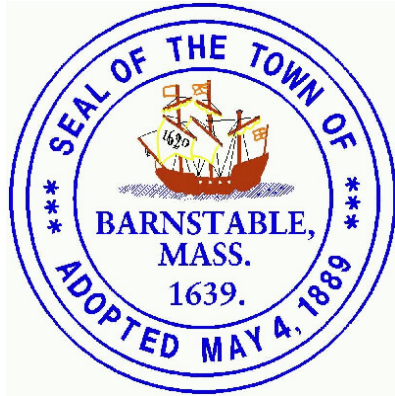


TOWN OF BARNSTABLE



**REQUEST FOR PROPOSALS
For
ARCHITECTURAL CONSULTANT SERVICES**

DESIGNER SELECTION FOR THE BISMORE PARK RENOVATION PROJECT

Growth Management Department

February 22, 2007

I. GENERAL OVERVIEW

A. Introduction

The Purchasing Agent of the Town of Barnstable (Owner), on behalf of the Growth Management Department, at the direction of the Town Manager, hereby requests the submittal of qualifications and proposals from qualified professional firms with previous site master planning and permitting, programming, landscape architecture, architectural, engineering and interior design experience of community recreational facilities in Massachusetts. The scope of work includes the necessary site master planning and permitting, programming, and complete architectural and engineering design of new facilities at Bismore Park, Hyannis, Massachusetts, as listed hereinafter. Bismore Park is located on Ocean Street, Hyannis, Massachusetts. Included in this assignment is the design and contract administration phase services associated with the demolition of the existing visitor's center building, the construction of a new Visitor's Center Facility and Dockmaster's Office, relocation of utilities, and landscape design and the replacement of the existing lollipop parking meters with new pay and display parking meters.. This project will be developed by means of two related Contract Parts.

This solicitation is being conducted in accordance with the provisions of Massachusetts General Laws (MGL) Chapter 7, Section 38A ½ - Section 38M. All contracts must be strictly awarded in accordance with the requirements of MGL Ch. 7 and this Request for Proposals (RFP). Issuance of this Request for Proposals does not signify the Town's submission of this service to the provisions of the Act, and the contract and award will be made at the Town's discretion. If it becomes necessary to revise any part of this RFP or otherwise provide additional information, an addendum will be issued to all prospective proposers who received copies of the original request.

The "Awarding Authority" will be the Town Manager of the Town of Barnstable, acting by and through its Purchasing Agent and the Growth Management Department. The Scope of Services listed under Article IV. C, this RFP, any published addenda to the RFP and the Proposer's Response will become part of the Contract between the Town of Barnstable and the successful proposer.

B. Background – The Town of Barnstable

The Town of Barnstable, located on Cape Cod, was incorporated in 1639. The Town has an annual year-round population of over 48,000 (2000 Census) and approximately 125,000 - 150,000 seasonal residents. The average per capita income of the residents of Barnstable is \$46,811 (2000 Census). Of the residents over age 25, approximately 88.7% have a high school degree, and 28.1% have a bachelor's degree or greater. The Town encompasses an area of 64.1 square miles and consists of seven distinct villages: Barnstable, Centerville, Cotuit, Hyannis, Marstons Mills, Osterville, and West Barnstable. It serves as the County Seat for Barnstable County. The Town of Barnstable is located approximately 65 miles southerly from Boston and approximately 75 miles easterly from Providence.

The Town of Barnstable serves as the commercial center for Cape Cod. It houses the main hospital, regional social service agencies, the superior court, county jail, and the regional shopping mall to name a few. The Town functions under a Council-Manager form of government, with a charter-supported strong Manager, and thirteen Town Councilors elected by precinct. The Barnstable Town Council is the legislative and policy-making branch of the Town government. The Town Manager develops policies and ordinances for adoption by the Town Council and the Council then enacts policies and ordinances, which it believes promote and enhance the general welfare of the Town.

The Town is committed to providing a variety of opportunities and choices for Barnstable citizens to achieve their human potential while preserving and protecting the integrity of the natural environment that will enhance the quality of life for the individuals, families and the community at large. The Town offers numerous recreational and cultural programs, varying season to season. Over 10,000 daily visitors during the summer use the park area to take advantage of these programs as well as visit local restaurants and businesses.

The Town of Barnstable takes pride in its public parks. Each location possesses unique scenery, coastal waterfront and character. These areas enjoy a regular clientele comprised of residents and repeat visitors, due to the distinctive features of each site. The Town of Barnstable places great emphasis on maintaining the natural beauty and integrity of our parks and recreational areas, helping to ensure that these locations will be enjoyed by many more generations to come.

C. Background - Bismore Park

Bismore Park is located in downtown Hyannis directly on the Hyannis Inner Harbor waterfront. It serves as a recreational area and is the home of the “Harbor Your Arts” shanties that serve as booths for local artists during the summer months. Bismore Park currently contains both a Town marina with 25 boat slips and 675 linear feet of direct frontage on Hyannis Harbor. It is located directly next to one of two ferry terminals transporting visitors from Hyannis to Nantucket and Martha’s Vineyard. It provides the only public restrooms on Hyannis Inner Harbor and is an attraction both to enjoy the harbor view and of the working waterfront. The yearly 4th of July event attracts 15,000 visitors to the fireworks display, and the park is the starting point of the annual Hyannis Christmas stroll drawing 10,000 visitors on one December weekend. Bismore Park currently provides 117 parking spaces and is also within walking distance of the only regional bus station on the Cape, the Cape Cod regional Transit Authority facility.

D. Project Description

The proposed project at Bismore Park is to be developed in two separate Contract Parts of service defined in this RFP. Each Contract Part of work will require written authorization to proceed as directed by the Owner prior to the start of work.

Contract Part I: The site master planning, environmental and project permitting, and design and design development phase services for the new ADA accessible visitors center facility and dockmaster’s office at Bismore Park, building demolition, utility relocation, site signage redesign of site walks drives and parking, landscape design and location of new parking meters. Included in this phase is the existing site survey requirements and the necessary geo-technical and test boring work.

Contract Part II: The contract documents, bid and contract administration and phases of service for the elements designed under Contract Part I.

E. Work By Others

1. Cost Consultant:

The Town has retained its own cost management consultant to review project cost estimates and to work with the architect’s own cost in order to assure compliance with the Owner’s approved budget for the project. The architect shall hire their own cost consultant for cost estimating and not rely on the Town’s firm of Rider Hunt Levett & Bailey.

F. Documents Available for Review:

The following documents are available for review:

- Hyannis Main Street Waterfront District, relevant documents and requirements (see Town of Barnstable Website, Growth Management)<http://www.town.barnstable.ma.us/GrowthManagement/RegulatoryReview/WaterFrontCommission/default.asp>
- Urban Self-Help Grant Application;
- Urban Self-Help Grant Contract;
- Downtown Hyannis Zoning and Design and Infrastructure Plan also found on Growth Management Website.
- Bulkhead Improvement Drawings. Contact R. Burgmann (508)862-4070 (bulkhead improvements are not part of the scope of work for this project, however, some improvements are being planned and designer needs to be aware of locations so as to keep new construction at proper distance)

II. GENERAL REQUIREMENTS

A. Key Project Dates and Schedule

The following is a tentative schedule noting target dates for phases and tasks to be completed. Time Frame may have to be adjusted, but we need to get this out ASAP

2/26/07	RFQ issued; advertise in the Cape Cod Times
3/7/07	Advertise in the Central Register
3/15/07	1:00 pm: Pre-Response Site Visit and Meeting, Selectmen's Conference Room, 367 Main Street, Hyannis, MA. Then walking tour of Bismore Park, Ocean Street, Hyannis, Massachusetts
3/19/07	Last Day for questions to the Purchasing Agent
3/27/07	2:00 PM: Responses to RFP due at, Purchasing Agent's Office
Week of 4/2/07	Interviews for short listed candidates (subject to change)
4/9/07	Recommend selected Consultant for Approval by Awarding Authority and Award Notification
6/30/07	Design /construction bid documents complete

SECTION III. PROPOSAL INSTRUCTIONS

A. Instructions to Proposers

1. The Town of Barnstable may cancel this RFP, in whole or in part, or may reject all Proposals, or may procure only some goods and/or services outlined in this RFP whenever such action is determined to be fiscally advantageous to the Town, or if it is otherwise in the best interest of the Town of Barnstable.

2. The Town of Barnstable may request that supplementary information be furnished to assure the Town that a proposer has the technical competence, the business and technical organization, and the financial resources adequate to successfully perform the necessary work.
3. Required forms are provided by the Awarding Authority in the Attachments. All Proposals shall be in ink or typewritten and must be presented in an organized and clear manner. Proposals shall be submitted in accordance with Section VI, Qualifications Proposal Submission Requirements.
4. Questions or clarifications rising from these documents shall be submitted to the Purchasing Agent in writing. They must be submitted in accordance with Section II “Key Project Dates and Schedule”.
5. Each proposer shall acknowledge receipt of any and all addendum issued to the Request for Proposals by so indicating in the Cover Letter/General Response. Failure to do so shall be cause to reject the Proposal as being unresponsive.
6. The proposer shall sign the Proposal correctly in ink; or in the case of an organization, firm, partnership or corporation, a person having the legal authority from said organization to sign the Proposal will sign the document.
7. Proposers may correct, modify or withdraw the original Proposals on or before the date and time as stated in the “Legal Advertisement” (See Attachment “D.”) Corrections or modifications shall be in sealed envelopes, clearly marked to indicate the contents, with the name and address of the proposer. Any late correction or modification to the Proposal will not be accepted. A proposer who wishes to withdraw a Proposal must make a request in writing.
8. Any Contract resulting from this RFP shall be awarded to the proposer Proposers may correct, modify or withdraw the original Proposals on or before the date and time as stated in the “Legal Advertisement” (See Attachment “D.”) Corrections or modifications shall be in sealed envelopes, clearly marked to indicate the contents, with the name and address of the proposer. Any late correction or modification to the Proposal will not be accepted. A proposer who wishes to withdraw a Proposal must make a request in writing.
9. Each proposer shall be presumed to have read and be thoroughly familiar with these documents. Unfamiliarity with these documents shall in no way relieve any proposer from any obligation in respect to his/her Proposal.
10. It is understood that the proposer’s Proposal to the Town of Barnstable to provide said services and products will remain valid for 90 days past the submission deadline. At the Town’s sole discretion, the successful proposer’s Proposal shall be attached thereto and become a part of the contractual Contract between the Town of Barnstable and the proposer the same as though therein written out in full.
11. The proposer’s attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over these services shall apply to the Contract throughout, and they shall be deemed to be included in the contractual Contract the same as though herein written out in full.
12. It is understood that the proposer has submitted the Proposal in good faith and without collusion or fraud with any other individuals, firms, or corporations in creating the Proposal to subvert the market process. See attached Certificate of Non-Collusion, and other required Proposal forms. (See Attachment “B”.)
13. All costs involved in preparing the Proposal will be borne by the proposer; the Town of Barnstable will not be liable for any costs associated with the creation of the Proposal. The proposer shall be familiar with all state, local and other laws relating to this type of work and shall obtain all permits required and shall pay all expenses for same.

14. All responses are to include a statement that the Proposal is in accordance with this Request for Proposals and that the proposer has read and understands all sections and provisions herein. Exceptions, if any, are to be clearly stated.
15. Proposals, which are incomplete, conditional or obscure, will be rejected. No award will be made to any proposer who cannot satisfy the Awarding Authority that he/she has sufficient ability and sufficient capital to enable him/her to meet the requirements of these specifications. The Awarding Authority's decision or judgment on these matters shall be final, conclusive and binding.
16. Any Proposal received after the due date and time stated in the "Legal Advertisement" will be deemed "non-responsive" and shall not be opened. Unopened Proposals will be returned to the proposer.
17. The evaluation of the Non-Price Proposals will be conducted by the Designer Selection Board appointed by the Town Manager. The judgment of the evaluators will be based upon the evaluation criteria set forth in this RFP and shall be final.
18. The Non-Price Proposals will be opened on the date and at the time stated in the "Legal Advertisement" and the name of the person or organization submitting a Proposal will be read and recorded. The contents of all Proposals will be opened privately and not be disclosed to the public or competing proposers until the evaluation process is completed. A register of Proposals will be completed indicating the name of the proposer. This register may be viewed upon request. The names of the witnesses will also be recorded. The Price Proposals will be opened only after the evaluation has been completed and of whose Proposal is deemed to be the most Highly Advantageous to the Town of Barnstable. The Designer Selection Board will be the sole judge in determining whether a proposer's Proposal satisfies the requirements of this RFP and whether or not the Proposal will prove advantageous to the Town. Any Contract resulting from this RFP shall be awarded to the proposer, assuming successful fee negotiations, the selected proposer will be under Contract to the Town of Barnstable per the attached sample Contract (see Attachment "A").
19. Response to this Request for Proposals acknowledges the proposer's acceptance of all sections and requirements of this document. The proposer's response to the Request for Proposal will be incorporated within the Contract. If the proposer's Proposal does not comply with the requirements of this Request for Proposals, or if an item is not understood in any way, a copy of that section of the Request for Proposals must then be included in the Proposal and all its copies clearly stating the deviation, additions, or other comments.
20. Services provided by the successful proposer shall be rendered through the Town of Barnstable's standard Contract for consultant/contractor services; the successful proposer will not be considered an employee of the Town and will not receive any benefits of an employee.

