2.2 Bidders requiring clarification or interpretation of the Contract Documents shall make a written request to the *Chief Procurement Officer*, at purchasing@newtonma.gov or via facsimile (617) 796-1227. The City will only answer such requests if received **by Friday, August 9, 2024 at 12:00 noon**. In the event that the bid opening date is changed, the deadline for informational requests may also change as provided in an addendum issued by the City.

2.3 Interpretation, correction, or change in the Contract Documents will be made by addendum which will become part of the Contract Documents. The City will not be held accountable for any oral communication.

2.4 Addenda will be emailed to every individual or firm on record as having taken a set of Contract Documents. Addenda will be emailed to every individual or firm on record as having taken a set of Contract Documents. Receipt of all addenda issued must be acknowledged in the Bid Form. YOUR FAILURE TO ACKNOWLEDGE ALL ADDENDA MAY RESULT IN YOUR BID BEING REJECTED AS NON-RESPONSIVE.

2.5 Copies of addenda will be made available for inspection at the location listed in the Invitation for Bids where Contract Documents are on file, in addition to being available online at **www.newtonma.gov/bids**.

2.6 Bidders or proposers contacting ANY CITY EMPLOYEE regarding an Invitation for Bid (IFB) or a Request for Proposal (RFP), outside of the Purchasing Department, once an IFB or RFP has been released, may be disqualified from the procurement process.

2.7 Bidders downloading information off the internet web site are solely responsible for obtaining any addenda prior to the bid opening. If the bidder makes itself known to the Purchasing Department, at purchasing@newtonma.gov or via facsimile (617) 796-1227, it shall be placed on the bidder's list. Bidders must provide the Purchasing Department with their company's name, street address, city, state, zip, phone, fax, email address and **INVITATION FOR BID #25-03**.

ARTICLE 3 - MBE PARTICIPATION

3.1 Notice is hereby given that the Mayor's Affirmative Action Plan for the City of Newton in effect at the time of this solicitation is applicable to all construction contracts in excess of $10,000.00.

3.2 Notice is hereby given that the City of Newton Minority/Women Business Enterprise Plan and the Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program in effect at the time of this solicitation are applicable to all City contracts for goods and services in excess of $50,000.00.

3.3 Copies of the Plans and Program referred to in Sections 3.1 and 3.2 are available at: **https://www.newtonma.gov/government/purchasing.**

ARTICLE 4 - PREPARATION AND SUBMISSION OF BIDS

4.1 Bids shall be submitted on the "Bid Form #25-03," attached.

4.2 All entries on the Bid Form shall be made by typewriter or in ink.

4.3 Where so indicated on the Bid Form, sums shall be expressed in both words and figures. Where there is a discrepancy between the bid sum expressed in words and the bid sum expressed in figures, the words shall control.

4.4 Bid Deposits shall be submitted in the amount specified in the Invitation for Bids. They shall be made payable to the City and shall be either in the form of cash, certified check, treasurer's or cashier's check issued by a responsible bank or trust company, or a bid bond issued by a surety licensed to do business in the Commonwealth of Massachusetts; and shall be conditioned upon the faithful performance by the principal of the agreements contained in the bid. Bidders are reminded that the bid deposit covers the City for damages when a bidder withdraws its bid after the bid submisssion date. **Be advised that to the extent permitted by the law the City will retain all bid deposits for withdrawn bids.**

Bid deposits of the three (3) lowest responsible and eligible Bidders shall be retained until the execution and delivery of the City-Contractor agreement.

4.5 The Bid, including the bid deposit shall be enclosed in a sealed envelope with the following plainly marked on the outside:

* GENERAL BID FOR: **#25-03**

* NAME OF PROJECT: **DPW-Utilites Grass Cutting & Trimming, Leaf Removal and Branch removal, Mulching & Pruning of Shrubs (6 Locations)**

* BIDDER'S NAME, BUSINESS ADDRESS, AND PHONE NUMBER

4.6 Date and time for receipt of bids is set forth in the Invitation for Bids.

4.7 Timely delivery of a bid at the location designated shall be the full responsibility of the Bidder. In the event that Newton City Hall is closed on the date or at the time that bids are due, the date and time for receipt of bids shall be on the next business day following that the Newton City Hall and the Purchasing Department are open.

4.8 Bids shall be submitted with one (1) **original** and one (1) **copy.**

4.9 Massachusetts law requires all employees who work on Massachusetts public works construction sites must have no Less than 10 hours of OSHA-approved safety and health training. See M.G.L. c.30, §39M(c), M.G.L. c.30, §39S(a)(1), M.G.L. c.149, §44E(2) & M.G.L. c.149, §44F(2).

1. This requirement will apply to any general bid or sub bid submitted.
2. This law directs the Massachusetts Attorney General to restrain the award of construction contracts to any contractor who is in violation to this requirement and to restrain the performance of these contracts by non-complying contractors.
3. The contractor and all subcontractors on this project must certify on the Bid Form compliance with the applicable requirement. Non-compliance with this law will disqualify the bidder.

ARTICLE 5 - ALTERNATES

5.1 Each Bidder shall acknowledge alternates (if any) in Section C on the Bid Form.

5.2 In the event an alternate does not involve a change in the amount of the base bid, the Bidder shall so indicated by writing "No Change", or "N/C" or "0" in the space provided for that alternate.

5.3 Bidders shall enter on the Bid Form a single amount for each alternate which shall consist of the amount for work performed by the Contractor.

5.4 The low Bidder will be determined on the basis of the sum of the combined base bid and the accepted alternates.

ARTICLE 6 - WITHDRAWAL OF BIDS

6.1 Any bid may be withdrawn prior to the time designated for receipt of bids on written or electronic request. Electronic withdrawal of bids must be confirmed over the Bidder's signature by written notice postmarked on or before the date and time set for receipt of bids.

6.2 Withdrawn bids may be resubmitted up to the time designated for the receipt of bids.

6.3 No bids may be withdrawn within sixty (60) days, Saturdays, Sundays and legal holidays excluded, after the opening of the bids.

ARTICLE 7 - CONTRACT AWARD

7.1 The City is soliciting prices for a Total Combined Base Bid for 6 sites, thogether with prices for the four (4) Option Bids, all set forth in Prcing Schedules at pp. 10-14 below. **It is the City's intent to award one (1) contract to the responsive and responsible bidder offering the lowest Total Combined Base Bid (Bid Form Items C(i) to C(iv)).** Bidders are asked to provide prices for Option Bids and the winning bidder shall be paid in accordance therewith if the City elects to use the Option services, but the Option Bids shall not be considered in determining which is the lowest responsive and responsible bidder**.** A contract will be awarded within sixty (60) days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.

7.2 The City reserves the right to waive minor informalities in or to reject any or all Bids if it be in the public interest to do so.

7.3 The City reserves the right to reject any bidder who has failed to pay any local taxes, fees, assessments, betterments, or any other municipal charge, unless the bidder has a pending abatement application or has entered into a payment agreement with the collector-treasurer.

7.4 As used herein, the term "lowest responsive and responsible Bidder" shall mean the Bidder (1) whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary for the faithful performance of the work; (2) who has met all the requirements of the invitation for bids; (3) who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (4) who, where the provisions of section eight B of chapter twenty-nine apply, shall have been determined to be qualified thereunder.

7.5 Subsequent to the award and within five (5) days, Saturday, Sundays and legal holidays excluded, after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the City a contract in the form included in the Contract Documents in such number of counterparts as the City may require.

7.6 In the event that the City receives low bids in identical amount from two or more responsive and responsible Bidders, the City shall select the successful Bidder by a blind selection process chosen by the City such as flipping a coin or drawing names from a hat. The low Bidders who are under consideration will be invited to attend and observe the selection process.

ARTICLE 8 - TAXES

8.1 The Bidder shall not include in this bid any tax imposed upon the sale or rental of tangible personal property in this Commonwealth, such as any and all building materials, supplies, services and equipment required to complete the work.

8.2 The City is exempt from payment of the Massachusetts Sales Tax, and the Bidder shall not include any sales tax on its bid. The City's exemption Number is E-046-001-404.

ARTICLE 9 – PROPRIETARY SPECIFICATIONS

9.1 The City may have used a proprietary specification to describe the supply for which is soliciting bids. Such specifications are permitted under M.G.L. c. 30B, §14, provided that the Chief Procurement Officer has prepared a written statement that no other manner of description suffices and the justification therefor.

9.2 The required determination and justification have been duly prepared, and a copy may be requested in accordance with the Massachusetts Public Records Law, M.G.L. c. 66, §10.

END OF SECTION

CITY OF NEWTON

DEPARTMENT OF PURCHASING
BID FORM #25-03

A. The undersigned, having familiarized him/her with all local conditions affecting the cost of work agrees to provide all labor, materials, and equipment required to perform the services specified in the documents included in the Project Manual entitled:

GRASS CUTTING & TRIMMING
REMOVAL OF LEAVES AND BRANCHES, MULCHING, & PRUNING OF SHRUBS
(6 Locations)

for the contract price specified below, subject to additions and deduction according to the terms of the specifications.

B. This bid includes addenda number(s) _____, _____, _____, _____, _____,

C. The proposed contract price is as follows per the attached Price Schedules at pp. 10-14 below.

i.	**BASE BID (Grass Mowing + Trimming)**	**$**_____
ii.	**BASE BID (Leaf and Branch Removal)**	**$**_____
iii.	**BASE BID (Mulching)**	**$**_____
iv.	**BASE BID (Pruning)**	**$**_____
v.	**Total Combined Base Bid (i+ii+iii+iv)**	**$**_____
vi.	**Option 1 – Total for Mulching***	**$**_____
vii.	**Option 2 – Total for Pruning***	**$**_____
viii.	**Option 3 – Total for Weed Removal***	**$**_____
ix.	**Option 4 – Total for Branch Removal***	**$**_____

COMPANY:_____

**Not considered in determining the lowest responsive and responsible bidder.*

The Price Schedules are based on estimated quantities, which are the City's best estimate based on prior experience. Actual quantities may be more or less than those estimated. Regardless of the amount of the actual quantities, the unit price(s) shall be that set forth in the Bidder's Price Schedules.

D. The undersigned has completed and submits herewith the following documents:

- ☐ A five percent (5%) bid deposit/bid guarantee.
- ☐ Signed Bid Form, 2 pages
- ☐ Price Schedules, 5 pages
- ☐ Bidder's Qualifications and References Form, 2 pages
- ☐ Certificate of Non-Collusion, 1 page
- ☐ Certification of Tax Compliance, 1 page
- ☐ Certificate of Foreign Corporation, 1 page
- ☐ Debarment Letter, 1 page

☐ IRS Form W-9, 1 page

☐ Business Category Information Form, 1 page

E. Prompt Payment Discounts. Bidders are encouraged to offer discounts in exchange for an expedited payment. Payments may be issued earlier than the general goal of within 30 days of receipt of the invoice only when in exchange for discounted prices. Discounts will not be considered in determining the lowest responsible bidder.

Prompt Payment Discount _____%_____Days
Prompt Payment Discount_____%_____ Days
Prompt Payment Discount _____%_____Days

F. The undersigned agrees that, if selected as contractor, s/he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the City of Newton, execute a contract in accordance with the terms of this bid. The undersigned hereby certifies that s/he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that's/he will comply fully with all laws and regulations applicable to awards made subject to M.G.L. Chapter 30B.

The undersigned further certifies under the penalties of perjury that this bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this section the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from public contracting or subcontracting in the Commonwealth under the provisions of M.G.L. Chapter 29, Section 29F or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

G. Environmentally preferable products information (which is requested but which will not be considered in awarding a contract):

Description of environmental attributes of Bidder's goods or services:

Steps taken to (a) identify any positive or negative environmental attributes of products or services and (b) insure that those attributes are being addressed as part of operations:

Date _____

_____
(Name of General Bidder)

BY: _____

_____
(Printed Name and Title of Signatory)

_____
(Business Address)

_____
(City, State Zip)

_____
(Telephone) (Fax)

_____
(E-mail address)

NOTE: If the bidder is a corporation, indicate state of incorporation under signature, and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address; and, if operating as a d/b/a give full legal identity. Attach additional pages as necessary.

END OF SECTION

PRICING SCHEDULE
CITY OF NEWTON, DEPARTMENT OF PUBLIC WORKS
UTILITIES DIVISION

BASE BID C(i) - GRASS MOWING AND TRIMMING

Price schedule for the grass mowing and trimming of six (6) specific areas of public property within the City of Newton, as specified below. Prior to commencing work, the Contractor shall remove all debris, fallen tree and shrub limbs and litter from the areas that are to be cut and trimmed. The cost of removing debris, if any, should be included in the unit price.

	Locations	**Cost Per Cut**	**Number of Cuts Per Year**		**Cost Per Year**
1.	Waban Hill Covered Reservoir (Inside fence opposite of 141 Waban Hill Road North)	$_____	X	12	= $_____
2.	Langley Road Booster Station (Opposite Madoc Street)	$_____	X	12	= $_____
3.	Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)	$_____	X	12	= $_____
4.	DPW Operations Yard (60 & 74 Elliot Street)	$_____	X	12	= $_____
5.	Elliot Street Pump Station (391 Elliot Street)	$_____	X	12	= $_____
6.	Quinobequin Road Pump Station (136 Quinobequin Road)	$_____	X	12	= $_____

Total Base Bid - Grass Mowing & Trimming = $_____

(*Total must be placed in paragraph "C(i)" of the Bid Form)*

PRICING SCHEDULE
CITY OF NEWTON, DEPARTMENT OF PUBLIC WORKS
UTILITIES DIVISION

BASE BID C(ii) - LEAF AND BRANCH REMOVAL

Price schedule for the grass mowing and trimming of six (6) specific areas of public property within the City of Newton, as specified below. Prior to commencing work, the Contractor shall remove all debris, fallen tree and shrub limbs and litter from the areas that are to be cut and trimmed. The cost of removing debris, if any, should be included in the unit price.

	Locations	Cost Per Removal		Removals Per Year	Cost Per Year
1.	Waban Hill Covered Reservoir (Inside fence opposite of 141 Waban Hill Road North)	$_____	X	1	= $_____
2.	Langley Road Booster Station (Opposite Madoc Street)	$_____	X	1	= $_____
3.	Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)	$_____	X	1	= $_____
4.	DPW Operations Yard (60 & 74 Elliot Street)	$_____	X	1	= $_____
5.	Elliot Street Pump Station (391 Elliot Street)	$_____	X	1	= $_____
6.	Quinobequin Road Pump Station (136 Quinobequin Road)	$_____	X	1	= $_____

Total Base Bid - Leaf Removal = $_____

(Total must be placed in paragraph "C(ii)" of the Bid Form)

PRICING SCHEDULE
CITY OF NEWTON, DEPARTMENT OF PUBLIC WORKS
UTILITIES DIVISION

BASE BID C(iii) - MULCHING

Price schedule for the mulching of four (4) specific areas of public property within the City of Newton, as specified below. Prior to commencing work, the Contractor shall remove all debris, fallen tree and shrub limbs and litter from the areas that are to be mulched. The cost of removing debris, if any, should be included in the unit price.

