

**INVITATION FOR BID AND CONTRACT**

**FOR THE**

**PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

**PREPARED BY**

**TOWN OF BARNSTABLE**

**DEPARTMENT OF PUBLIC WORKS**

**ROGER D. PARSONS, P.E.  
TOWN ENGINEER**

It is the responsibility of every bidder who receives this bid and all associated documents electronically to check 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 The Town of Barnstable accepts no liability to provide accommodation to bidders who submit a response based upon an out of date solicitation document. 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.

**February, 2013**

**CONTRACT NO.: 02-000-13-002**

**BID DUE DATE – MARCH 7, 2013 AT 2:00 PM**

**PRE-BID CONFERENCE – FEBRUARY 28, 2013 AT 2:00 PM**

## TABLE OF CONTENTS

BIDDING REQUIREMENTS - PART I	SECTION	PAGE
Notice to Bidders	1	1-3 to 1-4
Instructions to Bidder	2	2-1 to 2-5
Contract General Conditions	3	3-1 to 3-11
Contract Special Conditions	4	4-1
PROPOSAL DOCUMENTS	5	
Proposal Submittal	5	5-1
Proposal Form	5	5-2 to 5-3
State Taxes Clause	5	5-4
Non-collusion Form	5	5-4
OSHA Certification	5	5-5 to 5-6
Unit Bid Price	5	5-7 to 5- 13
Town of Barnstable MBE/WBE Plan	6	6-1 to 6-7
Attachment A	6	6-8 to 6-9
Attachment B	6	6-10 to 6-11
Attachment C	6	6-12 to 6-14
Attachment D	6	6-15 to 6-19
CC Form 1 Schedule of Participation	6	6-20
CC Form 2 Letter of Intent		6-21
CC Form 3 Contractor Progress Payment Report		6-22
CC Form 4 Contractor's Certification		6-23
CC Form 5 Request for Waiver Form		6-24 to 6-25
CC Form 6 Wkly Payroll Rec Rep & Stmt of Compliance		6-26
CC Form 7 Payroll Form		6-27
CC Form A Start of Construction Notification		6-28
CC Form B Project Completion Notification		6-29
Supplemental EEO/Anti-Discrimination and Affirmative Action Program	6	6-30
Wage Rates	7	7-1 to 7- 35
CONTRACT DOCUMENTS		
Contractor/Owner Agreement	8	8-1 to 8-2
Payment Bond	9	9-1
Performance Bond	10	10-1
Acceptance of Bid	11	11-1
Notice to Proceed	12	12-1
Application & Certification for Payment	13	13-1 to 13-2
Tax Exemption Number	14	14-1
Change Order	15	15-1 to 15-2
Contract Special Provisions	16	16-1 to 16-22

## SECTION 1

### NOTICE TO BIDDERS

The Town of Barnstable is requesting bids for:

#### **PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

Sealed bids will be received at the office of the Department of Public Works, 382 Falmouth Road, Hyannis, Massachusetts, until 2:00 PM, March 7, 2013

The work will consist of:

Furnishing all necessary labor, materials and equipment required for miscellaneous improvements to Pleasant Street, Hyannis, in the Town of Barnstable, MA. The work includes installation of drainage structures and piping, pavement milling, new granite curb, new hot mix asphalt sidewalks, drives and roadway surfaces, pavement markings, signs and all other miscellaneous work whatsoever required to complete the construction as shown on the plans, specified herein and directed by the Engineer

Bid Documents are available on the Town of Barnstable website, [www.town.barnstable.ma.us](http://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,

#### **“PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT.”**

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 February 28, 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.

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

#### **“PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT”**

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 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. 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 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. Electronic mail transmitted addenda will be confirmed by U.S. 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. 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 One Hundred Twenty Days (120) 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. 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 (*as may be required*) 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.**

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 February 28, 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 5-13
  
- 5% Bid Bond

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

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

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

**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:

**PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

**CONTRACT NO. 02-000-13-002**

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 5-13.

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

**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 whose 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 PRICES  
PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

**CONTRACT # 02-000-13-002**

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
120.1	610 CY	<p style="text-align: center;"><b>Unclassified Excavation</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per CY</p>				
129.	7250 SY	<p style="text-align: center;"><b>Pavement Milling</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per SY</p>				
141.	100 CY	<p style="text-align: center;"><b>Test Pit for Exploration</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per CY</p>				
151.	370 CY	<p style="text-align: center;"><b>Gravel Borrow</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per CY</p>				
187.3	4 CY	<p style="text-align: center;"><b>Removal and Disposal of Drainage Structure Sediment</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per EA</p>				
187.31	20 FT	<p style="text-align: center;"><b>Removal and Disposal of Drainage Pipe Sediment</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per CY</p>				
201.	3 EA	<p style="text-align: center;"><b>Catch Basin</b></p> <hr/> <p style="text-align: center;">Dollars (                    ) per EA</p>				

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
202.	1 EA	<p style="text-align: center;"><b>Manhole</b></p> <hr/> Dollars (                    ) per EA				
204.	3 EA	<p style="text-align: center;"><b>Gutter Inlet</b></p> <hr/> Dollars (                    ) per EA				
205.	3 EA	<p style="text-align: center;"><b>Leaching Basin</b></p> <hr/> Dollars (                    ) per EA				
220.	4 EA	<p style="text-align: center;"><b>Drainage Structure Adjusted</b></p> <hr/> Dollars (                    ) per EA				
220.5	2 FT	<p style="text-align: center;"><b>Drainage Structure Rebuilt</b></p> <hr/> Dollars (                    ) per EA				
220.7	2 EA	<p style="text-align: center;"><b>Sanitary Structure Adjusted</b></p> <hr/> Dollars (                    ) per EA				
221.	3 EA	<p style="text-align: center;"><b>Frame and Cover</b></p> <hr/> Dollars (                    ) per EA				
222.1	6 EA	<p style="text-align: center;"><b>Frame and Grate Cascade Type</b></p> <hr/> Dollars (                    ) per EA				
224.	6 EA	<p style="text-align: center;"><b>Hood</b></p> <hr/> Dollars (                    ) per EA				