B. Pre-Response Conference and Site Visit

There will be a voluntary pre-response conference and site visit on March 15, 2007, at 1:00 pm in the Selectmen's Conference Room, Town Hall, 367 Main Street, Hyannis, MA and a site visit immediately thereafter at Bismore Park, Ocean Street, Hyannis, Massachusetts. A listing of those attending will be kept. There will be a tour of the existing facilities. It is very likely that important information will develop during this conference; therefore all prospective respondents are encouraged to attend.

Directions to the Bismore Park can be obtained by calling the Purchasing Office at 508-862-4741 between the hours of 8:00 AM to 4:00 PM Monday through Friday.

C. Questions and Clarifications

Questions requiring clarification shall be submitted in writing or faxed to the Purchasing Agent prior to the deadline stated in Section II, Key Project Dates and Schedule, in order to afford the Town of Barnstable adequate time to respond with a correction or additional information prior to the deadline for submission of Proposals. Should it be found necessary, a written addendum will be incorporated into the RFP and will become part of the Contract. Those who have received a copy of the RFP will be notified of such changes.

D. Notification of Award

All proposers will be notified of the selection decision within 30 days of the date Proposals are due to the Town of Barnstable unless otherwise notified by the Town. In no case will the award be made beyond 90 days unless the proposer agrees to extend the period of time in which the Proposal is valid.

E. Contract

This Request for Proposals, as well as the selected Contractor's Proposal, and any addenda to that RFP will become part of the final Contract. See Attachment "A" for sample Contract. Please note that the sample attached does not include all of the additional terms and conditions between an owner and architect. Additional contract terms will be forwarded in the form of an agreement between an owner and architect similar to an AIA agreement via addendum to this RFQ.

The Contract shall be subject to **Force Majeure** considerations as outlined in Article 15, Force Majeure, of the sample Contract (Attachment "A").

The Town shall have the right to terminate this Agreement in accordance with the provisions of Article 16, Termination, No Award, of the sample Contract (Attachment "A").

F. Insurance Requirements

See Article 19, Insurance and Performance Bond, of the sample Contract for required insurance coverage and limits (Attachment "A").

G. Monitoring

On a regular basis, appropriate members of the Town of Barnstable may review the Contractor's operations and inform the Contractor if there are any issues associated with the service provided by the Contractor.

H. Interview

After their review of firm qualifications, the Designer Selection Board will interview a selected short list of the most qualified, responsive and responsible proposers. Proposers whose submittals are determined to be not advantageous or that did not meet the minimum requirements will not be interviewed.

In accordance with those interviews, the Designer Selection Board will then rank those finalists and make a recommendation of award to the Town Manager as the awarding authority on this project, subject to the satisfactory negotiations of the plan of services. If the Town Manager, or designee, is unable to negotiate a contract, including any modifications to the fee, with the top-ranked finalist, the Town Manager, or designee, will then commence negotiations with the next ranked finalist and so on, until a contract is successfully negotiated and approved by the Town Manager.

There are no reimbursements provided by the Town for expenses incurred for this interview to either the awarded Contractor or any other candidate asked to be interviewed. The Town of Barnstable reserves the right to change the interview period or to extend the dates during which interviews may be undertaken.

I. Licenses and Permits

The proposer is responsible for attaining and holding in good standing all relevant permits, licenses and certificates associated with the completion of these services, as applicable. Evidence of these requirements is to be made part of the Proposal. If a permit is not currently held or the application process is pending, the proposer should indicate such. The Town of Barnstable reserves the sole right to decide if the Contract may be awarded to the successful proposer despite the failure to produce the actual permits or copies thereof. Licenses and permits must be held in force throughout the terms of the services as contracted. See Section IV, Proposal Requirements, and Attachment "A", Scope of Services, for additional information.

J. Miscellaneous Information

The Proposals will be accepted until **1:00 pm on 3/27/07**. They shall be delivered to the Town of Barnstable, Purchasing Agent's Office, 230 South Street, 3rd Floor, Hyannis, MA. 02601.

The name(s) of the Proposer's key individual who will be performing the consultant services must be submitted along with their resume(s) and professional registration(s). The individuals listed shall attend the interview, if requested. The Proposal firm must have sufficient qualified staff to undertake and complete the project in a timely manner.

All information acquired by the Proposer from the Town of Barnstable, or from others at the expense of the Town, in performance of the Contract, shall be and remains the property of the Town. All records, data files, computer records, work sheets, deliverable products complete and incomplete, and all other types of information prepared or acquired by the proposer for delivery to the Town shall be and will remain the property of the Town of Barnstable.

The Proposer agrees that he will use this information only as required in the performance of this Contract and will not, before or after the completion of this Contract, otherwise use said information, nor copy, nor reproduce the same in any form except pursuant to the sole written instructions of the Town of Barnstable.

K. Minority or Woman Business Enterprise Participation

Mandatory Affirmative Marketing Goals developed by the Division of Capital Asset Management (DCAM) in consultation with SOMWBA for this project as follows:

Design Participation: MBEs (8%) and WBEs (4%)

No waivers of these participation amounts will be granted unless a request is submitted to the Purchasing Agent/Contract Compliance Officer 10 days prior to the due date for the qualifications. All waivers must be approved in advance by the Massachusetts State Office of Minority and Women Business Enterprises.

See Attachment "F" for complete policy, requirements and forms.

SECTION IV. PROPOSAL REQUIREMENTS

A. Minimum Requirements

The Designer Selection Board shall reject Proposals which do not meet the following certain minimum requirements:

1. Submitting architectural firm must have a minimum of two (2) projects during the past five years involving similar architectural, site and landscape design, master planning, and programming services in documented municipal and/or comparable corporate experience in Massachusetts.
1. The Proposal must be from an individual or established business, corporation, partnership, sole proprietorship, joint stock company, joint venture, firm, or other entity engaged in the practice of providing such services as the principal business for which the entity was formed.
2. Possess all necessary current licenses and registrations, as applicable, either within the firm or through independent consultants, to qualify under Massachusetts law to perform the stated services. All consultants carried by the Architect are to be licensed to provide professional services in the Commonwealth of Massachusetts.
3. All Proposers must provide a "Contractor Profile" that includes:
 - a. Full name, tax identification number, main office address and officers of the Contractor that would ultimately enter into a Contract with the Town of Barnstable.
 - b. History and background including when the Contractor was organized and if a corporation, where incorporated, and how many years engaged in providing the stated services. Provide a complete list of officers including name, title, address, telephone number, and e-mail address.
4. Not be debarred under M.G.L., chapter 149, section 44C, or disqualified under M.G.L., chapter 7, section 38H, as applicable.
5. All Proposals shall be submitted to the Purchasing Agent as stated in the "Legal Advertisement"-Attachment "C". Each Proposal shall be in SEALED envelopes, clearly marked on the outside of the envelope to indicate the contents, and the name and address of the proposer. Sealed Price Proposals must be submitted in a separate, sealed envelope from the sealed technical Proposal. Proposer must use the Price Submittal form, attachment "D". Please note: No element of the pricing proposal may be contained in the technical proposal submittal.
6. The Proposal must be received by the Purchasing Agent before the deadline for receipt of Proposals indicated in Section II, Key Project Dates and Schedule, and must be complete (must include or address all items specified in Section VI – Proposal Submission Requirements). The proposer is responsible to make sure that their proposal submittal is received at the proper location as stated herein before the due date and time. Do not rely upon stated delivery times from contracted package delivery services. Proposals delivered after the proposal response deadline will be refused.
7. The proposer must have signed the Certificate of Non-Collusion and the State Taxes Certification Clause, and all other required Proposal forms (see Attachment "B") and shall include them in the Proposal package.
8. The proposer must have completed and signed the Commonwealth of Massachusetts, Division of Capital Asset Management (DCAM), Cities and Towns Application Form (DSB 2005) (see Attachment "E") and shall have included them in the Proposal package.

9. The Proposal must be signed by an agent of the company who has authority to bind the company to a firm bid price.
10. All responses are to include a statement that the Proposal is in accordance with this Request for Proposals and that the proposer has read and understands all sections and provisions herein. Exceptions, if any, are to be clearly stated.

B. Staffing Requirements

1. The architect must set forth the staffing to be utilized for this service, including the estimated percentage of time to be dedicated to this project. Provide resumes for specific staff to be assigned to the Project that include education, relevant past experiences, qualifications, licenses, current projects being worked on and any other pertinent information that will assist in making the selection.
2. List major leadership, individuals to be assigned to this project, their duties and responsibilities.
3. Submitting firm must be prepared to contractually commit all individuals as submitted in their Proposal to this service. Any deviation from the proposed will constitute a breach of Contract to any agreement which may result from this Request for Proposals
4. The Proposal must include resumes, experience, and qualifications of any proposed consultants that would be utilized by the Proposer in the performance of this contract. Any deviation from the architect's listed consultants or their team will constitute a breach of Contract to any agreement which may result from this Request for Proposals. Any change in consultants listed in the Proposal must obtain approval from the Town.
5. Should it become impossible for a contractually committed individual to complete his duties, for a reason such as termination of employment, any change in the proposer's staffing as outlined in the Proposal will be subject to the approval of the Town of Barnstable. The Town of Barnstable Director of Public Works, or designee, shall notify the proposer within fifteen (15) business days of the acceptance or rejection of any such staff substitutions. Any substituted person must be of an experience level equal to or greater than the person being replaced unless approved by the Town.

C. Technical Scope of Services

The successful architectural firm shall provide and utilize the disciplines of, but not be limited to, architecture, landscape architecture, civil, structural, HVAC, plumbing, fire protection, and electrical engineering, as well as, environmental permitting, site lighting, interior design, including the design, selection and procurement of furniture, fixtures and equipment (FF&E) as needed to equip Contract Part II building. The scope of work shall also include the programming, site master planning and environmental permitting, and the work described below.

General:

1. Participate in meetings to present and obtain the required regulatory approvals and that of the Town boards and Officials in the review and modification of the same. Provide the necessary mounted drawings, diagrams, etc. necessary for presentation to the Town Officials and Department representatives at the various meetings to describe the project and gain the necessary approvals for the project to proceed.

2. Prepare final design, specifications and contract documents for the public bidding of this construction project per Massachusetts General Law (MGL) Chapter 149. Provide ACad files, latest release, and pdf files for the Owner of all bid documents.

Contract Part I: The master planning, programming and complete environmental permitting of the site, including all required local, county and state agency approvals, along with the schematic and design development phases of work involving landscape architecture, architecture, and civil, structural and MEP engineering work and cost estimating and project management services. The project includes the design of demolition work of the existing visitors center facility, the construction of a new visitors center facility and possible dockmaster's office including restroom facilities and replacement of site utility distribution rooms; removal and replacement of existing parking meters on site. The designer should be familiar with the existing building on site that contains existing site utility distribution rooms that will be relocated to the new building as part of this project.

Prepare, schedule and track applications for all required in coordination with the Town in order to obtain approval of the project. The new visitor's center facility and dockmaster's office will have public toilet facilities. Include consultants within the scope of service and related fee to provide the services for the necessary environmental investigations and permitting. Attend and make presentations as required at regulatory process meetings and public hearings.

Provide a boundary and topographic survey showing above and below ground utilities of existing conditions. Retain geo-technical consultant and obtain the necessary test borings for the new building. These services are a part of basic services within Contract Part I.

The Architect shall provide their own professional cost estimating consultant within the basic service who will review the cost estimate prepared by the Town's cost management firm. The Town of Barnstable will utilize its own "on-call" firm of Rider Hunt Levett & Bailey for cost estimate verification to budget.

Contract Part II: The contract documents, bid and contract administration phases of service for the elements designed under Contract Part I with the same listed consultant team.

FY 2007 Design Fee for Services: Not To Exceed: \$90,000 including all expenses and basic service consultants as required herein. The cost of reproductions for bid purposes will be carried directly by the Owner.

Designer should be familiar with the existing building on site that contains some utility rooms that will be relocated to the new building as part of this project.

Provide a topographic survey showing above and below ground utilities. This shall be as an additional service included in the allowance.

Conduct a phase I archeological investigation of the site in conjunction with the State archeologist.

The new visitor's center facility and dockmaster's office will have public toilet facilities. Include consultants within the scope of service and related fee to provide the services for the necessary environmental investigations and permitting.

Note: The Architect shall provide their own professional cost estimating, Please note that the Town of Barnstable will utilize our “on-call” firm of Rider Hunt Levett & Bailey for estimate verification to budget.

Contract Part II: The contract documents, bid and contract administration phases of service for the elements designed under Contract Part I with the same listed consultant team.

Design Fee for architectural expenses: Not To Exceed: \$90,000 *including all reimbursables*

Provide architectural design, utility design, permitting & contract administration services for the Visitor Center Facility & Dockmaster’s office at Bismore Park.