Locations	Cost Per Mulching	Mulching Per Year	Cost Per Year
DPW Operations Yard (60 & 74 Elliot Street)	$_____	X 1	$_____
Elliot Street Pump Station (391 Elliot Street)	$_____	X 1	$_____
Quinobequin Road Pump Station (136 Quinobequin Road)	$_____	X 1	$_____
Langley Road Booster Station (Opposite Madoc Street)	$_____	X 1	$_____

Total Base Bid – Mulching = $_____

(***Total must be placed in paragraph "C(iii)" of the Bid Form)***

PRICING SCHEDULE
CITY OF NEWTON, DEPARTMENT OF PUBLIC WORKS
UTILITIES DIVISION

BASE BID C(iv) - PRUNING

Price schedule for the pruning of six (6) specific areas of public property within the City of Newton, as specified below. Prior to commencing work, the Contractor shall remove all debris, fallen tree and shrub limbs and litter from the areas that are to be pruned. Contractor is responsible for the pruning of shrubs and bushes on the entire site and the removal and disposal of debris from the entire site. This pruning service will be done once a year.

Locations	Cost Per Pruning	Pruning Per Year	Cost Per Year
Waban Hill Covered Reservoir (Inside fence opposite of 141 Waban Hill Road North)	$_____	X 1	$_____
Langley Road Booster Station (Opposite Madoc Street)	$_____	X 1	$_____
Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)	$_____	X 1	$_____
DPW Operations Yard (60 & 74 Elliot Street)	$_____	X 1	$_____
Elliot Street Pump Station (391 Elliot Street)	$_____	X 1	$_____
Quinobequin Road Pump Station (136 Quinobequin Road)	$_____	X 1	$_____

Total Base Bid – Pruning = $_____

(*Total must be placed in paragraph "C(iv)" of the Bid Form)*

PRICING SCHEDULE

OPTION ONE: MULCHING

1. The City of Newton requests an additional cost for the installation of mulch on a per cubic yard basis for any site located in the City that is not included in the regularly scheduled work under this Contract.
2. The estimated number of additional cubic yards of annual mulching under Option One will be 50 cubic yards.
3. The cost shall include the site preparation and the cost of the mulch as specified in section 7 of the scope of work.
4. The price per cubic yard should include the cost of all labor, installation, equipment and disposal of any debris.

Unit Price Per Cubic Yard: $_____ X 50 CUBIC YARDS = $_____ *(Bid Form paragraph "C(v))*

OPTION TWO: HOURLY PRUNING OF SHRUBS

1. The City requests an hourly rate for additional pruning for any site that located in the City that is not included in the regularly scheduled work under this Contract.
2. The estimated number of additional hours of annual pruning under Option Two will be 40 hours. A per hour cost should, therefore, be based on an estimate of 40 hours.
3. The price per hour should include the cost of all labor, equipment and disposal of debris.
4. Additional hourly pruning work, if any, shall be scheduled upon request by the Commissioner in consultation with the Contractor. The Commissioner shall prepare an estimate as to the number of hours required for pruning at each particular site for which pruning is requested. The Contractor shall agree to the estimated number of hours and the scope of any pruning to be performed prior to commencement of hourly pruning work.

Unit Price Per Hour $_____ X 40 HOURS = $_____ *(Bid Form paragraph "C(vi))*

OPTION THREE: HOURLY WEED REMOVAL OF MULCH BEDS

1. The City requests an individual hourly employee rate for weed removal at sites that are not included in the regularly scheduled work or locations under this Contract.
2. The estimated number of additional hours of annual weed removal under Option Three will be 40 hours. A per hour cost should, therefore, be based on an estimate of 40 hours.
3. The price per hour shall include the cost of all labor, equipment and off-site disposal of debris.
4. Hourly weed removal work, if any, shall be scheduled upon request by the Commissioner in consultation with the Contractor. The Commissioner shall prepare an estimate as to the number of hours required for weed removal at each particular site for which weed removal is requested. The Contractor shall agree to the estimated number of hours and the scope of any weed removal to be performed prior to commencement of hourly work.
5. No pesticides shall be used during the weed removal process. Weeds are to be removed via hand removal or mechanical means of operation.

Unit Price Per Hour $_____ X 40 HOURS = $_____ *(Bid Form paragraph "C(vii))*

OPTION FOUR: HOURLY BRANCH REMOVAL

1. The City requests an individual hourly employee rate for branch removal at sites that are not included in the regularly scheduled work or locations under this Contract.
2. The estimated number of additional hours of annual branch removal under Option Four will be 40 hours. A per hour cost should, therefore, be based on an estimate of 40 hours.
3. The price per hour shall include the cost of all labor, equipment and off-site disposal of debris.
4. Hourly branch removal work, if any, shall be scheduled upon request by the Commissioner in consultation with the Contractor. The Commissioner shall prepare an estimate as to the number of hours required for branch removal at each particular site for which branch removal is requested. The Contractor shall agree to the estimated number of hours and the scope of any branch removal to be performed prior to commencement of hourly work.
5. Branches are to be removed via hand removal or mechanical means of operation.

Unit Price Per Hour $_____ X 40 HOURS = $_____ *(Bid Form paragraph "C(viii))*

Totals for the Combined Base Bid as well as Option 1, 2, 3 & 4 must be placed in Paragraph "C" of the Bid Form.

CITY OF NEWTON

BIDDER'S QUALIFICATIONS AND REFERENCES FORM

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the City for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

1. FIRM NAME: _____

2. WHEN ORGANIZED: _____

3 INCORPORATED? _____ YES _____ NO DATE AND STATE OF INCORPORATION: _____

4. IS YOUR BUSINESS A **MBE**? _____YES _____NO **WBE**? _____YES _____NO or **MWBE**? _____YES _____NO

* 5. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OFCOMPLETION:

_____

_____

_____

_____

_____

* 6. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU?
_____ YES _____ NO
IF YES, WHERE AND WHY?

_____

_____

* 7. HAVE YOU EVER DEFAULTED ON A CONTRACT? _____ YES _____ NO
IF YES, PROVIDE DETAILS.

_____

_____

* 8. LIST YOUR VEHICLES/EQUIPMENT AVAILABLE FOR THIS CONTRACT:

_____

_____

_____

_____

_____

_____

_____

* 9. IN THE SPACES FOLLOWING, PROVIDE INFORMATION REGARDING CONTRACTS COMPLETED BY YOUR FIRM SIMILAR IN NATURE TO THE PROJECT BEING BID. A MINIMUM OF FOUR (4) CONTRACTS SHALL BE LISTED. PUBLICLY BID CONTRACTS ARE PREFERRED, BUT NOT MANDATORY.

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____

DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON: _____ TELEPHONE #: ____)_____
CONTACT PERSON'S RELATION TO PROJECT?: _____
(i.e., contract manager, purchasing agent, etc.)
_____

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON: _____ TELEPHONE #: (____)_____
CONTACT PERSON'S RELATION TO PROJECT?: _____
(i.e., contract manager, purchasing agent, etc.)
_____

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON:_____ TELEPHONE #: (____)_____
CONTACT PERSON'S RELATION TO PROJECT?:_____
(i.e., contract manager, purchasing agent, etc.)
_____
PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON: _____ TELEPHONE #:(____)_____
CONTACT PERSON'S RELATION TO PROJECT?: _____
(i.e., contract manager, purchasing agent, etc.)

10. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of Bidder's qualifications and experience.

DATE: _____ BIDDER: _____

SIGNATURE: _____

PRINTED NAME: _____ TITLE: _____

END OF SECTION

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee club, or other organization, entity, or group or individuals.

_____
(Signature of individual)

_____
Name of Business

CERTIFICATION OF TAX COMPLIANCE**

Pursuant to M.G.L. c.62C, §49A and requirements of the City, the undersigned acting on behalf of the Contractor certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.*

_____ _____

Signature of Individual (Mandatory) *** Contractor's Social Security Number
or Federal Identification Number

Print Name:_____ Date:_____

_____

Corporate Name

By: _____ Date: _____

Corporate Officer
(Mandatory, if applicable)

Print Officer Name:_____

* The provision in this Certification relating to child support applies only when the Contractor is an individual.

** Approval of a contract or other agreement will not be granted until the City receives a signed copy of this Certification.

*** Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

CERTIFICATE OF FOREIGN CORPORATION

The undersigned hereby certifies that it has been duly established, organized, or chartered as a corporation under the laws of:

(Jurisdiction)

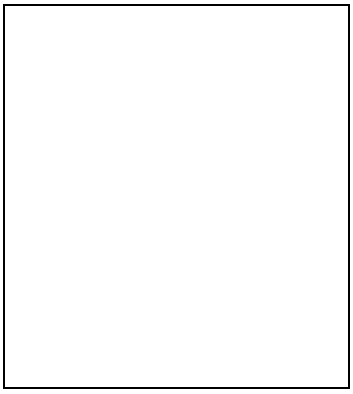
The undersigned further certifies that it has complied with the requirements of M.G.L. c. 30, §39L (if applicable) and with the requirements of M.G.L. c. 156D, §15.03 relative to the registration and operation of foreign corporations within the Commonwealth of Massachusetts.

Name of person signing proposal

Signature of person signing proposal

Name of Business (Please Print or Type)

Affix Corporate Seal here



City of Newton

Mayor
Ruthanne Fuller

Purchasing Department
Nicholas Read ✧ *Chief Procurement Officer*
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
purchasing@newtonma.gov

Telephone
(617) 796-1220
Fax:
(617) 796-1227
TDD/TTY
(617) 796-1089

Date

Vendor

Re: Debarment Letter for Invitation for Bid #25-03

As a potential vendor on the above contract, the City requires that you provide a debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

I hereby certify under pains and penalties of perjury that neither I nor any principal(s) of the Company identified below is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name_____

Company _____

Address _____

Address _____

Phone _____ Fax _____

Email _____

Signature _____

Date _____

If you have questions, please contact Nicholas Read, Chief Procurement Officer at (617) 796-1220.

Form **W-9**
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶
☐ Other (see instructions) ▶

X Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here **Signature of U.S. person ▶** **Date ▶** Name

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

Business Category Information Form*

IFB No. 25-03

DPW Utilities Grass Cutting & Trimming, Removal of Leaves, Mulching & Pruning of Shrubs (6 Locations)

Business Type Categories*	Select All That Apply
MBE: Minority-Owned Business Enterprise	
WBE: Women-Owned Business Enterprise	
VBE: Veteran Business Enterprise	
SDVOBE: Service-Disabled Veteran-Owned Business Enterprises	
DOBE: Disability-Owned Business Enterprise	
LGBTBE: Lesbian, Gay, Bisexual, Transgender Business Enterprise	

*Information is being collected as part of a City initiative to open contract opportunities to underrepresented vendors.

□ I do not wish to complete this form.

There is no penalty for persons who do not complete this Form, and whether or not the Form is completed will not be taken into consideration in awarding a bid.

I certify that the foregoing information is true and correct.

Company Name:_____

By: _____

Date:_____

CONTRACT FORMS

The awarded bidder will be required to complete and submit documents substantially similar in form to the following.

These forms may need to be modified on account of changed circumstances, and are provided for informational purposes only.

CITY - CONTRACTOR AGREEMENT

CONTRACT NO. C-

THIS AGREEMENT made this ___ day of _____ in the year Two Thousand Twenty Four by and between the CITY OF NEWTON, a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, hereinafter referred to as the CITY, acting through its Chief Procurement Officer, but without personal liability to him, and hereinafter referred to as the CONTRACTOR.

The parties hereto for the considerations hereinafter set forth agree as follows:

I. **SCOPE OF WORK.** The Contractor shall furnish all labor, materials and equipment, and perform all work required in strict accordance with the Contract Documents for the following project:

Grass Cutting & Trimming, Removal of Leaves, Mulching & Pruning of Shrubs (6 Locations)

II. **CONTRACT DOCUMENTS.** The Contract documents consist of the following documents that are either attached to this Agreement or are incorporated herein by referenced:

a. This CITY-CONTRACTOR Agreement;

b. The City's Invitation For **Bid #25-03** issued by the Purchasing Department;

c. The Project Manual for DPW-Utilities **Grass Cutting & Trimming, Removal of Leaves, Mulching & Pruning of Shrubs (6 Locations)** including Specifications, Option Bids and, if included or referenced therein, any Standard Terms and Conditions, Special Conditions, Equal Opportunity/Affirmative Action Requirements;

d. Addenda Number(s) ;

e. The Bid Response of the CONTRACTOR submitted for this Project and accompanying documents and certifications;

f. Certificate(s) of Insurance and surety bond(s) submitted by the CONTRACTOR in connection with this Project;

g. Duly authorized and executed Amendments, Change Orders or Work Orders issued by the CITY after execution of this CITY-CONTRACTOR Agreement.

This CITY-CONTRACTOR Agreement, together with the other documents enumerated in this Article, constitute the entire Agreement between the CITY and the CONTRACTOR. The CONTRACTOR represents that its bid was made without condition, qualification or reservation of any kind, except upon the written acknowledgement and consent of the CITY.

III. **PRIORITY OF DOCUMENTS.** In the event of inconsistency between the terms of this CITY -CONTRACTOR Agreement and the Project Manual, the terms of this Agreement shall prevail.

IV. **APPLICABLE STATUTES.** All applicable federal, state and local laws and regulations are incorporated herein by reference and the Contractor agrees to comply with same.

V. **CONTRACT TERM.** The contract term shall extend for 12 months from **date of contract execution** with the option, at the City's sole discretion, to extend for 2 additional 1-year terms with no change to the contract price and terms and conditions. A termination due to non-appropriation or withdrawal of funds shall be effective as of the last day of the fiscal year in which such non-appropriation or decision to withdraw funding occurred, or as of the date when such appropriated and authorized funds are exhausted or withdrawn, whichever is later, without liability to the City for damages, penalties or other charges on account of such termination. In the event of a termination due to non-appropriation or withdrawal of funds, services will be paid for up to the effective date of termination.

