



BARNSTABLE COUNTY

THE REGIONAL GOVERNMENT OF CAPE COD

COMMISSIONERS
RONALD R. BEATY, Barnstable
LEO G. CAKOUNES, Harwich
MARY PAT FLYNN, Falmouth

Board of Regional Commissioners

REGULAR MEETING AGENDA

DATE: April 19, 2017

TIME: 11:00 A.M.

PLACE: Commissioners' Meeting Room
Superior Courthouse
3195 Main Street, Barnstable, MA 02630

1. Call to Order
2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Approval of Minutes
 - a. Regular Meeting of April 12, 2017
6. General Business
7. New Business – Other business not reasonably anticipated by the Chair
8. Commissioners' Actions
 - a. Appointment of Kate Epperly to the Human Rights Commission for an unexpired three-year term from April 19, 2017 through December 31, 2019
 - b. Authorizing the Execution of a Contract with Crack-Sealing, Inc. to provide crack filling to Towns in Barnstable County for the period of April 1, 2017 through March 31, 2018
 - c. Authorizing the Execution of a Contract with Rochester Bituminuous Products, Inc. to provide road reconstruction to the Town of Orleans for the period of April 1, 2017 through March 31, 2018
 - d. Authorizing the Execution of a Contract with MCE Dirtworks, Inc. to provide road reconstruction to the Town of Harwich for the period of April 1, 2017 through March 31, 2018
 - e. Authorizing the Execution of a Contract with Noonan Brothers Petroleum; for the supply and delivery of gasoline and diesel fuel to Barnstable County Dredge for the period of July 1, 2017 through June 30, 2018

- f. Authorizing the Execution of a Subordination of HOME Mortgage for Ann M. Minor
 - g. Authorizing the Execution of a Memorandum of Contract Agreement with UAW Local 1596, extending the term of its contract for the period of July 1, 2016 through June 30, 2018
 - h. Authorizing the Creation of a New Fund for a Grant from the Cape and Islands District Attorney's Office to the Department of Human Services in the amount of \$6,250.00 for the "My Choice Matters – Drug Prevention" Program
 - i. Authorizing the Execution of Certificates for Dissolving Septic Betterments
- 9. Commissioners' Reports
 - 10. County Administrator's Report
 - 11. Adjournment

If you are deaf or hearing impaired or are a person with a disability who requires an accommodation, contact the Commissioner's Office at 508-375-6648 at least 24 hours in advance of the meeting The County Commissioners' meeting may be viewed in real time at <https://www.youtube.com/user/BarnstableCounty>, www.barnstablecounty.org





BARNSTABLE COUNTY
DEPARTMENT OF HUMAN SERVICES
Health & Human Services Advisory Council

POST OFFICE BOX 427
BARNSTABLE, MASSACHUSETTS 02630

Main Office (508) 375-6628 FAX (508) 362-0290 TDD

April 13, 2017

To: County Commissioners Leo Cakounes, Mary Pat Flynn, and Ron Beaty
From: Elizabeth Albert, Department of Human Services and Chair of the Health and Human Services Advisory Council *EA*
Subject: Recommendation for Appointment to Barnstable County Human Rights Commission

Upon completion of the recruitment and interview process, the Barnstable County Health and Human Services Advisory Council HRC nominating subcommittee has recommended three nominees to fill vacancies on the Human Rights Commission as a result of three resignations. On April 4, 2017 an additional Human Rights Commissioner submitted her resignation. Attached is a copy of a memorandum from the Nominating Subcommittee to the Advisory Council which describes the process that was undertaken for candidate interview and selection and the background of the candidate chosen for recommendation for appointment.

The Health and Human Service Advisory Council requests your consideration of the following nominees to the Barnstable County Human Rights Commission:

Kate Epperly is recommended for appointment to a three year term from April 12, 2017 – December 31, 2019.

At the end of these terms all this individuals will be eligible to request re-appointment for a three year term.

Respectfully Submitted,

Elizabeth Albert, Chair
Barnstable County Health & Human Services Advisory Council

Barnstable County Commissioners

Leo Cakounes, Chair

Mary Pat Flynn, Vice Chair

Ron Beaty, Commissioner

Dated: _____



BARNSTABLE COUNTY
DEPARTMENT OF HUMAN SERVICES
Health & Human Services Advisory Council

POST OFFICE BOX 427
BARNSTABLE, MASSACHUSETTS 02630

Main Office (508) 375-6628
FAX (508) 362-0290

DATE: April 13, 2017
TO: Beth Albert, Chair Health & Human Services Advisory Council
FROM: Human Rights Commission Nominating Committee of the HHSAC
Caronanne Procaccini, Beverly Costa-Ciavola, Scoba Rhodes, Kathy Quatromoni &
Barbara Burgo – Human Rights Commission Representative
RE: Recommendations for Appointment to the Human Rights Commission

The Human Rights Commission Nominating Subcommittee of the Health and Human Services Advisory Council (HHSAC) met on March 29, 2017 to interview five candidates to fill vacancies on the Human Rights Commission. Caronanne Procaccini, Beverly Costa-Ciavola, Scoba Rhodes and Kathy Quatromoni from the HHSAC and Barbara Burgo from the Human Rights Commission participated in the interviews.