Services to include the following:

1. Meetings
 - a. Conduct one public charrette: to solicit public program/design ideas, and at least one follow up public meeting should be provided to collect comment on design options.
 - b. Program meetings with Staff (GMD, DPW, Harbormaster)to gather ideas and review design options.
 - c. One initial programming meeting with slip owners and other harbor stakeholders with at least one follow-up meeting.
 - d. Every two weeks: conduct a job site meeting during the construction phase with special meetings as required.
2. Permits: Obtain all necessary permitting for the site, building demolition and new construction including but not limited to: site plan review, Conservation Commission, Hyannis Waterfront Historic Commission, DRI Jurisdictional determination, demolition and any other related permits and approvals..
3. Building Demolition Plans and Utility Relocation Plans including boat owner/commercial fishing provisions (sewer pump out, dumpster, utility connections, etc)
4. Building Design:
 - a. Size: approximately 2,300 sf area
 - b. Program and space analysis as attached.
5. Signage / visitors center information design for areas within the building and potential kiosks on exterior of building
6. Landscape Design:
 - a. For new hardscape/landscape areas around the building
 - b. New landscape where old building footprint existed
 - c. Remove Existing Parking meters on entire site and replace

Objectives of Building Design:

1. Create new attractive rest room and information facility for harbor visitors.
2. Provide links to Main Street to support local business. Provide links and information to local historical sites such as JFK Museum, JFK Memorial, Veterans Beach etc. Educates visitors on natural environment of the harbor.
3. Be virtually maintenance free using material and construction techniques to accommodate over 10,000 park visitors daily during the summer.
4. Building should be built with green building standards and low energy use. Alternative energy generation techniques such as solar panels should be included to maximum extent possible
5. Building should be fully ADA accessible and meet all current codes.
6. Building will need to be brought above flood plain elevation. Innovative series of decks for eating, views and enjoyment to wrap the building should be included. Deck design should respond to the site.

FY 2008 Estimated Construction Cost: \$875,000

1. \$100,000- Parking meter replacement and pavement repair
2. \$775,000- Building Demolition, New Building, Decks, Surrounding landscape including improvements where building was removed

D. Additional Narrative Information

1. Summarize what you believe your architectural firm and team offers to the Town that is unique from your competition in this field.
2. List the anticipated amount of support services and/or documents the Purchasing Agent's Office would be required to provide to you. Define what is not included within your fee proposal.
3. Provide evidence that the firm has an established and implemented Affirmative Action Plan.

E. Miscellaneous Requirements

Public Relations: The Town of Barnstable and the Proposer shall cooperate in maintaining good public relations throughout the period of this project. All announcements including, but not limited to, press releases, bill stuffers, flyers, web site information, and so forth, shall be submitted to the Director of Public Works, or designee, for review and approval before distribution to the public.

The Architect, or a representative of the firm given the Contract may be required to meet privately or publicly with various representatives, committees, boards, or commissions of the Town of Barnstable, or other public forums, to discuss this project, gather information, and address any concerns or to provide timely updates.

F. Financial Scope of Services

The Price Proposal must be submitted in a separately sealed envelope and no mention of the pricing portions of the Proposal shall be mentioned in the technical, or non-price qualifications portion of the Proposal. Failure to meet this stipulation may be cause for the Proposal to be rejected. (See Attachment "D".)

G. Payments

Invoicing shall be furnished as per Article 18, Notices, Approvals, Invoices, of the sample Contract, Attachment "A".

SECTION V. SELECTION PROCEDURES

A. PROCESS

1. The Designer Selection Board for this project will be appointed by the Town Manager, working with the Director of Public Works.
2. The procurement office will review all qualification submittals to make sure minimum requirements are met. Those qualification submittals that meet all of the minimum requirements as outlined in this RFP, and are determined to be both responsive (those that offer all of the services requested in the RFP and contain all of the required information and forms properly completed) and those that are responsible (those with the capability, integrity, and reliability to perform under the contract) will be further reviewed by the Designer Selection Board using the selection criteria outlined in this section.
The Designer Selection Board will select the highest ranked submittals by proposers in accordance with the comparative evaluation criteria listed in Section V.B below (3 minimum), to be interviewed jointly by the Designer Selection Board
3. After the interview process, the committee will rank each of short listed architects based on the evaluation criteria, the presentation of the firm and the interview, and then make a recommendation of award to the Town Manager as the awarding authority on this project. If the Town Manager is unable to negotiate a contract, including the fee, with the top-ranked finalist, the Town Manager will then commence negotiations with the next ranked finalist and so on, until a contract is successfully negotiated and approved by the Town Manager.

B. COMPARATIVE EVALUATION CRITERIA

The Town reserves the right to award the contract to the responsive and responsible qualification submittal which best meets the Town's needs, taking into account firm qualifications, submittal quality, evaluation criteria and proposal price. The awarding authority's decision or judgment on these matters shall be final. The committee will use the comparative criterion for each separate rating area, and based upon these criteria, will assign an overall rating to each proposal. Each of the criteria may contain ratings of:

Unacceptable
Not Advantageous
Acceptable
Advantageous
Highly Advantageous

An "Unacceptable" rating in any one of the criteria will eliminate the proposal from further consideration.

Architects must meet the minimum requirements as specified in Section IV.A. Failure to meet the minimum evaluation criteria will result in immediate rejection of the qualification submittal and will not be subject to further review.

The following criteria will be used in the evaluation of the architectural firm regarding the Technical or Non-Price Proposal in order to be placed on the short list for an interview with the Selection Committee.

Responding Architects are to address each of the following criteria in a clearly labeled section of their response and in the same order.

1. The Firm:

Firm Background and Capability: to perform all of the aspects of the project, such as programming, master planning, site and building permitting, cost estimating and value engineering, architectural and landscape architectural design, civil, structural, mechanical, fire protection and electrical engineering, interior and FF&E design services.

Unacceptable: Less than three (3) years of experience in providing architectural and master planning services to Massachusetts municipalities or comparable corporate/private sector experience with documented examples of such services.

Acceptable: Three (3) to five (5) years of experience in providing architectural and master planning services to Massachusetts municipalities or comparable corporate/private sector experience with documented examples of such services.

Advantageous: More than five (5) years of experience in providing architectural and master planning services to municipalities or comparable corporate/private sector experience with documented examples of providing services to Massachusetts Municipalities with documented examples of such services..

Highly Advantageous: More than seven (7) years of experience in providing architectural and master services to Massachusetts municipalities or comparable corporate/private sector experience with documented examples of such services.

2. Recent Relevant Experience: with projects comparable to the proposed project. Architect to describe relevant municipal site master planning, permitting, and recreational design experience.

Unacceptable: Firm has no municipal or comparable corporate/private sector site master planning, permitting and recreational design experience within Massachusetts.

Advantageous: Firm has site master planning, permitting and recreational design experience within Massachusetts that is current (within the past 5 years).

Highly Advantageous: Firm has municipal site master planning, permitting and recreational design experience within that is current (within past 5 years). Additional similar work is underway currently within the firm. Three (3) or more projects of similar type have been successfully completed within Massachusetts.

3. Current Firm Capacity: list significant current work and work completed in the last five (5) years, as well as projects in-house but not yet begun; quantify.

Unacceptable: No or limited current work listed.

Not Advantageous: Firm capacity may be challenged by current work load when taking on this new assignment.

Advantageous: Firm capacity appears to be able to handle this assignment with the given work load.

Highly Advantageous: Firm capacity can easily handle this assignment with their given work load.

4. References: Provide references with contact names and valid phone numbers of other clients whereby similar work has been performed.

Unacceptable: References are not provided.

Not Advantageous: References provided are not related to similar project type.
Acceptable: At least two (2) references are from similar project experience.
Advantageous: More than three (3) references are provided from similar project types.
Highly Advantageous: Five or more references are provided for similar project types.

5. Staffing:

- a. **Key Personnel:** Professional background, caliber and staff availability for project; quantify staff and discipline; describe the % of time to be committed to the project by the key members of the project team.
- b. **Outside Consultants:** Qualifications and experience of firms regularly engaged by the architect; describe the % of time to be committed to the project by the leadership of the project team.
- c. **Team Organization:** Chart and describe team organization, listing key individuals.

Unacceptable - No staffing plan or team organization provided.

Not Advantageous - The staffing information provided may meet the Town's needs, but the organization plan provided is not clear enough to make a determination of roles and responsibility.

Acceptable - The staffing and team organization information provided will adequately meet the needs of the Town.

Advantageous - The staffing information and team organization plan provided will meet the needs of the Town, and shows the proposer's commitment to the project by providing an experienced team of quality professionals with defined roles.

Highly Advantageous - The staffing information and team organization provided will exceed the needs set forth by the Town and shows the proposer's commitment to putting their best and most experienced staff and resources into this project. Project roles and responsibility are clearly defined.

6. Project Discussion & Scope of Work:

- a. **Project Understanding & Challenges**
- b. **Project Approach**

Unacceptable - Proposal did not adequately convey the proposer's understanding of the project and the firm's approach to completing the project successfully.

Not Advantageous - The response indicates the proposer may understand the Owner's needs, but the plan provided is not clear enough to make a determination. The proposer's approach does not instill confidence in a plan to complete the project in a well thought out manner.

Advantageous - The Scope of Services response provided indicates the proposer will meet the needs of the Owner; and shows the proposer's demonstrated understanding of the project and their approach to the work required to complete a successful project.

Highly Advantageous - The Scope of Services response provided clearly indicates the understanding and ability to successfully meet the needs of the Owner; shows the proposer's demonstrated understanding of the project; their ability to bring leadership to the project and that their approach to the project demonstrates a creative and thorough process

7. Proposed Schedule

Unacceptable: A proposed schedule was not offered.

Not Advantageous: The proposed project schedule does not instill confidence by the Owner in the firm to complete the project in a well thought out manner.

Acceptable: The proposed project schedule provided indicates the proposer understands the project, its scope and its timeframes for completing the work adequately.

Advantageous: The proposed schedule provided indicates the proposer has more than adequately demonstrated their understanding of the project and the work required to complete a successful project and to meet the requirement of the Owner's review and approval cycles.

Highly Advantageous: The proposed schedule provided indicates the proposer has demonstrated their complete understanding of the project and will monitor and keep the project on schedule. The firm understands the time required to complete a successful project and has clearly demonstrated their process which will meet the requirements of the Owner for timely reviews and approvals.

8. **Proposer's past schedule performance history:** demonstrated past performance with a discussion of rationale behind the history that communicates the firm's understanding of project reality.

Unacceptable: No history included.

Not Advantageous: Two (2) or less case-studies showing proposed schedule and actual project schedule.

Acceptable: Three (3) to five (5) case studies showing proposed schedule and actual schedule.

Advantageous: More than five (5) case studies showing proposed and actual schedules.

Highly Advantageous: More than five (5) case studies with examples included of similar types of projects showing proposed schedules and actual project timelines.

9. **Proposed Value Engineering & Cost Estimating Process:** Explain process to control project and construction budget

Unacceptable: Proposal did not address the VE and estimating process.

Not Advantageous: The response indicates the proposer may meet the cost estimating process needs, but the process is not clear enough to make a determination. The Project's cost estimating process does not instill confidence in the firm to complete the project within the given budget.

Acceptable: The response provided indicates the proposer will meet the project budget. The firm understands the budget control process.

Advantageous - The response provided indicates the proposer will meet the project budget and will more than adequately meet the needs of the Town. The firm fully understands and has demonstrated a budget control process and instills confidence that it will work to maintain project budget controls to keep costs in line with the original budget.

Highly Advantageous - The response provided indicates the proposer will exceed the needs of the Town. The firm fully understands the budget control process and is creative in its approach that will insure success in staying within budget guidelines. The firm understands the budget control process and has the team to insure its success.

10. **Budget Management History:** list project history of budget and final actual costs with dates. Include discussion of rationale behind the history that communicates the firm's understanding of project realities.

Unacceptable: No history included.

Not Advantageous: Less than three (3) case-studies with proposed budget and actual costs included, some of which involve recreational or community facilities; discussion of rationale behind the history..

Acceptable: Three (3) to Five (5) case studies demonstrated with proposed budget and actual costs included, some of which involve recreational or community facilities; discussion of rationale behind the history.

Advantageous: More than five (5) case studies demonstrated showing proposed and actual history, some of which involve recreational or community facilities; discussion of rationale behind the history.

Highly Advantageous: More than five (5) case studies demonstrated showing proposed and actual history with at least three (3) of which involving recreational or community facilities.

11. Innovative Energy Methods: Demonstrate any of the firm’s experience in using energy efficient power plants or recycled content materials in construction of municipal projects. List any LEEDS certified projects or related efforts involving “green” building design. Information should include project name, contact and phone numbers and reference to securing any energy related grants on behalf of clients.

Unacceptable: No demonstration of knowledge or experience.

Advantageous: The provision of methodology or material choices in similar project experience demonstrated on less than five (5) projects.

Highly Advantageous – The provision of methodology or material choices in similar projects experience demonstrated on five (5) or more projects.

12. Response to Additional Narrative Information

Summarize what is unique about your firm.

- a. List support services and/or required documents required by your firm of the Town.
- b. Define what is not included within your fee proposal.

Unacceptable – Proposer did not address Additional Narrative Information section.

Not Advantageous – Proposal did not adequately respond to all additional Narrative Information as requested.

Advantageous – Proposal was responsive, adequately responded to additional Narrative Information requested, appeared consistent with project intent, and responded to needs expressed by the documents in all areas

Highly Advantageous - Proposal was very responsive, thoroughly responded to additional Narrative Information requested, appeared consistent with project intent, and responded to needs expressed by the documents in all areas.

13. Affirmative Action Plan: provide evidence of your firm’s policies.

Unacceptable: Proposer did not submit their Affirmative Action Plan.

Not Advantageous: Affirmative Action Plan was poorly defined.

Acceptable: Affirmative Action Plan was responsive to the intent of the program.

Advantageous: Affirmative Action Plan was responsive and more than adequately responded to the intent of the program.

Highly Advantageous: Affirmative Action Plan was responsive and more than adequately responded to the intent of the program. The proposer demonstrated actual follow through on the program with documented firm history.