VI. **AUTHORIZATION OF AND PAYMENT FOR WORK PERFORMED.** The execution of this contract does not constitute a notice to proceed or authorization to perform work. No work shall be commenced unless authorized by a written Work Order prepared by City of Newton Department of Public Works – Utilities Division specifying the work to be performed. The Contractor will be paid following completion and acceptance of the work authorized in accordance with the Contract. The City will use best efforts to pay within thirty (30) days of receipt of an invoice for the work authorized or acceptance of the work whichever date is later.

VII. RESPONSIBILITY FOR THE WORK/INDEMNIFICATION. The Contractor shall take all responsibility for the work and shall take all precautions for preventing injuries to persons and property in or about the work and shall defend, indemnify and hold the City harmless from all loss, cost, damage or expense arising from injuries to persons or property in or about the work. The Contractor shall be responsible for any damage which may be caused by the failure or insufficiency of any temporary works. He shall effectively protect his work and shall be liable for all damage and loss by delay or otherwise caused by his neglect or failure so to do.

VIII. WARRANTY. Except as may be otherwise provided in the Project Manual, the Contractor shall replace, repair or make good, without cost to the City, any defects or faults arising within one (1) year after date of acceptance of work and materials furnished hereunder (acceptance not to be unreasonably delayed) resulting from imperfect or defective work done or materials furnished by the Contractor.

IX. PATENT INDEMNIFICATION. The Contractor agrees to assume the defense of and shall indemnify and save harmless the City and all persons acting for or on behalf of it from all suits and claims against them, or any of them, arising from or occasioned by the use of any material, equipment or apparatus, or any part thereof which infringes or is alleged to infringe on any patent rights. In case such material, equipment or apparatus, or any part thereof, in any such suit is held to constitute infringement, the Contractor, within a reasonable time, shall at its own expense, and as the City may elect, replace such material, equipment or apparatus with non-infringing material, equipment or apparatus, or remove the material, equipment, or apparatus and refund the sums paid therefor.

X. ASSIGNMENT/SUB-CONTRACTING. The Contractor agrees that he will not sell, assign or transfer this Contract or any part thereof or interest therein without the prior written consent of the City.

XI. TERMINATION. If the work to be done under this Contract shall be abandoned, or if this Contract or any part thereof shall be assigned or transferred, without the previous written consent of the City, or if the Contract or any claim hereunder shall be assigned by the Contractor otherwise than as herein specified, or if at any time the City determines that the conditions herein specified as to the rate of progress are not fulfilled, or that the work or any part thereof, is unnecessarily or unreasonably delayed, or that the Contractor has violated any of the provisions of this Contract, the City may terminate this Contract and/or notify the Contractor to discontinue such work or such part thereof as the City may designate, and the City may thereupon by agreement or otherwise, as it may determine, complete the work, or any part thereof; and for such completion the City for itself or for its Contractor may take possession of and use or cause to be used in the completion of the work thereof any of such materials, apparatus, machinery, implements, and tools of every description as may be found upon said work. Termination pursuant to this paragraph shall not entitle the Contractor to any claim for damages on account thereof, nor shall it relieve the Contractor of any liability under this Contract.

XII. COMPLIANCE WITH CITY ORDINANCES

A. The Contractor shall comply with and give notices required by laws, ordinances rules, regulations, and lawful orders of the City bearing on performance hereunder.

B. If the Contractor performs work that it knows or reasonably should know is contrary to City laws, statutes, ordinances, building codes, and rules and regulations without giving prior notice to the City, it shall assume full responsibility for such work and shall be responsible for all costs attributable thereto.

C. Seasonal use of leaf blowers or related equipment must comply with the City's Noise Ordinance, which provides that gas blowers are only permissible from Labor Day to Memorial Day and must not exceed 65 decibels, and that from Memorial Day to Labor Day only battery powered blowers will be allowed.

D. This section shall be superseded to extent of any specific Ordinance requirements set forth in the IFB scope of services, conditions or specifications.

XIII. INSURANCE. The Contractor shall provide insurance coverage as listed below. This insurance shall be provided at the Contractor's expense and shall be in full force and effect during the full term of this Contract.

WORKER'S COMPENSATION	
Worker's Compensation:	Per M.G.L. c.l49, §34 and c.l52 as amended.
PUBLIC LIABILITY	
Personal Injury	$500,000 each occurrence $1,000,000 aggregate
Property Damage	$500,000 each occurrence $1,000,000 aggregate
VEHICLE LIABILITY	
Personal Injury	$500,000 each person $1,000,000 aggregate
Property Damage	$300,000 each occurrence $500,000 aggregate

The City shall be named as additional insured on the Contractor's Liability Policies.

XIV. GOVERNING LAW. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

XV. SEVERABILITY. The provisions of this Contract are severable. If any section, paragraph, clause or provision of this Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Contract shall be unaffected by such adjudication and all of the remaining provisions of this Contract shall remain in full force and effect as though such section, paragraph, clause or provision, or any part thereof so adjudicated to be invalid, had not been included herein, unless such remaining provisions, standing alone, are incomplete and incapable of being executed in accordance with the intent of the parties to this Contract.

XVI. AMENDMENTS TO THIS CONTRACT. This Contract may not be amended except in writing executed in the same manner as this CITY-CONTRACTOR Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the day and year first above written.

THIS SPACE INTENTIONALLY LEFT BLANK

CONTRACTOR

By_____

Print Name _____

Title_____

Date_____

Affix Corporate Seal Here

City funds in the amount of $ _____
are available in account number
60A40107-524200 _____

I further certify that the Mayor, or her designee, is authorized to execute contracts and approve change orders.

By_____
Comptroller of Accounts

Date _____

CITY OF NEWTON

By _____
Chief Procurement Officer

Date_____

By_____
Commissioner of Public Works

Date_____

Approved as to Legal Form and Character

By_____
Associate City Solicitor

Date_____

CONTRACT AND BONDS APPROVED

By_____
Mayor or her designee

Date_____

CERTIFICATE OF AUTHORITY - CORPORATE

1. I hereby certify that I am the Clerk/Secretary of _____
(insert full name of Corporation)

2. corporation, and that _____
insert the name of officer who signed the **contract and bonds**.)

3. is the duly elected _____
(insert the title of the officer in line 2)

4. of said corporation, and that on _____
(insert a date that is ***ON OR BEFORE*** the date the officer signed the **contract and bonds**.)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. _____ the _____
(insert **name** from line 2) (insert **title** from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: _____ *AFFIX CORPORATE*
(Signature of **Clerk or Secretary**)* *SEAL HERE*

7. Name: _____
(Please print or type name in line 6)*

8. Date: _____
(insert a date that is ***ON OR AFTER*** the date the officer signed the **contract and bonds**.)

* The name and signature inserted in lines 6 & 7 must be that of the Clerk or Secretary of the corporation.

CITY OF NEWTON, MASSACHUSETTS

PERFORMANCE BOND

Know All Men By These Presents:

That we, _____, as PRINCIPAL, and _____, as SURETY, are held and firmly bound unto the City of Newton as Obligee, in the sum of dollars **($_____)** to be paid to the Obligee, for which payments well and truly to be made, we bind ourselves, our respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the said PRINCIPAL has made a contract with the Obligee, bearing the date of ___ _, 2024 for the construction of _____ in Newton, Massachusetts.

(Project Title)

Now, the condition of this obligation is such that if the PRINCIPAL and all Sub-contractors under said contract shall well and truly keep and perform all the undertakings, covenants, agreements, terms and conditions of said contract on its part to be kept and performed during the original term of said contract and any extensions thereof that may be granted by the Obligee, with or without notice to the SURETY, and during the life and any guarantee required under the contract, and shall also well and truly keep and perform all the undertakings, covenants, agreements, terms and conditions of any and all duly authorized modifications, alterations, changes or additions to said contract that may hereafter be made, notice to the SURETY of such modifications, alterations, changes or additions being hereby waived, then this obligation shall become null and void; otherwise, it shall remain in full force, virtue and effect.

In the event, that the contract is abandoned by the PRINCIPAL, or in the event that the Obligee terminates the employment of the PRINCIPAL or the authority of the PRINCIPAL to continue the work said SURETY hereby further agrees that said SURETY shall, if requested in writing by the Obligee, take such action as is necessary to complete said contract.

In Witness Whereof, the PRINCIPAL and SURETY have hereto set their hands and seals this ___day of _____ 2024.

PRINCIPAL	SURETY
_____	_____
BY_____ (SEAL)	BY _____ (ATTORNEY-IN-FACT) (SEAL)
_____ (Title)	
ATTEST: _____	ATTEST: _____

GENERAL CONDITIONS

OF THE CONTRACT

FOR NON-TECHNICAL SERVICES

The City of Newton, herein referred to as the City, does hereby establish the following General Conditions, applicable to this Invitation for Bids and any subsequent purchase order, work order, shipping order or contract resulting therefrom.

1.0 SCOPE OF SERVICES

1.1 The Contractor agrees to furnish all labor, materials, equipment and insurance necessary to perform and fully complete, in every respect, within the time frame herein specified, all work (hereinafter referred as the Services) described in the Project Manual.

1.2 The Contractor shall not make any changes in the scope of Services without the prior written consent of the City. The Contractor shall make reasonable revisions or corrections, within the scope of Services, to any work performed until submitted in a form acceptable to the City.

1.3 The City reserves the right to alter, add to or reduce the Services by delivering to the Contractor written notice specifying the nature and extent of such alteration, addition or reduction. Such notice shall be effective upon the later of actual receipt by the Contractor or upon the date given in such notice. No addition to the Services shall be made unless the City and the Contractor have agreed to such increase in writing.

2.0 CONTRACT TERM

2.1 The obligations of the Contractor identified herein shall commence upon execution of the City-Contractor Contract and shall continue in full force and effect for the duration of the contract term as identified in the Project Manual. The contractor shall commence the performance of services under this contract promptly upon receipt of the City's Notice to Proceed in accordance with the provisions identified in the Project Manual.

2.2 In the event the term of this contract exceeds a period of one year and notwithstanding any provision to the contrary herein, the City shall cancel this contract in the event that funds are not appropriated or otherwise made available to support continuation of performance by the Contractor in any fiscal year succeeding the first year.

3.0 EXECUTION

3.1 All work required hereunder shall be performed as promptly as possible, and in any event within the time herein set forth, and such work shall be subject to approval and acceptance by the City, but such approval and acceptance shall not relieve the Contractor from the obligation to correct any incomplete, inaccurate or defective work, all of which shall be promptly remedied by the Contractor on demand, without cost to the City. The Contractor shall obtain all the required licenses and permits for the work herein described.

3.2 The Contractor shall conform to all determinations and directions of the City concerning the Contractor's delivery of services in the event of inclement weather, equipment failure, picket lines on City property, or labor strikes by the contractor's employees.

4.0 COMPENSATION

4.1 The City shall pay the Contractor for services rendered under this contract in accordance with the amount(s) set forth in the Contractor's General Bid Form and pursuant to the provisions contained in the Project Manual.

4.2 Notwithstanding anything to the contrary contained in the Contract, the City may withhold any payment to the Contractor hereunder if and for so long as the Contractor fails to perform any of its obligations hereunder or otherwise is in default under this Contract including, without limitation, any failure to perform Services in full accordance with the amount sufficient in the reasonable opinion of the City to cure any such default or failure of performance by the Contractor.

4.3 In no event shall the City be required to pay any amounts for work deemed by it to be unacceptable, or which are otherwise disputed. In the event the City disputes any such amounts invoiced, it shall pay all amounts not in dispute and notify the Contractor in writing of the amounts disputed and the reasons therefor.

4.4 No payment made shall constitute or be construed as final acceptance or approval of that part of the Services to which payment relates, or relieve the Contractor of any of its obligations outlined in this Contract. Further, the City shall not be deemed, by virtue of making payments to the Contractor hereunder, to have released the Contractor from any claim or liability, or to have waived any action arising out of the breach of this Contract by the Contractor.

5.0 REPORTS AND DRAWINGS

When the Contractor has been paid for the Services performed by him or her, all reports, drawings, and other material furnished to the City shall become the City's property and may be used by the City (or such parties as the City may designate) thereafter in such manner and for such proposes as the City (or such parties as the City may designate) may deem advisable, without further employment of or additional compensation to the Contractor. The Contractor shall not release or disclose any report, drawing, or other material furnished to the Contractor by the City in connection with the performance of the Contractor's Services

6.0 CONTRACTOR'S ACCOUNTING RECORDS

The Contractor shall keep records pertaining to Services performed (including complete and detailed time records) on the basis of recognized bookkeeping practices, generally accepted accounting principles, and in accordance with such reasonable requirements to facilitate audit as the City may provide. All records shall be available to the City or its authorized representatives for review and audit during normal business hours.

7.0 ASSIGNMENT/SUBCONTRACTING

The Contractor agrees that he will not sell, assign or transfer this Contract or any part thereof or interest therein without the prior written consent of the City.

8.0 REMEDY FOR DEFAULT

If the Contractor, in the sole judgment of the City, shall violate or fail properly to comply with or perform in any material respect any condition, provision, or warranty hereof, the City shall have the right by prior written notice to the Contractor to have the services called for hereby otherwise performed, and/or to terminate this contract without prejudice to any other rights or remedies of the City under this contract. The Contractor shall pay any excess in the City's cost to so procure the services and any related goods, supplies, materials or equipment. In addition, and without limiting any other remedies available to the City, the Contractor shall be liable for all losses, costs and expenses incurred by the City which result from the Contractors noncompliance.

9.0 SUSPENSION OR TERMINATION

9.1 The City shall have the right, upon seven (7) days written notice to the Contractor so stating, to terminate, suspend, or postpone this contract in whole or in part for any reason deemed by the City to be in the public interest. Any such termination, suspension, or postponement shall not give rise to any cause of action for damages against the City. In the event that the City postpones or suspends the Services, the Contractor's time for performance of the Services shall be extended for a period equal to the period of such postponement or suspension. In the event of termination, suspension or postponement, the City shall pay: (a) for services and any related goods, supplies, materials and equipment furnished up to the time of termination, suspension, or postponement at the contract price upon delivery; (b) for work in process in the amount of the Contractor's cost, determined in accordance with ordinary accepted accounting practices, up to the time of termination, suspension, or postponement; and (c) for raw materials purchased by the Contractor as of the date of termination, suspension, or postponement and which are noncancelable at the Contractor's actual cost plus reasonable handling charges, but only to the extent that such raw materials were purchased in reliance upon this contract and are useful solely with respect to this contract.

9.2 Upon receipt of a notice of termination, suspension, or postponement the Contractor shall immediately cease all work hereunder and cancel all orders placed with respect to this contract. The Contractor's failure to so cancel shall relieve the City of the obligations of paragraph 10.1 above.