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
238.12	100 FT	<p align="center"><b>12 Inch Ductile Iron Pipe</b></p> <hr/> Dollars (                    ) per FT				
241.12	120 FT	<p align="center"><b>12 Inch Reinforced Concrete Pipe</b></p> <hr/> Dollars (                    ) per FT				
358.	15 EA	<p align="center"><b>Gate Box Adjusted</b></p> <hr/> Dollars (                    ) per EA				
381.3	28 EA	<p align="center"><b>Service Box Adjusted</b></p> <hr/> Dollars (                    ) per EA				
384.1	12 EA	<p align="center"><b>Curb Stop Removed &amp; Reset</b></p> <hr/> Dollars (                    ) per EA				
403.1	225 TON	<p align="center"><b>Dense Grade Crushed Stone</b></p> <hr/> Dollars (                    ) per SY				
460.	825 TON	<p align="center"><b>Hot Mix Asphalt</b></p> <hr/> Dollars (                    ) per TON				
464.	350 GAL	<p align="center"><b>Bitumen for Tack Coat</b></p> <hr/> Dollars (                    ) per GAL				
470.2	265 FT	<p align="center"><b>Hot Mix Asphalt Berm, Type A - Modified</b></p> <hr/> Dollars (                    ) per FT				

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
472.	270 TON	Hot Mix Asphalt For Miscellaneous Work  Dollars ( _____ ) per TON				
506.	1400 FT	Granite Curb Type VB - Straight  Dollars ( _____ ) per FT				
506.1	200 FT	Granite Curb Type VB - Curved  Dollars ( _____ ) per FT				
509.	110 FT	Granite Transition Curb For Wheelchair Ramps - Straight  Dollars ( _____ ) per FT				
510.	80 FT	Granite Edging Type SA  Dollars ( _____ ) per FT				
514.	6 EA	Granite Curb Inlet - Straight  Dollars ( _____ ) per EA				
516.	36 EA	Granite Curb Corner Type A  Dollars ( _____ ) per EA				
583.	300 FT	Edging Removed & Reset  Dollars ( _____ ) per EA				
594.	50 FT	Curb Removed & Discarded  Dollars ( _____ ) per EA				

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE DOLLARS CENTS		AMOUNT DOLLARS CENTS	
669	100 FT	<b>Fence Removed and Stacked</b>  Dollars ( _____ ) per FT				
670	100 FT	<b>Fence Removed and Reset</b>  Dollars ( _____ ) per FT				
697.1	8 EA	<b>Silt Sack</b>  Dollars ( _____ ) per FT				
701.	20 SY	<b>Cement Concrete Sidewalk</b>  Dollars ( _____ ) per SY				
701.2	70 SY	<b>Cement Concrete Wheelchair Ramp</b>  Dollars ( _____ ) per SY				
702.	300 TONS	<b>Hot Mix Asphalt Sidewalk</b>  Dollars ( _____ ) per TON				
703.	160 TONS	<b>Hot Mix Asphalt Drive</b>  Dollars ( _____ ) per TON				
711.	6 EA	<b>Bound Removed &amp; Reset</b>  Dollars ( _____ ) per TON				
715.	12 EA	<b>Rural Mailbox Removed &amp; Reset</b>  Dollars ( _____ ) per LS				

ITEM NUMBER	QUANTITY	ITEM WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			DOLLARS	CENTS	DOLLARS	CENTS
748.	1 LS	<p style="text-align: center;"><b>Mobilization</b></p> <hr/> Dollars (                    ) per LS				
751.	30 CY	<p style="text-align: center;"><b>Loam Borrow</b></p> <hr/> Dollars (                    ) per CY				
765.	850 SY	<p style="text-align: center;"><b>Seeding</b></p> <hr/> Dollars (                    ) per SY				
767.6	30 CY	<p style="text-align: center;"><b>Aged Pine Bark Mulch</b></p> <hr/> Dollars (                    ) per LS				
767.8	50 EA	<p style="text-align: center;"><b>Bales of Hay for Erosion Control</b></p> <hr/> Dollars (                    ) per LS				
832.	108 SF	<p style="text-align: center;"><b>Warning - Regulatory &amp; Route Marker Alum Panel Type A</b></p> <hr/> Dollars (                    ) per CY				
847.1	6 EA	<p style="text-align: center;"><b>Sign Sup (N/Guide)+Rte Mkr w/1 Brkway Post Assembly - Steel</b></p> <hr/> Dollars (                    ) per SY				
852.	424 SF	<p style="text-align: center;"><b>Safety Signing For Construction Operations</b></p> <hr/> Dollars (                    ) per SF				
853.1	8 EA	<p style="text-align: center;"><b>Portable Breakaway Barricade Type III</b></p> <hr/> Dollars (                    ) per SF				



# 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](mailto:johanna.boucher@town.barnstable.ma.us)**

(Revised January 1, 2013)

## Table of Contents

### Town of Barnstable Program Overview

### Page

1)	Policy Statement	3
2)	Objective	3
3)	Responsibility for Implementation	4
4)	Definitions	4
5)	Participation Percentage	5
6)	Monitoring and Reporting Procedures	6
7)	Outreach	7
8)	Waiver/Reduction Request	7

### Procedures

Attachment A	Procedure for pre-advertising adjustment of MBE/WBE participation goals (town requested)	8
Attachment B	Procedure for pre-bid reduction/waiver of MBE/WBE participation goals (contractor requested)	10
Attachment C	MBE/WBE Requirements – Bidding Instructions (include with bid documents)	13
Attachment D	Town of Barnstable, Construction Project Contract Instructions (append to general conditions of contract)	17

### Forms

CC Form 1	Schedule of Participation (contractor to complete)	22
CC Form 2	Letter of Intent (contractor/subcontractor to complete)	23
CC Form 3	Contractor Progress Payment Report (contractor to complete)	24
CC Form 4	Contractor's Certification (contractor to complete)	25
CC Form 5	Request for Waiver/Reduction Form (contractor to complete – with restrictions)	26
CC Form 6	Weekly Payroll Records Report & Statement of Compliance (contractor)	27
CC Form 7	Payroll Form (contractor to complete)	28
CC Form 8	Quarterly Report Form (Project Manager to obtain from Contractor)	30

**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](http://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

<b>CATEGORY</b>	<b>DEFINITION</b>
<b>American Indian</b>	(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.
<b>Asian</b>	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.
<b>Black</b>	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.
<b>Eskimo and Aleut</b>	All persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia.
<b>Hispanic</b>	All persons of Mexican, Puerto Rican, Cuban, Central, South American, or Caribbean Island origin.
<b>Portuguese</b>	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](http://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:

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

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, 13<sup>th</sup> Floor, Suite 1313, Boston, MA 02116 or by e-mail at: [John.Kineavy@state.ma.us](mailto: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:

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

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:

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

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:

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

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:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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., 11<sup>TH</sup> 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 **PLEASANT STREET ROADWAY IMPROVEMENTS 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 PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT IN THE TOWN OF BARNSTABLE, MASSACHUSETTS, CONTRACT NO.: 02-000-13-002 DATED FEBRUARY, 2013”** and the bid submitted March 7, 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 **“Milling and Resurfacing of Pleasant Street in Hyannis”** dated January 7, 2011; all of which are made a part hereof and collectively evidence and constitute the Contract.

