

INVITATION FOR BID AND CONTRACT
FOR
OCEAN STREET PARKING LOT PAVING
IN THE TOWN OF
BARNSTABLE, MASSACHUSETTS
FOR
TOWN OF BARNSTABLE
DEPARTMENT OF PUBLIC WORKS

All potential bidders are required to be registered on the Town of Barnstable Bid & RFP System at www.town.barnstable.ma.us. This document and any addenda thereto are issued electronically only. It is the responsibility of every bidder who receives this bid document and all associated documents to check the Town of Barnstable Bid & RFP System for any addenda or modification to this solicitation, if they intend to respond. The Town of Barnstable accepts no liability to provide accommodation to bidders who submit a response based upon an out of date solicitation document or documents obtained from a source other than the Town. Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.

ISSUED: OCTOBER 9, 2013

CONTRACT NO.: 02-000-14-001

PRE-BID CONFERENCE: OCTOBER 24, 2013 AT 2:00 PM
BID OPENING: OCTOBER 30, 2013 AT 2:00 PM

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SECTION 1

NOTICE TO BIDDERS

The Town of Barnstable is requesting bids for:

OCEAN STREET PARKING LOT PAVING

Sealed bids will be received at the office of the Department of Public Works, 382 Falmouth Road, Hyannis, Massachusetts, until 2:00 PM, October 30, 2013

The work will consist of:

furnishing all necessary labor, materials and equipment required to install a hot mix asphalt leveling course and 1-1/2 inch overlay over the existing parking lot located at #25 Ocean Street, Hyannis, MA, limits of work as shown on Exhibit A. The work also includes clearing a small amount of vegetation, sweeping, adjustment of drainage structures, pavement milling for transition joints and other related items of work.

Bid Documents are available on the Town of Barnstable website, www.town.barnstable.ma.us. Site visits prior to submitting bids may be arranged by calling (508) 790-6400. Bids shall be in a sealed envelope bearing the words,

“OCEAN STREET PARKING LOT PAVING.”

The work in this contract is controlled by the Town of Barnstable Department of Public Works Construction Specifications unless otherwise noted.

The successful bidder will be required to furnish a performance bond and a payment bond each in the amount of one hundred (100%) percent of the contract amount.

To receive consideration, proposals shall be submitted on the appropriate forms no later than the above date and time schedule for the opening. Proposals must be accompanied by a bid security in the amount of **five (5%) percent of the bid price.** If, upon acceptance of the bid, a Bidder fails to enter into a Contract with the Town of Barnstable, the bid security shall be forfeited to and become the property of the Town, as specified in paragraph 3.c.

Minority Business Enterprise (MBE) and Women’s Business Enterprise (WBE) policies of the Town of Barnstable are applicable. The “Fair Share” construction goal for this project is a minimum of **10.4%** combined MBE/WBE participation by state certified MBEs and WBEs. Within five days after the Bid Opening, the Bidder shall submit a “Schedule for Participation by Minority Business Enterprises” with accompanying Letters of Intent by each minority subcontractor proposed to be used by the Bidder. The Bidder shall submit a “Schedule for Participation by Women Business Enterprises” with accompanying Letters of Intent by each WBE subcontractor to be used by the Bidder. The Letters of Intent shall include, among other things, the contract items the M/WBE is proposing to perform and the prices that the M/WBE proposed to charge for the work. Original signed copies of the letters will be required prior to

the signing of a contract. The Schedule of Participation shall list these M/WBE subcontractors with whom the Contractor intends to contract and state the total price to be paid each M/WBE contractor as taken from each Letter of Intent submitted with the bid. The Bidder shall submit a copy of current SOMWBA letter of Minority Business Enterprise or Women Business Enterprise Certification for each subcontractor. Failure to comply with the requirements of this paragraph may be deemed to render a proposal non-responsive.

A pre-bid conference will be held at 2:00 PM on October 24, 2013 at the Department of Public Works Conference Room, 382 Falmouth Road, Hyannis MA 02601. This conference will include a review of the project and a site visit.

Full compliance with Federal, State and Municipal Wage Laws is required of all work done for the Town of Barnstable. Minimum Wage Rates as determined by the Commissioner of Department of Labor and Industries under the provision of the Massachusetts General Laws, Chapter 149, Section 26 to 27D, as amended, apply to this project. It is the responsibility of the contractor, before bid opening, to request if necessary, any additional information on Minimum Wage Rates for those trades people who may be employed for the proposed work under this contract.

All bidders shall be required to provide Certification of Occupational Safety and Health Administration (OSHA) Training in accordance with Massachusetts General Law 30: Section 39S, as amended by Chapter 306 of the Acts of 2004, effective 7/1/06.

Contractors shall be required to comply with all applicable Massachusetts General Laws, Chapter 30 S.39M, and all other applicable Massachusetts General Laws.

Bidders are not to include in their Bid Proposal sales and compensating use taxes on materials and supplies purchased for this project. All materials used are tax exempt.

A weekly certified payroll submittal shall be required of the successful bidder in accordance with MGL C149, S27B. No payments will be made by the Town until all payroll information necessary for the Town to determine compliance with prevailing wage laws and Affirmative Action/Equal Opportunity requirements for the time period of the payment request have been submitted.

The Town of Barnstable reserves the right to reject any or all proposals or to accept any proposal that appears to be in the best interest of the Town.

SECTION 2

INSTRUCTION TO BIDDERS

1. SECURING DOCUMENTS

A. The TOWN OF BARNSTABLE DEPARTMENT OF PUBLIC WORKS Invitation to Bid and Contract, Instructions to Bidder, General Conditions, Special Conditions, Bid Payment Item Tally Sheet, and Application and Certification for Payment and all other documents and drawings referenced in the Agreement Section 8 compose the Bid Documents.

2. BID FORMS

A. All bids must be submitted on the forms bound herein, or copies thereof. All blank spaces in the proposal form shall be properly completed in ink and all erasures and corrections initialed by the contractor. Bid item numbers preceded by a T.O.B. prefix refer to items identified in the Town of Barnstable Department of Public Works Construction Specifications and Standards. Those with the M.H.D. prefix are contained in the 1988 edition of Standard Specifications for Highways and Bridges and in the Supplemental Specifications to the 1988 Standard Specifications for Highways and Bridges June 6, 2006 and any latest revision thereto, published by the Massachusetts Department of Transportation. Those with no letter prefix are identified within this document. All provisions of the referenced specifications applicable to materials and vehicles of construction are to be adhered to.

B. All bids must be submitted in a sealed envelope containing the bid, properly marked:

“OCEAN STREET PARKING LOT PAVING”

If forwarded by mail, the sealed envelope containing the bid, properly marked, must be enclosed in another envelope addressed to the Department of Public Works.

C. The Town may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids, except as limited under the General Laws, Chapter 30 and 149, applicable sections, as amended to date.

D. Any bid received after the time and date designated will not be considered.

3. BID SECURITY

A. Bid Security in the amount of FIVE PERCENT (5%) of the bid dollars shall accompany each proposal. At the option of the Bidder, the security may be cash, a bid bond issued by a surety authorized to do business in the Commonwealth, certified check, or treasurer's or cashier's check issued by a responsible bank or trust company, payable to the Town of Barnstable. Personal checks will not be accepted.

B. The bid security shall secure the execution of the Contract and the furnishing of a performance and payment bond by a successful bidder.

C. Should any bidder to whom an award is made fail to enter into a Contract therefore within ten (10) days, Saturdays, Sundays, and legal holidays excluded, after notice of award has been mailed to him or fail within such time to furnish a Performance Bond and also a Payment Bond as required, the amount so received from such bidder through their cash, certified check, treasurer's or cashier's check as bid deposit shall become the property of the Town of Barnstable, as liquidated damages; provided that the amount of the bid deposit which becomes the property of the Town of Barnstable shall not, in any event, exceed the difference between their bid price and the bid price of the next lowest responsible and eligible bidder; and that provided further that in the case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other unforeseen circumstances affecting the General Bidder, their deposit shall be returned to them.

D. Bid deposits of the three lowest responsible and eligible bidders will be held by the Awarding Authority during the time stipulated for the execution of the contracts and the submission of the performance bonds, and may be disposed of in such a manner as will accomplish the purpose for which they are submitted. After expiration of such period, bid guarantees not disposed, or the amounts thereof, will be returned within five (5) days, Saturdays, Sundays and legal holidays excluded.

4. DEFINITIONS

A. All definitions set forth in the General Conditions are applicable to all bidding documents, which include the Advertisement, Instructions to Bidders, Addenda issued prior to receipt of sub-bids and general bids.

B. Addenda are written or graphic instruments issued prior to the execution of the contract which modify or interpret the bidding documents, including drawings and specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents upon execution of the Agreement.

5. BIDDER'S REPRESENTATION

A. Each bidder, in submitting their proposal, represents that they have read and understand the bidding documents.

B. Each bidder represents that they have visited the sites, familiarized themselves with the local conditions under which the work is to be performed, compared the sites with the drawings and specifications, satisfied themselves of the conditions of delivery, handling and storage of materials, and all other matters that may be incidental to the work, including subsurface conditions before submitting their proposal.

C. Each bidder represents that their bid is based upon the materials and equipment described in the bidding documents, including any addenda issued thereto.

D. Submission of a proposal will be considered as evidence of the bidder's representation. No allowance will subsequently be made to the successful bidder by

reason of any error or omission on his part, due to his neglect in complying with the requirements of this article, except with respect to conflicts with the General Laws.

6. EXAMINATION OF BIDDING DOCUMENTS

Each bidder shall examine the bidding documents carefully and, not later than seven (7) days prior to the date for receipt of bids, shall make written request to the Town Engineer for interpretation or correction of any ambiguity, inconsistency or error therein which they may discover. Any interpretation or corrections will be issued as an addendum by the Town Engineer. Only interpretations or correction by addendum shall be binding. No bidder shall rely upon any interpretation or correction given by any other method.

7. ADDENDA

A. Prior to the receipt of the bids, addenda will be forwarded to each person or firm recorded by the Town Engineer as having received the bidding documents and will be available for inspection wherever the bidding documents are kept available for that purpose.

B. Addenda issued during the time of bidding shall be listed on proposal forms in the space provided. Failure of a bidder to receive any addendum shall not release the bidder from any obligations under their bid, provided said addendum was sent by electronic mail transmission or by U.S. mail to the address furnished by the bidder for transmittal of mail.

8. REJECTION OF PROPOSALS

The bidder acknowledges the right of the Owner to reject any or all bids and to waive any informality or irregularity in any bid received. In addition, the bidder recognizes the right of the Owner to reject a bid if the bidder fails to furnish any required bid security, or fails to submit the data required by the bidding documents, or if the bid is in any way incomplete or irregular.

9. QUALIFICATIONS OF BIDDER

A. Any bidder, if requested, shall submit a financial statement, experience records, and an equipment schedule, on forms to be provided by the Town Engineer. Financial statements shall reflect true financial conditions of bidder within three months prior to date of bid opening and shall be validated by Certified Public Accountant.

B. A bidder, in order to be eligible for the contract, must be able to show their financial ability to carry on the work until the project is complete and accepted by the Owner.

10. ACCEPTANCE OF PROPOSALS

A. Within thirty (30) days after the opening of the proposals the Owner will act upon them. The acceptance of a proposal will be a Notice of Acceptance in writing signed by a duly authorized representative of the Owner and accompanied by Contract and Performance and Payment Bond forms. No other act of the Owner shall constitute the acceptance of a proposal. The acceptance of the proposal shall bind the successful bidder

to the contract. The rights and obligations provided for in the contract shall become effective and binding upon the parties only upon its formal execution.

B. In the event there are tied best prices from responsive and responsible bidders, the following methods of breaking the tie shall be employed unless otherwise provided for in these bid documents: The bidder's names shall be entered on a slip of paper and placed in a hat. The award shall then be made to the bidder whose slip is drawn from the hat. The drawing of the slip from the hat shall be performed in the presence of the tied bidders unless they waive their right to be present in writing.

11. TIME FOR EXECUTING CONTRACT AND PROVIDING CONTRACT BOND

A. Any contractor whose proposal shall be accepted will be required to execute the contract and furnish contract bonds within ten (10) days, Saturdays, Sundays and legal holidays excluded after the notice that the contract has been awarded to them.

12. PERFORMANCE AND PAYMENT BONDS

A. Within ten (10) days after the date of Notice Acceptance of Bid, Saturdays, Sundays and legal holidays excluded, the bidder to whom the award is made shall furnish a performance bond and payment bond, each equal to the full amount of the contract price to guarantee the faithful performance of all terms, covenants and conditions of the same. The bonds are to be issued by an acceptable bonding company qualified to do business under the laws of the Commonwealth of Massachusetts and satisfactory to the Owner.

B. The performance bond shall guarantee the satisfactory completion of the project and that the contractor will make good any faults or defects in their work which may develop during the period of said guarantee as a result of improper or defective workmanship, materials or apparatus.

The payment bond shall guarantee that the contractor shall pay in full all persons, firms or corporations who furnish labor or material or both labor and materials for, or on account of the work included herein. Payment bonds will be in effect until such time as the contractor furnishes proof that payment in full has been made for all materials used on the contract work. The bonds shall be paid for by the contractor. The Owner shall have the right to demand proof that parties signing the bonds are duly authorized to do so.

C. Every such bond shall have a power of attorney attached thereto, authorizing the owner to enter judgment thereon in any court in the United States of America or elsewhere against the obligors therein named for the amount therein named and shall be conditioned for the honest and faithful compliance with all provisions of the bidder or bidders.

D. Separate Performance Bond and Payment Bond forms shall be provided with Notice of Acceptance.

13. WORK TIME LIMITS

A. At the time of delivery of the properly executed contract and contract bonds to the Town, the Contractor shall furnish a proposed work schedule, in writing, allowing for

completion of the contract work prior to the date specified below and appearing on the Contract Form.

Thereupon the Town will review the completed documents and proposed schedule, ask for revisions or corrections, or issue a "NOTICE TO PROCEED" indicating its agreement with final contract terms.

B. All work covered by this contract shall be completed within Thirty (30) calendar days of the date of the issuance of the Notice to Proceed.

14. TAX EXEMPTION

State taxes will be excluded from all General and Sub-Bids. Exemption Certificate E-046-001-079 shall be used in lieu thereof.

15. PAYMENT OF EMPLOYEES

A. For work done in the Town of Barnstable, the payment for employees of the contractor and any or all sub-contractors and suppliers shall comply with the wage scale current at the commencement of construction, as published by the Department of Labor and Industries, under provisions of the Massachusetts General Laws. The contractor and each of his sub-contractors and suppliers shall pay each of their employees engaged in work on the project under the contract in full, less deductions made mandatory by law, and not less often than once a week. All forms required by local authorities, the Commonwealth of Massachusetts, and the United States Government, shall be properly submitted. No payments will be made on any application for payment until all required payroll and Affirmative Action/Equal Opportunity information for the period covered by the application has been submitted to the Town.