9.3 The City may postpone, suspend or terminate the Services immediately, by notice, hand delivery or certified mail, if the Contractor violates any of the provisions of this Contract, or fails to perform or observe any of the terms, covenants or conditions of this Contract, or abandons in whole or in part its Services, or becomes unable to perform its Services.

9.4 In the event of termination of this Contract, the Contractor shall promptly deliver to the City all documents, work papers, calculations, computer programs, data, drawings, plans, and other tangible work product, or materials pertaining to the Services performed under this Contract to the time of termination.

10.0 NOTICE

Any action, notice or request required to be taken, given or made by City or the Contractor hereunder may be taken, given or made only by those persons identified for that purpose on the Contract Form. All notices required to be given hereunder shall be deemed properly given if personally delivered, or if mailed by registered or certified mail, postage prepaid addressed to the address and officer identified on the Contract Form.

11.0 PROTECTION OF PROPERTY

The Contractor shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall restore to substantially the same condition existing prior to the Contractor's entry any disturbance or damage to property caused by the Contractor or any person acting under its control.

12.0 INSURANCE REQUIREMENTS

12.1 The Contractor shall provide insurance coverage as listed below. This insurance shall be provided at the Contractor's expense and shall be in full force and effect during the full term of this Contract.

<u>WORKER'S COMPENSATION</u>	
Worker's Compensation:	Per M.G.L. c.l49, §34 and c.l52 as amended.
<u>PUBLIC LIABILITY</u>	
Personal Injury	$500,000 each occurrence $1,000,000 aggregate
Property Damage	$500,000 each occurrence $1,000,000 aggregate
<u>VEHICLE LIABILITY</u>	
Personal Injury	$500,000 each person $1,000,000 aggregate
Property Damage	$300,000 each occurrence $500,000 aggregate

12.2 The City shall be named as additional insureds on the Contractor's Liability Policies.

12.3 The Contractor shall not commence the work until proof of compliance with this Section 12.0 has been furnished to the City by submitting one copy of a properly endorsed insurance certificate issued by a company authorized to write insurance in the Commonwealth. This certificate shall indicate that the contractual liability coverage is in force.

12.4 The Contractor shall file the original and one certified copy of all policies with the City within fifteen (15) days after contract award. If the City is damaged by the Contractor's failure to maintain such insurance and to so notify the City, then the Contractor shall be responsible for all reasonable costs attributable thereto.

12.5 Cancellation of any insurance required by this contract, whether by the insurer or the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and City at least thirty days prior to the effective date thereof, which shall be expressed in said notice.

13.0 CONFLICT OF INTEREST

No member, agent or employee of the City shall , during his/her tenure or one year thereafter directly or indirectly, have any interest in any property to be included in, or any contract for property, materials or services to be furnished or used in connection with, this contract or the proceeds thereof.

14.0 COMPLIANCE WITH LAWS

All work to be performed and wages paid under this specification shall be in accordance with all applicable laws, state or federal, and all applicable ordinances, codes, rules, and regulations of the City of Newton, or any public board or office having any jurisdiction, regulation or control over any work to be done hereunder, including minimum wage rates. In particular, without limitation, the Contractor agrees to comply with all regulations pertaining to approvals for federal and state grants, and with all federal and state environmental laws and regulations. The Contractor agrees to assist in making any submissions to federal or state agencies as may be required in order to meet the requirements in this paragraph.

15.0 INDEMNIFICATION

The Contractor agrees to indemnify and save the City harmless from and against any and all costs, losses, expenses, liabilities, damages or claims for damages, including reasonable attorney's fees and expenses, on account of any injury or damage to buildings, improvements, or property of the City or on account of any injury (including death) or damage to any person, persons, firm, corporation or association, or on account of any infringement or claim of infringement of patents, arising out of or resulting from the deliveries provided for or performed under this contract or from any act, omission or negligence of the contractor, his agents, employees, or assigns. The foregoing provisions shall not be deemed to be released, waived or modified in any respect by reason of any surety or insurance provided by the contractor under contract.

16.0 FORCE MAJEURE

The City may not hold the Contractor liable for any loss, expense or damage incurred by the City on account of failure of the Contractor to deliver services as specified herein, if that failure is caused by state of war, acts of enemies, expropriation or confiscation of facilities used by the Contractor, or compliance with any law, order, or regulation of any federal, state or municipal governmental authority, if the Contractor shall show that such compliance would impair this ability to perform a material provision of this contract, the Contractor having given the City reasonable notice of such cause.

17.0 DISPUTES

All claims, disputes and other matters in question between the City and the Contractor arising out of or relating to this Contract or the breach of it, shall be submitted for resolution to a court of competent jurisdiction in Massachusetts, unless otherwise agreed by the parties. No such action shall be brought, however, until the completion of all Services under this Contract or the earlier termination of this Contract as provided herein, the parties agreeing to negotiate any claims, disputes or other matters in question during the term of this Contract before resorting to litigation. As to all acts or failures to act by either party to this Contract, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events when the other party becomes aware or should have been aware of such acts or failure to act.

18.0 GOVERNING LAW

This contract shall be governed by and construed in accordance with Massachusetts Law.

19.0 LIABILITY

The Contractor is retained solely for the purpose of and to the extent set forth in this Contract. The Contractor's relationship to the City for the purpose of services to be performed under this Contract shall be that of an independent contractor. The Contractor shall have no capacity or authority to involve the City in any contract or to incur any liability on behalf of the City. In no event shall the City be held liable as an employer or otherwise for any personal injury to or death of the Contractor's principals, employees, agents and/or representatives occasioned by or resulting from the Contractor's performance under this Contract.

20.0 LIENS

The Contractor shall cause to be removed from the property of the City any liens or other claims asserted by any person or entity claiming through or under the Contractor and arising out of Services performed under this Contract by such third party.

21.0 SEVERABILITY

In the event that any portion of this Contract is held illegal or unenforceable by a court of competent jurisdiction, the parties agree that such invalidity shall not affect the validity of the remaining portions of this Contract and Contractor and the City agree to substitute for the invalid provision a valid provision which most closely approximates the economics and intent of the invalid provision.

END OF SECTION

CITY OF NEWTON
DEPARTMENT OF **PUBLIC WORKS**
UTILITIES DIVISION
SCOPE OF WORK
GRASS CUTTING & TRIMMING, REMOVAL OF LEAVES, MULCHING & PRUNING OF SHRUBS
At 6 Locations

1. Introduction

a. The City of Newton, through the Department of Public Works – Utilities Division (DPW), intends to award a contract for grass cutting and trimming, removal of leaves, mulching and pruning services at specific areas of public property within the City of Newton.

b. The general scope of this contract shall consist of grass cutting and trimming, removal of leaves and branches, mulching and pruning of shrubs at six (6) sites throughout the City. Work shall also include removal of all debris including, **ALL** downed limbs, obvious large weeds in pre-existing plant mulch beds and removal of litter from pre-existing plant mulch beds including areas that are to be cut and trimmed before they are cut and trimmed, as well as the removal and off-site legal disposal of all debris generated in performance of the work.

c. The contract shall also include Unscheduled Work, as defined herein, to be performed at the discretion of the City, and at the prices herein established.

d. If accepted by the City, the contract shall also include the work of leaf removal as provided herein.

e. If accepted by the City, the contract shall also include the work of the mulching of existing plant beds (tree and shrub) only at the sites that are listed herein.

f. If accepted by the City the contract shall also include the work of the pruning of shrubs only at the sites that are listed herein.

g. The initial term of this Contract shall be for 12 months from date of contract execution. The City shall have the option to renew for two additional one-year terms, with no change in contract price or terms. The City shall retain sole discretion in the exercise of each option to renew. A termination due to non-appropriation or withdrawal of funds shall be effective as of the last day of the fiscal year in which such non-appropriation or decision to withdraw funding occurred, or as of the date when such appropriated and authorized funds are exhausted or withdrawn, whichever is later, without liability to the City for damages, penalties or other charges on account of such termination. In the event of a termination due to non-appropriation or withdrawal of funds, services will be paid for up to the effective date of termination.

2. Bidding Information

a. Bidding on this contract shall be limited to individuals, companies, partnerships and corporations actively engaged in the business of grass cutting or landscape maintenance. In order to be considered eligible for award of this contract, bidders must demonstrate that they have successfully completed contracts similar in scope and nature to that specified herein. Specifically, the contractor must have demonstrated the capabilities to handle multiple sites with weekly service contracts that encompass a minimum of 50 acres. Bidders shall provide information regarding their previous contract experience on the Bidder's Qualification and Reference Form included herein. The intent of this paragraph is to ensure that the awarded bidder has the necessary resources to faithfully execute the requirements of this contract. The City reserves the right to waive the previous contract experience requirement if the Bidder, in the City's sole determination, is able to otherwise demonstrate that s/he possesses the resources to insure good faith performance of this contract.

b. Bidders may be required to demonstrate to the satisfaction of the City as a condition of contract award that they possess vehicles and equipment sufficient for the successful performance of this contract and which substantially meets the specifications as set forth in Section 11, Equipment Requirements.

c. All bids shall be based on the locations and frequencies set forth on the bid sheets. It is understood that the locations and frequencies stated herein are given solely as a basis for the comparison of the proposals and to establish a contract value.

While the locations and frequencies are based on the City's best estimates of the work to be performed during the term of this Contract, the City does not expressly or by implication agree that the actual amount of work will even approximately correspond therewith, and the City reserves the right to increase or diminish the amount of any class or portion of the work as it may deem necessary, without change of price per unit of quantity.

d. It is the responsibility of the bidder, before submission of his/her proposal, to familiarize him/herself with the specifications of the Contract, and to investigate in detail the sites at which the proposed work is to take place.

e. All bids must be accompanied by a bid deposit in an amount not less than five percent (5%) of the combined total of the Combined Base Bid. Said bid deposit may be in the form of a certified or cashier's check or surety bond drawn upon a bank or surety company approved for such transactions in the Commonwealth by the Division of Insurance.

3. Contract Supervision and Administration

a. The work of this contract shall be carried out under the direction of the DPW Commissioner (the Commissioner or his designee being referred to hereinafter as the "Commissioner"). In the exercise of all or any of the powers herein granted the Commissioner shall have the authority to delegate all or any part of his/her powers and duties with respect to the supervision and control of this Contract to his/her subordinates and assistants in the employ of the City as he/she may determine.

b. The Commissioner intends to designate a "Contract Supervisor" from within the subordinates and assistants in the employ of the DPW. The Contractor shall be required to communicate on a daily/weekly basis with the Contract Supervisor in regard to the performance of the work of this contract. **The Contractor shall be required to contact the Contract Supervisor daily via email as to the scope of work and date of performed at each location (alphabetized names of sites where the grass was mowed and trimmed, alphabetized names of sites where the leaves were removed, alphabetized names of sites that were mulched, and alphabetized names of sites that were pruned).**

4. Hours and Conditions of Work

a. The Contractor shall work within the following time frames: Monday through Friday, with the exception of legal holidays. Starting times will vary between the hours of 6:00 AM to 7:00 AM, depending on the time of year. Contractors are not to turn on any machinery prior to 7:00 AM. The period from 6:00 AM to 7:00 AM can be used as a time to clear the area of any debris including downed limbs (3" diameter or less), litter and to remove weeds in existing mulched beds. Any work to be done after 5:00 PM must have prior approval of the Commissioner. The Contractor will not be paid for lunch. On Saturdays no equipment may be turned on before 8:00 am. Any contractual grounds maintenance work on Sundays and legal holidays must have the approval of the Mayor. The end of the workday for weekdays and Saturdays shall be 5:00 pm.

5. Grass Cutting/Trimming Requirements

a. The cutting season runs during the growing season, generally, from May through September of each year, subject to weather conditions. Actual dates for commencement and conclusion of the cutting season shall be at the discretion of the Commissioner.

b. The number of seasonal cuttings prescribed for each area to be cut is shown on the bidding forms. The Commissioner reserves the right to revise the mowing frequency at any site in accordance with actual requirements. It shall be the Contractor's responsibility to schedule resources accordingly to accomplish the required service at all sites. Upon award of the bid the City shall provide the Contractor an alphabetized schedule of the weekly mowing to be performed at each site.

c. In all cases, the site boundaries extend to any fence, wall, or gutter line of the adjacent street, including all sidewalks and tree wells. If a fence lies between the park area and an adjacent building or gutter line, the site boundaries extend to that building or gutter line.

d. **The City of Newton has committed to Integrated Pest Management principles and practices, which will be incorporated into this contract. As part of the IPM practices, the contractor shall be required to cut the grass at variable heights during the course of the cutting season. The contractor shall also be required to cut different portions of the same site at different heights during the same cutting.**

The contractor is required to have equipment that allows for this practice in an efficient manner. The change in cutting requirements is at the discretion of the Commissioner. The Commissioner reserves the right to determine grass-cutting heights for each site and to change the grass cutting height for each site as circumstances may require. The Contractor will be expected to communicate regularly with the Commissioner regarding the requirements of this paragraph. Other important IPM policies and guidelines are to limit/reduce the amount of pesticides applied to our athletic/school fields. Only state listed and approved pesticides are available for use on our athletic/school fields. These are only for use in an IPM Committee approved emergency situation. The product label for these pesticides is to be followed, including using the lowest labeled rate for the active ingredient. All abutters of the public property pending a pesticide application are to be notified, including proper notification posted at the location. Required notification shall include the Required Entry Interval (REI).

e. In conjunction with each cutting, the Contractor shall perform trimming of grass that the power mowers are incapable of reaching due to its close proximity to obstructions. Trimming shall be made to the same height as the adjacent cutting to create a uniform appearance. The Contractor shall be required to trim grass normally encountered around trees, shrubs, and other fixed objects, down embankments adjacent to mowed areas and along buildings, fences and other permanent or essential structures and obstructions. However, when the grass trimming shall be performed particular care shall be used to prevent any damage to fixed objects along embankments, along fences and other permanent or essential structures or obstructions.

f. **Prior to each cutting at each site, the Contractor shall clean up and dispose of site at the Contractor's expense, all trash, downed limbs and branches (sized 3 inches or less), and foreign matter found on the area to be cut.**

g. The Contractor shall be responsible for the proper disposal of all grass clippings and other debris generated by the Contractor's performance of the grass cutting and trimming work performed pursuant to these specifications. The cost of all such disposal shall be borne by the contractor.

h. The Contractor shall be required to repair any areas that are damaged by his employees and/or equipment. **There is no parking on top of the covered reservoir.** Parking of vehicles and trailers is to be done on the street or City parking lots. If no parking is available, please contact contract supervisor. Contractor will be directed to a portion of the area on the grass that is a passive use area.

i. The Contractor's work shall be done in a workmanlike manner and the performance thereof shall be to the satisfaction of the Commissioner. Scalping of any kind (either from mowing or trimming) shall not be tolerated. All adjacent curbing, sidewalks, paved areas, bricked areas, gutter areas parking lots etc. are to be blown or swept clean after any maintenance performed. All adjacent curbing, sidewalks etc. will be string trimmed when they are mowed to insure a neat appearance.

j. In the event the Contractor fails to perform a scheduled mowing at any site, the City reserves the right to perform the required service with its own personnel or to contract for the required service on the open market at the then prevailing price and to deduct from any moneys due or that thereafter may become due to the Contractor the difference between the unit price per cutting named in the contract for that site and the actual cost thereof to the City.

k. Grass clippings are not to be bagged.