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 February 7, 2013 apply to this contract. The contractor shall submit weekly certified payrolls with invoices to Town of Barnstable, Attn: Joseph Orciuch, Project Manager, 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 is One Hundred Twenty (120) 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 – Project Name: **PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

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

**PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

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

**PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

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 **PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT** in the Town of Barnstable, Massachusetts, Contract Number 02-000-13-002 in the amount of \_\_\_\_\_ submitted on \_\_\_\_\_ 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: PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

**CONTRACT NUMBER 02-000-13-002**

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 # 02-000-13-002

By: \_\_\_\_\_

Date: \_\_\_\_\_



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. 02-000-13-002 PROJECT NO. \_\_\_\_\_

CONTRACT TITLE: **PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT**

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: \_\_\_\_\_

Director

By: \_\_\_\_\_ Date: \_\_\_\_\_

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

## SECTION 16

### SPECIAL PROVISIONS CONTRACT NO. 02.000.13.002

#### PLEASANT STREET ROADWAY IMPROVEMENTS PROJECT HYANNIS, MASSACHUSETTS

#### SCOPE OF WORK

The work under this Contract consists of furnishing all necessary labor, materials and equipment required for miscellaneous improvements to Pleasant Street located in the Village of Hyannis, in the Town of Barnstable, MA. The work includes installation of drainage structures and piping, pavement milling, new granite curb, new hot mix asphalt sidewalks, drives and roadway surfaces, pavement markings, signs and all other miscellaneous work whatsoever required to complete the construction as shown on the plans, specified herein and directed by the Engineer.

All work done under this contract shall be in conformance with the *Massachusetts Highway Department Standard Specifications for Highways and Bridges*, dated 1988, and any revisions thereto, the *English Edition of the Supplemental Specifications to the Standard Specifications for Highways and Bridges dated June 15, 2012*, the *MassDOT 2012 Construction Standard Details dated March 2012*, the *2009 Manual on Uniform Traffic Control Devices with Revisions 1 and 2 dated May 2012*, the *2010 ADA Standards for Accessible Design*, the *Massachusetts Architectural Access Board Rules and Regulations (521 C.M.R.)* and the following special provisions.

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.

CONSTRUCTION SAFETY (Supplementing Subsection 7.00 of MassDOT Specifications)

Due to hazardous conditions encountered by working in public streets, all contractor personnel are required to wear reflectorized safety vests while working in or near the roadway. The Contractor shall furnish such vests and shall maintain a sufficient supply of such vests at the work site for the Contractor's personnel and any other personnel assigned to or visiting the work site. The cost of furnishing such vests shall be part of the prices bid for the various items of the Contract, and such vests shall remain the property of the Contractor.

PUBLIC SAFETY AND CONVENIENCE (Supplementing Subsection 7.09 of MassDOT Specifications)

At least one lane in each direction of travel on Pleasant Street shall remain open to traffic at all times, unless otherwise approved by the Town of Barnstable. All travel lanes shall be open between the hours of 3 P.M. to 6 P.M.

Work on this project is to be performed on a heavily traveled roadway and in the vicinity of high pedestrian traffic for Hyannis Harbor, the Steamship Authority and the Cape Cod Hospital. Vehicular and pedestrian travel on the public ways shall be maintained during construction, and access to abutting land shall be provided at all times. Emergency vehicle access shall be provided 24 hours a day for emergency response.

All equipment working on a public way in this project that is not protected by traffic control devices shall have one amber flashing warning light mounted on the cab roof or on the highest practical point of the machine. The light shall be in operation while the equipment is so working. A "SLOW MOVING VEHICLE" emblem shall be mounted on the rear of the equipment.

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.

PROTECTION AND RESTORATION OF PROPERTY (Supplementing Subsection 7.13)

In case of damage to utilities, the Contractor shall promptly notify the Utility Owner, Town, and the Engineer, and shall, if requested by the Town, furnish laborers 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 shall be repaired by the Town or the utility company owner. The cost of such work shall be borne by the Contractor, without compensation therefore.

Written notice shall be sent to utilities one week in advance of any work that may affect their respective utility. A copy of each notice shall be provided to the Town and the Design Engineer. In addition, the Contractor shall give 48 hours verbal notice of intention to commence operations.

Following are the names, addresses, and telephone numbers of the agencies presumed to be affected, but the completeness of the list is not guaranteed:

Department of Public Works  
382 Falmouth Road  
Hyannis, MA 02601

Silvio Genao, P.E.  
Senior Project Manager  
508-790-6302

Town of Barnstable  
Water Supply Division  
47 Old Yarmouth Road  
Hyannis, MA 02601

Michael Gorenstein, P.E.  
508-775-0063

Town of Barnstable  
Department of Public Works  
Water Pollution Control Division  
617 Bears's Way  
Hyannis, MA 02601

Peter Doyle  
Supervisor  
508 790 6335

Barnstable Police Department  
1200 Phinney's Lane  
Hyannis, MA 02601

Paul MacDonald, Chief  
508-775-0387

Hyannis Fire Department  
95 High School Road Ext.  
Barnstable, MA 02601

Harold Brunelle, Chief  
(508) 775-1300

VERIZON (Telephone)  
44 Old Town House Rd  
So. Yarmouth, MA 02664

508-394-0973

NATIONAL GRID (Gas)  
127 Whites Path  
So. Yarmouth, MA 02664  
paul.anderson@us.ngrid.com

Paul Anderson  
508 760 7531

COMCAST (Cable Television)  
10 Old Townhouse Rd  
So. Yarmouth, MA 02664

1-888-633-4266

NSTAR ELECTRIC  
One Nstar Way  
Westwood, MA 02090

Kathy White  
(781) 441-8311  
kathleen.white@nstar.com

**"DIG SAFE". Call Center 811 or 1-888-344-7233**

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

The Contractor shall notify Mass. DIG-SAFE and procure a DIG SAFE number prior to disturbing the ground in any way.