14. General Impression of Proposal

Unacceptable - The proposal was not responsive to the Comparative Evaluation Criteria in an acceptable manner.

Not Advantageous - Response is informative, meets the criteria for responsiveness. Reviewer feels proposal reflects that proposer is able to perform in a manner acceptable to the Town but was not overly impressed by proposer’s expression of ability.

Advantageous - Response is informative, meets criteria for responsiveness and communicates well. Reviewer feels proposal reflects that proposer is able to perform in a manner acceptable to the Town, and shows the proposer’s commitment to the Town and the project.

Highly Advantageous - Response is concise, informative, and highly detailed. Proposal reflects that provider is able to perform in a manner acceptable to the Town, communicates well and shows the

proposer's commitment to the Town and the project. The Designer Selection Board is confident in the provider's overall ability to provide and administer the services as required by the Town.

C. WORK REFERENCES

Architects will be evaluated based upon the answers to the questions posed to references as outlined below. Reference check list of minimum questions:

1. Did this architect provide the specified services for you or for the community? When? Are you currently using the architect on any project?
2. Did the architect perform the work requested in accordance with the terms of the qualification submittal and the written contract? If not, what were the deviations?
3. How would you describe the working relationship between the architect and lead members of the contracting body?
4. Did the architect adhere to the rules and regulations associated with your business relationship?
5. Overall, on a scale of one to ten, how would you rate the architect's performance?
6. Would you retain this architect on future projects?
7. Did the architect provide a design that was within the allocated budget and was completed on time?

SECTION VI. QUALIFICATIONS & PROPOSAL SUBMISSION REQUIREMENTS

A. SUBMISSION

Two sealed envelopes containing an original and ten (10) copies of the non-price qualification submittal marked:

“Qualifications – Bismore Park Project - Designer Selection,”

and one containing an original and one copy of the price proposal marked:

“Price Proposal - Bismore Park Project– Designer Selection,”

must be received per the time frame outlined in the legal advertisement- (appendix “C”).

The qualification submittals will be accepted until **2:00 p.m. March 27, 2007**. They shall be delivered to the Purchasing Agent's Office, 230 South Street, Hyannis, MA. 02601. It is the sole responsibility of the architect to insure that the qualification submittal arrives on time and at the designated place. Place firm name on the outside of each envelope.

Within your Qualification submittal, please provide each of the following items and clearly structure and label your Qualification submittal

1. Cover Letter to include the name of Firm, address and telephone number, signed in ink by someone authorized to sign such documents. Acknowledge any addenda, if any, and include a statement that the Proposal is in accordance with this RFP, and that the Proposer understands all sections and provisions therein. Any exceptions must be clearly stated.
2. Attach Financial Statement for two previous calendar years attested by a CPA or Bank Officer. In respect of confidentiality, this may be submitted (one copy) in a separate envelope. This information will only be used if financial information provided in qualification submittal is not adequate to communicate financial capabilities. If you do not provide financial statements, you must include a letter to that effect and provide

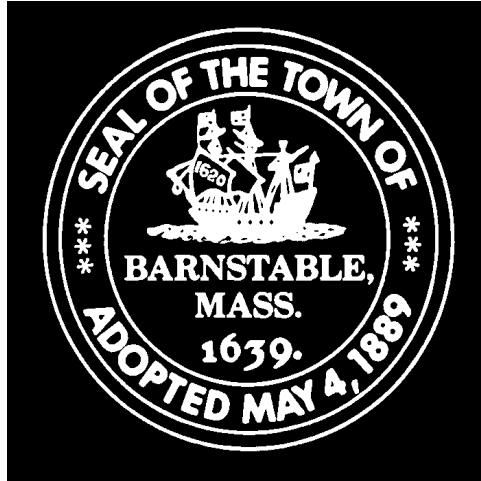
some other means to determine the financial status of your company. The Town reserves the right to request additional financial information from any proposer who does not submit adequate information to allow the Town to make a reasonable determination of financial capability and stability.

3. Submission of all information requested to meet Minimum Requirement per Section IV.A. and Price proposal (within separate sealed envelope).
4. Certificate of Non-Collusion, State Taxes Certification Clause, and other required forms per Attachment “B”.
5. Appropriate certificates of insurance.
6. If applicable, and the company is not registered in Massachusetts, proof of registration with the Massachusetts Secretary of State as a “foreign” corporation authorized to do business in the Commonwealth of Massachusetts.
7. Any other information that the Proposer considers relevant for the purpose of evaluating its qualifications for the Project.
8. Division of Capital Asset Management (DCAM) Cities and Towns Application Form (SDB 2005) per Attachment “E” to do business in the Commonwealth of Massachusetts. See their website at http://www.mass.gov/cam/DSB/fi_dselectboard.html
9. Clearly identify any and all consultants and/or subcontractors who will work with the architect with resumes of staff to be assigned to the project and their roles and responsibility.

B. CONTACT INFORMATION

Clarification and interpretations of this Request for Proposals must be requested in writing. Responses shall be likewise furnished. See key dates listed in Article II.A for last day to submit questions. After that day no requests or questions will be accepted. Please contact the Town of Barnstable for clarification of this Request for Proposal, direct all inquiries to:

Johanna F. Boucher
Purchasing Agent/Contract Compliance Officer
230 South Street
Hyannis, MA 02601
Phone. (508) 862-4741, Fax: (508) 862-4717
Email: johanna.boucher@town.barnstable.ma.us
Business Hours: 8:00 a.m. – 4:00 p.m. Monday through Friday



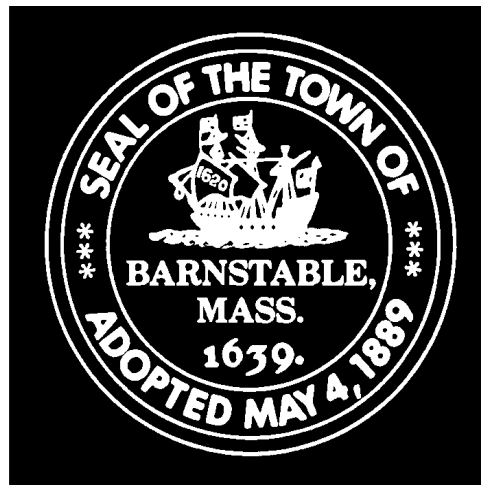
**ATTACHMENT A
SAMPLE CONTRACT**

Owner-Architect Contract

**ARCHITECTURAL CONSULTANT SERVICES
SITE MASTER PLANNING AND IMPROVEMENTS
To
BISMORE PARK**

AIA B141, Part 1 &2
and
Attachment A
Owner's Special Terms & Conditions

**TOWN OF BARNSTABLE
GROWTH MANAGEMENT DEPARTMENT**



ATTACHMENT A
OWNER'S SPECIAL TERMS AND CONDITIONS

**ARCHITECTURAL CONSULTANT SERVICES
SITE MASTER PLANNING AND IMPROVEMENTS
BISMORE PARK**

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Article 19	Amendments
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Signature Page

ARTICLE 1: DEFINITION OF TERMS

1. APPROVAL OF THE OWNER - A written communication from the Owner to the Owner's Designated Representative which is forwarded to the Architect expressing the Town of Barnstable approval of services or documents prepared by the Architect, which communication in no way relieves the Architect from responsibilities under this contract.
2. ARCHITECT/CONTRACTOR- The person or firm performing services under this agreement.
3. ARCHITECT'S DESIGNATED REPRESENTATIVE - The professional, registered by the Commonwealth as an architect or engineer pursuant to the provisions of MGL, Chapter 12, Sections 60A through 60O, designated to represent the Architectural Firm.
4. CLERK OF THE WORKS - The Town's on-site representative who monitors the progress and status of the construction work reporting directly to the Owner's Project Manager.
5. CONTRACT DRAWINGS - Graphical representation of the project's components.
6. CONTRACTOR'S PROJECT MANAGER - The on-site representative of the Construction Contractor.
7. DIRECTOR - The Director of Public Works or his authorized representative.
8. MASSACHUSETTS GENERAL LAWS (MGL)- The General Laws of the Commonwealth as amended including any rules, regulations and administrative procedures implementing said laws.
9. NOTICE TO PROCEED - A written communication by the Town, customarily which constitutes an essential condition of this contract, authorizing the Architect to perform the services for the project task to which such notice shall relate.
10. OWNER'S DESIGNATED REPRESENTATIVE/OWNER'S PROJECT MANAGER - The Town's authorized representative, a licensed architect or engineer and an employee of the, Town of Barnstable responsible for overseeing the Architect's compliance with this contract. See Article 2.5 hereinafter.
11. PROJECT - The services to be provided as specified in the RFP Scope of Services, its amendments and this Contract.
12. SUBMITTAL DATES - Those dates referred to in the Notice to Proceed or any subsequent amendment thereto.
13. TOWN OR OWNER:- The Town of Barnstable or its representative who is duly authorized to act in the execution of the work covered by this contract.

ARTICLE 2: RESPONSIBILITIES OF THE OWNER

1. The Owner shall furnish to the Architect available data as indicated in the Scope of Services (see RFP Article IV.C and its Addenda). All such data and any other data provided to the Architect by the Owner shall remain the property of the Town of Barnstable. The Architect may use all data provided by the Owner only for the purposes of this Contract, unless the Owner gives the Architect specific written permission for some other use.

2. The Owner shall furnish to the Architect available surveys of the project's building site, or sites, showing the grades and lines of streets, pavements and adjoining properties; the rights, restrictions, easements, boundaries and contours of the site, or sites; reports from any borings, test pits, chemical, mechanical or other tests; any photographs and information as to water, sewer, electricity, steam, gas, telephone and other services, and data and drawings regarding existing buildings. All such data and any other data provided to the Architect by the Owner shall remain the property of the Owner. The Architect may use all data provided by the Owner only for the purposes of this contract.
3. The Owner does not guarantee nor does it make any express or implied warranties concerning the accuracy of information furnished and the Architect must satisfy himself as to the correctness of data, except in instances where the Owner makes specific written exceptions. The Architect shall, within the fee, analyze and evaluate the information furnished by the Owner.
5. 4. The Growth Management Department, the DPW and the Community Services Department will consult with and provide advice on program and project function to the, the Architect and the design team, and advise and make recommendations to the Town Manager.

ARTICLE 3: PROFESSIONAL RESPONSIBILITY AND SERVICES TO BE PERFORMED

1. The Architect shall perform professional services in accordance with the scope of services, and shall be responsible for the professional and technical accuracy and coordination of all designs, drawings, specifications, cost estimates and other work furnished by him or his consultants.
2. The Architect shall furnish appropriate, competent, professional services for detail checking and review for each of the phases of the Project. Any changes, corrections, additions, or deletions to the design made by the Owner during timely review of each phase submission shall be incorporated into the design of the project unless detailed objections thereto are received from the Architect and approved by the Owner.
3. The Architect shall thoroughly acquaint his employees and consultants with the provisions of the General Laws governing the conduct of public construction projects including, but not limited to General Laws Chapters 149 and 30. and Chapter 193 of the Acts of 2004 and shall prepare final design, specifications and contract documents for the public bidding of this construction project per all applicable federal, state, regional and local laws and regulations..
4. The Owner's review, approval or acceptance of, or payment for, any of the services furnished shall not be construed as a waiver of any rights under the contract or of any cause of action arising out of the performance of the contract.
5. The Architect shall perform the following specific tasks in the following phases utilizing AutoCAD release 2000 format, or latest version approved by the Owner.
6. The Architect shall provide and utilize the disciplines of, but not be limited to, architecture, landscape architecture, civil, structural, HVAC, plumbing, fire protection, and electrical engineering, as well as, permitting, kitchen equipment consulting, site lighting, interior design, including the design, selection and procurement thru the Town Procurement Office of furniture, fixtures and equipment (FF&E) as needed to equip Contract Part II building . The scope of work shall also include the programming, site master planning and the procurement of all required permits, and approvals and the work described below.
7. Participate in meetings to present and obtain the required regulatory approvals and that of the Town boards and Officials in the review and modification of the same. Provide all mounted drawings, diagrams, etc.

necessary for presentation to the Town Officials and Department representatives at the various meetings to describe the project and gain the necessary approvals for the project to proceed.

MASTER SITE PLANNING AND PERMITTING (Contract Part I only)

- i. Upon receipt of the Notice to Proceed from the Owner, the Architect shall meet, as necessary, with agents of the Owner, the Town's project manager and the public and the Bismore Park stakeholders to develop and validate the space program, establish the final basic site master plan design concept, time schedule and related cost estimates. The site master planning, programming and complete permitting of the entire site, including all required local, county and state agency approvals, along with the schematic and design development phases of work involving landscape architecture, architecture, and civil, structural and MEP engineering work and cost estimating and project management services. The project includes the demolition of the existing visitors center facility, and the construction of a new visitors center facility and dockmaster's office; remove and replace parking meters, decks, surrounding landscape including improvement where buildings was removed.)
- ii. Prepare, schedule and track all federal, state, regional and local permits and approvals necessary for the project to proceed.
- iii. Attend and make presentations as required at regulatory process meetings and public hearings. Retain geo-technical and test boring consultants to investigate the site and conduct a phase I archeological investigation of the site in conjunction with the State. Include consultants within the scope of service and related fee to provide the services for the necessary environmental investigations and permitting

SCHEMATIC DESIGN PHASE (Contract Part I for Site Work and Visitor's Center Facility/Dockmaster's Office Building; remove and replace parking meters, decks, surrounding landscape including improvement where buildings was removed.)