6. Leaf Removal and Branch Removal

a. **All leaves and all branches are to be removed by the Contractor from each location.** Generally, the time when the majority of leaves have fallen from trees is mid-November.

b. In all cases, the site boundaries extend to any fence, wall, or gutter line of the adjacent street, including all sidewalks and tree wells. If a fence lies between the park area and an adjacent building or gutter line, the site boundaries extend to that building or gutter line.

c. Leaf removal and branch removal will be performed once each fall, on or after a date determined by the Commissioner, generally after the majority of leaves have fallen, the Contractor shall be responsible for transportation and disposal of all leaves removed from the sites.

d. The Contractor shall adhere to all City of Newton ordinances **including the noise ordinance** (**Appendix F**) in place during the timeframe of this contract.

e. All gas-powered blowers must meet current standards as defined by the American National Standards Institute.

f. Under no circumstances shall any litter or debris be blown, swept, or raked onto an adjacent street, gutter, or into a catch basin, nor shall it be blown onto adjacent property, vehicles, persons, or pets.

g. Rakes or brooms shall be used to loosen heavier debris. Blowers shall not be used to move large debris piles from one spot to another.

h. The muffler, air intakes and all filters of gas-powered blowers shall be checked routinely to ensure efficient operation.

i. All blowers shall be equipped with the longest possible nozzle extension for that model, to direct the air stream as close to the ground as possible.

7. Mulching Requirements

a. The estimated frequency of all mulch applications will be one time annually. Mulch applications are to conform to the following specifications:

i. Mulch shall be a uniform blend of shredded aged dark brown bark mulch with a uniform color.

ii. Mulch shall be a suitable hemlock spruce mix or a hemlock pine mix.

iii. The composition of the shredded aged dark brown bark mulch material shall not exhibit a noticeable degree of any color change characteristics when wet.

iv. The aged dark brown bark mulch shall be insect and disease free of anything that would be harmful to the plants in the area.

v. The aged dark brown bark mulch material shall not have an unpleasant odor to it.

vi. Prior to the contractor ordering aged dark brown bark mulch material, the contractor shall submit to the Contract Supervisor, at the contractor's expense, one cubic foot sample of the shredded aged dark bark mulch material. The contractor shall not order any delivery of the shredded aged dark bark mulch material until the contractor's sample has been inspected and approved by the Contract Supervisor.

vii. If the Contract Supervisor disapproves of the sample submitted by the contractor, then the contractor shall continue at no expense to the City, to obtain other sources of aged dark brown bark mulch material as specified until the contractor's sample of such material, meets with the Contract Supervisor's approval.

b. Mulch shall be applied with a direct delivery bark mulch blower, unless otherwise agreed by both the City and the Contractor. Following application, the resultant mulch surface shall not exceed 1.5 inches total and should conform to the grade of any adjacent lawn or hardscape surface. Mulch shall not come in contact with the trunk or root flare of any trees or other woody vegetation (mulch should be two to three inches from trunks of plants). The City may direct the Contractor to only apply a surface coating of mulch to those plants that have been over-mulched in the past.

c. Prior to applying mulch, the bed is to be cleared of all debris, litter, weeds and undesirable plants and disposed of offsite at the expense of the contractor.

d. **Any existing mulch that is excessively built up around desirable vegetation is to be raked out beyond the drip line of the plant.**

e. Apply a 1.5-inch layer of mulch (after settlement) throughout the entire bed. Mulch shall not be excessively mounded around any remaining plant material. Mulch shall not come in contact with the trunk or root flare of any trees or other woody vegetation (mulch should be two to three inches from trunks of plants).

8. Pruning Requirements

a. Pruning, with an estimated frequency of one time annually, shall generally include the reduction of the overall size of the shrub or individual branches, and may include the overall reduction of the sides as well as the top of the shrub, while preserving the integrity of the plants' natural growth habit. Inclusive in this practice would also be the removal of dead, dying, diseased, live interfering, objectionable and weak branches as well as live branches to create more space.

b. All pruning shall be performed in accordance with the City of Newton "Pruning Guidelines".

c. **All pruning to take place at the six (6) sites shall conform to Newton's Environmental Guidelines for shrub growth around the schools. There shall be an eighteen (18) inch distance between the building and the plant.** The only situation where this guideline shall not be used is where the integrity of the plant's natural growth habit is in jeopardy. It is highly recommended to view all locations to properly familiarize oneself with necessary plant pruning at each location.

d. The pruning crew shall consist of horticulturally skilled laborer(s), equipped with the following equipment and tools: 3/4 ton dump truck, telescopic pole saws, hand saws, trimming shears, loppers, hand pruners, rakes, other commonly used pruning tools, and generators or other source of electrical supply for electric pruning equipment, if any. NOTE: The City will not provide electricity for any electrical pruning equipment.

e. The contractor shall be responsible for the proper off-site disposal of all debris generated by the Contractor's performance of the pruning work performed pursuant to the Scope of Work. The cost of all such disposal shall be borne by the Contractor.

f. It is **not** required **but** encouraged that all pruning be supervised by a Massachusetts Certified Arborist or an individual with an equally qualified horticultural certification.

9. Unscheduled Work

a. From time to time during the term of this contract the Commissioner may call upon the Contractor to perform work in addition to regularly scheduled work. Such unscheduled work may include grass cuttings made outside of the normal cutting season or in addition to regularly scheduled cuttings. Unscheduled work may also include mulching or pruning in addition to the one-time scheduled mulching or pruning at each site included in the scope of work. Unscheduled work shall not include regular cuttings or pruning that is rescheduled due to inclement weather, equipment problems or for any other reason. Weather conditions may cause changes in schedule.

b. Unscheduled work in the form of grass cutting shall be compensated at the unit price per cutting shown on the bid forms for the site in question.

c. Unscheduled work in the form of mulching shall be compensated at the Option One unit price per cubic yard for mulch shown in the price schedule. The City of Newton requests an additional cost for the installation of mulch on a per cubic yard basis for sites that are not included in the regularly scheduled work or locations under the Contract.

d. Unscheduled work in the form of pruning shall be compensated at the Option Two-unit price per hour for pruning shown in the price schedule. The City requests an hourly rate for additional pruning at sites that are not included in the regularly scheduled work or locations under this Contract.

10. Equipment Requirements

a. The following equipment and vehicles shall be considered a minimum requirement in order to be considered a responsible bidder under the terms and conditions of these Contract Documents. All gas-powered equipment and vehicles must be five years old or less. The City reserves the right to inspect a Contractor's inventory before making a bid award. ***All equipment shall meet the City of Newton Noise Ordinance (Appendix F).***

- Two (2) 60-inch hydrostatic rotary riding mowers (or larger)
- Two (2) 48-inch hydrostatic rotary walk-behind mowers
- Two (2) 21-inch rotary walk-behind mowers
- Two (2) gas powered backpack blowers
- Two (2) electric or battery powered backpack blowers
- Two (2) gas-powered string trimmers
- Two (2) gas-powered pruning shears

- One (1) gas-powered edger
- One (1) one-ton dump truck, with Contractor's name painted on each side
- One (1) trailer of sufficient size to carry all required equipment
- One (1) leaf vacuum loader

b. If a particular type or size of equipment used by the Contractor does not perform satisfactorily in specific locations, the Contractor shall provide other equipment that will perform satisfactorily as determined by the Commissioner. **All mowers shall be equipped with the approved safety skirts at all times**.

c. The Contractor shall be required from time to time, to show proof that all of the equipment utilized in the performance of the work under the terms of this Contract, is on a preventative maintenance program and is on a regular routine maintenance schedule. The equipment furnished by the Contractor shall be in good repair and shall be so maintained as to produce a clean, sharp cut to the grass at all times. Mower blades shall be sharpened twice a month.

d. The Contractor's vehicles and equipment shall at all times be clean and in good repair and kept in a sanitary condition.

e. The City reserves the right, prior to the award and during the term of this Contract, to inspect the serviceability of any and all equipment which will be used by the Contractor for work called for in the terms of this Contract. The City reserves the right at any time to order the Contractor to immediately discontinue the use of any equipment which the City at its sole discretion determines to be unsafe or otherwise unfit for use in the performance of this contract

f. Storage of equipment is the responsibility of the Contractor.

g. The Contractor shall make sure that all vehicles are properly licensed according to Massachusetts Motor Vehicle Regulations.

h. No time shall accrue and no payment shall be made for any time when a vehicle or piece of equipment is not performing its assigned task, regardless of reason.

11. Personnel Requirements

a. The Contractor shall supply sufficient personnel to perform the work in accordance with the applicable specifications and conditions listed herein. The Contractor shall employ only competent personnel to do the work; and whenever the City shall notify the Contractor in writing, that a person in charge of, or on the work site, is incompetent, unfaithful, disorderly, unsafe, under the influence of liquor and/or drugs, using insolent or improper language, or is otherwise unsatisfactory in any manner, or not employed in accordance with the provisions of this Contract, such persons shall no longer be assigned by the Contractor to perform work called for under the terms of this Contract.

b. The Contractor shall employ drivers for any of his/her vehicles and equipment who, at all times, possess and carry the necessary valid and applicable commercial vehicle operator's licenses.

c. The Contractor shall not allow any operator to leave any grass cutting or pruning equipment unattended.

d. The Contractor shall employ qualified personnel, who, when assigned to a work site, shall dress in suitable work and safety clothing during normal work hours, when performing work at sites.

e. The Contractor will be notified immediately by the Contract Supervisor, the City Safety Officer, or any other authorized City of Newton personnel if it is found that his employees are in violation of the safety requirements and work shall be ordered stopped until such violations are corrected. All Contractors are required to comply with the Federal/OSHA and State Regulations pertained to grass cutting in the City of Newton.

f. The Contractor and foreman/supervisor must have a Sprint Nextel phone for communication.

12. Indemnification

a. The Contractor acknowledges and agrees that it is responsible as an INDEPENDENT CONTRACTOR for all services provided under this Contract and agrees that it will indemnify, hold harmless and defend the City and its agents and employees from and against all claims, damages, losses and expenses, including attorneys' fees arising out of, or resulting from, the performance of the services to be performed under this Contract, to the extent that any such claim, damage, loss or expense: 1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting there from, and 2) is caused in whole or in part by any negligent or willful act or omission of the Contractor, any of the Contractor's employees or agents, or anyone for whose acts the Contractor may be liable, except to the extent it is caused by a party entitled to indemnification hereunder.

13. Permits

a. The Contractor and employees must be fully licensed by the appropriate State and Federal agencies. The Contractor shall secure and pay for all permits, bonds, governmental fees and licenses necessary for the proper execution of the required work.

14. Payment

a. The Contractor shall be paid in accordance with the unit prices as specified in the Contractor's bid within forty-five (45) days of an approved monthly invoice. Payment shall be subject to the City's right to adjust the bill as specified in subparagraph b. of this section. Invoices should be submitted to DPW, 1000 Commonwealth Avenue, Newton, MA. 02459. The payment of said compensation shall be considered complete and exclusive compensation for services rendered. The City shall not assume any additional costs, such as employment benefits, health benefits, or other reimbursements.

b. The City reserves the right to adjust the bill for any work not performed or not performed according to these specifications. The City also reserves the right to perform grass cutting and pruning services with its own forces or with other contractors as circumstances may require.

15. Observance of Laws

a. The Contractor shall fully comply with all Federal, State, and Local Regulations and Ordinances within the City of Newton.

16. Interpretation of Contract

a. This Contract is to be interpreted in accordance with the Laws of the Commonwealth of Massachusetts. If any part of this Contract or the Contract documents or their application to any situation shall to any extent be invalidated or contrary to law, the remainder of the Contract and the Contract documents and the application to other situations of any provision found invalid as to any situation, shall not be affected thereby.

17. Availability of Funds

a. The amount of work to be performed under this Contract is subject to the availability of appropriated funds. If, for any fiscal year of this agreement, sufficient funds to support the continuation of the Contract are not appropriated or otherwise made available, the City shall cancel the Contract.

18. Public Relations

a. The Contractor and his employees shall at all times conduct themselves in an appropriate manner. If for any reason the Contractor is approached by an individual, they are to refer that individual to Newton's DPW contract supervisor (Douglas Valovcin @ 617-796-1627).

b. The Contractor may **only** work at any location. There are to be no activities other than work activities at a location (lunch is the only exception). Once the work is completed, the Contractor is required to leave the site.

END OF SCOPE OF WORK SECTION

"APPENDIX - A"
GRASS CUTTING & TRIMMING (WORK SITES AND EST. ACREAGE)
(Acreage includes only turf)

	WORK SITE	APPROXIMATE ACREAGE
1.	Waban Hill Covered Reservoir (Opposite 141 Waban Hill Road North)	4.05
2.	Langley Road Booster Station (Opposite Madoc Street)	0.03
3.	Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)	0.03
4.	DPW Operations Yard (60 & 74 Elliot Street)	0.68
5.	Elliot Street Pump Station (391 Elliot Street)	0.46
6.	Quinobequin Road Pump Station (136 Quinobequin Road)	0.49

APPROXIMATE TURF ACREAGE TOTAL **5.98 ACRES**

"APPENDIX - B"
LEAF AND BRANCH REMOVAL (WORK SITES AND EST. ACREAGE)
(Acreage includes turf, planting beds, parking areas, but does not include building square footage)

	WORK SITE	APPROXIMATE ACREAGE
1.	Waban Hill Covered Reservoir (Opposite 141 Waban Hill Road North)	4.05
2.	Langley Road Booster Station (Opposite Madoc Street)	0.03
3.	Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)	0.26
4.	DPW Operations Yard (60 & 74 Elliot Street)	0.68
5.	Elliot Street Pump Station (391 Elliot Street)	0.46
6.	Quinobequin Road Pump Station (136 Quinobequin Road)	0.49

APPROXIMATE TURF ACREAGE TOTAL **5.98 ACRES**

APPENDIX – C

MULCHING SITES

1. Langley Road Booster Station (Opposite Madoc Street)
2. DPW Operations Yard (60 & 74 Elliot Street)
3. Elliot Street Pump Station (391 Elliot Street)
4. Quinobequin Road Pump Station (136 Quinobequin Road)

APPENDIX – D

PRUNING SITES

1. Waban Hill Covered Reservoir (Opposite 141 Waban Hill Road North)
2. Langley Road Booster Station (Opposite Madoc Street)
3. Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)
4. DPW Operations Yard (60 & 74 Elliot Street)
5. Elliot Street Pump Station (391 Elliot Street)
6. Quinobequin Road Pump Station (136 Quinobequin Road)

APPENDIX – E
ADDRESSES OF GRASS MOWING SITES

1. Waban Hill Covered Reservoir (Opposite of 141 Waban Hill Road North)
2. DPW Operations Yard (60 & 74 Elliot Street)
3. Elliot Street Pump Station (391 Elliot Street)
4. Quinobequin Road Pump Station (136 Quinobequin Road)
5. Langley Road Booster Station (Opposite Madoc Street)
6. Ober Road Elevated Storage Tank (Opposite of 306 Country Club Lane)

APPENDIX – F
NOISE ORDINANCE

ARTICLE II.
NOISE

Sec. 20-13. Noise control.