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

**CONSTRUCTION STAKING AND LAYOUT (Supplementing Subsection 5.07 of the MassDOT Standard Specifications)**

The Contractor shall be responsible to establish the baselines or centerlines and edgelines of construction for the project. The Contractor shall furnish and set, at his own expense, all stakes

(such as batter boards, slope stakes, pins, offset stakes, etc.) required for the construction operations and he shall be solely responsible for the accuracy of the line and grade of all features of his work.

The Contractor shall be responsible for maintaining all benchmarks, control stations, and other survey control points. The Contractor shall be held responsible for the preservation of all stakes and marks. If any such stakes or marks are disturbed or destroyed by the Contractor, he shall replace said stakes at his own expense.

The cost of construction layout shall be incidental with the various other items of work under this contract.

#### WORK SCHEDULE (Supplementing Subsection 8.00)

Work on this project is restricted to a normal eight-hour day, five-day week, starting at 7:00 A.M. and ending at 3:00 P.M., with the Contractor and all Subcontractors working on the same shift. No work shall be performed on this Contract on Saturday, Sunday, a Federal, State or Town of Barnstable Holiday, on the days before or after a long weekend that involves a holiday or outside of the 7:00 A.M. to 3:00 P.M. normal workday without prior approval of the Engineer. No work shall be performed between Memorial Day and Labor Day without prior approval from the Town of Barnstable.

#### COMMUNICATIONS

The Contractor shall provide continuous radio communications between the asphalt plant and the project to assure immediate response due to breakdowns, emergencies such as accidents, and to assure the best quality results possible. Communication shall be provided by the Contractor at no additional compensation.

#### WORK ON PRIVATE PROPERTY

Performance of designated re-grading and related construction work outside the limits of the roadway layout is dependent upon the obtainment of rights of entry or construction easements from private owners by the Town. No work shall be done in these areas until clearance is given by the Town.

#### EXAMINATION OF CONTRACT DOCUMENTS

Each bidder is responsible for inspecting the site and for reading and being thoroughly familiar with the contract documents. The failure or omission of any bidder to do any of the foregoing shall in no way relieve any bidder from any obligation in respect to his bid.

Bidders must satisfy themselves of the accuracy of the estimated quantities in the bid schedule by examination of the sites and a review of the drawings and specifications including addenda. After bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the quantities of work or of the nature of the work to be done.

## “AS BUILT” DRAWINGS

Upon completion of the Project, the Contractor will be required to furnish the Town with a complete set of "As-Built" Drawings for the drainage systems installed. The "As-Built" Drawings shall also include all changes made during the construction of the project. Contractor shall coordinate with the Town Surveyor for the necessary base plans and requirements relative to the completion of the “As-Built” drawings. Payment for as-built drawings shall be included in the Contract prices bid.

## TEST PITS

Given the number of underground utilities within the project corridor, the Contractor shall anticipate the need to conduct additional exploratory investigations at the request of the Engineer to avoid breakage and interruption of existing utilities. The Contractor shall factor this requirement into his/her work plan and factor in time to consult with the Engineer to seek guidance in the case of any conflicts.

## BOUNDS

Bounds or property line markers disturbed by the Contractor shall be replaced and/or realigned by the Contractor. No payment shall be made for replacement or resetting required for the convenience of the Contractor.

The Contractor shall submit three sketches of the location of each reset bound to the Design Engineer and the Town of Barnstable, showing at least three tie points. The sketch shall be stamped by a Professional Land Surveyor registered in Massachusetts.

## DISPOSAL OF SURPLUS MATERIALS

After approval from the Engineer, 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.

## SAW-CUTS

Saw-cuts shall be made in existing pavement at the limits of work, in areas of new or reset curb, driveways and sidewalks, limits of full depth pavement construction / reclamation as shown on the plans and as directed by the Town and/or the Design Engineer. Payment for this work shall be considered incidental to the Contract unit prices bid.

## OVERLOADED TRUCKS

The Town will not allow any materials delivered to any project in motor vehicles or semi-trailer units that exceed the legal maximum gross weight allowed for the particular class as specified in

Section 19A of Chapter 90 of the General Laws of Massachusetts. The provisions of Subsection 7.03 of the Standard Specifications shall still apply.

### DRAINAGE STRUCTURES AND PIPES

It shall be the Contractor's responsibility to maintain properly functioning drainage in the areas under construction prior to the time when final acceptance is made. All pipes and structures (existing and proposed) within the limits of this Contract shall be left in clean and operable condition at the completion of the work. In some instances, the Contractor will need to clean existing structures and pipes if clogged. Payment for this work shall be included in the unit prices for Items 187.3 and 187.31 of this Contract.

It is a requirement of this Contract, pending installation of castings, that all structures in travel ways shall be protected with suitable covers (steel plates or equal) capable of withstanding a 36.5 ton truckload with impact. Payment for covers shall be included in the Contract prices bid.

All existing drainage structures not specifically called out to be retained, remodeled, adjusted, or otherwise noted shall be completely removed and properly backfilled in accordance with the specifications herein.

### REMOVE AND STACK ITEMS

Contractor is advised that all items to be removed and stacked are to be transported and stacked at a Town of Barnstable facility. Any item not acceptable to the Town of Barnstable shall be disposed of by the Contractor.

Written notice shall be given to the Town of Barnstable five days prior to stacking on the project site or transportation to the designated locations. Material shall be neatly stacked in a manner acceptable to the Town of Barnstable. Payment for removal and stack items shall be included in the Contract prices bid.

### EARTHWORKS

Before earthwork operations are allowed to commence, a meeting will be held in which representatives from the Contractor and the Town will come to an agreement on the details for earthwork operations including, but not limited to the amount of trucks that will be used, traffic management plans, methods of measuring earthwork, sideline and centerline layout, grade staking, etc. Payment for fine grading and compacting of roadway, sidewalk and handicap ramp surfaces in preparation for placement of hot mix asphalt shall be incidental to the various items and shall not be paid for separately. Suitable excess material will remain on site as determined by the Engineer to be used in fill operations. No material shall leave the site unless authorized by the Engineer.