B. A copy of applicable wage rate schedules is attached and forms part of the contract documents.

16. WITHDRAWAL OF PROPOSALS

A. At any time prior to the scheduled closing time for receipt of proposals, any bidder may withdraw his proposal, either personally or by telegraphic or written request. If withdrawal is made personally, proper receipt shall be given therefore.

B. After the scheduled time for receipt of proposals and before award of contract, no bidder will be permitted to withdraw his proposal unless said award is delayed for a period exceeding thirty (30) days. Negligence on the part of the bidder in preparing his bid confers no rights for the withdrawal of the proposal after it has been opened.

17. INTERPRETATION OF ESTIMATE OF QUANTITIES

A. All bids will be compared on the estimate of quantities of work to be done, as shown on the proposal.

The contractor expressly agrees that these quantities are being set forth for the comparison of bids only and that the actual amount of work may not correspond therewith. The Town expressly reserves the right to adjust said quantities in accordance

with actual conditions as found to exist during the course of work. The Contractor further agrees that any increase or decrease in the quantity for any item shall not be regarded as cause for an increase in the contract unit prices, or in the time allowed for completion of the work except as provided in the contract.

18. RULE FOR AWARD

Contract shall be awarded to the lowest responsive and eligible bidder.

SECTION 3

CONTRACT GENERAL CONDITIONS

1. CONTRACT DOCUMENTS

A. The Contract Documents consist of the Agreement, the General Conditions, Supplementary and other Conditions, the Drawings, the Specifications, all Addenda issued prior to the execution of this Agreement, all amendments, Change Orders, and written interpretations of the Contract Documents issued by the Town Engineer. These form the Contract and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment and other items necessary for the proper execution and completion of the Work and the terms and conditions of payment therefore, and also to include all Work which may be reasonably inferable from the Contract Documents as being necessary to produce the intended results.

B. The Contract Documents shall be signed in not less than triplicate by the Owner and the Contractor. By executing the Contract, the Contractor represents that he has visited the site and familiarized himself with the local conditions under which the Work is to be performed.

C. The term Work as used in the Contract Documents includes all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

2. ENGINEER

A. The Town Engineer (hereinafter Engineer) will provide general administration of the Contract and will be the Owner's representative during the construction period.

B. The Engineer shall at all times have access to the Work wherever it is in preparation and progress.

C. The Engineer will make periodic visits to the site to become generally familiar with the progress and quality of the Work in accordance with the Contract Documents. On the basis of on-site observations by the Engineer, they will keep the Owner informed of the progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. The Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Engineer will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible for the Contractor's failure to carry out the Work in accordance with Contract Documents.

D. Based on such observations and the Contractor's Application for Payment, the Engineer will determine the amounts owed to the Contractor and will issue Certificates for Payment in accordance with Section 3 Sub-Section 9.

E. The Engineer will be, in the first instance, the interpreter of the requirements of the Contract Documents. He/She will make decisions on all claims and disputes between the Owner and Contractor.

F. The Engineer will have the authority to reject Work which does not conform to the Contract Documents.

3. OWNER

The Owner shall issue all instructions to the Contractor through the Engineer.

4. CONTRACTOR

A. The Contractor shall supervise and direct the Work, using their best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

B. Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

C. The Contractor warrants to the Owner that all materials and equipment incorporated in the work will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards may be considered defective.

D. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, orders of any public authority bearing on the performance of Work, and shall notify the Engineer if the Drawings and Specifications are at variance therewith.

E. The Contractor shall be responsible for the acts and omissions of all their employees and all Subcontractors, their agents and employees and all other persons performing any of the Work under a contract with the Contractor.

F. The Contractor shall review, stamp with their approval and submit all samples and shop drawings as directed for approval of the Engineer for conformance with the design concept and with the information given in the Contract Documents. The Work shall be in accordance with approved samples and shop drawings.

G. The Contractor shall at all times keep the premises free from the accumulation of waste materials or rubbish caused by their operations. At the completion of the Work they shall remove all their waste materials and rubbish from and about the Project as well as their tools, construction equipment, machinery and surplus materials and shall clean all glass surfaces and shall leave the Work "broom clean" or its equivalent, except as otherwise specified.

5. SUBCONTRACTS

A. A Subcontractor is a person who has a direct contract with the Contractor to perform any of the work at the site.

B. Unless otherwise specified in the Contract Documents or in the Instructions to Bidders, the Contractor, as soon as practicable after the award of the Contract, shall

furnish to the Engineer in writing, a list of the names of Subcontractors proposed for the principal portions of the Work. The Contractor shall not employ any Subcontractor to whom the Engineer or the Owner may have a reasonable objection. Contracts between the Contractor and the Subcontractor shall be in accordance with the terms of this Agreement and shall include the General Conditions of this Agreement insofar as applicable.

6. SEPARATE CONTRACTS

The Owner has the right to let other contracts in connection with the Work and the Contractor shall properly cooperate with any such other contractors.

7. ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

8. TIME

A. All time limits stated in the Contract Documents are of the essence of the Contract.

B. If the Contractor is delayed at any time in the progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in transportation, unavoidable casualties, causes beyond the Contractor's control, or by any cause which the Engineer may determine justified the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Engineer or Owner or both may determine.

9. PAYMENTS

A. Method of Payment to Contractor

1. The Contractor shall make monthly estimates of the materials complete in place and the amount of work performed in accordance with the Contract.

2. The estimates will be itemized on the sheets provided for review and approval by the Engineer and submitted prior to the twentieth of each month during the construction period. Each estimate will show the total value of the work done to date, the total money due the Contractor since the previous estimate and the money paid the Contractor to date. This estimate will be considered approximate only and shall be subject to correction on subsequent estimates.

3. Five (5%) percent of all payments due the Contractor for work done and materials furnished will be withheld until final completion of the work under the provisions of G.L. Ch. 30, Section 39G.

4. The acceptance by the Contractor of the final payment, including the retainage of five (5%) percent, shall operate as a release to the Town of all claims and all liabilities to the Contractor for all work done or materials furnished in connection with the Contract. Final payment shall be as provided in G.L. 30, Section 39G.

5. The payment to the Contractor of said final payment does not, however, release them or their sureties from any obligation under this Contract.

B. Town's Right to Withhold Payments

1. The Town may withhold from the Contractor so much of any approved payment due them as may in the judgment of the Engineer be necessary:

A. To assure payments of just claims then due and unpaid of any persons supplying labor or materials for the work;

B. To protect the Town from loss due to defective work not remedied; or,

C. To protect the Town from loss due to injury to persons or damage to the work or property of other contractors, subcontractors or others, caused by acts or neglect of the Contractor or their sub-contractors.

2. The Town shall have the right as agent for the Contractor to apply any such amounts so withheld in such manner as the Town may deem proper to satisfy such claims or to secure such protection.

3. No payments shall be made to the Contractor by the Town until all payroll and workforce records for the period of the application have been submitted to the Town.

C. Measurement and Quantities

1. It is estimated that the quantity of materials mentioned in the Proposal will be required, but this amount shall not control the performance of this Contract, and the Contractor shall be bound hereunder whether or not such estimate is even approximately correct.

2. The Town reserves the right to limit the prosecution of the work to such points, and in such order as the Town may direct.

3. The Town reserves the right to eliminate any portion of the work, so as to bring the total expenditure within the amount available for the project.

4. The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the Contract shall be selected by the Engineer.

D. Final Payments

1. Final payments shall not be due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner indemnifying him against any lien.

2. The making of final payments shall constitute a waiver of all claims by the Owner except those arising from 1) unsettled liens, 2) faulty or defective Work appearing after Substantial Completion, 3) failure of the Work to comply with the requirements of the

Contract Documents, or 4) terms of any special guarantee required by the Contract Documents. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and still unsettled.

10. PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. They shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to 1) all employees on the Work and other persons who may be affected thereby; 2) all the Work and all the materials and equipment to be incorporated therein; and 3) other property at the site or adjacent thereto. The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, except damage or loss attributable to faulty Drawings or Specifications or to the acts or omissions of the Owner or Engineer or anyone employed by either of them or for whose acts either of them may be liable but which are not attributable to the fault or negligence of the Contractor.

11. CONTRACTOR'S LIABILITY INSURANCE

1. Indemnification

The Contractor shall indemnify, defend, and save harmless the TOWN, all of the TOWN officers, agents and employees from and against all suits and claims of liability of every name and nature, including attorney's fees and costs of defending any action or claim, for or on account of any claim, loss, liability or injuries to persons or damage to property of the TOWN or any person, firm, corporation or association arising out of or resulting from any act, omission, or negligence of the Contractor, subcontractors and their agents or employees in the performance of the work covered by this Agreement and/or their failure to comply with terms and conditions of this Agreement. 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 with the TOWN.

2. General Requirements

(a) The Contractor shall, before commencing performance of the contract, be responsible for providing and maintaining insurance coverage in force for the life of the contract of the kind and in adequate amounts to secure all of the obligations under the contract and with insurance companies acceptable to the Town of Barnstable. All such insurance carried should not be less than the kinds and amounts designated herein, and the Contractor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Contractor to any such kinds and amounts of insurance coverage. Under all insurance coverage, required or not required by the Town, the

Contractor shall defend, indemnify, and hold harmless the Town of Barnstable, its elected or duly appointed offices, directors and employees against any claim based upon negligent, accidental or intentional acts or omissions of the contractor, its employees or its agents in providing its services to employees of the municipality or their dependants pursuant to the agreement.

(b) With the exception of Professional Services Liability for architects, designers and engineers, and Worker's Compensation, the Town of Barnstable and its employees must be named as an additional insured and a certificate of insurance will be provided indicating such for each of the insurance policies or surety bonds obtained pursuant to the requirements established by the issuance of the contract. Upon execution of the contract the Contractor will provide copies of certificates of insurance to the Town of Barnstable, Procurement & Risk Management.

(c) Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this contract, and shall constitute sufficient grounds for immediate termination of the same. All insurance maintained as provided for in the above shall be taken out and maintained at the sole expense of the Contractor. Annually, at time of vendor's policy renewal, updated insurance certificates shall be sent to the Town of Barnstable, Procurement & Risk Management.

(d) No cancellations of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the Town of Barnstable at least thirty (30) days prior to the intended effective date thereof, which date shall be expressed in said notice, and which shall be sent out by registered mail, return receipt requested. These provisions shall apply to the legal representatives, trustees in bankruptcy, receiver, assignee, and/or the successor in interest of the Contractor.

(e) All insurance coverage shall be placed with such company as may be acceptable to the Town of Barnstable and shall constitute a material part of the contract documents.

3. Comprehensive General Liability Insurance

The Contractor shall carry Commercial General Liability Insurance with an each occurrence limit of liability no less than One Million Dollars (\$1,000,000.00) and a general aggregate limit of liability no less than Two Million Dollars (\$2,000,000.00); and a Products/Completed Operations Aggregate limit no less than Two Million Dollars (\$2,000,000.00) for all injury and damages to or destruction of property during the policy period.

4. Automobile Liability and Property Damage Insurance

The Contractor shall carry business Automobile Liability Insurance covering all owned vehicles with a combined single limit no less than One Million Dollars (\$1,000,000.00) to cover all damage caused by contracted employees of the awarded Contractor. Level of

insurance must adequately cover the liability exposure of project site and is subject to Town of Barnstable Risk Manager approval.

5. **Workers' Compensation Insurance**

The Contractor shall carry Workers' Compensation Insurance as required by Massachusetts General Law, c. 152, and Section 25, with a minimum limit of Employer's Liability as per Massachusetts General Law requirements.

6. **Excess Liability Insurance (as applicable to each requirement)**

The Contractor shall carry excess liability insurance of not less than One Million Dollars (\$1,000,000.00) covering over general liability, automobile, and worker's compensation insurance.

7. **Pollution Liability Insurance (Reserved)**

8. **Professional Services Liability/Errors and Omissions Insurance (Reserved)**

9. **Other Liability (as may be necessary)**

(a) The Town of Barnstable reserves the right to request proof of other insurance coverage depending upon the job for which the Contractor is hired.

(b) The aforementioned insurance coverages shall remain in full force and effect throughout the period of the contract. Similar insurance coverage shall be provided by or in behalf of any subcontractor to cover their operations with the same minimum limits as required of the Contractor. Contractor's insurance shall be primary insurance to all insurance carried by Owner.

12. **Force Majeure.**

Force Majeure - The Agreement shall be subject to **Force Majeure** considerations. Either party hereto shall be excused from performance of any act under the contract if prevented from the performance of any act required by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonably within the control of the party. The period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the owner. In the event that the extension is not possible, the Contractor may be required to rebate to the Town a portion of the fee. Continued failure to perform for periods aggregating sixty (60) or more days, even for causes beyond the control of the Contractor, shall be deemed to render performance impossible, and the Owner shall thereafter have the right to terminate this agreement in accordance with the provisions of the section entitled "Termination of Contract".

Termination of Contract - Subject to the provisions of the section explaining **Force Majeure**, if the Contractor shall fail to fulfill in a timely and satisfactory manner its obligations under this agreement, or if the Contractor shall violate any of the covenants,

conditions, or stipulations of this agreement, which failure or violation shall continue for seven (7) business days after written notice of such failure or violation is received by the contractor, then the municipality shall thereupon have the right to terminate this agreement by giving written notice to the contractor of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination.

Additionally, the Town, by written notice, may terminate this contract, in whole or in part, when it is in the Town's best interest. If this contract is terminated, the Town shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

13. CHANGES IN THE WORK

A. The Owner without invalidating the Contract may order Changes in the Work consisting of additions, deletions, or modifications, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by written Change Order signed by the Owner as their duly authorized agent.

B. The Contract Sum and the Contract Time may be changed only by written Change Order.

C. The cost or credit to the Owner from a Change in the Work shall be determined by mutual agreement.

14. CORRECTION OF WORK

The Contractor shall correct any Work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the Work, and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of one year from the Date of Substantial Completion of the Contract or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Document. The provisions of this Paragraph apply to Work done by subcontractors as well as to Work done by direct employees of the Contractor.

15. NON-DISCRIMINATION

All union, vendors and contractors which the Owner deals with are notified that the Owner is an equal employment opportunity employer and that the Owner requires the utilization of employees, and referral of potential employees without regard to race, color, national origin, sex, handicap or age. All entities with contractual agreements with the Owner are informed of the Owner's policy and are required to initiate a program of non-discrimination.

16. WAGE RATES

Full compliance with applicable Federal, State and Municipal Wage Laws is required on all work done for the Owner.

17. AFFIRMATIVE ACTION PROGRAM

The Town of Barnstable will require contractors and subcontractors involved in local municipal projects to abide by the Affirmative Action guidelines attached, which form a part of the contract.

18. TRAFFIC CONTROL AND BARRICADES

A. Contractor shall coordinate with the police and fire departments and shall initiate all measures to include erection of barricades, to insure the safety of vehicular and pedestrian traffic in the area adjacent to construction.