(a) This ordinance may be cited as the "Noise Control Ordinance of the City of Newton."

(b) Declaration of findings and policy. Whereas excessive sound is a serious hazard to the public health and welfare, safety, and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and, whereas the people have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; now therefor it is the policy of the City of Newton to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

(c) Scope. This ordinance shall apply to the control of all sound originating within the limits of the City of Newton except as follows:

(1) the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or in training exercises related to emergency activities; and

(2) all snow clearance activities; and

(3) any program or activity supervised by the parks, recreation and culture department of the city in effect and as it exists on June 1, 1983.

(d) Definitions. For the purposes of this ordinance the following words and phrases shall have the meanings respectively ascribed to them by this section:

Construction and demolition: Any excavation, highway construction, land development or land clearing work, or the erection, demolition, alteration, repair, or relocation of any building or structure, which uses powered equipment such as backhoes, trucks, tractors, excavators, earth moving equipment, compressors, motorized, or power hand tools, manual tools, or equipment of a similar nature as well as two-way radios or other communication equipment; or use of any equipment for recycling, screening, separating, or any other processing of soil , rocks, concrete, asphalt or other raw material.

Leaf blower: any portable motorized device, whether carried or pushed, whether powered by gasoline or other fuel, electricity or battery, used in any landscape or property construction or maintenance activity, for the purpose of blowing, dispersing, redistributing, or removing dust, dirt, leaves, grass or plant clippings, litter or other debris.

Electronic devices: any radio, tape recorder or player, television, phonograph, public address system, loudspeaker, amplified musical instrument or any other similar device, except two-way communication radios.

Emergency: any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work: any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Gross vehicle weight rating (GVWR): the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

Motorcycle: any unenclosed motor vehicle having two or three wheels in contact with the ground, including, but not limited to, motor scooters, minibikes, and mopeds.

Motor vehicles: any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, dune buggies, or racing vehicles, but not including motorcycles.

Noise pollution: a condition caused by a noise source that increases noise levels 10dB(A) or more above background noise level, except that if the noise source produces a tonal sound, an increase at 5dB(A) or more above background noise level is sufficient to cause noise pollution.

Tonal sound: any sound that is judged by a listener to have the characteristics of a pure tone, whine, hum or buzz.

(e) *Noise Pollution prohibited.*

(1) No person shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions permit the establishment or continuation of a condition of noise pollution caused by a noise source (other than a dog or bird) owned, leased, kept, or controlled by such person, or caused by any activity of such person.

(2) When the offending noise source is located in public spaces, noise measurements shall be made at, and noise pollution determinations made in relation to, any location a passerby might reasonably occupy. When the offending noise source is located on private property, noise measurements shall be made at, and noise pollution determinations made in relation to, the boundary line of the property within which the offending source is located, or as close thereto as feasible.

(3) All noise level measurements made pursuant to subsection (e) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

(f) *Time Restrictions*.

(1) Notwithstanding the provisions of subsection (e) and subject to the maximum noise levels listed in subsection (g), the generation of any noise from all electric motors and/or internal combustion engines employed in yard, garden, or grounds maintenance is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 8:00 p.m. on weekdays; or

(B) Between 9:30 a.m. and 8:00 p.m. on Saturdays, Sundays and legal holidays as established in section 2-26 of these revised ordinances.

(2) Notwithstanding the provisions of subsection (e) and subject to the maximum noise levels listed in subsection (g), the generation of any noise from construction and demolition activity is prohibited except during the following time periods:

(A) Between 7:00 a.m. and 7:00 p.m. on weekdays; or

(B) Between: 8:00 a.m. and 7:00 p.m. on Saturdays;

(C) Generation of any noise from construction and demolition activity is prohibited at any hour on Sundays and legal holidays as established in section 2-26 of these revised ordinances, except by permit issued in accordance with subsection (i).

(3) All public address loudspeakers, either mobile or stationery, shall be prohibited from operating every evening from 9:00 p.m. until 7:00 a.m. the following morning.

(4) No automobile, motorcycle, truck or vehicle-mounted refrigeration equipment or other motorized vehicle shall be left running when not in traffic, within three hundred (300) feet of any dwelling, hotel or residence, for a period of greater than five (5) minutes.

(5) Between the hours of midnight and 6:00 a.m. deliveries and pick-ups for commercial or business purposes are prohibited within 300 feet of any dwelling within a residential zone excepting deliveries to such dwellings, deliveries of gasoline to gasoline stations, deliveries or pick-ups at state or federal governmental offices and any other commercial or business delivery or pick-up operation that does not increase noise levels 5dB(A) or more above background noise level. For purposes of this subsection, "deliveries" and "pick-ups" shall include the loading and unloading of a vehicle.

(6) Between the hours of 7:00 p.m. and 7:00 a.m. trash collection shall be prohibited within five hundred (500) feet of any dwelling.

(7) Between the hours of 11:00 p.m. and 7:00 a.m. no person or persons shall disturb the peace by causing or allowing to be made any unreasonable or excessive noise, including but not limited to such noise resulting from the operation of any electronic device, or from the playing of any band or orchestra, or from the making of excessive outcries, exclamations, or loud singing or any other excessive noise by a person or group of persons, provided however, that any performance, concert, establishment, band group or person who has received and maintains a valid license or permit from any department, board, or commission of the City of Newton authorized to issue such license or permit shall be exempt from the provisions of this section. Unreasonable or excessive noise for the purposes of this section shall be defined as 5dB(A) or more above background level when measured not closer than the lot line of a residential lot or from the nearest affected dwelling unit.

(g) *Maximum Noise Levels.* Notwithstanding the provisions of subsections (e)(1) and (e)(2), the following are the maximum noise levels that are permitted for the specified purposes:

Maximum noise level dB(A) permitted:

(1) Vehicles

Vehicle Class ..... Stationary or Moving

All vehicles over 10,000 lbs. GVW or GCWR 86

All Motorcycles 82
Automobiles and light trucks..... 75

Noise measurements shall be made at a distance of fifty (50) feet from the closest point of pass-by of a source or fifty (50) feet from a stationary vehicle.

(2) *Construction and demolition.*

The cumulative noise level of all construction and demolition on one site at any one time shall not exceed 90dB(A). No individual piece of equipment shall exceed a maximum noise level of 90 dB(A). If noise barriers are used that effectively shield nearby areas from a condition of noise pollution, the following devices shall be exempt from the maximum noise level limitations: jackhammers; pavement breakers; pile drivers; and rock drills.

Maximum noise level dB(A) permitted:

Backhoe, bulldozer, concrete mixer, dump truck, loader, paver, pneumatic tools, roller, scraper 90
Air compressor 85
Generator 90
Electric drills, sanders, saws (except chainsaws) or other power tools of all types, whether handheld or otherwise 75

Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

(3) *Yard, Garden, or Grounds Maintenance Equipment*

Maximum noise level dB(A) permitted:

Commercial Chipper, 3 1/2 inch or greater limb capacity (running at full speed but not chipping) 90
Commercial truck-mounted leaf vacuum 90
All other equipment, including home tractor, lawn mower or trimmer..... 65

Noise measurements shall be made at a distance of fifty (50) feet from the source, or from the nearest lot line, whichever distance is less.

(4) Tonal Sound Corrections. When a tonal sound is emitted by a noise source specified in subsections (g)(1), (g)(2) and (g)(3) herein, the limit on maximum noise levels shall be 5dB(A) lower than as specified in subsections (g)(1), (g)(2) and (g)(3).

(4) Maximum Noise Levels for HVAC systems. No person shall operate any air conditioning, refrigeration or heating equipment for any residence or other structure or operate any pumping, filtering or heating

equipment for any pool or reservoir in such manner as to create any noise which would cause the noise level on the premises of any other occupied property or if a condominium, apartment house, duplex, or attached business, within any adjoining unit, to exceed the background noise level by more than 5 dB(A). This provision shall not apply, however, to periodic or emergency maintenance or testing of such equipment reasonably necessary to maintain such equipment in good working order. Noise measurements and noise pollution determinations shall be taken in accordance with subsections (e)(2) and (e)(3).

(6) Alternative Measurement Procedures. If it is not possible to make a good noise level measurement at the distance specified in subsections (g)(1), (g)(2) and (g)(3), measurement may be made at an alternate distance and the noise level subsequently calculated for the specified distance. Calculations shall be made in accordance with established engineering procedures.

(7) All noise-level measurements made pursuant to subsection (g) shall be made with a Type I or II A-weighted sound level meter as specified under the American National Standards Institute (ANSI) standards.

(h) *Restrictions on use of leaf blowers*. Notwithstanding the provisions of sections 20-13 (f) and (g), on or after January 1, 2017 no person, including any City employee or contractor, shall use or operate a leaf blower within the City of Newton from Memorial Day through Labor Day in each year, except that one 65 dB(A) electric or battery powered leaf blower per lot may be used during this period. At all other times leaf blowers may be operated subject to the following provisions:

(1) Permitted hours of use. Leaf blowers may be operated only during the following times:

Monday – Friday: 7:00 a.m. – 5:00 p.m., except that the City of Newton, through its parks, recreation and culture department, shall be allowed to use leaf blowers prior to 7:00 a.m. for the sole purpose of maintaining city village centers.

Saturday: 8:00 a.m. – 5:00 p.m.

Sundays and legal holidays: prohibited except for operation by a resident of the property on which the leaf blower is operated between 9:30 a.m. and 5:00 p.m.; and except for operation of leaf blowers on contiguous lots under single ownership that total a minimum of thirty acres used for institutional or recreational purposes between 9:30 a.m. and 12:00 p.m.

(2) Only leaf blowers meeting the following criteria are permitted for use:

A. Leaf blowers must be manufactured after January 1, 2005 for EPA Class 4 engines and after January 1, 2008 for EPA Class 5 engines;

B. Leaf blowers must bear an affixed manufacturer's label indicating the model number of the leaf blower;

C. Leaf blowers must bear an affixed manufacturer's label documenting a noise rating of 65 dB(A) or less; and

D. Leaf blowers may only be used with any muffler, full extension tube and sound attenuating devices supplied by the manufacturer of the leaf blower. Non-factory modifications are not permitted.

(2) During times of emergency caused by a storm or other special circumstance, the Mayor or her designee may temporarily suspend application of all or a portion of this section for purposes of cleaning up from such storm or other special circumstance.

(4) The provisions of section 20-13 (i) shall not apply to leaf blower operation.

(i) Permits for exemptions from this ordinance and for extensions of time to comply with this ordinance.

(1) The mayor or his designee may grant a permit for any activity otherwise forbidden by the provisions of this ordinance upon a determination by the mayor or his designee that compliance in the conduct of such activity would cause undue hardship on the person or persons conducting such activity or on the community, taking into account: (i) the extent of noise pollution caused by not requiring such compliance; and (ii) whether reasonable efforts have been made to abate the noise. The mayor or his designee shall establish appropriate procedures for the processing of requests for such permits, including such hearings as the mayor or his designee deems appropriate. In granting any such permit, the Mayor or her designee may impose such appropriate conditions as he deems necessary pursuant to this section. Copies of all such permits shall be filed with the clerk of the city council promptly after issuance. Promptly after issuance, copies of all such permits shall be filed with the clerk of the city council and to each ward city councilor for the affected ward.

(2) The mayor or his designee may extend to a specified date the time for compliance with this ordinance in the case of any particular activity with respect to which a determination is made that such extension is necessary to provide a reasonable opportunity for such activity to be brought into compliance. No such extension shall be granted which has the effect of exempting such activity from compliance with this ordinance. The mayor or his designee shall establish appropriate procedures for the processing of requests for such extensions of time, including such hearings as the mayor or his designee deems appropriate.

(j) *Judicial Review*. Any person aggrieved by the grant or denial of a permit pursuant to subsection (h)(1) or an extension of time pursuant to subsection (h)(2) may seek relief therefrom by a civil action in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

(k) *Penalties*. Violation of any of the provisions of this section shall constitute a misdemeanor and any person, upon conviction of such violation, shall be fined an amount not to exceed three hundred dollars ($300.00). Each day that such violation continues shall be considered to be a separate offense.

(l) *Enforcement*. The Newton Police Department and the Inspectional Services Department shall be responsible for enforcement of this ordinance. Each department shall document the disposition of all complaints by written report available to the public. The written report shall clearly indicate whether the complaint resulted in a warning or fine. If a warning or fine was not issued for a complaint, the responding city employee shall clearly indicate the reason.

(m) *Non-criminal disposition*. In addition to the penalties set forth in subsection (j), where non-criminal disposition of specified sections of this ordinance by civil fine has been provided for in sections 17-22 and 17-23 of the Revised Ordinances, as amended, pursuant to the authority granted by G.L. c. 40, sec. 21D, said violations may be enforced in the manner provided in such statute. The civil penalty for each such violation is set out in Sections 17-23(c) and 17-23(d).

(n) In the event the person in violation of section 20-13 (h) pertaining to leaf blower use is a contractor, the property owner shall be notified of the violation and of any warning or other enforcement issued to the contractor.