### PAVEMENT OPERATIONS

No less than a week in advance before the scheduled start of paving operations, a meeting will be held in which representatives from the Contractor and the Town will come to an agreement on

the details for the paving operation including but not limited to Hot Mix Asphalt delivery and placement, amount of days that pavement operations are expected to last, the need for detours (traffic plan), amount of trucks that will be needed, paver speed, etc. Paving equipment shall have be capable of using automatic screed control (Automatic Grade Control). A tack coat shall be spread per MassDOT specifications. Surface shall be dry and cleaned of all foreign and loose material by means of a machine sweeper before applying Tack Coat. Tack distributor shall be working properly and should be setup correctly. Tack distributor shall be capable of maintaining proper temperature and pressure and also capable of adjusting the spray bar height throughout the day to ensure proper coverage and even application of the tack coat.

#### CLEARING AND GRUBBING

The clearing and grubbing required for this contract will be minimal given the setting of this contract. As such, any required clearing and grubbing shall be considered incidental to the payment items on this contract.

#### INDIVIDUAL TREE PROTECTION / TRIMMING

Tree protection for roadside trees, if applicable, shall consist of the installation of 4 feet high orange plastic utility/snow fence. Fencing for wrapping tree trunks within 0” to 3’ of road, if required by the Barnstable Tree Warden shall be 4 feet high wire and wood slat snow fence. Tree trimming, if required, shall be performed at the direction of the Barnstable Tree Warden. This work shall be considered incidental to the payment items on this contract.

#### LANDSCAPE / PLANTINGS / IRRIGATION

Contractor is hereby made aware that underground sprinkler systems are likely located in many of the existing lawn and landscaped areas along the project corridor. Any damage to private irrigation system shall be repaired at the Contractor’s expense and no separate payment shall be made for this work.

#### TRAFFIC MANAGEMENT

Traffic Management during construction operations shall be in accordance with these Special Provisions, the Manual on Uniform Traffic Control Devices, Latest Edition and Supplements, and the Town of Barnstable.

#### UNIFORMED TRAFFIC OFFICERS

The attention of the Bidder is directed to the requirements 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 Bidder shall take into consideration the number and cost of Uniformed Traffic Police Officers that will be required to complete the work shown on the Plans.

It will be the Town of Barnstable's responsibility to bear the cost for the police details but it will be the contractor's responsibility to bear the costs of any canceled details that are charged and to call the police department and schedule the police details on time and with enough notice to allow the police department to be able fill the police detail request.

Prior to scheduling the police detail, the contractor shall meet with the resident engineer with enough time in advance to determine and come to an agreement on how many police officers the detail(s) will require for the upcoming working day(s). On days where the contractor and the resident engineer have agreed that a police detail is needed, the contractor will not be allowed to start working until the police detail is in place on site.

The contractor shall maintain and provide the resident engineer with a daily record of the names of the officers, the hours worked and the location of assignment for every police detail throughout the course of this contract. 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 with enough notice to the Police Department.

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.

**NECESSARY ACCESS FOR FIRE APPARATUS AND OTHER EMERGENCY VEHICLES SHALL BE MAINTAINED AT ALL TIMES. THE CONTRACTOR SHALL COORDINATE WITH THE POLICE AND FIRE DEPARTMENTS ON A DAILY BASIS REGARDING ACCESS.**

TRAFFIC CONTROL FOR CONSTRUCTION AND MAINTENANCE OPERATIONS  
(ITEMS 852 through 859)

Brand new Temporary Safety Signs for Construction Operations must be purchased for this project and the Town of Barnstable will not accept previously used signs. Signs shall be mounted on portable supports and covered or removed when not in use. No signs shall be visible to traffic that may conflict with actual conditions. After the completion of the contract all the Safety Signs, as described in the sign summary sheet, will become the property of the Town of Barnstable.

It shall be the responsibility of the Contractor to maintain a reasonably safe uninterrupted traffic flow within the project roadways throughout the duration of the project. Detours onto surrounding streets will not be allowed unless approved by the Town of Barnstable. Detours shall have appropriate signs directing traffic along the entire detour route.

The Contractor shall submit a Traffic Management Plan to the Town and the Design Engineer for approval. Construction shall not begin until the Plan has been approved. The Plan shall detail construction time frames and phasing, address pedestrian and vehicular flow to and through the construction operations, parking, approved detour routes, access by emergency vehicles, and bus and delivery truck traffic. The Contractor shall update this plan as construction progresses,

subject to the approval of the Town of Barnstable. Payment for development of the Traffic Management Plan shall be considered incidental to the Contract prices bid.

Work to be done under these items shall conform to the relevant provisions of Section 850 and the following:

All signs, barricades, and drums shall have Reflective Sheeting in accordance with Material Specification M9.30.0 of the MassDOT "Standard Specifications for Highways and Bridges - 1988 Edition" and the "Supplemental Specifications to the MassDOT Standard Specifications" dated June 15, 2012.

Drums shall meet the requirements of Section M9.30.9

Plastic drums with mounted lighting devices must pass the criteria set forth in NCHRP 350 "Recommended Procedures for the Safety Performance Evaluation of Highway Features". Plastic drums with mounted lighting devices that do not meet the criteria shall be removed from the Project.

The speed of traffic through work limits will be determined by the Town of Barnstable.

Channelization, if required, will consist of the use of proper temporary pavement markings, reflectorized plastic drums, signing, barricades and other public control devices in order to facilitate traffic flow.

Positioning, adjusting and re-positioning of all devices shall be considered incidental to this contract.

All traffic control devices shall be removed immediately when no longer needed.

The Contractor shall be responsible for furnishing, installing, relocating and maintaining all traffic control devices as shown on the plans or required by the Town of Barnstable, including but not limited to, safety signing, drums, cones, Type III barricades, flashing arrow boards and temporary pavement marking.

### PROPERTY ACCESS

The Contractor shall provide and maintain access at all times to all properties abutting the work. Final pavement on the public ways shall be performed after all other work is finished. The Contractor may be required to install temporary measures across excavated areas of sidewalk to allow safe access to buildings and/or storefronts. Such measures will require approval from the Town of Barnstable and the Engineer prior to installation. 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.