B. No excavation shall be left open overnight.

C. Contractor shall notify the Town 24 hours in advance of any pavement cut and shall at that time supply any estimate of the duration of work involving disruption of traffic.

D. Any paving cuts left overnight shall be marked with an approved illuminated warning device.

E. Refer to Standard Specification Section 850 for general policy and description of warning devices.

F. **TRAFFIC OFFICERS.** The attention of the Contractor is directed to the requirement of Subsection 7.11 (including amendments) of the 1988 Standard Specifications for Highways and Bridges. Uniformed Traffic Police officers will be required during the construction period. The Contractor shall take into consideration the number and cost of Uniformed Traffic Police officers will be required to complete the work shown on the Plans.

19. PARTIAL AWARD

A. The Owner reserves the right to award all or part of the Contract item stated in the specification or to reduce the amount of work under any item by agreement with the lowest eligible bidder.

B. A number of alternate prices may be requested in the proposal and the Town reserves the right to award the Contract on the basis of any one of the proposed alternatives.

20. PRE-BID CONFERENCE

A pre-bid conference will be held at 2:00 PM on October 24, 2013.

21. ROAD OPENING/TRENCH PERMIT

The Contractor, if required, shall apply to the Town for a Road Opening/Trenching Permit at least 24 hours in advance of commencement of work in the Town right-of-way or on Town property. A form for this purpose can be obtained from the Department of

Public Works Administration and Technical Support Division. The cost of the Permit is \$160.00.

22. NOTIFICATION OF UTILITIES

In accordance with Chapter 502 of the Acts of 1980, the Contractor shall notify the applicable Water District, Nstar Electric, Comcast, Verizon Telephone Company and National Grid, 72 hours, Saturdays, Sundays and holidays excluded prior to commencing work on the site. Evidence of this notification must be furnished to the Town in order to obtain the road opening permit of Section 3.21 of these Contract General Conditions.

NOTIFICATION OF UTILITIES

The following utility companies which may maintain underground lines or equipment in the project area may be contacted for the required notification of excavation by a single call to DIG-SAFE CENTER 1-888-344-7233.

NSTAR (electric) 1-800-642-7070
P.O. Box 70
Hyannis, MA 02601

VERIZON (telephone) 508-394-0973
44 Old Town House Road
South Yarmouth, MA 02664

NATIONAL GRID (gas) 508-760-7500
127 White's Path
South Yarmouth MA 02664

COMCAST (cable) 508-543-9022 x 7801
Michael Ahearn, Construction Manager Mike_Ahearn@cable.comcast.net
85 East Belcher Road
Foxboro, MA 02035

In addition, direct contact must be made with the applicable Water District Office.

HYANNIS

Water Supply Division
47 Old Yarmouth Road
Hyannis, MA 02601
508-775-0063

CENTERVILLE, MARSTONS MILLS AND OSTERVILLE

Centerville-Osterville Water District
1138 Main Street
Osterville, MA 02655
508-428-6691

COTUIT

Cotuit Water District
4300 Falmouth Road
Cotuit, MA 02635
508-428-2687

BARNSTABLE VILLAGE

Barnstable Fire District Water Depart.
1841 Phinney's Lane
Barnstable, MA 02630
508-362-6498

Dig-Safe cannot be relied upon to locate electric utilities that are "privately" owned. This can include electric cables located in public ways that run from utility poles to buildings.

It is therefore incumbent upon all contractors to ascertain if any electric cables are located in any area prior to excavation. This will be done at the contractor's expense.

Farrell Electric, Inc.
Holmes Road
North Eastham, MA 02651
508-255-1697

All Cape Locating
Don Costa
1-800-760-3785

Willman Electric, Inc.
1199 Pitchers Way
Hyannis, MA 02601
508-775-2568

SECTION 4
CONTRACT SPECIAL CONDITIONS

See Section 16, Contract Special Provisions.

SECTION 5

PROPOSAL SUBMITTAL

The following must be filled out in their entirety by the General Bidder and, except for as noted, submitted with the bid.

- Proposal Form. Pages 5-2 and 5-3
 - Signed by Authorized Representative
 - Acknowledge ALL addenda
 - Complete all requested information
 - Prevailing wages apply

- State Tax Certification Page 5-4
- Certificate of Non-Collusion Page 5-4
- OSHA Certification Pages 5-5 to 5-6

- Unit Prices Pages 5-7 to 5-8

- 5% Bid Bond

- References Page 5 - 9

The following must be submitted within 5 days after the bid opening:

Schedule for Participation by Minority/Women Business Enterprises (CC Form -1) Page 6-20

Letter of Intent Minority/Women Business Enterprises Participation (CC Form -2) Page 6-21

NOTE: Waiver or reduction of MBE/WBE will not be considered after bid submittal date. See Town Policy for requirements.

PROPOSAL FORM

CONTRACTOR

TO: Department of Public Works
Town of Barnstable
382 Falmouth Road
Hyannis, MA 02601

A. The undersigned proposes to furnish all labor and materials required for the construction of:

OCEAN STREET PARKING LOT PAVING

CONTRACT NO. 02-000-14-001

In accordance with the Plans and Specifications prepared by the Town of Barnstable Department of Public Works for the estimated contract price specified below subject to additions and deductions according to the terms of the Contract Documents.

B. This bid includes Addenda Numbered _____

C. The proposed contract price is _____

_____ DOLLARS _____

D. The undersigned, as bidder, declares under penalties of perjury that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made and submitted in good faith and without collusion or fraud with any other person, firm or corporation; that he has filed all state tax returns and paid all state taxes under law; that he has carefully examined the locations of the proposed work, the proposed form of contract, the standard specifications and plans therein referred to and the Special Conditions herein annexed; and he proposes and agrees, if this proposal is accepted, that he will contract with the Awarding Authority, in the form of the contract referred to herein and to be annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction and to do all the work and furnish all the materials specified in the contract, in the manner and time herein prescribed, and according to the requirements of the Engineer as therein set forth, and that he will take in full payment therefore the following unit prices, per pages 5-7 to 5-8

E. The undersigned agrees that if presented with the Notice of Acceptance for this contract, he will within ten (10) days, Saturdays, Sundays and legal holidays excluded, execute a contract in accordance with the terms of this bid and furnish a performance bond and a payment bond, each of a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the awarding authority and each in the sum of one

hundred (100%) percent of the contract price, the premiums for which are to be paid by the Contractor and are included in the contract price; and within five (5) days of the bid opening, the bidder will submit all M/WBE required documentation, per Section 6.

Date: _____

Authorized Signature

By: _____
Title

Business Address

City State Zip

Telephone

Fax

Email

STATE TAXES CERTIFICATION CLAUSE

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all State Tax returns and paid all State Taxes under law.

* Signature of Individual or
Corporate Name (Mandatory)

By: _____
Corporate Officer
(Mandatory, if applicable)

**Social Security No. (Voluntary)
or Federal Identification No.

* Approval of a contract or other agreement will not be granted unless this certification clause, if signed,

Your Social Security Number will 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 agreement issued, reviewed, or extended. This request is made under the authority of Mass. G.L. 62C, S.49A.

TOWN OF BARNSTABLE

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 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 of individuals.

FIRM _____ SIGNATURE _____

ADDRESS _____ NAME (print) _____

_____ TITLE _____

TELEPHONE _____ DATE _____

NOTE: This certificate must be signed by the individual submitting the bid or proposal.

Town of Barnstable Procedures

OSHA Training Certification of contractors

As of July 1, 2011, the Town of Barnstable will comply with the amended MGL chapter 30 section 39s "**Contracts for Construction: Requirements**" as follows.

The Town of Barnstable in all bids and contracts that fall under the application of this law, as amended, will require bidders and/or contractors to comply with the requirements of certifying that they and their employees have complied with MGL chapter 30 section 39s. This law requires successful completion of a 10 hour OSHA safety training course prior to working on the Town's worksite or in the work subject to the bid or contract.

The Town will reject any bids that do not include proper certification submitted with the bids at the posted time for bid opening, however, the town may, at its sole discretion, allow up to two (2) working days for the contractor to submit the required certification. In those cases where contracts are offered without using the sealed bid process, the same certification will be due upon contract signing.

It is expected that the contractor, by signing the certification form provided with the bid is fully meeting the language of the law, as amended, and that they are accepting the responsibilities to comply with the law for the full term of the work.

The Town of Barnstable will pay certified payrolls that are deemed complete. The statute indicates that with the first certified payroll submitted to the Town, documentation must be provided that each employee on the payroll documents submitted to the Town has successfully completed the OSHA training.

Any employee who's name does not appear on the first certified payroll must submit certification with the first payroll they do appear on. Failure to provide full documentation may result in a delay in payment to the vendor as the packet submitted for payment would be determined to be incomplete.

Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

This certification requirement will go into effect for any bids received or contracts awarded after July 1, 2011 in accordance with MGL 30 39s as amended by Chapter 306 of the Acts of 2004.

**CERTIFICATION
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) TRAINING**

In accordance with Massachusetts General Law 30: Section 39S, as amended by Chapter 306 of the Acts of 2004, effective 7/1/06, for all contracts for the construction, reconstruction, alteration, remodeling or repair of any public work or the construction, reconstruction, installation, demolition, maintenance or repair of any public building estimated to cost more than \$10,000, the Contractor hereby certifies to the following:

(1) 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; (2) that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

(b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

(c) The attorney general, or his designee, shall have the power to enforce this section including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts in all cases where, after investigation of the facts, he has made a finding that the award or performance has resulted in violation, directly or indirectly, of subsection (b), and he shall not be required to pay to the clerk of the court an entry fee in connection with the institution of the proceeding.

The undersigned hereby certifies under the penalties of perjury to the above:

Company: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Telephone _____ Fax: _____

UNIT BID PRICE

**OCEAN STREET PARKING LOT PAVING
CONTRACT # 02-000-14-001**

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
101.2	3400 SY	MISC SURFACE PREPARATION Dollars (_____) per SY				
101.3	3400 SY	STREET SWEEPING Dollars (_____) per SY				
129	64.53 SY	PAVEMENT MILLING Dollars (_____) per SY				
220	9 EA	DRAINAGE STRUCTURE ADJUSTED Dollars (_____) per EA				
220.5	4 FT	DRAINAGE STRUCTURE REBUILT Dollars (_____) per FT				
358	1 EA	GATE BOX ADJUST Dollars (_____) per EA				
460	537.60 TON	HOT MIX ASPHALT Dollars (_____) per TON				
464	170.0 GAL	BITUMEN FOR TACK COAT Dollars (_____) per GAL				
472	25.0 TON	HOT MIX ASPHALT FOR MISC WORK Dollars (_____) per TON				

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
748	1 LS	MOBILIZATION				
		_____ Dollars (_____) LUMP SUM				
TOTAL BID AMOUNT						
_____ Dollars (\$ _____)						

REQUIRED BID SUBMITTAL FORM

REFERENCES

BIDDER NAME: _____

PROJECT NAME: _____

Bidders must provide a list of at least 5 references to which similar size and scope projects have been completed within the past five (5) years, along with a name of a contact person and phone numbers. (Municipalities desired, if applicable). Additionally, please attach to this form, a complete list of ongoing projects, projects completed within the past two years including project contact names, values and contact names and numbers. Town reserves the right to obtain additional references at their option.

1. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

2. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

3. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

4. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

5. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

TOWN OF BARNSTABLE

MINORITY / WOMEN BUSINESS ENTERPRISE PLAN (MBE / WBE)



Johanna F. Boucher
Purchasing Agent/Contract Compliance Officer
230 South Street
Hyannis, MA 02601
Tel (508) 862-4741
Fax (508) 862-4717
johanna.boucher@town.barnstable.ma.us

(Revised January 1, 2013)

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**TOWN OF BARNSTABLE
MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE)
PROGRAM OVERVIEW**

1. POLICY STATEMENT

The Construction Reform Law, Chapter 193 of the Acts of 2004, and the revisions it made to M.G.L. c. 23A, §44 and M.G.L. c. 7, §40N, included a new municipal affirmative marketing program. Municipalities (hereinafter Awarding Authorities) must now incorporate Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) goals into both their design and construction procurement for municipal contracts for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building by any city or town that includes funding provided by the Commonwealth, in whole or in part (such as funding under the Massachusetts School Building Authority (MSBA), funding in any legislative appropriation, grant awards, reimbursements, municipal commitments to use state funds and the like). To count towards participation the business must be a Supplier Diversity Office (SDO) certified WBE or MBE. Certification as a disadvantaged business enterprise (DBE), certification as an MBE/WBE by any agency other than SDO, or submission of an application to SDO for certification as an MBE/WBE shall not confer MBE or WBE status on a firm for purposes of participation credit. You can access the new law on The General Court of Massachusetts website: <http://www.mass.gov/legis/laws/mgl/7-40n.htm> and <http://www.mass.gov/legis/laws/mgl/23a-44.htm>.

It is the policy of the government of the United States of America, the Commonwealth of Massachusetts, and the Town of Barnstable that no person who is a member of a class which is protected under State and Federal law shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded entirely or in part by the Town, State, or Federal Government. It is the policy of the Town of Barnstable to comply with all Federal and State Laws which have been or shall be enacted for the purpose of eliminating discrimination in all phases of contractual procedures. Among the relevant laws and regulations are the following: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972; Chapter 151B of the Massachusetts General Laws; Executive Order 74, as amended by Executive Orders 116 and 117, and again amended by Executive Order 227 dated February 25, 1983; Executive Order 237, dated March 19, 1984; Executive Order 390 dated September 9, 1996; Federal Executive Order 11246 with amendment 11375; the Rehabilitation Act of 1973, as amended in 1974, Americans with Disability act of 1990; the Construction Reform Law, Chapter 193 of the Acts of 2004; and the revisions made to M.G.L.c.23A, §44, M.G.L. c. 7, §40N, M.G.L. c 7, §40N, M.G.L. c. 7, §61, Executive Orders 524 and 526. This is not intended to be a complete listing of the relevant orders, amendments and acts that relate to this policy.

To further define the Town's Equal Opportunity/Affirmative Action policy, the Town's Minority/Women Business Enterprise Plan sets forth the administrative standards and procedures for the utilization of minority and female contractors, sub-contractors and suppliers of goods and services.

The Town of Barnstable strongly affirms that it will abide by such laws, regulations and procedures, and that this policy shall be administered at all levels with a positive, aggressive and supportive attitude.

Thomas K. Lynch
Town Manager

2. Objective

The Town of Barnstable's Minority and Women Business Enterprise (MBE/WBE) Program is a set of specific procedures that has been formulated to implement the Town's policy of equal opportunity.

The main objective of the Town's policy is to provide any MBE/WBE who is able and willing to do business with the Town the access to bids, contracts and procurements Town-wide. In addition, this policy ensures that there is compliance with the goals established by the Town to promote the general use of minority workers, contractors and subcontractors. This policy also includes an active outreach program that assists MBE/WBE entities in becoming state certified and registered with the Town. The goal of equal opportunity coupled with the Town's commitment to ensuring that contractor's comply with affirmative action polices when hiring subcontractors or workers is the essence of the Town of Barnstable's minority business policy.