(o) Severability. If any provision(s) of this ordinance or the application of such provision(s) to any person or circumstances shall be held invalid, the validity of the remainder of this ordinance and the applicability of such provision to other persons or circumstances shall not be affected thereby. (Ord. No. R-331, 6-20-83; Ord. No. T-62, 12-4-89; Ord. No. T-200, 12-16-91; Ord. No. V-286, 3-6-00; Ord. Z-32, 7-14-08; Ord. No. Z-78, 02-22-11; Ord. No. Z-104, 04-02-12; Ord. No. A-100, 01-17-17; Ord. No. B-53, 03-02-20)

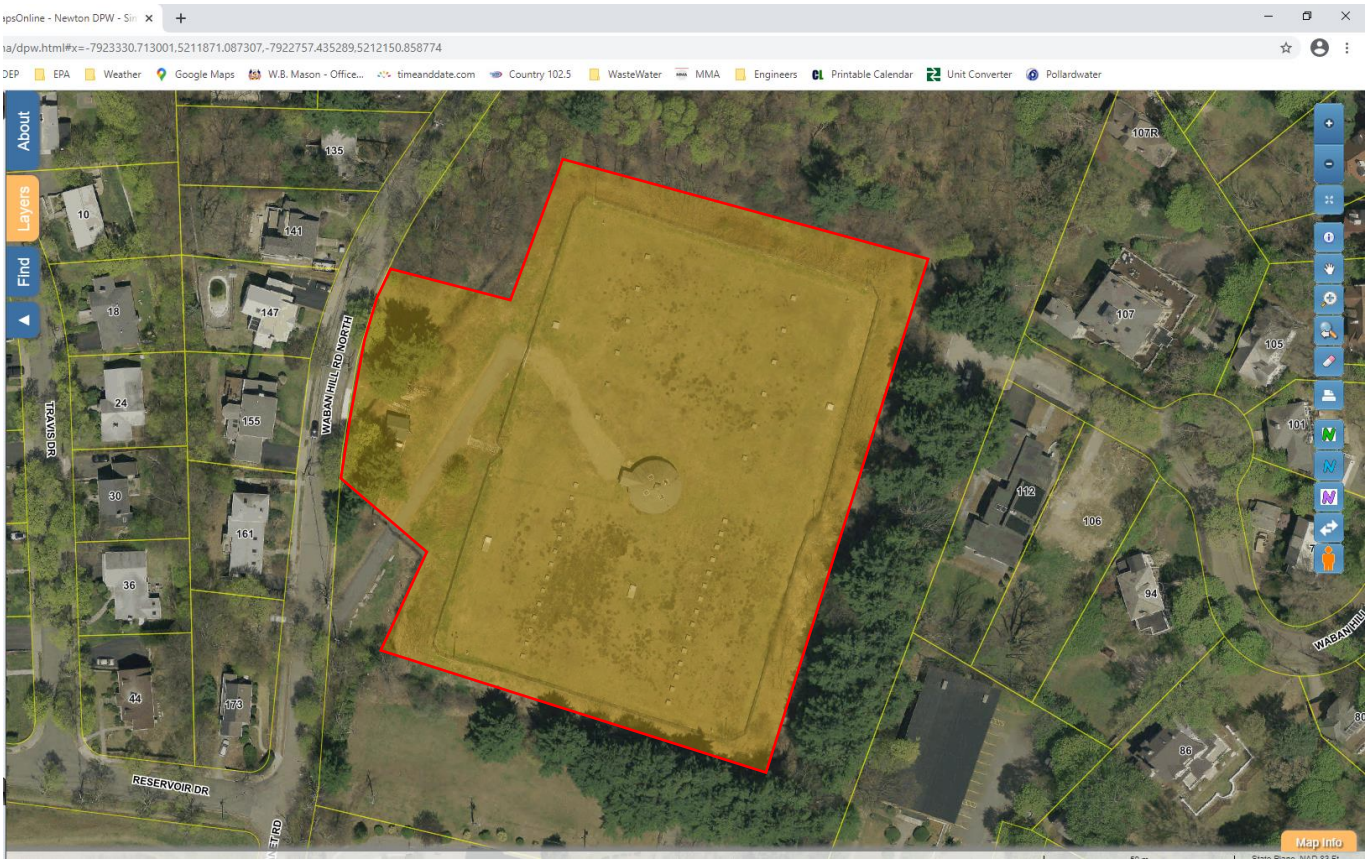
Cross reference—Sounding warning devices on motor vehicles, § 19-72; noise by hawkers and peddlers, § 20-75.

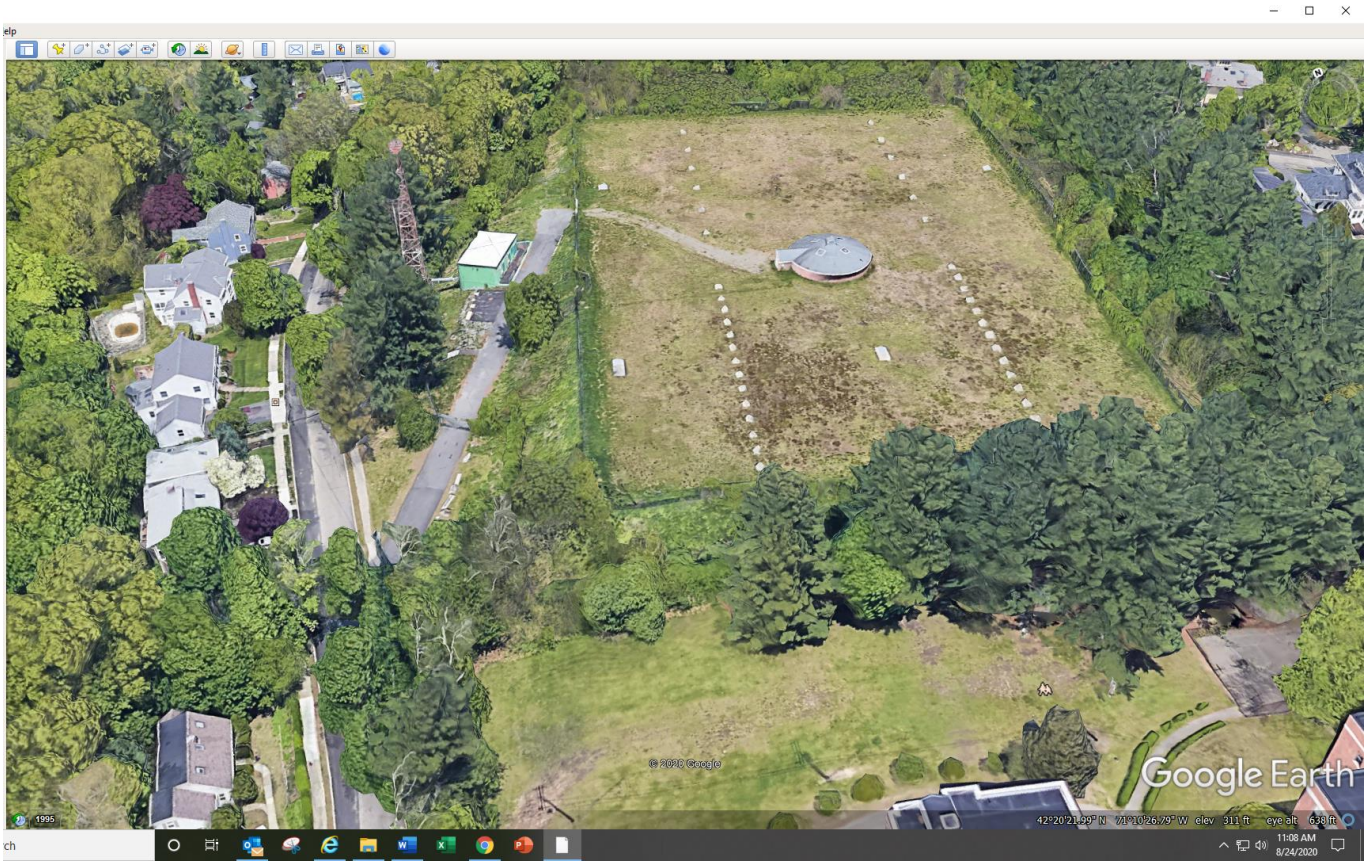
APPENDIX - G

Site Location Aerial Maps

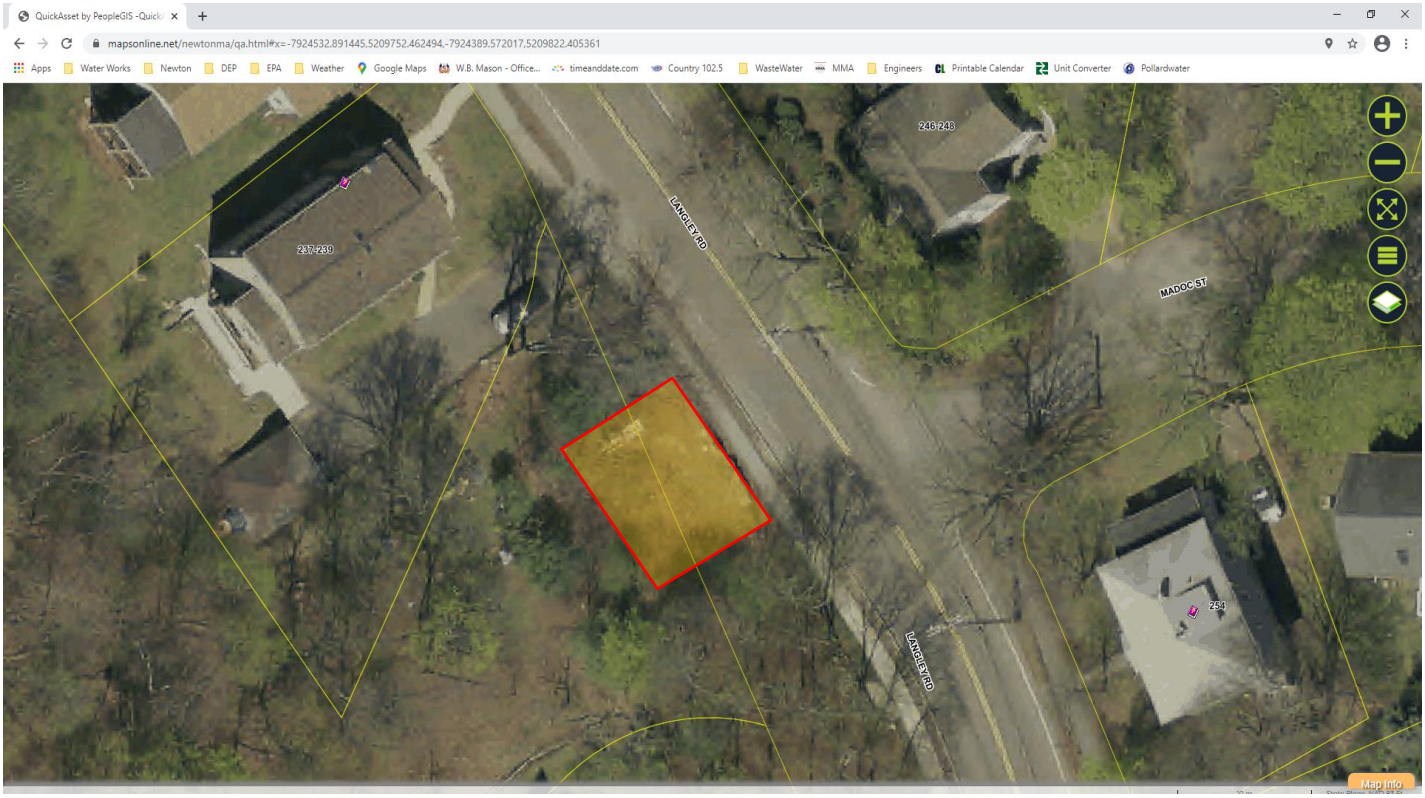
All areas mapped are approximate locations.

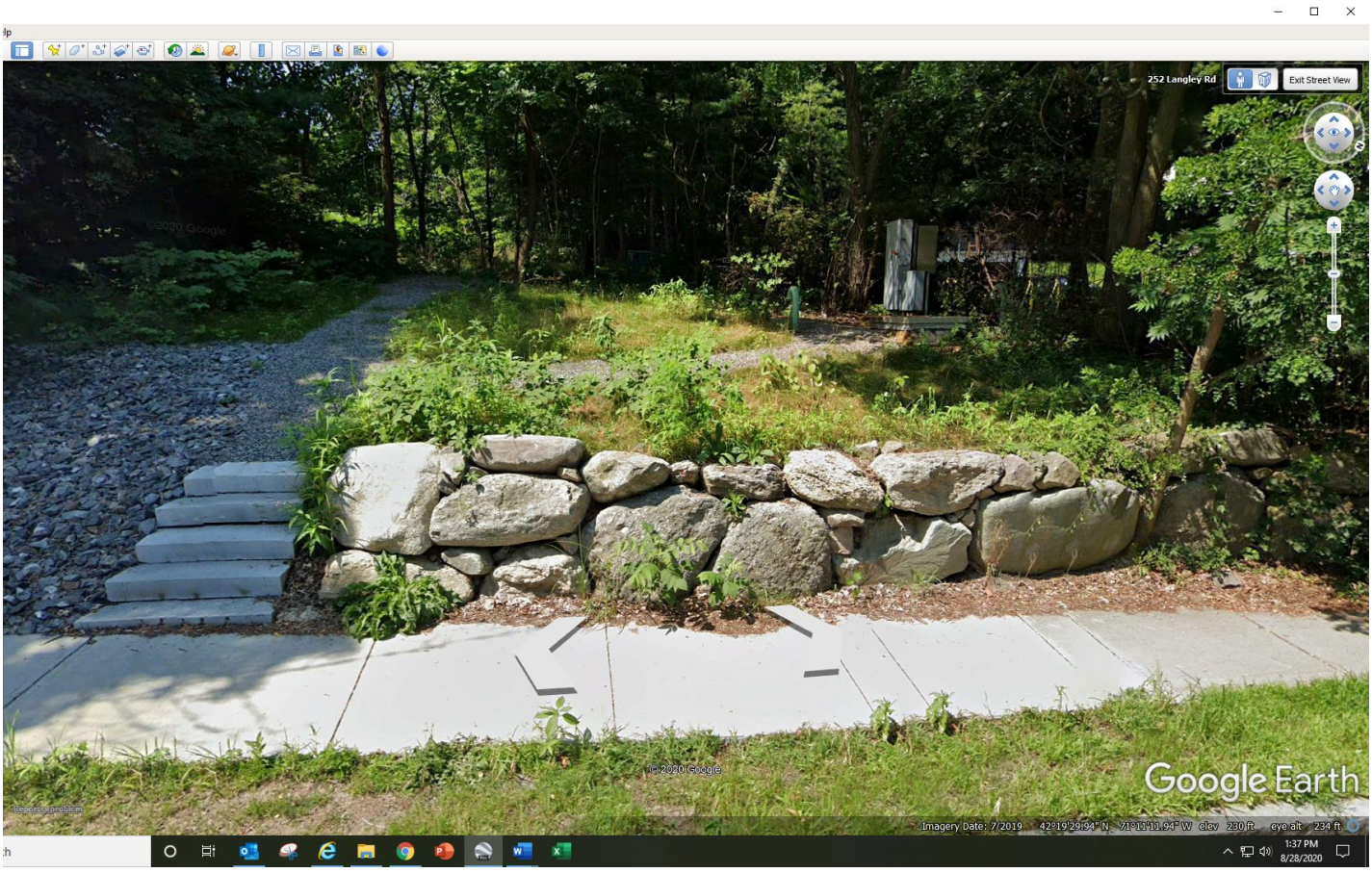
1 Waban Hill Covered Reservoir (Opposite 141 Waban Hill Road North)