- i. Upon receipt of the Notice to Proceed from the Owner, the Architect shall meet, as necessary, with agents of the Owner and the Town's Project Manager to develop and validate the space program, establish the final basic design concept, time schedule and related cost estimates for each building element. The new visitor's center facility and dockmaster's office is to also have public toilet facilities
- ii. The Architect shall prepare schematic landscape architectural, architectural, civil, structural, mechanical, electrical, plumbing & fire protection drawings &/or detailed narrative descriptions, (engineering drawings may be single line drawings) plans at an appropriate scale to fully define the design, elevations, building sections, layout of parking, roadways and utilities, demolition, phasing and new construction. The design is to accommodate concurrent and safe use of the park by patrons while maintaining separation of construction from patrons and staff.
- iii. Participate in a continuing value engineering/cost management program with the Owner's Cost Consultant and reconcile the Architect's cost estimate such as to be in line with the approved project budget.
- iv. The Architect shall submit to the Owner for review and approval five (5) full-sized and three (3) half-sized copies of said documents and eight (8) copies of the outline

specifications/narratives and of the estimate of construction cost based upon area, volume or other unit costs and detailed space program, by the date for submission established in the approved project schedule

DESIGN DEVELOPMENT PHASE -(Contract Part I for Site Work and Visitors' Center Facility and Dockmaster's Office; remove and replace parking meters, decks, surrounding landscape including improvement where buildings was removed.)

- i. Upon receipt of the Notice to Proceed from the Owner, the Architect shall meet regularly and as necessary with agents of the Owner.
- ii. The Architect shall prepare from the approved Phase 1 documents, complete design development drawings at an appropriate scale to fully define the design (1/8" scale), outline specifications in 16 Division Construction Specification Institute (CSI) format, including front end draft documents in accordance with MGL, revised cost estimate, and other documents necessary to fully fix and describe the size and character of the Project. Landscape architectural, architectural and interior design, civil, structural, mechanical, electrical, plumbing & fire protection systems shall be clearly defined in drawings and specifications to establish the scope of work and to enable the Owner to study and understand the design, progress and development of the project. Such submitted drawings, outline specifications and cost estimate shall be subject to the written approval of the Owner.
- iii. Participate in a continuing value engineering/cost management program with the Owner's Cost Consultant and reconcile the Architect's cost estimate such as to be in line with the approved project budget.
- iv. The Architect shall submit to the Owner for review and approval five (5) full-sized and three (3) half-sized copies of said documents and eight (8) copies of the estimate of construction cost based upon detailed system & quantity take-offs, and/or other unit costs, in CSI format, on or before the date or time for submission in the approved project schedule. The Architect shall submit a summary comparing the design development drawings, outline specifications and cost estimates to the Schematic Design program and study requirements and explain any deviation.
- v. Provide two (2) colored and mounted renderings, an illustrated site drawing and a building perspective of the proposed project, approximately 24" x 36," to the Owner for the marketing purposes

CONTRACT DOCUMENTS PHASE --(Contract Part II for Site Work and Visitor's Center Facility and Dockmaster's Office; remove and replace parking meters, decks, surrounding landscape including improvement where buildings was removed.)

- i. Upon receipt of the Notice to Proceed from the Owner, the Architect shall meet regularly and as necessary with agents of the Owner to develop the elements designed under Contract Part I.
- ii. The Architect shall prepare from the approved Phase 2 documents complete contract documents, outline specifications, revised cost estimate, and bid documents necessary to fully fix and describe the complete scope of work of the Project in accordance with Massachusetts General Law for the construction of the Project. Landscape architectural,

architectural, interior design and FF&E, civil, structural, mechanical, electrical, plumbing & fire protection systems shall be fully defined and detailed on drawings and CSI specifications with front-end bid documents and forms for use in the public bidding and construction of the Project. Such submitted drawings, outline specifications and cost estimate shall be subject to the written approval of the Owner.

- iii. Participate in a continuing value engineering/cost management program with the Owner's Cost Consultant and reconcile the Architect's cost estimate such as to be in line with the approved project budget.
- iv. The Architect shall submit to the Owner for review and approval five(5) full-sized and three (3) half-sized copies of said documents and eight (8) copies of the estimate of construction cost based upon detailed system & quantity take-offs, and/or other unit costs, on or before the date or time for submission in the approved project schedule. These documents are for coordination, review and approval and not for the actual bidding of the project as additional coordination, corrections/revisions based on the approval may be necessary. The Architect shall submit a summary comparing the final contract documents with the approved design development drawings, outline specifications and cost estimates to the program and study requirements and explain any deviation.

BID/NEGOTIATION PHASE --- (Contract Part II for Site Work and Visitor's Center Facility and Dockmaster's Office; remove and replace parking meters, decks, surrounding landscape including improvement where buildings was removed.)

- i. From the approved contract documents, with such changes as the Owner requires, the Architect shall prepare and transmit to the Owner's Designated Representative or an approved reproduction firm, a full and complete set of reproducible plots and original specifications on high quality, white bond paper, suitable for photocopying (other suitable methods may be discussed with the Owner), which documents shall become the property of the Owner.
- ii. The Architect shall submit to the Owner, two (2) CD's of the complete project documents as an ACAD, release 2000 file as well as two (2) CD's in PDF format of all bid and contract documents.
- iii. The Architect shall prepare, in coordination with the Owner and its Procurement Officer, the request for qualifications from prospective general contractors and filed sub-contractors, in accordance with the mandatory MGL c. 149 pre-qualification process. The Architect shall review and pre-qualify the same; and then provide bid assistance to the Owner with the listing of pre-qualified contractors and sub-contractors, in accordance with MGL c. 149. The Architect shall distribute plans to bidders, document those receiving plans and record their bid deposits, conduct a pre-bid conference, receive bids and issue the tabulation of pre-qualified sub-contractors by addenda to all receiving plans and specifications; prepare the public advertisements, the General Conditions of the Construction Contract and its supplements, the bid forms, the form of Agreement for the Construction Contract, and all Addenda. The Architect shall conduct a review of the qualified low bidders (and of other bidders, if necessary) and shall, within five working days of the bid opening date, advise the Owner of his opinion as to which bidder is the lowest, responsible and eligible bidder in accordance with Massachusetts General Law.

The Architect shall assist the town's Purchasing Agent in the bidding, procurement and installation of the FF&E for the Project.

- iv. If, within three (3) months after approval of the Construction Documents, in final form, the bids of the lowest responsible and eligible bidders exceed the fixed limit construction cost, the Architect shall, if so instructed in writing by the Owner, provide such revised construction drawings and specifications and construction cost estimates as the Owner shall require for the purpose of bringing the cost within the fixed limit construction cost; provided, the Architect may, in connection with such revision, make reasonable adjustments in the scope of the project, subject to the written approval of the Owner, which approval shall not be unreasonably withheld. The Architect shall not be paid additional compensation for such services.

CONTRACT ADMINISTRATION PHASE --(Contract Part II for Site Work and Visitor's Center Facility and Dockmaster's; remove and replace parking meters, decks, surrounding landscape including improvement where buildings was removed.)

- i. Upon the award of the construction contract, the Architect and his consultants shall, for the purpose of protecting the Owner against defects and deficiencies in the work of the project: (1) be charged with general administration of the construction contract; (2) promptly review and approve samples, schedules, shop drawings and other submissions by the General Contractor; (3) submit a report to the Owner monthly, in writing, on the progress of construction, schedule and budget impact, notes on any project concerns, and attend monthly Building Committee meetings, when requested; (4) every other week, conduct an on-site review of the project and participate in the contractor's construction meeting, make specific recommendations to the Owner relative to all project work observed by the Architect which fails to conform to the Contract Documents, and inspect corrected work in accordance with said recommendations; (5) require each consultant employed by the Architect to make visits to the site, appropriate to the phase of construction, and more often if required by the Architect, to report on the progress of the work for that portion of the project to which the consultant's services relate and to report in writing thereon to the Architect and Owner; (6) observe the setting and adjustment of automatic controls, if any, and report thereon; (7) in a timely manner, decide all questions regarding interpretation of or compliance with the Contract Documents, except as the Owner may in writing otherwise determine; and (8) assist the Owner in any change order appeal hearings requested under General Laws Chapter 30, '39Q, and other litigation arising out of or relating to the construction of the project, except for litigation occasioned by the Architect's errors, omissions, or failure to anticipate.
- ii. The Architect shall have a representative every other week for inspection and jobsite meeting, and shall advise and consult with the Owner during the term of the Construction Contract. The Architect shall have the authority to act on behalf of the Owner only to the extent provided in this agreement unless otherwise modified by written instrument.
- iii. The Architect shall be familiar with the procedure for payment to the contractors as described in the Construction Contract and shall submit to the Owner, in a timely manner, all requisitions for payment submitted by the General Contractor. With respect to each such requisition, the Architect shall certify to the best of his knowledge that the percentage of work included in the requisition is accurate and the work performed conforms with the contract documents. In the event the Architect does not approve the requisition exactly as submitted by the General Contractor, the Architect shall forward it for payment to the

Owner dated but unsigned with an accompanying letter of explanation setting forth objections and recommended changes.

- iv. The Architect may authorize minor changes in the project not involving an adjustment in the Fixed Limit Construction Cost or an extension in the time for performance of the Construction Contract which are not inconsistent with the intent of the Construction Contract.
- v. The Architect shall conduct inspections of the Project with the Owner to determine the date or dates of substantial completion and the date of final completion. After the Contractor has forwarded his list of incomplete or deficient work to the Architect, the Architect is to compile the punch list adding any items not listed as needing correction and completion. The full list is then to be provided to the Owner by the Architect.

RECORD DOCUMENTATION/CLOSE-OUT PHASE --(Contract Part II for Site Work and Visitor's Center Facility and Dockmaster's Office)

- i. Inspect and confirm that the work contained on the punch list has been satisfactorily completed.
- ii. Before examining the Requisition for Final Payment submitted by the General Contractor, and prior to making any certification in response thereto, the Architect shall obtain from the General Contractor as-built drawings, showing the actual installation of the site utilities, architecture, structural, civil, plumbing, heating, ventilating and electrical work of the Project. The Architect shall ascertain that changes authorized by Change Orders are shown on the contractor's as-built drawings. As a part of his service, the Architect and his Engineers, based upon the provided contractor's as-built drawings, shall correct the applicable original ACAD files to become the Record Drawings and shall submit the same on a CD in ACAD, Release 2000 format and also as a PDF file on a CD, two (2) CD's of each, and one set of full size plots and two (2) sets of half-sized prints to the Owner, which documents shall become the property of the Owner.
- iii. At the conclusion of the construction contract, the Architect shall submit to the Owner an evaluation of the performance of the General Contractor as a project record to be submitted the DCAM by the Owner.
- iv. One (1) suitably bound, legible copy of all change orders and shop drawings, job minutes, test reports, product manuals, operating documents, certificates, warranties and construction correspondence shall be furnished by the Architect to the Owner at the conclusion of the construction contract as a record of the work.

ARTICLE 4: PROJECT PERMITTING AND APPROVALS

- 1. The Architect shall be responsible for obtaining all federal, state, regional and local permits and approvals required to implement the design at the site and shall provide the Owner written certification of the same.
- 2. The Architect shall be responsible for compliance with all permitting requirements as indicated, but not limited to, the Scope of Services set forth in RFP Article IV.C and its addenda.
- 3. The Architect shall provide the Owner written certification that all federal, state, regional and local permits and approvals, if applicable, and thus required to implement change order work at the site have been

obtained when the Architect submits for approval any change order request to the Owner during the construction phase of the project, whether the change order request was made by the Architect, the Owner or the General Contractor.

ARTICLE 5: CONTRACTORS, SUBCONTRACTING, SUCCESSORS AND ASSIGNMENTS

1. The Architect shall not employ sub-consultants, sublet, assign or transfer any part of his services or obligations under this Agreement without the prior approval of and written consent of the Owner. The Owner shall not unreasonably withhold such approval. The Owner may rescind this consent if a sub-consultant is incompetent, irresponsible or otherwise unsatisfactory, and the Architect shall remove such sub-consultant from the work. The Owner's written consent shall not in any way relieve the Architect from his responsibility for the work or materials furnished.
2. When the Architect receives payment from the Owner, the Architect shall within 14 calendar days make payment to each sub-consultant whose work was included in the work for which such payment was received from the Owner. The Owner shall have the contractual right to investigate any breach of a sub-consultant's contract and to take corrective measures necessary for the best interest of the Owner.

ARTICLE 6: TIME RECORDS

1. The Designer shall cause to be maintained complete, accurate and detailed records of all time devoted to the project by the Designer and each subcontractor employed by the Designer. The Town may at all reasonable times audit such records. For construction contracts, the Designer shall maintain accurate and detailed accounts for a six-year period after the final payment in accordance with General Laws Chapter 30, section 39R (b) (1). In addition, in contracts where the total fee exceeds \$100,000 the Designer shall comply with the following provisions of General Laws Chapter 30, section 39R which require the Designer to:
 - a. file regular statements of management concerning internal accounting controls [MGL C.30 s.39R (c)];
 - b. file an annual audited financial statement [MGL C.30 s.39R (d)];

ARTICLE 7: COMPLIANCE WITH LAWS

1. The Contractor shall exercise due care in accordance with generally accepted standards of professional practice, to perform the work required under this contract in conformity with requirements and standards of the Town and all applicable laws of the Commonwealth of Massachusetts, its political subdivisions and the Federal Government. Unless otherwise provided by law, the Contractor shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the Contractor's failure to comply with the provisions of this Article and shall indemnify the Town against any liability incurred as a result of a violation of this section.