All of the Town of Barnstable bidding opportunities as posted on the Town of Barnstable Bid & RFP System at www.town.barnstable.ma.us and the current MBE/WBE Policy is posted on the Purchasing Homepage.

3. Responsibility for Implementation

A. TOWN MANAGER

The success of the Minority/Women Business Enterprise Plan is dependent upon the full cooperation and understanding of all individuals involved with the program. The Town Manager, as Chief Executive Officer, has overall responsibility for the Town's Minority/Women Business Enterprise Plan in conjunction with designated staff.

B. CONTRACT COMPLIANCE OFFICER

The Contract Compliance Officer (CCO) designated on the cover page, is responsible for the development, monitoring, coordination and reporting functions of the Minority/Women Business Enterprise Plan and is directly responsible to the Town Manager.

Nothing in this Plan shall be construed to require the utilization of any MBE/WBE which is either not qualified or unavailable.

4. Definitions

As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"**Minority**", a person with a permanent residence in the United States who falls into one or more of the categories below

CATEGORY	DEFINITION
American Indian	(or Native American) All persons having origins in any of the original peoples of North America, and who are recognized as an Indian by a tribe or tribal organization.
Asian	All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands including but not limited to China, Japan, Korea, India, the Philippines Islands and Samoa.
Black	All persons having origins in any of the Black groups of Africa, including, but not limited to, African-Americans, and all persons having origins in any of the original peoples of the Cape Verdean Islands.
Eskimo and Aleut	All persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia.
Hispanic	All persons of Mexican, Puerto Rican, Cuban, Central, South American, or Caribbean Island origin.
Portuguese	All persons having Portuguese origin. Portuguese persons shall only be included in the definition of minority if specifically set

forth in programs funded by state transportation bond statutes.

“Awarding Authority”, “Owner”, “Town” means the Town of Barnstable (which includes the School Department and Barnstable Municipal Airport).

"Minority/Woman Business Enterprise" or "MBE/WBE" means any business certified by the Supplier Diversity Office (SDO) as a bonafide minority business enterprise. To be certified as an MBE/WBE, a business must demonstrate that it meets requirements as established in 425 CMR 2.00-Supplier Diversity Office Regulations which include:

1. That minority-persons beneficially own and control at least 51% of the business; and
2. That minority persons have dominant control in the management and operation of the business; and
3. That minority persons have made a substantial investment in the business; and
4. That the business is an ongoing concern and that it was not created solely for the purpose of taking advantage of set-aside programs.

In the case of a joint venture between a SDO certified MBE/WBE and a non-minority controlled enterprise, the joint venture shall be considered to be an MBE/WBE if the SDO certified MBE/WBE which is part of the joint venture has more than 51% control over management of the project bid upon by the joint venture, and has the right to receive more than 51% of the profits that are derived from that project.

"Contractor" means the successful bidder to whom this contract has been awarded.

"Owner" means the contracting agency which has awarded this contract.

"SDO" means the Supplier Diversity Office established by G.L.C. 23A. SDO maintains a listing of certified minority/female businesses. Unlisted minority/female businesses will be referred to SDO for certification.

“State Assisted” means any project that is being funded in part or in whole by the Commonwealth of Massachusetts.

5. Percentage Participation (CONTRACTS GREATER THAN \$100,000.00)

STATE ASSISTED PROJECTS - Pursuant to the new Construction Reform Law, Chapter 193 of the Acts of 2004, and the revisions made to M.G.L.c.23A, §44 and M.G.L. c. 7, §40N, included by reference and thereby made a part of this policy, for any **State Assisted** building projects, in whole or in part, shall have MBE and WBE goals for design and construction contracts for the planning, acquisition, design, construction, reconstruction, alteration, remodeling, repair or demolition of any state assisted building project by any municipality that includes funding provided by the Commonwealth, in whole or in part (such as funding under the School Building Assistance Program, MGLc90, § 34, legislative appropriation, CPA funding, grant awards, reimbursements, loans, etc.). This includes horizontal projects (unless specifically stated for vertical projects by funding source).

TOWN FUNDED PROJECTS - Further to the above requirement, the Town of Barnstable also requires MBE/WBE participation for **Town Funded** construction projects, as defined and in the participation requirement percentages as stated below, Section 5.A. This includes horizontal and vertical projects.

NOTE: In the event that the state or other funding source has its own MBE/WBE/DBE policy that is applicable to the contract based on that funding, that policy will supersede this policy. Participation percentages and policy applicability will be clearly stated in the Invitation for Bid.

A. Construction (State Assisted Funding and Town Funded)

For construction contracts, the minimum amount of participation reserved shall be **10.4%** combined MBE/WBE participation, of the total bid price, or the percentage submitted by the contractor in the "Schedule for Participation by Minority Business Enterprises" as part of its bid, whichever is greater. The above stated percentage participation has been established with and approved by SDO.

The Town of Barnstable encourages MBE/WBE participation for all contracts, regardless of the dollars threshold stated herein.

B. Design (includes acquisition and planning) (State Assisted Funding Only)

For applicable **State Assisted** design contracts, the minimum amount of participation reserved shall be **17.9%** combined MBE/WBE participation Woman Business Enterprises (WBE's) including female owned companies and banks, of the total bid price, or the percentage submitted by the contractor in the "Schedule for Participation by Minority Business Enterprises" as part of its bid, whichever is greater. The above stated percentage participation has been established with and approved by SDO.

The combined goals require a reasonable representation of **both** MBE **and** WBE firm participation on the project as set forth in Attachment C, Section A, Paragraph 2.

A list of currently certified MBEs and WBEs in design and construction fields is available on the SDO's website at <http://www.somwba.state.ma.us>. The Town of Barnstable does not maintain a separate list of certified firms.

The Town of Barnstable encourages MBE/WBE participation for all contracts, regardless of the dollars threshold stated herein and the project's funding source.

Note: The participation of a DBE (Disadvantaged Business Enterprise), unless specifically called for in the terms of the Invitation for Bid, will not be considered a substitute for MBE/WBE participation percentages. Dual certification (MBE plus WBE) will not reduce the overall required percentage participation for both MBE and WBE as stated above in paragraph A. and B.

C. SDO Certification/Market Area

All contractors shall use only MBE/WBE contractors that have been certified by SDO and who are currently in good standing.

An MBE/WBE shall be considered available if the project is located in the market area of the MBE/WBE. The relevant market area of the Town of Barnstable is the Eastern Massachusetts area. However, efforts to locate minority contractors and suppliers need not be limited to this area.

6. Monitoring and Reporting Procedures

The CCO shall maintain records, documentation, and required reporting for the Town of Barnstable MBE/WBE activities to ensure compliance with the requirements of the Federal Government, State of Massachusetts, and the Town of Barnstable.

All bidding departments are required to report their MBE/WBE activities to the CCO on a quarterly basis utilizing the provided reporting form (CC Form 8). This report includes but is not limited to:

1. Project start date, estimated completion date and percentage of completion at the time of each quarterly ending date;
2. Confirming MBE/WBE participation dollars based on awarded contract;
3. Amounts paid during the quarter to MBE/WBE and total amount paid to date for the project work.

After the award of the contract, the following documents and information must be submitted by the contractor to the Town/School/Airport's project manager. These records will be retained by the bidding departments in the project file in accordance to record retention policy:

1. Weekly Payroll Statement of Compliance (Included Form CC Form 6) including certified payrolls.

The CCO will actively conduct compliance reviews that will include, but are not limited to, the following:

1. Off-site or desk audits of contractors actual performance related to their submitted documents and participation commitments.

7. Outreach

The Town's MBE/WBE policy will be communicated, publicized and distributed to the greatest extent possible. It is the responsibility of the CCO to lead the Town in distributing the policy and gathering any feedback from the general public and local minority organizations.

A copy of the MBE/WBE policy will be available for public review in the Office of the CCO, on the Town of Barnstable Website (www.town.barnstable.ma.us), and at the Office of the Town Clerk. In addition, each department head involved in the procurement of goods, services and the issuance of construction contracts will maintain a copy in their respective departments.

8. Waiver/Reduction Request

If a bidder has done due diligence in attempting to meet the participation requirements and has not been successful, the bidder may submit a waiver or reduction request in accordance with the requirements as defined in the MBE/WBE Bidding Instructions (MBE Requirements B) with all of the requested information stated therein.

Failure to submit MBE/WBE participation documentation within the stated timeline (see Attachment C) or sufficient support for a waiver request may result in the bid being deemed non-responsive. **Waiver/Reduction forms will not be accepted after the bid opening.**

If the waiver or reduction request is approved, an addendum shall be issued to the bid, revising the participation requirements in accordance with the approved waiver.

**TOWN OF BARNSTABLE
MBE/WBE REQUIREMENTS**

**PROCEDURE FOR TOWN OF BARNSTABLE FOR PRE-ADVERTISING ADJUSTMENT
OF MBE/WBE PARTICIPATION GOALS – Requested by the Awarding Authority**

A. Affirmative Marketing Participation Goals

Each Municipality must enforce the current Affirmative Marketing Goals developed by the Division of Capital Asset Management (DCAM) in consultation with SDO. In support of this requirement, the Town of Barnstable's Affirmative Marketing Goals apply to the following:

1. All construction projects over \$100K – state assisted funding or town funded, and;
2. All design contracts over \$100K - state assisted funding projects only.

Participation Percentages are as follows:

Design Participation:	Combined MBE/WBE goal of (17.9%)
Construction Participation:	Combined MBE/WBE goal of (10.4%)

The combined goals require a reasonable representation of both MBE and WBE firm participation on the project as further set forth in Attachment C, Section A, Paragraph 2.

B. Criteria for Adjustment of Goals

In Accordance with Section 7 of Chapter 193 of the Acts of 2004, the Town Barnstable may file a written request with the Executive Director of the State Diversity Office (SDO), for the adjustment of participation goals, for an individual state-assisted building project, at any time prior to the advertising of the contract. Factors that may be considered in granting an adjustment of the project goals for design and/or construction include any or all of the following:

- Actual availability of certified Minority and/or Women Owned Business Enterprises (MBE/WBEs);
- The geographic location of the project;
- The scope of work of the project including the opportunities for sub-contracting and subdividing the work; and
- Other relevant factors.

C. Project Dollar Thresholds

Participation goals are encouraged for all projects. Participation goals apply to all constructions projects greater than \$100K and for state assisted funding for design projects where the estimated fee is greater than \$100K.

D. Supporting Documentation for Design and Construction Projects

Documentation that will be considered in granting an adjustment will include, but are not limited to the following:

1. A general description of the project, a copy of the detailed project estimates, and the deadline for placement of project advertisements.
2. The reasons that the Awarding Authority or its representative has determined that there are no qualified MBE/WBEs.
3. Documentation after reviewing the MBE/WBE listings in the SDO directory that there may be a lack of eligible MBE/WBEs to perform the design and construction contract work in the general region of the project.
4. Documentation after reviewing the MBE/WBE listings in the SDO directory that there are no certified businesses within the scopes of work of the project including the opportunity for subcontracting after identifying all subcontracting opportunities.
5. Other Information - The Awarding Authority may also submit any other information supporting its request for adjustment of the MBE/WBE participation goals.

E. Request for Adjustment of Design and Construction Goals

1. As required by Chapter 193 of the Acts of 2004, the Awarding Authority must utilize the Standard Designer Application Form for Municipalities and Public Agencies not within Designer Selection Board (DSB) jurisdiction available on the DCAM web site under Cities and Towns at: <http://www.mass.gov/cam/DSB>.
2. Requests by an Awarding Authority for Adjustment of MBE/WBE Participation Goals on an individual state assisted project must be submitted in writing to the SDO Director of Construction Reform at The McCormack Building, One Ashburton Place, 13th Floor, Suite 1313, Boston, MA 02116 or by e-mail at: John.Kineavy@state.ma.us, no less than fourteen (14) business days before the deadline for placement of advertisements for the contract.
3. Design and Construction Goals are separate goals and therefore, requests for adjustment must be applied for separately. Design participation may not be substituted for Construction participation, nor may Construction participation be substituted for Design participation. On modular projects the design services provided under the construction contract are construction-related participation.
4. The Requested Adjustment must include the reasons for the adjustment as well as any supporting documentation as described in paragraph D above.
5. A written response to the Request will be provided to the Awarding Authority prior to the advertising deadline.
6. Adjustment for MBE/WBE Participation Goals for NON-state assisted projects are subject to the Contract Compliance Officer's approval, subject to the same submittal requirements as stated in paragraph E.4 above.

**TOWN OF BARNSTABLE
MBE/WBE REQUIREMENTS**

**PROCEDURE FOR PRE-BID OPENING REDUCTION/WAIVER OF MBE/WBE
PARTICIPATION GOALS – Requested by the Contractor (bidder)**

I. Pre-Bid Reduction/Waiver Procedures

A. Affirmative Marketing Participation Goals

Each Municipality must enforce the current Affirmative Marketing Goals developed by the Division of Capital Asset Management (DCAM) in consultation with SDO. In support of this requirement, the Town of Barnstable's Affirmative Marketing Goals apply to the following:

1. All construction projects over \$100K – state assisted funding or town funded, and;
2. All design contracts over \$100K - stated assisted funding projects only.

Participation Percentages are as follows:

Design Participation:	Combined MBE/WBE goal of (17.9%)
Construction Participation:	Combined MBE/WBE goal of (10.4%)

The combined goals require a reasonable representation of both MBE and WBE firm participation on the project as further set forth in Attachment C, Section A, Paragraph 2.

B. Criteria for Reduction/Waiver of Goals

Potential Bidders may request a reduction or waiver of goals on a project-by-project basis **before** bids are submitted. The Awarding Authority reserves the right to accept and review written requests made by a General Bidder to reduce or waive the MBE or WBE design and construction participation goals established for this Contract. In accordance with Section 7 of Chapter 193 of the Acts of 2004, such written request must demonstrate, to the satisfaction of the Awarding Authority that it is not feasible for a non-MBE or non-WBE general Bidder to meet the goals based upon a showing that **“Diligent Good Faith Effort”** was made to comply with the participation goals. If this criteria is met, the Awarding Authority must submit the General bidders request for **State Assisted** projects to the Executive Director of the Supplier Diversity Office (SDO) for final determination and for **Town funded** projects, the Contract Compliance Officer may make that final determination. Factors that may be considered in granting a reduction or waiver of the contract goals include any or all of the following:

- Actual availability of certified Minority and/or Women Owned Business Enterprises (MBE/WBEs);
- The geographic location of the project;
- The scope of work and opportunities for subcontracting the work; and
- Other relevant factors including documented inability by the prospective Bidder to obtain commitments from MBE/WBE subcontractors sufficient to meet the MBE/WBE goals after having made a diligent, good faith effort to do so.