## PAVEMENT MARKINGS

All permanent pavement markings on public ways shall be Epoxy and meet existing pavement markings at the limit of work. If deemed necessary by the engineer, the Contractor shall place temporary pavement markings along streets and parking lots within the project limits during the course of the project. These markings shall be paint and may include but are not limited to yellow centerline markings, stop bars, parking stalls etc.

Removal of existing pavement markings and providing temporary pavement markings will not be paid for separately but considered incidental to the project.

## SCHEDULE

The Contractor shall submit a comprehensive construction schedule to the Owner for review due upon issuance of the Notice to Proceed at least ten (10) 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.

The construction schedule shall contain all significant tasks with anticipated start date and end date. The schedule shall identify landmark tasks, critical tasks, dependent tasks and duration for each task in days.

The Contractor may be required to submit an updated schedule each week. The updated schedule shall include all information described above. If the updated schedule indicates that a delay is anticipated in the final end date, the Contractor shall submit to the Engineer/Owner a written reason for the delay, possible remedy, and justification for the new end date. The Engineer/Owner shall review the statement to determine if the Contractor is responsible for the delay. If found responsible, the Contractor shall be fined in accordance with the General Conditions.

If the Contractor is deemed not responsible, the contract duration will be extended in accordance with the General Conditions.

**- END OF SECTION -**

## **TECHNICAL SPECIFICATIONS**

### Supplementing Massachusetts Department of Transportation Standard Specifications Construction Details

<b><u>ITEM 120.1</u></b>	<b><u>UNCLASSIFIED EXCAVATION</u></b>	<b><u>CUBIC YARD</u></b>
--------------------------	---------------------------------------	--------------------------

Work under this item shall conform to the relevant provisions of Section 120 of the most recent MassDOT Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, and the following.

The work to be done under this Item shall consist of removing and disposing all the materials obstructing the execution of required work as shown on the plans and as directed. The work under this Item may include, but is not limited to, the satisfactory removal of hot mix asphalt and/or concrete sidewalks, concrete slabs, reinforced concrete, drainage pipes, gutters, concrete curb, hot mix asphalt pavement, hot mix asphalt and concrete and granite curb, brick, rock, boulders, buried foundations, posts, stumps, cable rail, landscape timbers, existing traffic control equipment and foundations, and any other items encountered. Also included under this Item, is the removal of trees, shrubs, stumps and any other items required to be removed to complete the proposed construction.

Edges of excavation made in existing pavement shall be squared by saw cutting with power driven tools to provide a neat, clean edge for jointing new pavement as shown on the Plans. Ragged, uneven edges shall not be accepted. Pavement areas, which have been broken or undermined, shall be edged neatly with a minimum disturbance to remaining pavement.

#### Basis of Payment

Payment for Unclassified Excavation shall be at the Contract unit price bid per cubic yard which price shall constitute full payment for all labor, material and equipment necessary to complete the Item to the satisfaction of the Engineer.

<b><u>ITEM 201.</u></b>	<b><u>CATCH BASIN</u></b>	<b><u>EACH</u></b>
<b><u>ITEM 202.</u></b>	<b><u>MANHOLE</u></b>	<b><u>EACH</u></b>
<b><u>ITEM 204.</u></b>	<b><u>GUTTER INLET</u></b>	<b><u>EACH</u></b>
<b><u>ITEM 222.1</u></b>	<b><u>FRAME AND GRATE CASCADE TYPE</u></b>	<b><u>EACH</u></b>

Work under this item shall conform to the relevant provisions of Section 201 of the MassDOT 1988 Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, and the following:

Frames and Grates for catch basins and drop inlets shall meet Mass DOT materials specification M8.03.0 and AASHTO M306-07 and shall be heavy duty, tensile strength class 35B, 2' – 0" square with square grid pattern waterway openings. Frame shall be, 3 flange for drop inlets and 4 flange for catch basins. Frames and Covers for manholes shall be 26 inch diameter, with a clear opening of 24 inches, heavy duty, with "DRAIN" stamped on the cover. The Frames and Grates should have the date and origin of manufacture stamped on them.



Frames and Covers for basins shall be as available from LeBaron Foundry Co., Brockton, MA, Model LK 110 or approved equal.

#### Construction Methods

Leaching basins shall be excavated, the pit bottom prepared and backfilled to the lines and grades as directed by the Engineer and in accordance with the applicable section of Sections 140 and 170 and these Specifications. Pit bottom shall be solid compact base. Unsuitable materials, as determined by the Engineer, at the bottom of basins shall be removed and replaced and properly compacted with gravel borrow in accordance with Item 151.

Total excavation for basins shall be to the necessary depths to accommodate the installation of precast units, set level, plus a minimum twelve inch bed of crushed stone, 24 inches minimum of crushed stone encapsulating the precast unit at the sidewalls to a point four inches below the top of the precast unit. The top four inches shall be backfilled with a four inch layer of peastone to the point flush with the top of precast unit.

A single layer of filter fabric shall cover the structure and basins, minus cutouts at the concrete cover, prior to backfilling.

In paved areas precast units shall be set with the tops flush with the bottom of pavement section subbases. In non-paved areas a minimum depth of four inches and maximum depth of twelve inches between top of structure and finished grade shall be maintained.

A 30 MPA, 20 mm, 390 Kg cement concrete (High Early) will be used, at no further compensation for concrete collars. Concrete collars shall be brought up to a height, which will allow 50 mm of hot mix asphalt to be placed above the collar (unless directed otherwise by the Engineer). All collars shall be tack coated with complete cover of RS-1 Asphaltic Emulsion before placement of the hot mix asphalt wearing surface.

Crushed stone shall be placed and compacted in accordance to Item 156. All pipe connections to the structure shall be securely mortared in place.

#### Note:

Contractor shall confirm the configuration, both horizontal and vertical, of the proposed structures and openings and submit any discrepancies to the Engineer prior to ordering of the structures.

#### Method of Measurement

Leaching basin shall be measured by the each, regardless of the depth, installed and accepted.

#### Basis of Payment

Leaching basins and Frames and Covers shall be paid for at the contract unit price bid per each, complete in place and accepted, which price shall be considered full compensation for all excavation, compaction, backfilling, washed stone, crushed stone, polyethylene sheets, geotextile fabric, precast units, peastone and all other materials, tools and labor required for a complete and accepted installation.