ARTICLE 8: RECORD DRAWINGS, REPORTS, CALCULATIONS

1. All information acquired by the Architect from the municipality or from others at the expense of the municipality in performance of the Agreement, shall be and shall remain the property of the municipality. All records, data files, computer records, work sheets, deliverable products complete and incomplete, and all other types of information prepared or acquired by the Architect for delivery to the Owner shall be and shall remain the property of the Owner upon payment thereof.

2. The Architect will use Owner supplied information only as required in the performance of this Agreement and will not, before or after the completion of this Agreement, otherwise use said information, nor copy, nor reproduce the same in any form except pursuant to the sole written instructions of the Owner, provided that the Architect shall be permitted to retain a copy of such information for purposes of documenting the Services.
3. The Architect shall produce and provide to the Town record drawings, as listed herein of documents as corrected by the actual as-built conditions provided by the General Contractor to the Architect and his Engineer for the Owner's final record of the Project.
4. The Architect shall record minutes of all project design team meetings and distribute the same to attendees, the Owner and Building Committee weekly. The general contractor is to be required by the contract documents to record the construction meetings on-site and distribute the minutes to attendees, the Owner and the Building Committee.

ARTICLE 9: RESERVED

ARTICLE 10: FORCE MAJEURE

1. The Agreement shall be subject to **Force Majeure** considerations, and in the event that either party hereto shall be prevented from the performance of any act required there under 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 in performing any obligations, shall be excused for the period of non-performance, and 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 Architect may be required to rebate to the Owner a portion of the fee.
2. It is agreed, however, that since performance dates of this Agreement are important to the implementation of requested services, continued failure to perform for periods aggregating thirty (30) or more days, even for causes beyond the control of the Architect, 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 Agreement."

ARTICLE 11: RELEASE AND DISCHARGE

1. The acceptance by the Architect of the last payment for services paid under the provisions of the contract and/or in the event of termination of the contract, shall in each instance, operate as and be a release to the Owner and every member and agent thereof, from all claims and liability to the Architect for everything done or furnished for or relating to the work, or for any act or neglect of the Owner or of any person relating to or affecting the work and except that such acceptance shall not release the Owner from any liability it would otherwise have for injuries to third parties resulting from the negligent acts or omissions of the Owner or its employees.

ARTICLE 12: NOTICES, APPROVALS, INVOICES

1. Any notice, approval or invoice required under this contract to be given by the Owner to the Architect, or by the Architect to the Owner shall be deemed to have been so given, whether or not received, if mailed by prepaid postage to the respective address specified in AIA B141, Part 1, Page 1.
2. Written approval is required by the Owner for any additional compensation.

3. All invoices shall be submitted monthly **in duplicate** and will be promptly processed by the Owner if they are in conformity with the contract terms and properly documented; if not, they will be returned to the Architect. Undisputed charges will be paid by the Owner upon submittal of a corrected invoice.
4. Invoices submitted for services that have not been previously authorized in writing shall be returned to the Architect.
5. If applicable, at the option of the Owner, and depending upon the size and scope of the contract, monthly invoices for services performed on a time basis shall be accompanied by a complete detailed itemization including at a minimum the listing of the name and/or equipment, payroll title, date of service, number of hours each calendar month, hourly rate, extended amount, remaining balances, and a brief description of the services performed; or alternatively, the invoice shall include the hours worked by employee category, work assignment, and the total amount invoiced consistent with the billing rate provided in Attachment B, and a brief description of the services performed.

ARTICLE 13: INSURANCE

Insurance Requirement

1. **Indemnification** - Contractor will indemnify and hold harmless the Town of Barnstable and its employees against any and all claims for damages on account of bodily injury, including death, property damage, personal injury, and advertising injury by any act or omission due to negligence of the Contractor, subcontracts, its agents, or employees to any property of or under the control of the Town of Barnstable during the term or any extension of the resultant agreement, and in case of any action or actions or other legal proceedings shall be brought or instituted against the Town of Barnstable on account of any such claims, Contractor shall indemnify and hold harmless the Town of Barnstable. However, should the claim be due to the negligence of the Town of Barnstable and/or its employees, Contractor shall be held harmless.
2. **General Insurance** - 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 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.

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, Engineering Division.

Failure to provide and continue in force such insurance as aforesaid may be deemed a material breach of this contract, and may 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.

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.

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**

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**

The Contractor shall carry pollution liability insurance providing for a limit of not less than One Million Dollars (\$1,000,000.00), adding the Town as an additional insured. The coverage must extend to first party liability, third party liability and include remediation expense, outside the limits of liability, of a minimum of One Million Dollars (\$1,000,000.00). (*Note: This may be automatically covered in architects, designers or engineers Professional Services Liability policies.*)

8. **Professional Services Liability/Errors and Omissions Insurance**

The firm/individual shall also carry Comprehensive Professional Services Liability/Errors and omissions insurance coverage in an amount no less than Two Million Dollars (\$2,000,000.00) *in the aggregate*.

Subject to the approval of the Town, the Contractor may have a professional liability policy with a deductible clause if, in the judgment of the Town, the Contractor's financial resources are sufficient to directly absorb the possible expense without assistance.

The coverage shall be in force from the time of the Agreement to the date when all contracted work being performed under the contract is completed and accepted by the Town. Since this insurance is normally written on a year-to-year basis, the Contractor shall notify the Town should the coverage become unavailable.

(Note: Amount of coverage may be adjusted on a case by case basis after review by Risk Management.)

9. Other Liability (as may be necessary)

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

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.

ARTICLE 14: LEGAL REQUIREMENTS

1. Non-resident Processing; Signatures

Every Contractor who is a nonresident of the Commonwealth of Massachusetts, or a non-resident co-partner of a Contractor, hereby appoints the Secretary of the Commonwealth of Massachusetts and his successor in office to be his true and lawful attorney in and for Massachusetts, upon whom all lawful processes in any action or proceeding arising out of this contract may be served. When legal process against any such person is served upon the Secretary of State, a copy of such process shall forthwith be sent by registered mail with a return receipt requested by the Town or its lawful Attorney to said Contractor or non-resident co-partner at the address set forth in the contract. Said Contractor or said non-resident co-partner hereby stipulates and agrees that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served on said Contractor or said co-partner. Such authority shall continue in force so long as any liability remains outstanding against said Contractor or said co-partner.

2. Anti-Boycott Covenant (Executive Order #130)

The Contractor warrants, represents and agrees that during the time this contract is in effect, neither it nor any affiliated company, as hereafter defined, will participate in or cooperate with an international boycott, as defined in Section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by General Laws Chapter 151E, sections 2 and 3. If there shall be a breach in the warranty, representation and agreement contained in this paragraph, then without limiting such other rights as it may have, the Town shall be entitled to rescind this contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the contractor, or by a person or persons, or business entity or entities, directly or indirectly owning at least 51% of the ownership interests of the contractor.

3. Access to Contractor's Records (Executive Order #195)

The Town shall have the right, at reasonable times and upon reasonable notice, to examine the books, records, and other compilations of data of the Contractor which pertain to the performance and requirements of this contract.

4. Truth-In-Negotiations Certificate (G.L. Chapter 7, Sec. 38H) (Public Building Construction only)

The Contractor must file a truth-in-negotiations certificate prior to being awarded the contract by the Town, which must be incorporated into the contract. The certificate must contain:

- a. a statement that the wage rates and other costs used to support the Contractor's compensation are accurate, complete, and current at the time of contracting; and
- b. an agreement that the original contract price and any additions to the contract may be adjusted within one year of completion of the contract to exclude any significant amounts if the Town determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

ARTICLE 15: EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION PROGRAM

Minority-Owned Business Enterprises (MBE) or Woman-Owned Business Enterprises (WBE) are strongly encouraged to submit proposals in response to the Request for Proposals (RFP). For the purposes of this RFP, the term MBE or WBE shall mean a vendor who is certified as a minority business enterprise by the State Office of Minority and Women-Owned Business Assistance (SOMWBA), and who is still certified at the time the contractor's Proposal is submitted.

All minority owned businesses are encouraged to apply for SOMWBA certification. For further information on SOMWBA qualifications, or access to SOMWBA vendor lists, contact the State Office of Minority and Women-Owned Business Assistance at (617) 727-8692.

The Town of Barnstable will require contractors and subcontractors involved in local municipal projects to abide by the Equal Employment Opportunity Anti-Discrimination Program guidelines below, which form a part of the Contract generating from this RFP.

**EQUAL EMPLOYMENT OPPORTUNITY
ANTI-DISCRIMINATION PROGRAM**

During the performance of this contract, the Contractor and all of his/her Sub-Contractors (hereinafter collectively referred to as the Contractor), for himself, his assignees, and successors in interest, agree as follows:

The Contractor, in the performance of all work after award and prior to completion of the contract work, will not discriminate on grounds of race, color, religious creed, national origin, age, sexual orientation or sex in employment practices, in the selection or retention of subcontractors, or in the procurement of materials and rentals of equipment. Fair Employment Practices Law of the Commonwealth (M.G.L. Chapter 151B).

See MGL Chapter 7, Section 40N regarding an affirmative marketing program for state-assisted local projects, and the Town of Barnstable's Minority or Women Business Enterprise Participation programs for additional D/M/WBE requirements.

The contractor by signing the Contract offered by the Town of Barnstable agrees to abide by the above paragraphs to the best of his/her ability.

(See MBE/WBE participation requirements appended to and hereby made part of this contract)

ARTICLE 16: CHOICE OF LAW

1. This Contract shall be construed under and governed by the laws and regulations of the Commonwealth of Massachusetts, and the Town of Barnstable. The Architect and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the Owner is a party, in a court of competent jurisdiction within Barnstable County, Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, in any court or wherever, pending, in which the other is a party.

ARTICLE 17: TERMINATION, NO AWARD (in addition to AIA 141, Part I, Section 1.3.8)

1. By written notice to the Designer, the Town may terminate this contract in whole or in part at any time either for the Town's convenience or because of the failure of the Designer to fulfill his contract obligations. If any such termination shall occur without the fault of the Designer, all compensation and reimbursement due to the Designer up to the date of termination, in accordance with all contract terms, including proportionate payment for partially completed work, shall be paid to the Designer by the Town. Such payment shall not exceed the fair value of the work, as the Town shall reasonably determine. No amount shall be allowed for anticipated profit on unperformed services.
2. If the contract is terminated due to the failure of the Designer to fulfill his contract obligations, the Town may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Designer shall be liable to the Town for any reasonable additional cost occasioned to the Town thereby. These rights and remedies of the Town are in addition to any rights and remedies provided by law or under this contract.
3. Upon any termination of the contract the Designer shall deliver to the Town all records, data, drawings, specifications, reports, estimates, summaries, and such other information and materials, whether completed or in process, as may have been accumulated by the Designer in performing this contract.
4. Subject to the provisions explaining Force Majeure, if the Designer shall fail to fulfill in a timely and satisfactory manner its obligations under this agreement, or if the Designer 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 Designer, then the Owner shall thereupon have the right to terminate this agreement by giving written notice to the Designer of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination.

ARTICLE 18: WAIVERS

1. The provisions of this contract can be waived only by written agreement, except where otherwise stated herein. Forbearance or indulgence by a party shall not be construed as a waiver, nor in any way limit legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

ARTICLE 19: AMENDMENTS

- 1. No amendment to this Contract shall be effective unless it is executed in writing by authorized representatives of both parties.

ARTICLE 20: SEVERABILITY

- 1. If any provision of this Contract is declared or found illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law.

ARTICLE 21: CONTRACTOR’S CONTRACT SUPPLEMENTARY DATA

- 1. No changes are to be made in this Article at any time during the life of this contract without written notification to the Owner and when required, receipt of written approval by the Town.
- 2. In accordance with the provisions of General Laws Chapter 7A, section 6, no contract to provide Contractor services shall be awarded by the Owner/Town, or by any department, board, commission, or other agency acting in its behalf, unless the person signing such contract on behalf of the party contracting to provide such services files with the Town a statement under the penalties of perjury setting forth the names and addresses of all persons having a financial interest therein, not including, however, any person whose only financial interest therein consists of the holding of one percent or less of the capital stock of a corporation contracting to provide such services.

Should there be a conflict between the Standard AIA B141 Documents and Attachment “A” Owner’s Special Terms and Conditions, then the latter will prevail.

NOTE: Individuals who sign a contract in their own behalf must also complete the certification below as well as sign the contract. For the purpose of this directive, the term "person having a financial interest" will generally refer to any person who, in some direct manner, will benefit financially from a given contractual relationship with the Town. However, this may not, in every case, preclude the possibility of an existing financial interest within the meaning of the statute where a financial benefit is to be realized in some indirect manner. Where doubts arise in a specific case, it is advisable that names and addresses be included.

By signing this Contract, the Contractor certifies under the penalties of perjury that the following sets forth the names and addresses of all persons having a financial interest in this contract, in accordance with the provisions of Chapter 7A, section 6.

Name _____ Address _____

By signing this Contract, the Contractor certifies under the penalties of perjury that the following named (Principal) is registered by the Commonwealth as an Architect pursuant to the provisions of General Laws Chapter 112, sections 60A through 60O (architects), sections 81D through 81T (professional engineers and land surveyors), or sections 99 through 107 (registered landscape architects).