C. Supporting Documentation Required from Potential Construction Bidders

1. A list of all items of work under the Contract that the Bidder made available for subcontracting to MBE/WBEs. The Bidder shall identify all items of work, other than work to be performed by filed sub-Bidders, that the Bidder did not make so available and shall state the reasons for not making such work available for subcontracting to MBE/WBEs. The Bidder shall also demonstrate that, where commercially reasonable, subcontracts were divided into scopes or tasks capable of being performed by MBE/WBEs.
2. Documentation that the Bidder sent written notices soliciting Bids or proposals to perform the items of work made available by the Bidder for subcontracting to MBE/WBEs to all MBE/WBEs qualified to perform such work. The Bidder shall identify (i) each MBE/WBE solicited, and (ii) each MBE/WBE listed in the SDO directory under the applicable trade category that was not solicited and reasons therefore. The Bidder shall also state the date that notices were mailed and provide a copy of the written notice(s) sent.
3. Documentation that the Bidder made reasonable efforts to follow up the written notices sent to MBE/WBEs with telephone calls or personal visits in order to determine with certainty whether the MBE/WBEs were interested in performing the work. Phone logs or other documentation must be submitted.
4. A statement of the response received from each MBE/WBE solicited, including the reason for rejecting any MBE/WBE who submitted a bid or proposal.
5. Documentation of reasonable efforts, if any, made to assist MBE/WBEs that needed assistance in obtaining bonding or insurance, or lines of credit with suppliers if the inability of MBE/WBEs to obtain bonding, insurance, or lines of credit is the reason given for the Bidder's inability to meet the MBE/WBE goals.
6. The Bidder may also submit any other information supporting its request for a waiver or reduction in the MBE/WBE participation goals, including without limitation evidence that the Bidder placed advertisements in appropriate media and trade association publications announcing the Bidder's interest in obtaining bids or proposals from MBE/WBEs, and/or sent written notification to MBE/WBE economic development assistance agencies, trade groups and other organizations notifying them of the Contract and the work to be subcontracted by the Bidder to MBE/WBEs. The Bidder shall also submit any other information reasonably requested by the Awarding Authority to show that the Bidder has taken all actions that could reasonably be expected to achieve the MBE/WBE participation goals.

D. Process for Requesting Waiver/Reduction of Construction Goals

1. Requests from prospective general Bidders to reduce or waive the MBE/WBE participation goals for the bid requirement must be received by the Awarding Authority **no later than ten (10) calendar days before the general bids are due**.
2. The Awarding Authority shall not consider any request to reduce or waive the MBE/WBE Participation goals for the Contract that is received after the aforementioned deadlines.

3. Any reduction or waiver of the MBE/WBE participation goals for the Contract will be made by written addendum mailed (or emailed) to all persons who have taken out plans for the project within a reasonable period prior to bid submission.
4. Procedures and Timelines for the Waiver/Reduction of Construction Goals can be found in the attached Bidding Instructions.

**TOWN OF BARNSTABLE
MBE/WBE REQUIREMENTS**

BIDDING INSTRUCTIONS

**APPENDIX TO BIDDING INSTRUCTIONS
(all constructions contracts > \$100K)**

GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES (MBE) AND WOMEN BUSINESS ENTERPRISES (WBE) (EXECUTIVE ORDER 390, M.G.L. c. 7, s. 4)

Each Municipality must enforce the current Affirmative Marketing Goals developed by the Division of Capital Asset Management (DCAM) in consultation with SDO. In support of this requirement, the Town of Barnstable's Affirmative Marketing Goals apply to the following:

1. All construction projects over \$100K – state assisted funding or town funded, and;
2. All design contracts over \$100K - stated assisted funding projects only.

Participation Percentages are as follows:

Design Participation:	Combined MBE/WBE goal of (17.9%)
Construction Participation:	Combined MBE/WBE goal of (10.4%)

The combined goals require a reasonable representation of both MBE and WBE firm participation on the project as further set forth in Attachment C, Section A, Paragraph 2.

A. MBE AND WBE PARTICIPATION

1. The apparent low Bidder's compliance with the requirements of this Section is a pre-requisite for receiving the Award of the Contract.
2. The successful Contractor must utilize a mix of both MBE and WBE firms whose participation, when added together, meets or exceeds the overall combined goal set for the Contract. It is important that both MBE and WBE firms have an opportunity to work on public projects with a combined MBE/WBE goal. Therefore, projects with a combined goal must include a reasonable representation of **both** MBE **and** WBE firms to meet or exceed the combined goal. Proposed MBE/WBE participation plans that includes solely MBE or solely WBE participation, or have only nominal participation by one or the other to meet the combined goal will not be considered responsive. Contractors that are themselves MBE or WBE certified will be required to bring a reasonable amount of participation by a firm(s) that holds the certification which is not held by the Contractor to the project. Although the Contract contains a combined goal, participation by MBE/WBE firms must be reported and tracked separately.
3. The MBE and WBE participation goals for this Contract are as set forth above. The Awarding Authority reserves the right to accept and review written requests made by a General Bidder to reduce or waive the MBE or WBE design and construction participation goals established for this Contract. In accordance with Section 7 of Chapter 193 of the Acts of 2004, such written request must

demonstrate, to the satisfaction of the Awarding Authority that it is not feasible for a non-MBE or non-WBE general Bidder to meet the goals based upon a showing that “**Diligent Good Faith Effort**” was made to comply with the participation goals. If this criteria is met, the Awarding Authority must submit the General bidders request for **State Assisted** projects to the Executive Director of the Supplier Diversity Office (SDO) for final determination and for **Town funded** projects, the Contract Compliance Officer may make that final determination. All of the foregoing documentation shall accompany the Bidder's request for a reduction or waiver of the MBE/WBE participation goals. Such documentation shall include, at a minimum, the following:

- a. A list of all items of work under the Contract that the Bidder made available for subcontracting to MBE/WBEs. The Bidder shall identify all items of work, other than work to be performed by filed sub-Bidders, that the Bidder did not make so available and shall state the reasons for not making such work available for subcontracting to MBE/WBEs. The Bidder shall also demonstrate that, where commercially reasonable, subcontracts were divided into scopes or tasks capable of being performed by MBE/WBEs.
 - b. Evidence that the Bidder sent written notices soliciting Bids or proposals to perform the items of work made available by the Bidder for subcontracting to all MBE/WBEs qualified to perform such work. The Bidder shall identify (i) each MBE/WBE solicited, and (ii) each MBE/WBE listed in the SDO directory under the applicable trade category that was not solicited and reasons therefore. The Bidder shall also state the date that notices were mailed and provide a copy of the written notice(s) sent.
 - c. Evidence that the Bidder made reasonable efforts to follow up the written notices sent to MBE/WBEs with telephone calls or personal visits in order to determine with certainty whether the MBE/WBEs were interested in performing the work. Phone logs or other documentation must be submitted.
 - d. A statement of the response received from each MBE/WBE solicited, including the reason for rejecting any MBE/WBE who submitted a bid or proposal.
 - e. Evidence of reasonable efforts made, if any, to assist MBE/WBEs that needed assistance in obtaining bonding or insurance, or lines of credit with suppliers if the inability of MBE/WBEs to obtain bonding, insurance, or lines of credit is the reason given for the Bidder's inability to meet the MBE/WBE goals.
 - f. The Bidder may also submit any other information supporting its request for a waiver or reduction in the MBE/WBE participation goals, including without limitation evidence that the Bidder placed advertisements in appropriate media and trade association publications announcing the Bidder's interest in obtaining bids or proposals from MBE/WBEs, and/or sent written notification to MBE/WBE economic development assistance agencies, trade groups and other organizations notifying them of the Contract and the work to be subcontracted by the Bidder to MBE/WBEs. The Bidder shall also submit any other information reasonably requested by the Awarding Authority to show that the Bidder has taken all actions that could reasonably be expected to achieve the MBE/WBE participation goals.
4. If **filed Sub-Bids** are solicited for this Contract, requests from prospective general Bidders to reduce or waive the MBE/WBE participation goals for this Contract must be received by the Awarding Authority **no later than five (5) working days** after the list of filed sub-Bidders is mailed by the Awarding Authority to persons who have taken out plans for the Contract. If there are no filed sub-

Bids solicited for this Contract, requests to reduce or waive the MBE/WBE participation goals for this Contract must be received by the Awarding Authority **no later than ten (10) calendar days** before the date set for the receipt of general Bids. **THE AWARDING AUTHORITY WILL NOT CONSIDER ANY REQUEST TO REDUCE OR WAIVE THE MBE/WBE PARTICIPATION GOALS FOR THIS CONTRACT THAT IS RECEIVED AFTER THESE DEADLINES. Any reduction or waiver of the MBE/WBE participation goals for this Contract will be made by written addendum mailed to all persons who have taken out plans for the project.**

5. **No later than five (5) working days** after the opening of general Bids, the apparent low Bidder shall submit the following documents to the Town of Barnstable's Contract Compliance Office (CCO): (i) a completed Schedule for Participation by MBE/WBE ("Schedule for Participation") in the form provided by the Awarding Authority showing MBE/WBE participation in amounts equal to or exceeding the MBE/WBE participation goals for this Contract, (ii) a completed Letter of Intent in the form provided by the Awarding Authority for each MBE/WBE listed in the Schedule for Participation, and (iii) the most recent SDO certification letter for each MBE/WBE listed in the Schedule of MBE/WBE Participation showing that the MBE/WBE is certified in the area of work for which it is listed on the Letter of Intent.

Forms attached for your use as follows:

CC Form 1	Schedule of Participation
CC Form 2	Letter of Intent
CC Form 3	Contractor Progress Payment Report
CC Form 4	Contractor Certification
CC Form 5	Waiver Request Form (see criteria for use above)
CC Form 6	Weekly Payroll Records Report & Statement of Compliance
CC Form 7	Payroll Form
CC Form 8	Quarterly Reporting Form

Each Letter of Intent shall identify and describe the work to be performed by the named MBE/WBE (the "MBE/WBE Work") with enough specificity to permit the Awarding Authority to identify the particular items of contract work that the MBE/WBE will perform for MBE/WBE participation credit. The Awarding Authority reserves the right to reject any Letter of Intent if the price to be paid for the MBE/WBE work does not bear a reasonable relationship to the value of such work under the Contract as determined by the Awarding Authority.

6. **Within five (5) working days** after receipt of the Schedule for MBE/WBE Participation, Letters of Intent, and SDO most recent certification letter, the Awarding Authority shall review and either approve or disapprove the apparent low Bidder's submissions. If the apparent low Bidder has not submitted an appropriate Schedule for MBE/WBE Participation and appropriate Letters of Intent and SDO most recent certification letter establishing that the MBE/WBE participation goal for the project will be met, the apparent low Bidder will be considered ineligible for Award of the Contract and the Awarding Authority will Award the Contract to the second lowest eligible and responsible Bidder, subject to said Bidder's compliance with these conditions. If funds are insufficient to award to the second lowest Bidder, the project may have to be re-bid.
7. The Contractor will be required to submit, within thirty (30) days of the Contract Date, signed subcontracts with all subcontractors or a purchase order or invoice from each material supplier and/or manufacturer listed on the Schedule for MBE/WBE Participation.
8. A filed sub-Bidder is not required to submit a Schedule of MBE/WBE Participation with its Bid. A filed sub-Bidder may, at its option, submit a Letter of Intent with its Bid if it is a SDO certified

MBE/WBE. If a filed sub-Bidder intends to sub-subcontract work to a SDO certified MBE/WBE, and the awarding authority permits limited sub-sub contracting for purposes of MBE/WBE participation, and the filed sub-Bidder wishes that sub-subcontract to be credited toward the participation goals for this Contract, the filed sub-Bidder should submit a Letter of Intent from that MBE/WBE with its Bid.

NOTE: If a bid is submitted by a contractor in response to this solicitation, it is understood that the apparent low bidder will meet the minimum MBE/WBE participation requirements as required by the bidding documents. MBE/WBE participation documentation (CC Form 1 and CC Form 2) may be submitted with the bid, however, must be received by the awarding authority no later than five (5) working days after the bid opening date.

**TOWN OF BARNSTABLE
CONSTRUCTION PROJECTS
CONTRACT INSTRUCTIONS**

APPENDIX to General Conditions of the Contract

GOALS FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES (MBE) AND WOMEN BUSINESS ENTERPRISES (WBE) (EXECUTIVE ORDER 390, M.G.L. c. 7, s. 4)

Each Municipality must enforce the current Affirmative Marketing Goals developed by the Division of Capital Asset Management (DCAM) in consultation with SDO. In support of this requirement, the Town of Barnstable's Affirmative Marketing Goals apply to the following:

1. All construction projects over \$100K – state assisted funding or town funded, and;
2. All design contracts over \$100K - stated assisted funding projects only.

Participation Percentages are as follows:

Design Participation:	Combined MBE/WBE goal of (17.9%)
Construction Participation:	Combined MBE/WBE goal of (10.4%)

The combined goals require a reasonable representation of both MBE and WBE firm participation on the project as further set forth in Attachment C, Section A, Paragraph 2.

1. Goals

The goals for minority business enterprise (MBE) and woman business enterprise (WBE) participation established for this Contract are as set forth above and in the Owner - Contractor Agreement.

2. MBE/WBE Participation Credit

- A. If the Contractor is itself an MBE or a WBE, MBE/WBE participation credit shall be given in an amount equal to the entire Contract Price. If the Contractor is not an MBE or WBE, then MBE/WBE participation credit will be given for the value of the Work that is actually performed by each MBE or WBE subcontractor or sub-subcontractor.
- B. If the Contractor is a joint venture with one or more MBE/WBE joint ventures, MBE/WBE participation credit shall be given to the joint venture as follows:
 - (1) If the joint venture is certified by SDO as an MBE or WBE, MBE/WBE Participation credit shall be given in an amount equal to the entire Contract Price.
 - (2) If the joint venture is not certified as an MBE or WBE by SDO, MBE/WBE participation credit shall be given to the joint venture for the value of the Work that is performed by the MBE/WBE joint venture(s), and for the value of the Work that is actually performed by each MBE or WBE subcontractor or sub-subcontractor.

- C. If an MBE/WBE supplies, but does not install equipment or materials, MBE/WBE participation credit shall be given only if the MBE/WBE supplier is regularly engaged in sales of equipment or supplies to the construction industry from an established place of business. MBE/WBE participation credit shall be given the full amount of the purchase order only if the MBE/WBE supplier manufactures the goods or substantially alters them before resale. Otherwise, a contractor may count toward its MBE/WBE goal 60 percent of the total bid price for its expenditures of its materials and supplies required under a contract and obtained from a MBE/WBE regular supplier.
- D. MBE participation credit shall be given for the work performed by MBEs only; and WBE participation credit shall be given for the work performed by WBEs only. MBE participation may not be substituted for WBE participation, nor may WBE participation be substituted for MBE participation.