Backfill beneath existing utilities, which must be temporarily supported during pipe installation, shall be thoroughly tamped to the required density. Where necessary, particularly immediately under larger structures where tamping will be difficult, the Contractor shall use fill concrete and/or dry pack as backfill.

The density of the compacted fill shall be determined by one of the following methods:

- a. D1556, Density of Soil In-Place by the Sand Cone Method.
- b. D2167, Density of Soil In-Place by Method. c. D3017, Nuclear Method.

The Contractor shall engage an independent laboratory to perform the Modified Proctor and In-Place Density Testing. The number of tests to be performed shall be determined by the Design Engineer prior to testing.

#### Basis of Payment

Payment under this Item shall be made at the Contract unit price bid per foot, complete in-place; including all excavation, gravel pipe bedding; backfill, compaction testing; the maintenance of flow and, the protection from and cleaning of related construction debris from the affected portions of the existing drainage system.

### **ITEM 472.                   HOT MIX ASPHALT FOR MISCELLANEOUS WORK                   TON**

The work to be done under this Item shall conform to the relevant provisions of Section 470 of the most recent MassDOT Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, and the following;

#### Description

This item will consist of the installation of a new hot mix asphalt patch for existing HMA utility trenches patches in the locations and to the depths directed by the Engineer. The existing asphalt trench patch shall be sawcut to the width determined by the Engineer but to at least 3' minimum. All asphalt within the sawcut edges will be removed until the Road gravel base is exposed.

The new patch shall be hot mix asphalt binder, placed in two 3" lifts, for a total minimum thickness of 6 inches after compaction and shall extend 1' beyond the sawcut edges. Road gravel base in the trench shall be compacted to the depth of the trench patch to allow for the placement of the new hot mix asphalt patch.

The existing utility patch pavement shall be repaired as necessary to maintain the surface in good repair and flush with the existing pavement until replaced by the permanent pavement.

#### Basis of Payment

Payment for HMA for Miscellaneous Work shall be made at the contract unit price per ton, which price shall include all labor, material, equipment, and all incidental work to complete the work as described above and/or as directed by the Engineer. No additional payment shall be made for sawcutting and compacting of trench areas as that work will be deemed incidental to this item. Excavation and removal of the existing trench will be paid at the contract unit price by

cubic yard of item 120.1 Unclassified Excavation.

**ITEM 701.**

**CEMENT CONCRETE SIDEWALK**

**SQUARE YARD**

The work to be done under this Item shall conform to the relevant provisions of Section 700 of the most recent MassDOT Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, the 2010 ADA Standards for Accessible Design, the Massachusetts Architectural Access Boards Rules and Regulations as specified on 521 C.M.R. and the following:

Joints

Cement Concrete Sidewalks shall be divided into panels by expansion and contraction joints. Joints shall be spaced at approximately 5' (foot) intervals. Wherever practicable, joints shall align with like joints in adjoining work. No panel shall have an area exceeding 36 square feet.

Joints shall be parallel with or perpendicular to the centerline of the walk. Jointing layout shall avoid angles of less than 75 degrees. Panel widths of less than 3 feet or more than 7 feet shall not be permitted.

Contraction joints shall be saw cut not more than 3/16" (inch) in width and shall be cut to a depth of at least 1/4 the thickness of the walk. Expansion joints shall be 1/2" (inch) in thickness, and shall be of pre-formed expansion joint filler. Expansion material shall be secured in a manner that will prevent movement or displacement during the placement of the concrete.

Expansion joints shall be placed in the following locations:

1. Along any abutting masonry.
2. Along the foundation of any building.
3. Along concrete curb.
  
4. All around the intersection of two public walks.
5. Around any concrete base or structure
6. Along both sides of abutting concrete driveways.
7. Around any utility casting in the walk.
8. Around any utility pole.
9. At intervals not exceeding 20' (feet) .
- 10.As directed by the Engineer.

Reinforcement

Wire mesh reinforcement shall be installed in all cement concrete walks. Wire mesh shall be 6" x 6", #10 mesh, installed in the middle of the concrete slab. Support blocks shall be placed under the

mesh to control the location, followed by the placement of the concrete with the mesh fixed in position.

#### Method of Measurement

Concrete Sidewalks will be measured for payment by the square yard of sidewalk installed, complete in place.

#### Basis of Payment

Concrete Sidewalks will be paid for at the Contract unit price per square yard, which price shall include all labor, materials, equipment, and incidental costs required to complete the work including expansion joint filler and wire mesh reinforcement.

### **ITEM 701.2      CEMENT CONCRETE WHEELCHAIR RAMP      SQUARE YARD**

The work to be done under this Item shall conform to the relevant provisions of Section 700 of the most recent MassDOT Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, the 2010 ADA Standards for Accessible Design, the Massachusetts Architectural Access Boards Rules and Regulations as specified on 521 C.M.R. and the following:

The Contractor shall establish grade elevations at all wheelchair ramp locations, and shall set transition lengths according to the appropriate table of MassDOT's Wheelchair Ramp Standards.

All wheelchair ramp joints and transition sections which define grade changes shall be formed, staked and checked prior to placing cement concrete. All grade changes are to be made at joints.

If conditions in the field are determined to be different than those shown on the plans, the Contractor shall at no additional expense submit to the Engineer for approval sketches of each wheelchair ramp showing the longitudinal roadway grade at each ramp and the associated curb transition lengths.

Detectible Warning panels shall be installed on all wheelchair ramps as shown on the drawings and as illustrated in MassDOT Construction Standards M/E 107.2.1R (12/2004) and M/E 107.6.5R (12/2004).

Compensation of detectible warning panels shall be included under the bid price for item 701.2 and shall be considered as incidental to this item.

### **ITEM 715.      RURAL MAIL BOX REMOVED AND RESET      EACH**

The work under this item shall conform to the relevant provisions of Section 700 of the Standard Specifications and the following:

Work shall include the coordination with the United States postal service for the proper removal, notification, and resetting of the USPS mailbox.

#### **BASIS OF PAYMENT**

Payment for work under this item shall be at the Contract Unit price bid, per Each, which price

shall be full compensation for fabrication, furnishing, coordination, and installation as required by the USPS.