Name _____ Title _____ Mass. Registration No _____

NOTE: The above information must be completed to also comply with the provisions of General Laws Chapter 7, section 38A 1/2.

By signing this contract, the Contractor certifies under the penalties of perjury that the following named (Principal) is the designated officer of the firm contracted for the:

IF A CORPORATION: (Name Officers and Titles)

IF A PARTNERSHIP: (Name of all Partners)

IF AN INDIVIDUAL: (Name of Owner):

MASSACHUSETTS REGISTERED PRINCIPAL OF FIRM RESPONSIBLE FOR THIS PROJECT IS:

 (Notify Office of any changes)

RESERVED.

By signing this contract, the Contractor certifies under the penalties of perjury that 1) in accordance with Chapter 7, section 38H (e), the Contractor has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the contract for design services; and 2) that no Contractor to or sub-consultant for the Contractor has given, offered or agreed to give any gift, contribution or offer of employment to the Contractor, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the Contractor or subcontractor of a contract by the Contractor; and 3) that no person, corporation or other entity, other than a bona fide full-time employee of the Architect has been retained or hired by the Contractor to solicit for or in any way assist the Contractor in obtaining the contract for services upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the contract to the Contractor; **and/or** 4) 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, and that 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.

By signing this contract, the Contractor certifies under the penalties of perjury that pursuant to General Laws Chapter 62C sec. 49A, the Contractor has filed all state tax returns, paid all taxes and complied with all laws of the Commonwealth relating to taxes; and that pursuant to General Laws Chapter 151A, sec. 19A, the Contractor has complied with all laws of the Commonwealth relating to contributions and payments in lieu of contributions.

By signing this contract, the Contractor certifies under the penalties of perjury that the following is a listing of at least the five (5) most recent existing contracts or other sources of income derived by (*Firm Name*):

from the Commonwealth or any political subdivision thereof or public authority therein, from the Federal Government or any agency thereof, and from any governmental source for services rendered:

Contract Awarding Authority	Description	Present Status Percentage	Fee Received	of Fee Anticipated
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By signing this contract, the Contractor certifies under the penalties of perjury that, if the Architect is a corporation, the Corporation has filed with the State Secretary all certificates and annual reports required by Chapter 156B, section 109 (Business Corporation), by Chapter 181, section 4 (Foreign Corporation), or by Chapter 180, section 26A (Non-Profit Corporation) of the Massachusetts General Laws.

By signing this contract, the Contractor certifies under the penalties of perjury that, at the time of execution, it is in compliance with the provisions of Section 7 of Chapter 521 of the Acts of 1990 as amended by Chapter 329 of the Acts of 1991, and 102 CMR 12.00 and the Contractor is either a "qualified employer" because it has fifty (50) or more full time employees and has established a dependent care assistance program, child care tuition assistance, or on-site or near-site child care placements, or is an "exempt employer."

By signing this contract, the Contractor certifies under the penalties of perjury that, the Contractor is not currently debarred or suspended by the Commonwealth of Massachusetts, or any of its entities or subdivisions, under any Commonwealth law or regulation, including but not limited to M.G.L. c. 29 s. 29F and M.G.L. c. 152 s. 25C.

By signing this contract, the Contractor certifies under the penalties of perjury that, the Contractor is aware of the American with Disabilities Act which prohibits discrimination based upon disability and shall meet the standards applicable to the state under the American with Disabilities Act 42 USC 12101 et seq.; 28 CFR Part 35, as amended.

IN WITNESS WHEREOF, the parties executed this contract under their several seals the day and year first written above.

The cost of services authorized by **Contract Part I** shall not exceed \$ _____ without written authorization from the Owner.

The cost of services authorized by **Contract Part II** shall not exceed \$ _____ without written authorization from the Owner.

The cost of services authorized by **Contract Part I and II** shall not exceed \$90,000.00 _____ without written authorization from the Owner.

This Agreement entered into as of the day and year first written above.

OWNER

Town of Barnstable

(Signature)

John C. Klimm, MPA, Town Manager

(Printed name and title)

ARCHITECT

(Signature)

(Printed name and title)

Approved as to form:

Robert D. Smith, Esq., Town Attorney

This is to certify the Town of Barnstable has an appropriation that is adequate to cover the cost of this contract

Mark A. Milne, Finance Director

CONTRACT:

(Insert Name of Contract) _____

(Insert Contract Number) _____

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 be valid and binding upon this company. (Officer)

**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 _____, 2005, 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

Town of Barnstable, MASSACHUSETTS

AGREEMENT BETWEEN ARCHITECT AND OWNER

for

Professional Services for the

**ARCHITECTURAL CONSULTANT SERVICES
SITE MASTER PLANNING AND IMPROVEMENTS
BISMORE PARK**

Growth Management Department

IN THE TOWN OF

BARNSTABLE, MASSACHUSETTS

DATE

FOR

**TOWN OF BARNSTABLE
GROWTH MANAGEMENT DEPARTMENT**

ATTACHMENT “B”
APPLICATION FORMS

REQUEST FOR PROPOSALS
For
ARCHITECTURAL CONSULTANT SERVICES

SITE MASTER PLANNING AND IMPROVEMENTS
BISMORE PARK

Growth Management Department
Town of Barnstable

**REQUEST FOR PROPOSALS
For
ARCHITECTURAL CONSULTANT SERVICES**

**SITE MASTER PLANNING AND IMPROVEMENTS
BISMORE PARK**

**Growth Management Department
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.

Company _____ Signature _____

Address _____ Name (print) _____

_____ Title _____

Telephone _____ Date _____

REQUEST FOR PROPOSALS
For
ARCHITECTURAL CONSULTANT SERVICES
SITE MASTER PLANNING AND IMPROVEMENTS
BISMORE PARK

Growth Management Department
Town of Barnstable

DESIGNER CERTIFICATIONS

[Required by MGL Chapter 7, Section 38A1/2 (e)]

The undersigned certifies under the penalties of perjury:

1. That the CONSULTANT has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of the Contract for design services; and
2. That no consultant to or subcontractor for the CONSULTANT has given, offered or agreed to give any gift, contribution or offer of employment to the CONSULTANT, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or sub-contractor of an Contract by the CONSULTANT; and
3. That no person, corporation or other entity, other than a bona fide full time employee of the CONSULTANT, has been retained or hired by the CONSULTANT to solicit for or in any way assist the CONSULTANT in obtaining the Contract for design services upon an Contract or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of the Contract to the CONSULTANT; and
4. That with respect to contracts which exceed ten thousand dollars or which are for the design of a building for which the budgeted or estimated construction costs exceed one hundred thousand dollars that the CONSULTANT has internal accounting controls as required by MGL Chapter 30 Section 39R (c), and that the CONSULTANT has filed and will continue to file an audited financial statement as required by MGL Chapter 30 Section 39R (d).

Firm _____ **Signature** _____

Address _____ **Name (print)** _____

_____ **Title** _____

Telephone _____ **Date** _____

ATTACHMENT "C"
LEGAL ADVERTISEMENT
to
REQUEST FOR PROPOSALS
For
ARCHITECTURAL CONSULTANT SERVICES

SITE MASTER PLANNING AND IMPROVEMENTS
BISMORE PARK

Growth Management Department
Town of Barnstable

The Purchasing Agent of the Town of Barnstable (Owner), on behalf of the Growth Management Department, at the direction of the Town Manager, hereby requests the submittal of qualifications and proposals from qualified professional firms with previous site master planning and permitting, programming, landscape architecture, architectural, engineering and interior design experience of community recreational facilities in Massachusetts. The scope of work includes the necessary site master planning and permitting, programming, and complete architectural and engineering design of new facilities at Bismore Park, Hyannis, Massachusetts, as listed hereinafter. Bismore Park is located on Ocean Street, Hyannis, Massachusetts. Included in this assignment is the design and contract administration phase services associated with the demolition of the existing visitor's center building, the construction of a new Visitor's Center Facility and Dockmaster's Office, relocation of utilities, and landscape design and the replacement of the existing lollipop parking meters with new pay and display parking meters.. This project will be developed by means of two related Contract Parts.

The contract and its award process are subject to the Uniform Procurement Act pursuant to the Massachusetts General Laws Chapter 7, Section 38A ½ - Section 38M. The issuance of this Request for Proposal is in compliance with the provisions of the Act, and the contract and award will be made at the Town's discretion. If it becomes necessary to revise any part of this RFP or otherwise provide additional information, an addendum will be issued to all prospective proposers who received copies of the original request.

Request for Proposal documents may be obtained by calling the office of the Purchasing Agent at 508-862-4741 between the hours of 8:00 to 4:30 Monday through Friday. A pre-response site visit and meeting is scheduled for March 15, 2007 at 1:00 pm at the Town Hall, Selectmen's Conference Room, 2nd Floor, 367 Main Street, Hyannis, Massachusetts.

Responses are due on March 27, 2007, 2:00 pm in the Purchasing Agent's Office, 3rd Floor, 230 South Street, Hyannis, MA 02601. The architect will be selected within approximately 60 day. The Request for Proposals shall be available at the Purchasing Agent's office beginning immediately (Monday through Friday from 8:00 a.m. to 4:00 p.m., excluding holidays). Non-price proposals will be opened on March 27, 2007, 2:00 pm in the office of the Purchasing Agent. The opening of the responses is not public. All responses must be received in a sealed envelope properly marked prior to the deadline.

An interview will be conducted with qualified short listed proposers who are deemed Highly Advantageous or Advantageous during the evaluation of the proposals. The Town reserves the right to reject any or all proposals when it deems it to be in the best interest of the Town.

ATTACHMENT "D"

(Submit in a separate envelope, labeled "Price Proposal")

PRICE SUBMITTAL FORM

**REQUEST FOR PROPOSALS
ARCHITECTURAL CONSULTANT SERVICES
for
SITE MASTER PLANNING AND IMPROVEMENTS
to
BISMORE PARK**

Town of Barnstable

We propose the following total lump sum price for Phase I and II services with the breakdown by Phase for all tasks as compensation for Architectural Consultant Services for the master site planning and permitting, space programming, and design of site work and the visitor's center. Each phase must have specific Owner's approval prior to the start of services for that phase.

Contract Part I: Site Planning/Permitting/SD & DD of Site Work & Visitors Center including reimbursables: _____

(\$ _____)

Contract Part II: CD/Bid/CA for Site Work & Visitor's Center including all reimbursables _____

(\$ _____)

Total Not to Exceed Lump Sum Price of:

_____ words

(\$ _____) numbers

May not exceed the grant funding of \$90,000.00 for the project complete.

Attach to this pricing sheet a complete rate structure including all hourly rates by discipline/position and any other associated charges for additional services, including engineering disciplines. Also include a schedule of milestone payments based on projects task to be completed.

The Consultant's fee is subject to downward negotiation. The Consultant will execute the Town's Standard Contractor Consultant Contract (sample attached). Town will not pay for any additional work on this project without the prior written approval.

Your signature below acknowledges your understanding of these parameters and your willingness to live within the stated financial constraint of the project.

Company: _____

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

ATTACHMENT “E”
Commonwealth of Massachusetts
Division of Capital Asset Management
(DCAM)
CITIES AND TOWNS APPLICATION FORMS
(Rev. DSB 2005)

to

REQUEST FOR PROPOSALS
ARCHITECTURAL CONSULTANT SERVICES
for
SITE MASTER PLANNING AND IMPROVEMENTS
to
BISMORE PARK

Town of Barnstable
Growth Management Department

ATTACHMENT “F”

to

**REQUEST FOR PROPOSALS
ARCHITECTURAL CONSULTANT SERVICES
for
SITE MASTER PLANNING AND IMPROVEMENTS
to
BISMORE PARK**

**Town of Barnstable
Growth Management Department**

Town of Barnstable Minority and Women Business Enterprise

**SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY
ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM**

TOWN OF BARNSTABLE

Revised September 22, 2006

SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM

I For the purposes of this contract, "minority" refers to Asian-Americans, Black, Spanish surnamed Americans, North American Indians, and Cape Verdeans. "Commission" refers to the Massachusetts Commission Against Discrimination. "Town" hereinafter refers to the Town of Barnstable.

II During the performance of this contract, the Contractor and all of (his) Sub-Contractors (hereinafter collectively referred to as the Contractor), for himself, his assignees, and successors in interest, agree as follows:

1. The contractor shall comply with Massachusetts affirmative action policies (MGL 151B) in connection with the performance of work under this contract. The Contractor shall undertake, in good faith, affirmative action measures designed to eliminate any discriminatory barriers in the terms and conditions of employment on the grounds of race, color, religious creed, national origin, age, or sex, and to eliminate and remedy any effects of such discrimination in the past. Such affirmative action shall entail positive and aggressive measures to ensure equal opportunity in the areas of hiring, upgrading, demotion, or transfer, recruitment, layoff or termination, rate of compensation, and in-service or apprenticeship training programs. This affirmative action shall include all action required to guarantee equal opportunity in employment for all persons, regardless of race, color, religious creed, national origin, age, or sex. A purpose of this provision is to ensure to the fullest extent possible an adequate supply of skilled tradesmen for this and future Town public construction projects.

III If the Contractor shall use any subcontractor on any work performed under this contract, he shall take affirmative action to negotiate with qualified minority sub-contractors.

IV Compliance with Requirements

The Contractor shall comply with the provisions of Executive Order No. 74, as amended by Executive Order No. 237 dated March 19, 1984 and of Chapter 151B as amended, of the Massachusetts General Laws, both of which are herein incorporated by reference and made a part of this policy.