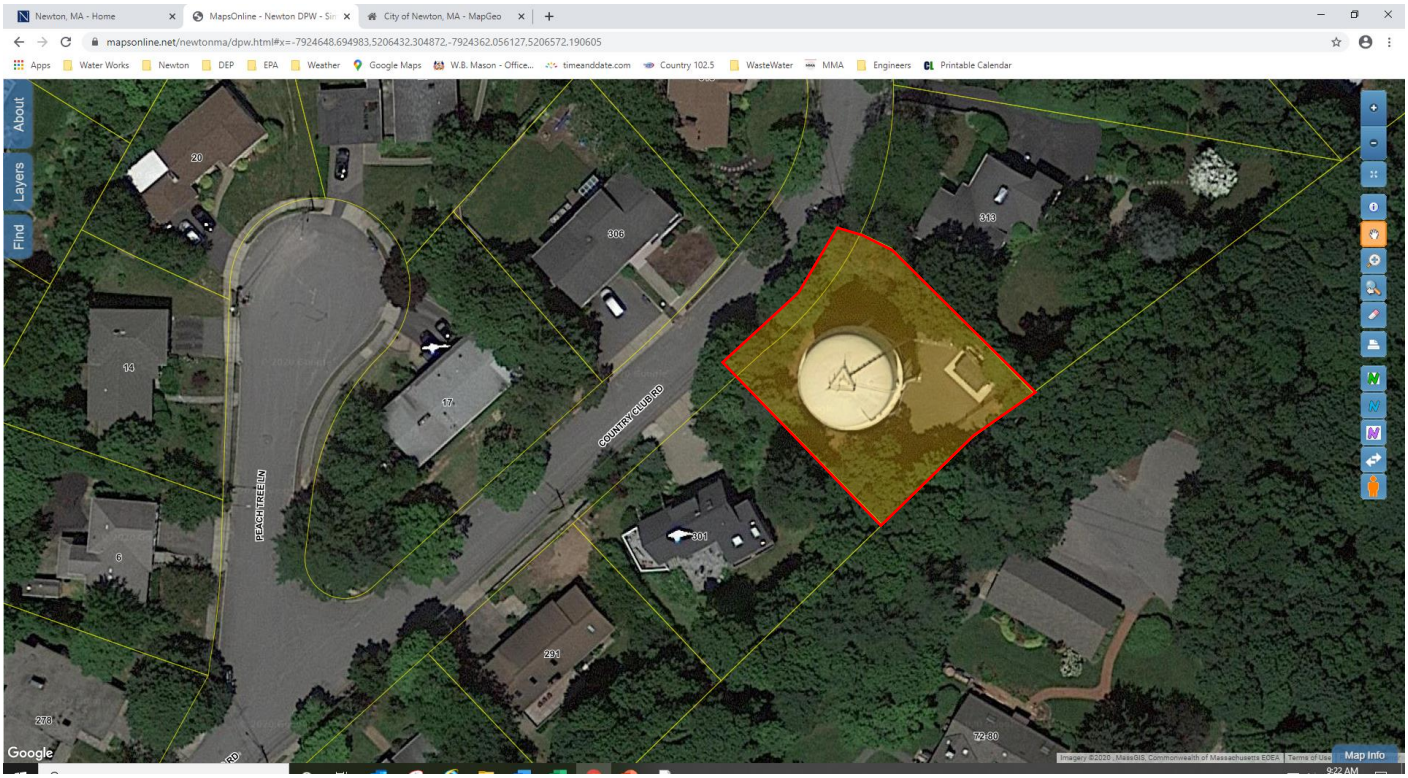


2 Langley Road Booster Station (Opposite Madoc Street)

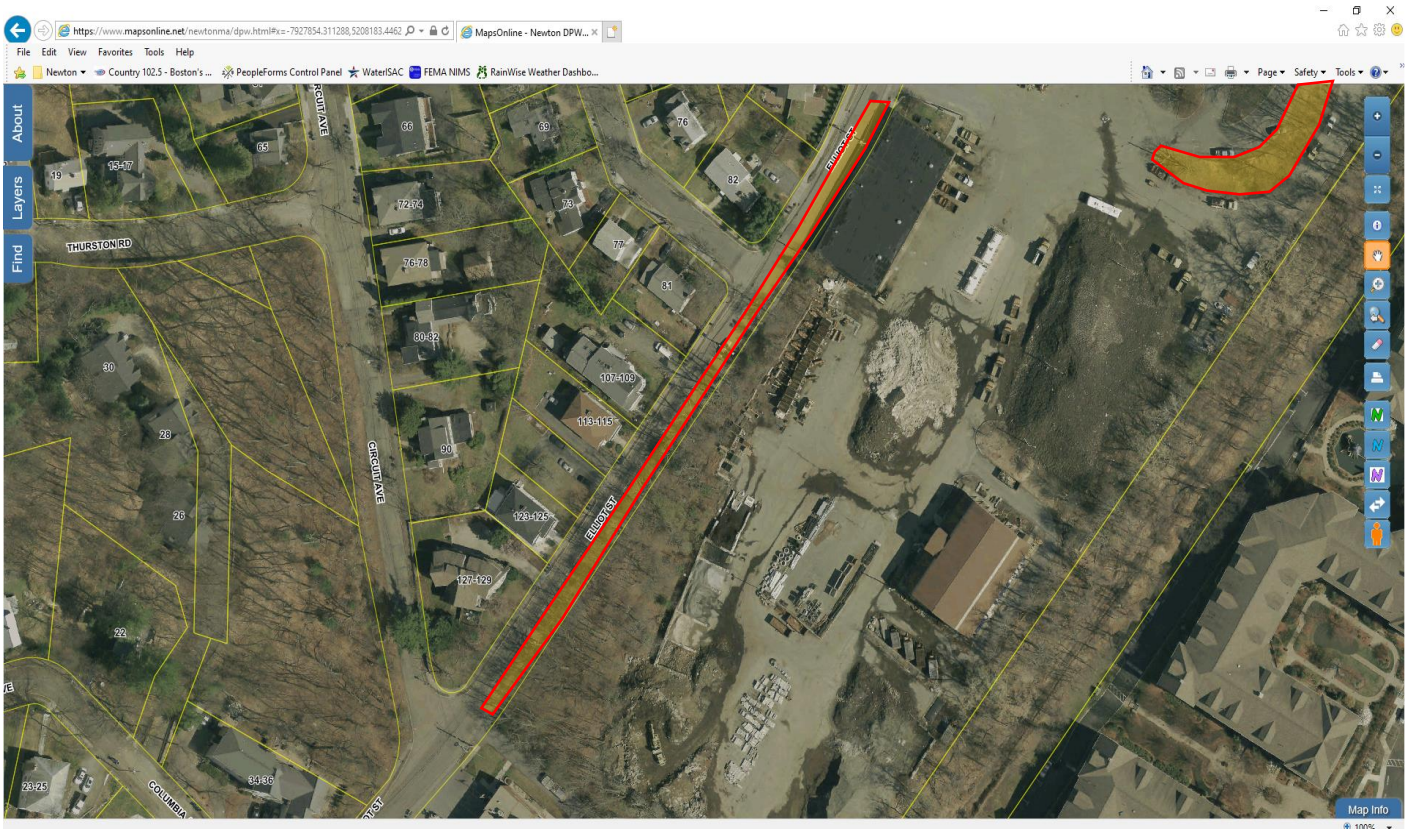




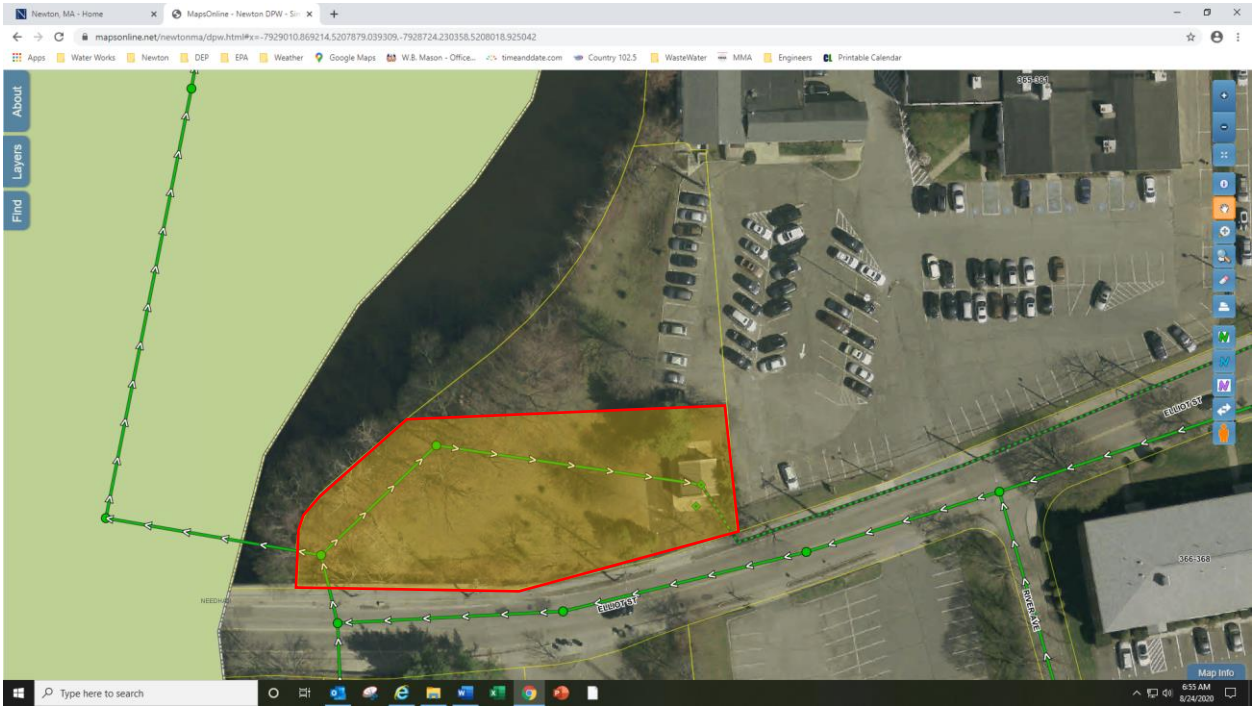
3 Ober Road Elevatedl Storage Tank (Country Club Rd / Ober Rd)



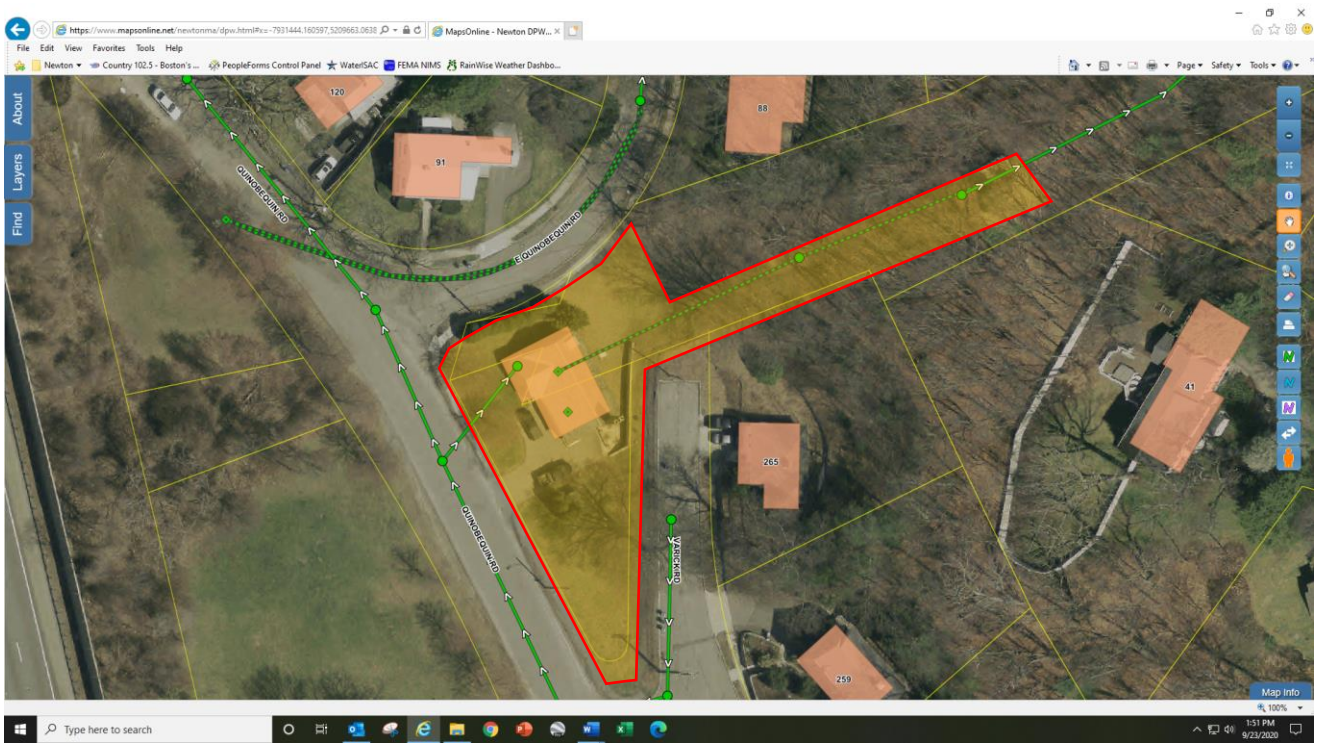
4 DPW Operations Yard (60 & 74 Elliot St – DPW (1)



5 Elliot Street Pump Station (193 Elliot Street)



6 Quinobequin Road Pump Station (136 Quinobequin Road)



END OF SECTION

THIS PAGE LEFT INTENIONALLY BLANK FOR NOTES