3. Establishing MBE/WBE Status.

- A. A minority owned business shall be considered as an MBE only if it has been certified as a minority business enterprise by the State Office of Minority and Women Business Assistance (“SDO”).
- B. A woman owned business shall be considered as a WBE only if it has been certified as a woman business enterprise by SDO.
- C. Certification as a disadvantaged business enterprise (“DBE”), certification as MBE/WBE by any agency other than SDO, or submission of an application to SDO for certification as an MBE/WBE shall not confer MBE/WBE status on a firm for the purposes of this Contract.

4. Subcontracts with MBE/WBEs

Within thirty (30) days after the award of this Contract, the Contractor shall (i) execute a subcontract with each MBE/WBE Subcontractor which has executed a Letter of Intent Approved by the Awarding Authority, (ii) cause its Subcontractors to execute a sub-subcontract with each MBE/WBE sub-subcontractor, and (iii) furnish the Awarding Authority with a signed copy of each such subcontract and sub-subcontract.

5. Performance of Contract Work by MBE/WBEs

- A. The Contractor shall not perform with its own organization or subcontract or assign to any other firm work designated to be performed by any MBE/WBE in the Letters of Intent or Schedule of MBE/WBE Participation without the prior Approval of the Awarding Authority; nor shall any MBE/WBE assign or subcontract to any other firm, or permit any other firm to perform any of its MBE/WBE Work without the prior Approval of the Awarding Authority. Any such unapproved assignment, subcontracting, sub-subcontracting, or performances of MBE/WBE Work by others shall be a change in the MBE/WBE Work for the purposes of this Contract. **THE AWARDED AUTHORITY WILL NOT APPLY TO THE MBE/WBE PARTICIPATION GOAL(S) ANY SUMS ATTRIBUTABLE TO SUCH UNAPPROVED ASSIGNMENTS, SUB-CONTRACTS, SUB-SUBCONTRACTS, OR PERFORMANCE OF MBE/WBE WORK BY OTHERS.**
- B. The Contractor shall be responsible for monitoring the performance of MBE/WBE Work to ensure that each scheduled MBE/WBE performs its own MBE/WBE Work with its own workforce.

- C. The Contractor and each MBE/WBE shall provide the Awarding Authority with all information and documentation that the Awarding Authority determines is necessary to ascertain whether or not an MBE/WBE has performed its own MBE/WBE Work. At the discretion of the Awarding Authority, failure to submit such documentation to the Awarding Authority shall establish conclusively for the purpose of giving MBE/WBE participation credit under this Contract that such MBE/WBE did not perform such work.
- D. With each progress payment request submitted by the Contractor to the Awarding Authority, the Contractor must provide the Contractor Progress Payment Report indicating the value of payments for each MBE and WBE firms for that period.

6. Notification of Changes in MBE/WBE Work

- A. If at any time during the performance of the Contract the Contractor determines or has reason to believe that a scheduled MBE/WBE is unable or unwilling to perform its MBE/WBE Work, or that there has been or will be a change in any MBE/WBE Work, or that the Contractor will be unable to meet the MBE/WBE participation goal(s) for this Contract for any reason, the Contractor shall immediately notify the Awarding Authority Contract Compliance Office in writing of such circumstances.
- B. Any notice of a change in MBE/WBE Work pursuant to subparagraph “A” above shall include a revised Schedule of MBE/WBE Participation, and additional or amended Letters of Intent and subcontracts, as the case may be.

7. Actions required if there is a Reduction in MBE/WBE Participation

- A. In the event there is a change or reduction in any MBE/WBE Work which will result in the Contractor failing to meet the MBE/WBE participation goal(s) for this Contract, other than a reduction in MBE/WBE Work resulting from a Change Order initiated by the Awarding Authority, then the Contractor shall immediately undertake a diligent, good faith effort to make up the shortfall in MBE/WBE participation as follows:
 - (1) The Contractor shall identify all items of the Work remaining to be performed under the Contract that may be made available for subcontracting to MBE/WBEs. The Contractor shall send a list of such items of work to the Awarding Authority, together with a list of the remaining items of the Work that were not made available to MBE/WBEs and the reason for not making such work available for subcontracting to MBE/WBEs.
 - (2) The Contractor shall send written notices soliciting proposals to perform the items of the Work that may be made available for subcontracting to MBE/WBEs to all MBE/WBEs qualified to perform such work. The Contractor shall advise the Awarding Authority of (i) each MBE/WBE solicited, and (ii) each MBE/WBE listed in the SDO directory under the applicable trade category that was not solicited and the reasons therefore. The Contractor shall also advise the Awarding Authority of the dates notices were mailed and provide a copy of the written notice(s) sent.
 - (3) The Contractor shall make reasonable efforts to follow up the written notices sent to MBE/WBEs with telephone calls or personal visits in order to determine with certainty whether the MBE/WBEs were interested in performing the work. Phone logs or other documentation must be submitted to the Awarding Authority evidencing this effort.

- (4) The Contractor shall make reasonable efforts to assist MBE/WBEs that need assistance in obtaining insurance, bonds, or lines of credit in order to perform work under the Contract, and shall provide the Awarding Authority with evidence that such efforts were made.
- (5) The Contractor shall provide the Awarding Authority with a statement of the response received from each MBE/WBE solicited, including the reason for rejecting any MBE/WBE who submitted a proposal.
- (6) The Contractor shall take any additional measures reasonably requested by the Awarding Authority to meet the MBE/WBE participation goal(s) established for this Contract, including, without limitation, placing advertisements in appropriate media and trade association publications announcing the Contractor's interest in obtaining proposals from MBE/WBEs, and/or sending written notification to MBE/WBE economic development assistance agencies, trade groups and other organizations notifying them of the project and of the work available to be subcontracted by the Contractor to MBE/WBEs.

B. If the Contractor is unable to meet the MBE/WBE participation goals for this Contract after complying fully with each of the requirements of paragraph "A" above, and the Contractor is otherwise in full compliance with the terms of this Article, the Awarding Authority may reduce the MBE/WBE participation goals for this Contract to the extent that such goals cannot be achieved.

8. Suspension of Payment and/or Performance for Noncompliance.

A. If at any time during the performance of this Contract, the Awarding Authority determines or has reason to believe that (1) there has been a change or reduction in any MBE/WBE Work which will result in the Contractor failing to meet the MBE/WBE participation goal(s) for this Contract, other than a reduction in MBE/WBE Work resulting from a change in the Contract work ordered by the Awarding Authority, and (2) the Contractor has failed to comply fully with all of the terms and conditions of paragraphs 1 through 7 above, the Awarding Authority may:

- (1) Suspend payment to the Contractor of an amount equal to the value of the work which was to have been performed by an MBE/WBE pursuant to the Contractor's Schedule of MBE/WBE Participation but which was not so performed, in order to ensure that sufficient Contract funds will be available if liquidated damages are assessed pursuant to paragraph 9; and/or

- (2) Suspend the Contractor's performance of this Contract in whole or in part.

B. The Awarding Authority shall give the Contractor prompt written notice of any action taken pursuant to paragraph A above and shall give the Contractor and any other interested party, including any MBE/WBEs, an opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Article, or that there is some justifiable reason for waiving the requirements of this Article in whole or in part. The Awarding Authority may invite SDO to participate in any proceedings undertaken pursuant to this paragraph.

C. Upon a showing that the Contractor is in full compliance with the requirements of this Article, or that the Contractor has met or will meet the MBE/WBE participation goals for this Contract, the Awarding Authority shall release any funds withheld pursuant to clause A (1) above, and lift any suspension of the Contractor's performance under clause A (2) above.

9. Liquidated Damages; Termination

- A. If payment by the Awarding Authority or performance by the Contractor is suspended by the Awarding Authority as provided in paragraph 8 above, the Awarding Authority shall have the following rights and remedies if the Contractor thereafter fails to take all action necessary to bring the Contractor into full compliance with the requirements of this Article, or if full compliance is no longer possible because the default of the Contractor is no longer susceptible to cure, if the Contractor fails to take such other action as may be required by the Awarding Authority to meet the MBE/WBE participation goals set forth in this Contract:
- (1) The Awarding Authority may terminate this Contract; and/or
 - (2) The Awarding Authority may retain from final payment to the Contractor, as liquidated damages, an amount equal to the difference between:
 - (a) The total of the MBE/WBE participation goals set forth in this Contract; and
 - (b) The amount of MBE/WBE participation credit earned by the Contractor for MBE/WBE Work performed under this Contract as determined by the Awarding Authority, the parties agreeing that the damages for failure to meet the MBE/WBE participation goals are difficult to determine and that the foregoing amount to be retained by the Awarding Authority represents the parties' best estimate of such damages. Any liquidated damages will be assessed separately for MBE and WBE participation.
- B. Before exercising its rights and remedies hereunder, the Awarding Authority may give the Contractor and any other interested party another opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Article or that there is some justifiable reason for waiving the requirements of this Article in whole or in part. The Awarding Authority may invite SDO to participate in any proceedings undertaken hereunder.

10. Reporting Requirements

The Contractor shall submit to the Awarding Authority (Contract Compliance Officer) all information or documentation that is necessary in the judgment of the Awarding Authority to ascertain whether or not the Contractor has complied with any of the provisions of this Article.

11. Awarding Authority's Right to Waive Provisions of this Article in Whole or In Part

The Awarding Authority reserves the right to waive any provision or requirement of this Article if the Awarding Authority determines that such waiver is justified and in the public interest. No such waiver shall be effective unless in writing and signed by a representative of the Town of Barnstable's Contract Compliance Officer or the office of its General Counsel. No other action or inaction by the Awarding Authority shall be construed as a waiver of any provision of this Article.

**SCHEDULE FOR PARTICIPATION
BY MINORITY/WOMEN BUSINESS ENTERPRISES**

Project Number _____
Project Location _____
Project Name _____

- A. Filed Sub-bidders utilizing MBE/WBE firms, and MBE/WBE Sub-bidders - attach to Filed Sub-bid.
- B. General Contractor must submit to the Awarding Authority within five (5) working days of the opening of General Bids.

BIDDER CERTIFICATION:

The Bidder agrees that if awarded the contract it will expend at least the amount of the contract set forth below for MBE/WBE participation. For purposes of this commitment, the MBE and WBE designation means that a business has been certified by SDO as either a MBE, WBE or MBE/WBE. The Bidder must indicate the MBE/WBE firms it intends to utilize on the project as follows (attach additional sheets if necessary):

Company Name & Address	MBE or WBE	Describe MBE/WBE Scopes of Work (clarify "Labor Only", "Material Only" or "Labor and Material")	If Supplier, Indicate Total Value of Supplies (60% of Total Counts toward Participation)	Total Dollar Value of Participation
1.				
2.				
3.				
4.				
5.				

MBE/WBE Goal: \$ _____ **Total Dollar Value of MBE Commitment:** \$ _____ %
Total Dollar Value of WBE Commitment: \$ _____ %

The undersigned hereby certifies that he/she has read the terms and conditions of the contract with regard to MBE/WBE participation and is authorized to bind the Bidder to the commitment set forth above.

Name of Firm _____

Business Address _____

Print Name _____

Authorized Signature _____

Title _____

Telephone No. _____

Fax No. _____

Date _____

**LETTER OF INTENT
MINORITY/WOMEN BUSINESS ENTERPRISES PARTICIPATION**

(To be completed by MBE/WBE, and submitted by the General Bidder to the Awarding Authority (Town) within five (5) working days after the opening of General Bids or by Filed Sub-bidder with its bid.)

Project Number _____
 Project Name _____
 Project Location _____
 To _____
 Name of General Bidder/Sub-bidder _____

Indicate SDO Certification: _____ MBE
 (Include copy(s) of SOWMBA Certification Letter) _____ WBE
 _____ MBE/WBE

1. This firm intends to perform work in connection with the above project.
2. This firm is currently certified by SDO to perform the work identified below, and has not changed its minority/women ownership, control, or management without notifying SDO within thirty (30) days of such a change.
3. This firm understands that if the General Bidder/Sub-bidder referenced above is awarded the contract, the Bidder intends to enter into an agreement with this firm to perform the activity described below for the prices indicated. This firm also understands that the above-referenced firm, as General Bidder/Sub-Bidder, will make substitutions only as allowed by the terms of the Contract.
4. This firm understands that under the terms of the contract, only work actually performed by an MBE/WBE will be credited toward MBE/WBE participation goals, and this firm cannot assign or subcontract out any of its work without prior written approval of the Awarding Authority, and that any such assignment or subcontracting will not be credited toward MBE/WBE participation goals.

MBE/WBE PARTICIPATION

Section/Item Number (If Applicable)	Describe MBE/WBE Scopes of Work (Clarify "Labor Only", "Material Only" or "Labor and Material")	If Supplier, Indicate Total Value of Supplies (60% of Total Counts Toward Participation)	Dollar Value of Participation

Total Dollar Value: \$ _____ %

Name of MBE/WBE Firm _____

Business Address _____

Print Name _____

Authorized Signature _____

Title _____

Telephone No. _____ Fax No. _____

Date _____

CONTRACTOR PROGRESS PAYMENT REPORT
MINORITY/WOMEN BUSINESS ENTERPRISES PARTICIPATION

Project Number: _____

Project Name: _____

Project Location: _____

Date: _____

Periodical Payment No.: _____

General Contractor: _____

MBE and/or WBE: _____

One copy of this report is to be submitted for each Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE) at the time of submitting a request for payment. Copies of the report must be sent to the Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE) named above and to the municipalities Affirmative Marketing Construction Officer (AMCO). The AMCO will forward a copy of each Contractor Progress Payment Report to SDO on a quarterly basis.

- 1. The total price to be paid to the above-named MBE _____ and/or WBE _____: \$ _____
2. The amount remitted to the Minority Business Enterprise and/or Women Business Enterprise as of the above date for work performed under this project: \$ _____
3. Balance due the Minority Business Enterprise and/or Women Business Enterprise as of the above date for work performed under the above-named project: \$ _____
4. Comments or explanation of amounts indicated under items 1 and 2 above:

Four horizontal lines for providing comments or explanations.

5. We hereby certify that the information supplied herein (including pages attached) is correct and complete.

General Contractor:

Minority and/or Women Business Enterprise

(Signed) _____

(Signed) _____

(Title) _____

(Title) _____

(Date) _____

(Date) _____

TOWN OF BARNSTABLE, MASSACHUSETTS

**CONTRACTOR'S CERTIFICATION
(to be completed and submitted with bid)**

A. CONTRACTOR'S CERTIFICATION

NAME OF PROJECT: _____

A Contractor will not be eligible for award of Contract unless such Contractor has submitted the following certification, which is deemed a part of the resulting Contract:

CONTRACTOR'S CERTIFICATION

_____ certifies that

1. it intends to use the following listed construction trades in the work under the contract; and

2. will comply with the equal employment opportunity and affirmative action steps contained herein; and
3. will obtain from each of its sub-contractors and submit to the contracting or administering agency prior to the award of any sub-contract under this contract the sub-contractor's certification required by these bid conditions; and
4. the bidder hereby certifies they shall comply with MBE/WBE contractor participation requirements as submitted as part of the bid for this contract award. and all other requirements in accordance with the Town of Barnstable EEO/MBE/WBE Policy.