V Non-Discrimination

The Contractor, in the performance of all work after award and prior to completion of the contract work, will not discriminate on grounds of race, color, religious creed, national origin, age or sex in employment practices, in the selection or retention of subcontractors, or in the procurement of materials and rentals of equipment.

VI Solicitations for Sub-Contracts, and for the Procurement of Material and Equipment

In all solicitations, either by competitive bidding or negotiation made by the Contractor either for work to be performed under a subcontract or for the procurement of materials or equipment, each potential Subcontractor supplier shall be notified in writing by the

Contractor of the Contractor's obligations under this contract relative to non-discrimination and affirmative action.

VII Severability

The provisions of this section are severable, and if any of these provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

TOWN OF BARNSTABLE

MINORITY / WOMEN BUSINESS ENTERPRISE PLAN (M / WBE)

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

(Revised 9/22/06)

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- 2) Objective**
- 3) Responsibility for Implementation**
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- 5) Participation Percentage**
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- 11) Outreach**

**TOWN OF BARNSTABLE
MINORITY/WOMEN BUSINESS ENTERPRISE (M/WBE)**

POLICY STATEMENT

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, and the 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. This is not intended to be a complete listing of the relevant orders, amendments and acts that relate to discrimination.

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.

John Klimm
Town Manager

2. Objective

The Town of Barnstable's Minority and Women Business Enterprise (M/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 M/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 and subcontractors. This policy also includes an active outreach program that assists M/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.

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 directly responsible to the Town Manager.

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

4. Definitions

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

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

CATEGORY	DEFINITION
Black	All persons having origins in any of the Black groups of Africa.
Hispanic	All persons of Mexican, Puerto Rican, Cuban, Central, South American, or Caribbean Island origin.
American Indian	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.
Eskimo and Aleut	All persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia.
Asian	All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes for example, China, Japan, Korea, India, the Philippines Islands and Samoa.
Cape Verdean	All persons having origins in any of the original peoples of the Cape Verdean Islands who are of Black African origin.

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

1. That minority-persons beneficially own and control at least 51% of the business;
2. That minority persons have dominant control in the management and operation of the business;
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 SOMWBA certified M/WBE and a non-minority controlled enterprise, the joint venture shall be considered to be an M/WBE if the SOMWBA certified M/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.

"SOMWBA" means the State Office of Minority and Woman Business Assistance established by G.L.C. 23A. SOMWBA maintains a listing of certified minority/female businesses. Unlisted minority/female businesses will be referred to SOMWBA for certification.

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

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 and public works 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 and vertical construction 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.

A. Construction (State Assisted Funding and Town Funded)

For construction contracts, the minimum amount of participation reserved shall be seven point four (7.4%) percent for Minority Business Enterprises (MBE's) including minority owned companies and banks and four (4%) percent for 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 SOMWBA. Construction includes all vertical and horizontal construction.

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 eight (8%) percent for Minority Business Enterprises (MBE's) including minority owned companies and banks and four (4%) percent for 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 SOMWBA.

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 M/WBE participation percentages. Dual certification (MBE plus WBE) will not reduce to overall required percentage participation for both MBE and WBE (11.4% or 12% above respectively).

C. SOMWBA Certification/Market Area

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

An M/WBE shall be considered available if the project is located in the market area of the M/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. **Bidding Requirements**

As part of the bid proposal, the bidder shall submit a "Schedule for Participation by Minority Business Enterprises" with accompanying Letters of Intent by each minority sub-contractor proposed to be used by the bidder (These forms are provided CC-1, CC-2 and CC-3). Also as part of the bid proposal, the bidder shall submit a "Schedule for Participation by Women Business Enterprises" with accompanying Letters of Intent by each Woman owned sub-contractor proposed to be used by the bidder (These forms are provided CC-4, CC-5 and CC-6).

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 for participation shall list these M/WBE sub-contractors 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 also submit a copy of the current SOMWBA letter of Minority Business Enterprise or Women Business Enterprise Certification for each sub-contractor.

7. **Waiver Request**

M/WBE participation documentation must accompany your bid. If the bidder has done due diligence in attempting to meet the participation requirements and has not been successful, the bidder may submit a waiver request with their bid with all of the requested information stated under the minimum requirements on the Waiver Form (see page 19).

Failure to submit M/WBE participation documentation or sufficient support for a waiver request may result in the bid being deemed non-responsive.

A) Decision of Waiver Request

Within three (3) business days after notification the owner and the CCO shall complete its review of the information provided and notify the low bidder of their decision.

DENIAL OF A WAIVER REQUEST RENDERS THE BID NON-RESPONSIVE

B) Appeal of Denial of Waiver Request

An appeal shall be made in writing and transmitted via facsimile or by hand to the CCO within (2) two business days after notification of decision.

The Legal Department of the Town of Barnstable shall make the decision whether to uphold or reverse the Denial of Waiver request.

8. Compliance

If the Schedule for Participation or any of the Letters of Intent are materially incomplete, the owner shall treat the bid informal as to substance and may reject the bid. If the Schedule for Participation or any of the Letters of Intent are complete in other respects, the owner may treat the bid informal as to form and waive the informalities upon the satisfactory completion of the required information by the bidder.

If the owner finds that the percentage of M/WBE participation submitted by the bidder on its Schedule for Participation does not meet or exceed the percentage of M/WBE participation set forth in these provisions, it may reject the bidder's proposal and find such bidder not to be eligible for award of this contract.

The contractor shall not perform, with its own organization, or subcontract to any other contractor; any work designated for the M/WBE'S named in the schedule or Letter of Intent without the approval of the owner and the CCO.

A contractor's compliance with the percentage requirement shall be determined by reference to the required percentage of the total bid price as stated even though the total contract payments may be greater or less than the bid price.

The contractor shall notify the owner of any facts that come to his attention indicating that he will be unable to comply with the percentage participation requirements. For example, if an M/WBE listed on the schedule or Letter of Intent has its certified status revoked the Contractor shall consider its compliance terminated. Such a situation must be brought to the attention of the Owner as quickly as possible.

Any change or substitution of the officers or stockholders in the M/WBE that reduces the minority ownership or control to less than the requisite percentage will result in the automatic revocation of the M/WBE'S certified status.

If the contractor desires to comply with the Participation percentage but for reasons beyond his control cannot subcontract work to M/WBE'S as required by the Schedule for Participation and the Letter of Intent it submitted, he may submit to the owner and to the CCO the reasons for his inability to comply with his Schedule stating how he intends to meet his obligations under the percentage participation requirements. If approved by the Owner and the CCO, the revised schedule shall govern the contractor's performance in meeting his obligations.

9. Sanctions

If the contractor does not comply with the terms of these provisions, the owner may:

1. Suspend any payment for that portion of the work that should have been performed by the M/WBE, or
2. Require the contractor to subcontract with another SOMWBA certified M/WBE for any contract or specialty item at the contract price established in for that item in the bid proposal submitted by the contractor.

In addition, or as an alternative, the Owner may suspend, terminate or cancel this contract, in whole or in part, or may call upon the contractor's surety to perform all terms and conditions in the contract, unless the contractor is able to demonstrate his compliance with the terms of this policy.

Any bidder or contractor shall provide the owner and the CCO with such information as, in their judgment, is necessary to ascertain compliance with the terms of this policy.

10. Monitoring and Reporting Procedures

The CCO shall maintain records, documentation, and required reporting for the Town of Barnstable M/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 M/WBE activities to the CCO including:

1. Notification of a project including a copy of the Bid Document prior to being advertised.
2. Pre-Bid Notification Date and Pre-Bid Conference attendance sheet.
3. Bid submission checklist

After the award of the contract, the following documents and information will be retained by the bidding departments after review by the CCO:

1. Weekly Payroll Statement of Compliance (Included Form CC-9)
2. Start of Construction notice (Included Form CC-11)
3. Project Completion Certification notice Included Form CC-12)

(Forms CC-11 and CC-12 are filled out by the bidding department. Contractors and sub contractors do not need to be concerned about these documents. They may be included so that you will be aware of what the bidding departments are required to report to the CCO)

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.

11. Outreach

The Town's M/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 M/WBE policy will be available for public review in the Office of the CCO, on the Town of Barnstable Website, 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.

The creation, maintenance, and promotion of a directory of SOMWBA certified businesses in the area will fall under the direct supervision of the CCO.

SCHEDULE FOR PARTICIPATION BY MINORITY BUSINESS ENTERPRISES

(to be completed and submitted with bid)

ALSO INCLUDE COPY OF SOMWBA CERTIFICATION

NAME OF MINORITY BUSINESS ENTERPRISE

TOTAL PRICE

Total Bid Amount: \$ _____

Total amount to be paid to minority business enterprise: \$ _____

PERCENT OF TOTAL BID PRICE WHICH IS TO BE PAID TO
MINORITY BUSINESS ENTERPRISES FOR WORK PERFORMED
UNDER THIS CONTRACT:

_____ %

General Contractor

LETTER OF INTENT

(Minority Business Participation
(to be completed and submitted with bid)

*ALSO INCLUDE COPY OF SOMWBA CERTIFICATION LETTER

The undersigned intends to perform work in connection with the above project as: (check one)

- an individual
- a partnership
- a corporation
- a joint venture

The minority status of the undersigned is certified by the State Office of Minority and Women's Business Assistance.

The undersigned is prepared to perform the following described work in connection with the above project. (Specify in detail the particular work items or part thereof to be performed).

at the following price: _____

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

<u>Items</u>	<u>Projected Commencement Date</u>	<u>Projected Completion</u>

The above work will not be subset to a non-minority business. Undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of a contract for the above subject.

Date

(Name of Minority Business)

General Contractor

By: _____
Minority Firm's Authorized Signature

SCHEDULE FOR PARTICIPATION BY WOMEN CONTRACTORS

(to be completed and submitted with bid)

*ALSO INCLUDE COPY OF SOMWBA CERTIFICATION

DPW Project Number : _____

Project Location: _____

Name of Woman Contractor

Total Price

Total Bid Amount: \$ _____

Total amount to be paid to woman owned business enterprise: \$ _____

PERCENT OF TOTAL BID PRICE WHICH IS TO BE PAID TO
WOMEN OWNED BUSINESS ENTERPRISES FOR WORK PERFORMED
UNDER THIS CONTRACT: _____ %

General Contractor

LETTER OF INTENT

WOMEN BUSINESS PARTICIPATION
(to be completed and submitted with bid)

*ALSO INCLUDE COPY OF SOMWBA CERTIFICATION

The undersigned intends to perform work in connection with the above project as: (check one)

- () an individual
() a partnership
() a corporation
() a joint venture

The Women's status of the undersigned is certified by the State Office of Minority and Women's Business Assistance.

The undersigned is prepared to perform the following described work in connection with the above project. (Specify in detail the particular work items or parts thereof to be performed).

Three horizontal lines for specifying work items.

at the following price: _____

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Table with 3 columns: Items, Projected Commencement Date, Projected Completion. Includes horizontal lines for data entry.

The above work will not be subset to a non-women's business. Undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of a contract for the above subject.

Date

(Name of Women's Business)

General Contractor

By: _____
WBE Firm's Authorized Signature

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 _____
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/M/WBE Policy.

Signature of Authorized Representative of Contractor

REQUEST FOR WAIVER

Town of Barnstable

Minority Business Enterprise (MBE)
 Minority/Women Business Enterprise Plan (M/WBE)

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 this and submitting it with your bid. Failure to submit the waiver and 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.	

Minimum Requirements:

The Contractor must show that a 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. Name, address, telephone numbers of all companies contracted
2. Detailed statement as to why SOMWBA certified subcontractor contacted was not willing to do the job or was not qualified to perform the work as solicited.
3. Current SOMWBA certification must be submitted for each sub-contractor contacted, but not selected or available for the work.

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.

Within three (3) business days after review of the information the bidder will be notified of the Town of Barnstable decision.

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

**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 (Form CC-10) and includes all the information required to be kept by law. Every contractor or subcontractor is required to keep these records and preserve them for a period of three years from the date of completion of the contract.

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

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

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

Signature _____

Title _____

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

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

COMPANY NAME				PRIME CONTRACTOR											
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.		

**MBE/WBE/DBE
“START OF CONSTRUCTION”
NOTIFICATION**

To be submitted prior to the start of construction

Project Name: _____ Project #: _____

Location: _____ Contract #: _____

Contractor: _____

Address: _____ Telephone: _____

Sub-Contractor (MBE/WBE/DBE)

Name _____ Contract Amount \$ _____

Name _____ Contract Amount \$ _____

Name _____ Contract Amount \$ _____

Name _____ Contract Amount \$ _____

Start Date: _____ ***Estimated Completion Date:*** _____

Signature: _____ Today's Date: _____

(Company's Authorized Representative or
Town of Barnstable Project Manager)

Return to: Procurement & Risk Management
Contract Compliance Office
230 South Street
Hyannis, MA 02601

For Office Use Only:

Date Received: _____ C.O. Initials: _____

**MBE/WBE/DBE
“PROJECT COMPLETION”
NOTIFICATION**

To be submitted prior to request for final payment

Project Name: _____ Project #: _____

Contract #: _____

Location: _____

Contractor/Subcontractor Name: _____

Start Date: _____ ***Actual Completion Date:*** _____

Signature: _____ Today's Date: _____
(Company's Authorized Representative/Project Manager)

Return to: Procurement & Risk Management
Contract Compliance Office
230 South Street
Hyannis, MA 02601

For Office Use Only:

Date Received: _____ C.O. Initials: _____