**ITEM 751**

**LOAM BORROW**

**CUBIC YARD**

The work to be done under this Item shall conform to the relevant provisions of Section 750 and 765 of the most recent Massachusetts Highway Department Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, and the following;

The work will include the restoration near driveways, back of sidewalks, proposed grass strips, and sideline surfaces, and other disturbed areas not scheduled to receive pavement under other Items of this Contract, to the Limit of Work line shown on the plans. These limits include areas outside the roadway layout, where regrading and other construction related work is required to construct the Project.

Under this Item, the Contractor shall be required to prepare and restore all disturbed surfaces with loam borrow or topsoil excavated and stacked, and a choice of seed, hydro-seed, pea-stone, or mulch to meet with in-kind conditions, as determined by the Engineer.

Plantable Soil borrow shall be place with a minimum depth of 6 inches after compaction and meet with Material Specifications M1.07.0. Seed mix for lawn areas shall conform to material Specification M6.03.00 and seed for erosion control shall conform to material Specification M6.03.1. Hydro-seed shall conform to the relevant provisions of subsection 765.65.

**ITEM 765**

**SEEDING**

**SQUARE YARD**

The work to be done under this Item shall conform to the relevant provisions of Section 751 and 765 of the most recent MassDOT Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, and the following;

In seeded areas where the slope is 2:1 or steeper and for all roadside drainage ditches, the Contractor shall install and erosion control blanket to stabilize the slope until the grass has been established. Erosion control blanket shall be SC 150 as manufacture by North American Green, or approved equal. Erosion control Blanket shall also be used on any other seeded areas subject to erosion, as directed by the Engineer. Woven jute mesh netting may be substituted for the erosion control blanket, with prior approval of the Engineer.

Erosion control blanket shall be installed in accordance with accepted practices and the manufacturer's recommendation. Erosion control blanket shall lay loose on the ground and shall not be stretched or tightened in any direction. The blanket shall conform naturally in the contour and grade of the proposed topography.

The Contractor shall be responsible for the maintenance of slopes, grass strips and ditches throughout the course of construction. Ditches shall be cleaned of debris and sediment that prohibit the proper functioning of the ditch. Eroded and washed out areas within the project limits shall be repaired and reseeded. No additional compensation for the incidental repair and maintenance of ditches and slopes will be allowed.



Compensation for the furnishing, erection and maintenance of the flags shall be considered incidental to this item. **Upon completion of the work, all safety signs installed for construction operations shall be taken down and turned over to the Town of Barnstable for permanent disposition.**

**ITEM 859**

**REFLECTORIZED DRUM**

**DRUM DAY**

Reflectorized drums shall meet the criteria set forth in the latest edition of MUTCD. Reflectorized sheeting shall consist of 4 strips of alternating fluorescent orange and white reflectorized sheeting, with orange at the top. Fluorescent orange and white reflectorized sheeting shall be four and six inches wide respectively. The spacing between the sheets shall be three inches and the sheeting shall be at least 4 inches off the ground.

Steady or flashing lights shall conform to the MUTCD for Type A or Type C and be used on Reflectorized Drums only at the direction of the Town of Barnstable and will be included in the Unit Price with no additional compensation

Use of drums shall be as directed by Town of Barnstable and shall include driveway protection, utility structure protection, as well as application in establishing pedestrian control and safety through the construction operation.

**ITEM 874.**

**STREET NAME SIGN**

**EACH**

The work to be done under this Item shall conform with the latest edition of the MUTCD and to the relevant provisions of Section 840 of the most recent Massachusetts Highway Department Standard Specifications for Highways & Bridges, the latest supplements and addendum thereto, and the following;

Materials: Street signs shall be durable, high visibility and allow rapid identification of roadway locations in the day or night. The street name signs shall be retro reflective to show the same shape and color both day and night. The standard sign shall have a white legend on a blue background with reflective white border. The exact specifications for background color and font must be approved by the Town of Barnstable before the contractor proceeds with the creation and/or ordering of the street name signs.

Fabrication: The sign assembly shall be constructed of two single side sign blanks attached to a square post. The aluminum blanks, having like names, shall be attached securely to each other at four points. The sign shall be attached to the square post using two (2) 3/8" drive rivets or two (2) Grade 5, 5/16" x 2 1/2" galvanized, coarse common thread bolts with galvanized flat washers and galvanized lock nuts. The outside edges of the sign blanks shall be joined using number 30 (3/8") cherry mate rivets, with 1/2" x 1 1/2" PVC spacers.

Sign blanks shall be 9" wide and of appropriate length for the name. Aluminum flat blank with rounded corners. Gage of blank shall be .08 minimum.

3M Diamond grade (or equal) white prismatic retro reflective sheeting shall be applied to the blank by using pressure sensitive adhesive. The material shall be trimmed to match the blank.

Blue electro-cut film shall be cut to allow for a 1/2" white border when applied to the sheeting.

Street names shall be designed using 6", U.C. B Series letters for all copy requiring a 48" blank or less. Street names that would require greater than a 48" blank shall be designed using 6" U.C. B Series for the initial capital letter/letters and 4 1/2" L.C. B Series letters for the remainder of the name/names. The letter design shall be the standard alphabet for highway signs. Note: The street label (Ave., Rd., Ln. etc) shall be 3" letter and abbreviated. All letters shall be upper case.

The spacing of legend is dependent upon letter series, determined by stroke width. The following is the recommended width for legibility of specified signs:

Straight to Straight	2	stroke widths + 15%
Straight to Straight	1 1/2	stroke widths + 15%
Curved to Curved	1	stroke widths + 15%

The blue translucent film shall be applied using the squeeze roller method in accordance with the recommendations of the manufacturer

Posts shall be 1 3/4" square galvanized Unistrut breakaway posts. Post length shall be 10 feet. Anchors shall be 2" square galvanized by 3 feet long. Unistrut bolts shall be used to join the post to the anchor. The anchor shall be set in the ground with no more than 2" of the anchor showing above ground.

**ITEM 874.3                      TRAFFIC SIGNS REMOVED AND STACKED                      EACH**

The work under this Item shall include removing, stacking and transporting existing warning, regulatory and miscellaneous signs and supports as shown on the plans and directed by the Engineer. Signs and supports shall be transported to the Barnstable DPW yard.