Signature of Authorized Representative of Contractor

REQUEST FOR WAIVER/REDUCTION

Town of Barnstable

Minority/Women Business Enterprise Plan (MBE/WBE) Participation Requirements

Upon exhausting all known sources and making every possible effort to meet the minimum requirements for MBE/WBE participation, the Contractor may seek relief from these requirements by completing the waiver/reduction form and submitting it in accordance with bidding instructions for waiver/reduction, Attachment C. **Failure to submit the waiver prior to the bid due date in accordance with required timeline and without sufficient supporting documentation may result in the bid being deemed non-responsive.**

General Information:

Project Title:		Project Location:	
Bid Opening (time/date):		Location:	
Bidder:			
Mailing Address:			
Contact Person:			
Telephone No.		Ext.	

This is a request for: Reduction Waiver (check one)

The combined applicable goal for minority business enterprise (MBE) and woman business enterprise (WBE) participation established for this Contract are requested to be reduced or waived as follows (indicated requested percentage of contract amount):

COMBINED MBE/WBE Goal: _____%

Reminder: A request for a reduced combined MBE/WBE goal must include a reasonable representation of both MBE and WBE or due diligence must be included that shows why this is not feasible.

Minimum Requirements:

The Contractor must show that a diligent good faith effort was made in an attempt to comply with the percentage goals as specified. The bidder seeking relief must show that such efforts were taken appropriately in advance of the time set for opening bid proposals to allow adequate time for responses by submitting the following:

1. A list of all items of work under the Contract that the Bidder made available for subcontracting to MBE/WBEs. The Bidder shall identify all items of work, other than work to be performed by filed sub-Bidders, that the Bidder did not make so available and shall state the reasons for not making such work available for subcontracting to MBE/WBEs. The Bidder shall also demonstrate that, where commercially reasonable, subcontracts were divided into scopes or tasks capable of being performed by MBE/WBEs.
2. Evidence that the Bidder sent written notices soliciting Bids or proposals to perform the items of work made available by the Bidder for subcontracting to all MBE/WBEs qualified to perform such work. The Bidder shall identify (i) each MBE/WBE solicited, and (ii) each MBE/WBE listed in the SDO directory under the applicable trade category that was not solicited and reasons therefore.
3. Evidence that the Bidder made reasonable efforts to follow up the written notices sent to MBE/WBEs with telephone calls or personal visits in order to determine with certainty whether the MBE/WBEs were interested in performing the work. Phone logs or other documentation must be submitted.
4. A statement of the response received from each MBE/WBE solicited, including the reason for rejecting any MBE/WBE who submitted a bid or proposal.
5. The Bidder may also submit any other information supporting its request for a waiver or reduction in the MBE/WBE participation goals, including without limitation evidence that the Bidder placed advertisements in appropriate media and trade association publications announcing the Bidder's interest in obtaining bids or proposals from MBE/WBEs, and/or sent written notification to MBE/WBE economic development assistance agencies, trade groups and other organizations notifying them of the Contract and the work to be subcontracted by the Bidder to MBE/WBEs. The Bidder shall also submit any other information reasonably requested by the Awarding Authority to show that the Bidder has taken all actions that could reasonably be expected to achieve the MBE/WBE participation goals.

REQUEST FOR WAIVER/REDUCTION
Town of Barnstable

Minority/Women Business Enterprise Plan (MBE/WBE) Participation Requirements

The Town of Barnstable may require the contractor to produce additional information as it deems appropriate and may obtain whatever other information it deems necessary to reach a conclusion from any source.

CERTIFICATION:

The undersigned herewith certified that the above information and appropriate attachments are true and accurate to the best of my ability.

(Contractor authorized original signature)

Date

(Print Name)

Telephone: _____ FAX: _____

Email: _____

APPROVED / REJECTED: _____
Contract Compliance Officer Date

**WEEKLY PAYROLL RECORDS REPORT
& STATEMENT OF COMPLIANCE**

In accordance with Massachusetts General Law Chapter 149, § 27B, a true and accurate record must be kept of all persons employed on the public works project for which the enclosed rates have been provided. A Payroll Form had been provided (CC Form 6, rev. 4/07) and includes all the information required to be kept by law. Every contractor or subcontractor is required to keep these records and preserve them for a period of three years from the date of completion of the contract.

In addition, every contractor and subcontractor is required to submit a copy of their weekly payroll records to the awarding authority. For every week in which an apprentice is employed, a photocopy of the apprentices identification card must be attached to the payroll report. This is required to be done on a weekly basis. Once collected, the awarding authority is also required to preserve those records for three years.

In addition, each such contractor, subcontractor or public body shall furnish to the awarding authority directly, within fifteen days after completion of its portion of the work a statement executed by the contractor, subcontractor or public body who supervises the payment of wages, in the following form:

STATEMENT OF COMPLIANCE	
_____, 20__	
I, _____,	_____
(Name of Signatory Party)	(Title)
do hereby state:	
That I pay or supervise payment of the persons employed by	
_____ on the _____	
(Contractor, subcontractor, or public body)	(Building or Project)
and that all mechanics and apprentices, teamsters, chauffeurs and laborers employed on said project have been paid in accordance with wages determined under the provisions of sections twenty-six and twenty-seven of chapter one hundred and forty-nine of the General Laws.	
Signature _____	
Title _____	

DEPARTMENT OF OCCUPATIONAL SAFETY, 100 CAMBRIDGE ST., 11TH FLR BOSTON, MA 02202

Note: OSHA certifications must be submitted with the certified payrolls for all workers during the first week they work on a project.

(Submit this form to the Town’s Project Manager)

COMPANY NAME			PRIMECONTRACTOR												
PROJECT NAME			SUBCONTRACTOR												
AWARDING AUTH.			(LIST PRIME CONTRACTOR)												
WORK WEEK ENDING			EMPLOYER SIGNATURE												
		FINAL REPORT	PRINT NAME AND TITLE												
EMPLOYEE NAME & ADDRESS	WORK CLASSIFICATION	HOURS WORKED							(A) Total Hrs.	(B) Hourly Base Wage	EMPLOYER CONTRIBUTIONS			(F) [B+C+D+E] Hourly Total Wage (Prev Wage)	(G) (A*F) Weekly Total Amount
		S	M	T	W	T	F	S			(C) Health & Welfare	(D) Pension	(E) Supp. Unemp.		

(Submit these forms to the Town's Project Manager with a copy to the Contract Compliance Officer

SDO (formerly SOMWBA) QUARTERLY REPORT (One per Project)

CC Form 8 (rev. 1/13)

PROJECT MGR NAME: _____ **DATE:** _____

1. Contract Compliance Officer required to report to SOMWBA quarterly (1/1, 4/1, 7/1, 10/1)
2. Project Managers required to update projects to CCO (J. Boucher) as follows:

- a. Project Name: _____
- b. Project Number: _____
- c. Funding Source (If multiple Sources, provide percentage of each) (ie. State, capital, etc)

- d. Percent Complete (Percentage): _____
- e. Project Contact Name: _____
- f. Project Contact Phone Number: _____
- g. Project Description: _____
- h. Duration of Project (Est. Start/Complete date): Start: _____ Est. Complete: _____

Certification of Completion: MBE Total Complete: \$ _____ WBE Total Complete: \$ _____
(fill this in at 100% completion reporting to certify that MBE/WBE/DBE reqmts met for project)

- i. Bid Release Date: _____ Award Date: _____
- j. Contractors Name: _____
- k. Total Dollar Amount of Project: _____
- l. Total Dollar Amount MBE: _____
- m. Total Dollar Amount WBE: _____
- n. Total Dollar Amount DBE: _____ (if applicable)

3. Minority and Woman Business Summary by subcontractor name:

- a. MBE Contracts Awarded or Paid: (add sheet if more space needed)

Name: _____ Address: _____

Amount Awarded: _____ Amount Paid this quarter: \$ _____

Amount Paid to Date: _____

Type of Work: _____

b. WBE Contracts Awarded or Paid:

Name: _____ Address: _____

Type of Work: _____

Amount Awarded: _____ Amount Paid: _____

c. DBE Contracts Awarded or Paid (If applicable):

Name: _____ Address: _____

Type of Work: _____

Amount Awarded: _____ Amount Paid: _____

SECTION 7

INSERT WAGE RATES

SECTION 8

**TOWN OF BARNSTABLE, MASSACHUSETTS
AGREEMENT BETWEEN CONTRACTOR AND OWNER**

THIS AGREEMENT, made this _____ day of _____ 2013 by and between the TOWN OF BARNSTABLE, Massachusetts, hereinafter called Owner, and _____

_____ with legal address and principal place of business at _____

_____ hereinafter called Contractor:

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the **OCEAN STREET PARKING LOT PAVING PROJECT** hereinafter called the Project, for the consideration set forth in the Proposal and all extra work in connection therewith, under the terms as stated in the General and Supplemental General Conditions of the Contract; and at their own cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintending, labor, insurance, and other accessories and services necessary to complete said Project in accordance with the conditions and prices stated in the Proposal, the General Conditions, the Supplemental and Special Conditions of the Contract, any addenda previously issued, and all other documents included in the bound volume entitled **“INVITATION FOR BID AND CONTRACT FOR THE OCEAN STREET PARKING LOT PAVING PROJECT IN THE TOWN OF BARNSTABLE, MASSACHUSETTS, CONTRACT NO.: 02-000-14-001 DATED OCTOBER 8, 2013”** and the bid submitted October 30, 2013, general conditions, details and item descriptions and all other documents included in the bound volume entitled “Town of Barnstable Department of Public Works Construction Specifications and Standards Volume”, in the 1988 Edition of “Standard Specifications for Highways and Bridges”, as published by the Commonwealth of Massachusetts Highway Department; “Supplemental Specifications to the 1988 Standard Specifications for Highways and Bridges” dated June 6, 2006 and any latest revision thereto, as published by the Commonwealth of Massachusetts Highway Department; and the plans and drawings entitled **“OCEAN STREET PARKING LOT PAVING”** dated TBD; all of which are made a part hereof and collectively evidence and constitute the Contract.

Force Majeure. The Agreement shall be subject to **Force Majeure** considerations. Either party hereto shall be excused from performance of any act under the contract if prevented for the performance of any act required by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonably within the control of the party. The period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the owner. In the event that the extension is not possible, the Contractor may be required to rebate to the Town a portion of the fee. Continued failure to perform for periods aggregating sixty (60) or more days, even for causes beyond the control of the Contractor, shall be deemed to render performance impossible, and the Owner shall thereafter

have the right to terminate this agreement in accordance with the provisions of the section entitled "Termination of Contract".

Termination of Contract - Subject to the provisions of the section explaining Force Majeure, if the Contractor shall fail to fulfill in a timely and satisfactory manner its obligations under this agreement, or if the Contractor shall violate any of the covenants, conditions, or stipulations of this agreement, which failure or violation shall continue for seven (7) business days after written notice of such failure or violation is received by the contractor, then the municipality shall thereupon have the right to terminate this agreement by giving written notice to the contractor of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination.

Insurance - The Contractor shall maintain insurance with minimum limits as defined in the Invitation for Bid, Section 3.11 for the entire duration of the project work to be performed, and provide a certificate of insurance with the Town of Barnstable named as an additional insured. Renewal certificates of insurance must be submitted to the Town of Barnstable, Risk Management, 230 South St., Hyannis, MA 02601 on a yearly basis.

Governing Law – This contract is governed by the laws of the Commonwealth of Massachusetts.

Massachusetts General Law Chapter 149 and 30 S.39M hereby apply to this contract. Prevailing wages dated October 4, 2013 apply to this contract. The contractor shall submit weekly certified payrolls with invoices to Town of Barnstable, Attn: Roger D. Parsons, P.E., Town Engineer, 382 Falmouth Road, Hyannis, MA 02601. OSHA 10 certification is required for all employees and subcontractors performing work on the job site. A one hundred percent (100%) payment bond and performance bond is required with this signed contract.

The Contractor shall indemnify, defend, and save harmless the Town, all of the Town officers, agents and employees from and against all suits and claims of liability of every name and nature, including attorney's fees and costs of defending any action or claim, for or on account of any claim, loss, liability or injuries to persons or damage to property of the Town or any person, firm, corporation or association arising out of or resulting from any act, omission, or negligence of the Contractor, subcontractors and their agents or employees in the performance of the work covered by this Agreement and/or their failure to comply with terms and conditions of this Agreement. 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 with the Town.

THE OWNER agrees to pay the Contractor for the performance of the Contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Sub-Section 9 of Section 3, General Conditions.

CONTRACT AMOUNT \$ _____

The total payment shall not exceed this contract amount, without the written authorization of the Owner. The completion date of this project Thirty (30) days from issuance of the Notice to Proceed.

This Agreement constitutes the entire contract and there are no agreements other than those incorporated herein. This Agreement may not be changed, altered, amended, modified, or

terminated orally and any such change, alteration, amendment, or modification must be in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the parties to these presents have executed this Contract in the year and day first above mentioned.

By:

Authorized Signature

Print Name and Title

Approved as to form

Ruth J. Weil, Esq., Town Attorney

By:

Thomas K. Lynch, Town Manager

I hereby certify that the Town of Barnstable has an appropriation to cover the cost of this contract in accordance with Ch 44 §31C of the Massachusetts General Laws

By:

Mark A. Milne, Finance Director

SIGNATORY AUTHORITY – OCEAN STREET PARKING LOT PAVING

At a duly constituted meeting of _____ held on _____
Name of (Corporation) (Date)

at which all Directors were present or waived notice, it was voted that:

(Name) (Officer)
of this company, be and he/she is hereby authorized to execute contracts and bonds in the name and
behalf of said company, and affix its Corporate Seal thereto, and such execution of any contract or
obligation in this company's name on its behalf of such
_____ under seal of the company, shall
(Officer)
be valid and binding upon this company.

A TRUE COPY,
ATTEST:

(Clerk)

Place of Business: _____

Date of this Contract: _____

I hereby certify that I am the clerk of the _____
_____ that _____
is duly elected _____ of said company, and the above
vote has not been amended or rescinded and remains in full force and effect as
of the date of this contract

(Clerk)

(CORPORATE SEAL)

On this _____ day of _____, 2013, before me, the undersigned notary public, personally
appeared _____, proved to me through satisfactory evidence of
identification, which were _____,
to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public
My commission expires:

IF A CORPORATION, COMPLETE ABOVE OR ATTACH TO EACH SIGNED COPY OF THE CONTRACT A
NOTARIZED COPY OF VOTE OF CORPORATION AUTHORIZING THE SIGNATORY TO SIGN THIS
CONTRACT. IF ATTESTING CLERK IS THE SAME PERSON AS THE INDIVIDUAL EXECUTING THIS
CONTRACT, HAVE SIGNATURE NOTARIZED ABOVE.

SECTION 9

PAYMENT BOND

KNOWN ALL MEN AND WOMEN BY THESE PRESENTS, THAT _____

as principal, and _____
as surety, are held and firmly bound unto the Town of Barnstable, Massachusetts in the sum of:

lawful money of the United State of America, to be paid to the Town of Barnstable, Massachusetts, 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 Town of Barnstable, Massachusetts, bearing the date of _____, 2013, for the construction project

OCEAN STREET PARKING LOT PAVING

Now the condition of this obligation is such that if the principal shall pay for all labor performed or furnished and for all materials used or employed in said contract and in any and all duly authorized modifications, alterations, extensions of time, changes or additions to said contract that may hereafter be made, notice to the surety of such modifications, alterations, extensions of time, changes or additions being hereby waived, the foregoing to include any other purpose or items set out in, and subject to, the provisions of Massachusetts General Laws, Chapter 30, Section 39A, and Chapter 149, Section 29, as amended, then this obligation shall become null and void; otherwise it shall remain in full force and virtue.

IN WITNESS THEREOF, we hereunto set our hands and seals this _____

day of _____, 2013.

(Seal)

By: _____

By: _____

SECTION 10

PERFORMANCE BOND

KNOW ALL MEN AND WOMEN BY THESE PRESENTS, THAT

_____ as principal,

and _____

as surety, are held and firmly bound unto the Town of Barnstable, Massachusetts, in the sum of

lawful money of the United States of America, to be paid to the Town of Barnstable, Massachusetts, 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 Town of Barnstable, Massachusetts, bearing the date of _____, 2013, for the construction of Project

OCEAN STREET PARKING LOT PAVING

Now the condition of this obligation is such that if the principal 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 any extensions thereof that may be granted by the Town of Barnstable, Massachusetts, with or without notice to the surety, and during the life of 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 be hereafter 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 and virtue.

IN WITNESS WHEREOF we hereunto set our hands and seal this _____ day of _____, 2013.

Seal

By: _____

By: _____

SECTION 11
TOWN OF BARNSTABLE
DEPARTMENT OF PUBLIC WORKS

_____, 2013

ACCEPTANCE OF BID

_____ is herewith notified that their bid for the **OCEAN STREET PARKING LOT PAVING** in the Town of Barnstable, Massachusetts, Contract Number 02-000-14-001 in the amount of _____ submitted on October 30, 2013 has been accepted.

Please complete the attached "AGREEMENT BETWEEN CONTRACTOR AND OWNER," "PERFORMANCE BOND" and "PAYMENT BOND" forms and return to the Department of Public Works, 382 Falmouth Road, Hyannis, MA 02601, together with a Certificate of Insurance.

Thomas K. Lynch, Town Manager

SECTION 12
TOWN OF BARNSTABLE
DEPARTMENT OF PUBLIC WORKS

NOTICE TO PROCEED

DATE: _____, 2013

SUBJECT: OCEAN STREET PARKING LOT PAVING
Contract Number 02-000-14-001

TO:

1. You are hereby given formal NOTICE TO PROCEED in accordance with the provisions of the subject contract.
2. It is requested that acknowledgment of this NOTICE be indicated by endorsement hereon, and that the original be returned to this office. The duplicate should be retained in your office files.

Roger D. Parsons, P.E., Town Engineer

FIRST ENDORSEMENT

TO: Town Engineer
382 Falmouth Road
Hyannis, MA 02601

Receipt is hereby acknowledged of the above **NOTICE TO PROCEED**

under contract # 02-000-14-001

By: _____

Date: _____

CC: Project Manager

The undersigned certifies that the work covered by this application has been completed in accordance with the Contract Documents, that all amounts have been paid by them for Work and Materials for which previous Certificates for Payments have been issued and payments received from the Owner, that all Contractor and Sub-contractor payroll data for the time period covered by this application has been submitted to the Town and that the current payment shown herein is now due.

CONTRACTOR: _____

BY: _____

DATE: _____

SECTION 14
TOWN OF BARNSTABLE
DEPARTMENT OF PUBLIC WORKS
HYANNIS, MA 02601

(508) 790-6400

TAX EXEMPTION NUMBER

Date:

TO WHOM IT MAY CONCERN:

This is to certify that whenever _____

purchases material and supplies for projects awarded by bid for the Town of Barnstable, all materials used on these projects are tax exempt.

Our Tax Exempt number is E-046-001-079.

Roger D. Parsons, P.E.
Town Engineer

SECTION 15

**TOWN OF BARNSTABLE
CHANGE ORDER**

CHANGE ORDER NO. _____ DATE: _____

CONTRACT NO. 02-000-14-001 PROJECT NO. _____

CONTRACT TITLE: **OCEAN STREET PARKING LOT PAVING**

CONTRACTOR'S NAME: _____

CONTRACTOR'S ADDRESS: _____

REVISED CONTRACT AMOUNT

PREVIOUS CONTRACT AMOUNT	\$ _____
AMOUNT OF THIS ORDER	\$ _____
(decrease) (increase) (no change)	
REVISED CONTRACT AMOUNT	\$ _____

An (increase) (decrease) (no change) of _____ days in the contract is hereby authorized.

This order covers the contract modification hereunder described:

The work covered by this order shall be performed under the same terms and conditions as included on the original construction contract.

Change Approved:

By: _____ Date: _____

Contractor

Title: _____

TOWN OF BARNSTABLE

By: _____ Date: _____

Mark Milne, Town Accountant

I hereby certify that the Town of Barnstable has an appropriation to cover the cost of this change order in accordance with Ch 44 §31C of the Massachusetts General Laws

By: _____ Date: _____

Thomas K. Lynch, Town Manager

By: _____ Date: _____

Daniel W. Santos, P.E., Director

By: _____ Date: _____

Roger D. Parsons, P.E., Town Engineer

SECTION 16

SPECIAL PROVISIONS

OCEAN STREET PARKING LOT PAVING PROJECT

SCOPE OF WORK

The work under this Contract consists of furnishing all necessary labor, materials and equipment required to install a hot mix asphalt leveling course and 1-1/2 inch overlay over the existing parking lot located at #25 Ocean Street in the Village of Hyannis, in the Town of Barnstable, MA. The work also includes clearing a small amount of vegetation, sweeping, adjustment of drainage structures, pavement milling for transition, and other related items of work.

All work done under this contract shall be in conformance with the *Massachusetts Highway Department Standard Specifications for Highways and Bridges*, dated 1988, the latest *English Supplemental Specifications*, the latest *English Construction and Traffic Standard Details and Metric/English Supplemental Drawings*, the latest *Manual on Uniform Traffic Control Devices*, the latest edition of *American Standard of Nursery Stock*, the *Plans* and these *Special Provisions*.

WORK SCHEDULE

Work on this project is restricted to a normal eight-hour day, five-day week, with the Contractor and all Subcontractors working on the same shift.

No work shall be performed on this Contract on Saturday, Sunday, a State or Federal holiday or on the day before or the day after a long weekend that involves a holiday without prior approval by the Engineer.

GUARANTEE AFTER FINAL ACCEPTANCE (Supplementing Section 2.13)

The Contractor shall, at his own expense, replace any work performed under this Contract found to be defective in workmanship, material, or manner of functioning within twelve (12) months from date of final acceptance of all the installations under this Contract.

PUBLIC SAFETY AND CONVENIENCE (Supplementing Subsection 7.09)

The Contractor shall provide necessary access for fire apparatus and other emergency vehicles through the work zones to abutting properties at all times.

Sweeping and cleaning of surfaces beyond the limits of the project to clean up material caused by spillage or vehicular tracking during the various phases of the work shall be considered as incidental to the work being performed under the Contract and there will be no additional compensation.

When, in the opinion of the Barnstable Police Department public safety or convenience requires the services of police, the Contractor shall make arrangements with the Police department to obtain necessary Details.

The intent is to insure public safety by police direction of traffic. Police are not to serve as watchmen to protect the Contractor's equipment and materials, or to warn pedestrians of

such hazards as open trenches. Nothing contained herein shall be construed as relieving the Contractor of any of their responsibilities for protection of persons and property under the terms of the Contract.

Payments to police under this Contract shall be made by the Town of Barnstable Department of Public Works or Hyannis Water, unless otherwise determined, or in case of no-show of the contractor without proper cancellation of the police detail.

Cancellation of any scheduled police detail due to inclement weather or any other reason shall be the responsibility of the Contractor and shall be made no less than eight (8) hours prior to the scheduled start time. Contractor shall be responsible for payment of police details not cancelled or cancelled without proper eight (8) hour notice.

NOTICE TO OWNERS OF UTILITIES (Supplementing Subsection 7.13)

Before commencing work on service connections, the Contractor shall be responsible for contacting the Electric Company servicing the area to obtain construction requirements, standards, and to give adequate notice of commencement of work.

The following are the primary contacts:

Police Department
1200 Phinney's Lane
Hyannis, MA 02601

Paul MacDonald, Chief
(508) 775-0387

Water Supply Division
47 Old Yarmouth Road
Hyannis, MA 02601

Hans Keijser, Supervisor
508-775-0063

To be contacted for the Pre-construction meeting:

Roger D. Parsons, P.E., Town Engineer
Town of Barnstable Department of Public Works
382 Falmouth Road
Hyannis, MA 02601
Tel: (508) 790-6400x4931

PROTECTION OF UTILITIES AND PROPERTY (Supplementing Subsection 7.13)

The Contractor shall make his own investigation to assure that no damage to existing structures, drainage lines, traffic signal conduits, and other utilities will occur as a result of his operations.

The Contractor shall notify "Mass. DIG SAFE" and procure a DIG SAFE number of each location prior to disturbing ground in any way.

"DIG-SAFE" Call Center: Telephone 1-800-344-7233

The Contractor, in constructing or installing facilities alongside or near sanitary sewers, storm drains, water or gas pipes, electric or telephone conduits, poles, sidewalks, walls, vaults or other structures shall, at his expense, sustain them securely in place, cooperating with the officers and agents of the various utility companies and municipal departments which control them, so that

the services of these structures shall be maintained. The Contractor shall also be responsible for the repair or replacement, at his own expense, of any damage to such structures caused by his acts or neglect, and shall leave them in the same condition as they existed prior to commencement of the work. In case of damage to utilities, the Contractor shall promptly notify the utility owner and shall, if requested by the Engineer, furnish labor and equipment to work temporarily under the utility owner's direction in providing access to the utility. Pipes or other structures damaged by the operation of the Contractor may be repaired by the Department or by the utility owner that suffers the loss. The cost of such repairs shall be borne by the Contractor, without compensation therefore.

If, as the work progresses, it is found that any of the utility structures are so placed as to render it impracticable, in the judgment of the Engineer, to do the work called for under this Contract, the Contractor shall protect and maintain the services in such utilities and structures and the Engineer will, as soon thereafter as reasonable, cause the position of the utilities to be changed or take such other actions deemed suitable and proper.

If live service connections are to be interrupted by excavations of any kind, the Contractor shall not break the service until new services are provided. Abandoned services shall be plugged off or otherwise made secure.

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in protecting or repairing property as specified in this section, shall be considered included in the prices paid for the various Contract items of work and no additional compensation will be allowed therefore.

WORK IN THE IMMEDIATE VICINITY OF CERTAIN UNDERGROUND STRUCTURES AND UTILITY POLES

Before starting work at existing manholes, the Contractor shall test for gas and blow out the manholes.

PROVISIONS FOR TRAVEL AND PROSECUTION OF THE WORK (Supplementing Subsection 8.03)

Before starting any work under this Contract, the Contractor shall prepare, and submit to the Engineer for approval, a plan (based on the Contract traffic management plans) that indicates the traffic routing proposed by the Contractor during the various stages and time periods of the work and the temporary barricades, signs, drums and other traffic control devices to be employed during each stage and time period of the work to maintain traffic and access to abutting properties.

Particular care shall be taken to establish and maintain methods and procedures that will not create unnecessary or unusual hazards to public safety. Traffic control devices required only during working hour operations shall be removed at the end of each working day.

Signs having messages that are irrelevant to normal traffic conditions shall be removed or properly covered at the end of each work period. Signs shall be kept clean at all times and legends shall be distinctive and unmarred.

DISPOSAL OF SURPLUS MATERIALS

All existing and other materials not required or needed for use on the project, and not required to be removed and stacked, shall become the property of the Contractor and shall be removed from

the site during the construction period and legally disposed of.

No separate payment will be made for this work, but all costs in connection therewith shall be included in the prices bid for various Contract items.

DRAINAGE

The Contractor shall maintain the drainage system in the project areas to provide continuous drainage of the parking lot and construction area.

All drainage castings in new pavement areas shall be reset to proposed finish surface grade prior to placement of the pavement surface course.

PROPERTY ACCESS

The Contractor shall provide and maintain access at all times to all properties abutting the work. Final pavement shall be performed after all other work is finished. The Contractor shall notify an abutter a minimum of 24 hours in advance of any work to be performed adjacent to property of said abutter. The Contractor shall notify an abutter a minimum of 48 hours in advance of any work to be performed adjacent to property of said abutter that will disrupt or prevent access to the property or the ability to park their vehicle in front of or within an established driveway for said property.

SUBMITTALS

DESCRIPTION

This Section specifies the types of submittals required throughout the project. The Contractor shall submit the following information in the manner described herein.

SCHEDULE

The Contractor shall submit a construction schedule to the Owner for review due upon issuance of the Notice to Proceed at least ten (3) days prior to the start of work. The construction schedule shall demonstrate in detail the means by which the Contractor will perform the work specified herein in the time allotment stated in the Contract Agreement. The Contractor shall not begin any work until the Engineer has reviewed and approved the submitted construction schedule.

BOUNDS

The Contractor shall exercise due care when working around all bounds which are to remain. Should it be necessary to reset an existing bound due to the proposed work including grading, the Contractor will reset the bound in the original location at no cost to the Town. Should any damage to a bound result from the actions of the Contractor, it shall be replaced and/or realigned by the Contractor as directed by the Engineer. No further compensation will be due the Contractor for the materials and labor required to reestablish the bound in its proper orientation. All bounds, including new bounds as shown on the plans, and bounds replaced or realigned shall be installed by a Land Surveyor registered in the Commonwealth of Massachusetts.

ITEM 460.

HOT MIX ASPHALT

TON

ITEM 472.

HOT MIX ASPHALT FOR MISCELLANEOUS WORK

TON

The work under these items shall conform to the relevant provisions of Sections 460 and 470 of the Standard Specifications and the following:

Hot Mix Asphalt shall be paid for at the contract unit price per ton which price shall include all labor, tools, equipment and materials required to install a binder mix leveling course within the parking lot area as directed by the Engineer and installation of 1-1/2 inches of top course. Item 472 is for pricing purposes only at this time assuming 25 Ton minimum quantity.

ITEM 748

MOBILIZATION

LS

This item shall consist of preparatory work and operations including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site, for the establishment of all contractor's field offices, buildings, and other facilities necessary for work on the project and all other work and operations which must be performed or for costs which must be incurred prior to beginning work.