In-person interviews and a thorough review of the qualifications and expertise of each candidate, balanced with the skills and experience currently needed on the HRC were conducted. Three candidates were recommended for appointment. On April 4, 2017, an additional Human Rights Commissioner resigned. The Nominating Committee is recommending the following individual that was interviewed on March 29, 2017 for appointment by the Subcommittee:

Kate Epperly is recommended for appointment for a three-year term from April 12, 2017 – December 31, 2019 to complete the term of a resigning commissioner. At the end of the three-year term she will be eligible to request re-appointment for a three-year term. Ms. Epperly brings with her experience working with and advocating for special populations and strategic planning and communication skills.

Respectfully submitted,

HRC Nominating Committee

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

Crack-Sealing, Inc
PO Box 700
Raynham, MA 02767

THIS AGREEMENT, made this _____ day of _____ 2017 by and between Crack-Sealing, Inc. (hereinafter referred to as Contractor), and Ron Beaty Leo Cakounes and Mary Pat Flynn as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: Barnstable County issued an Invitation for Bids for the Crackfilling Items on January 18, 2017.

WHEREAS: The Invitation for Bids was bid in compliance with MA General Law Chapter 30, 39M.

WHEREAS: The vendor is the responsive, responsible bidder offering the lowest price.

NOW THEREFORE, the County and the Contractor do mutually agree as follows:

1. **Employment of Contractor.** The County hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. **Scope of Services.** The Contractor shall perform the scope of services as set forth in Barnstable County's Invitation for Bids dated January 18, 2017 and the Contractor's proposal dated February 16, 2017, incorporated herein by reference as Attachment A.
3. **Time of Performance.** Work in connection with the Agreement shall begin April 1, 2017 through March 31, 2018 with the option to renew for one additional year.
4. **Payment.** The Towns shall compensate the Contractor for services provided under Section 2, Scope of Services, a maximum not-to-exceed fee pricing submitted in their bids and highlighted on the attached spreadsheet. Travel and other expenses authorized shall be within the total contract limiting fee). Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the Town within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each Town fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1-June 30) to the Town no later than July 31st of the year when the resources were prepared.
5. **Termination or Suspension of Contract for Cause.** If through any sufficient cause, the Contractor or the Town shall fail to fulfill or perform its duties and obligations under this Contract, or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to terminate or suspend this Contract, by giving written notice to the other party of such

termination or suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.

6. Termination for Convenience of County or Town. The Town shall have the right to discontinue the work of the Contractor and cancel this contract by written notice to the Contractor of such termination and specifying the effective date of such termination. In the event of such termination or suspension of this Contract, the Contractor shall be entitled to just and equitable compensation for satisfactory work completed, for services performed and for reimbursable expenses necessarily incurred in the performance of this Contract up to and including the date of termination or suspension.

7. Changes. The Town may, from time to time, require changes in the Scope of Contractor Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by the Town and the Contractor, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

9. Subcontracting. None of the services to be provided by the Contractor pursuant to this Contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the Town. No subcontract or delegation shall relieve or discharge the Contractor from any obligation or liability under this Contract except as specifically set forth in the instrument of approval. If this Contract is funded in whole or in part with federal funds, Contractor further agrees to comply with the provisions of the Office of Management and Budget Circular A-110, as amended, with respect to taking affirmative steps to utilize the services of small and minority firms, women's business enterprises and labor surplus area firms. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Contract. The Town shall have the right to obtain a copy of the subcontract upon request.

10. Interest of Members of County, Towns and Others. No officer, member or employee of the County, or Towns and no member of its governing body of the locality or localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly financially interested or has any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

11. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest directly or indirectly which would conflict in any manner or degree with the performance of its services hereunder.

12. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County/Town thereto; provided, however that claims for money due or to become due the Contractor from the County/Town under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County/Town.

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention

period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. If this contract is funded in whole or in part with state or federal funds, the state or federal grantor agency, the Town or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review and copying of records.

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the County or Towns request to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County or Towns.

15. Publication, Reproduction and Use of Material. No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The County or Towns shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Contract.

16. Political Activity Prohibited. None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. Anti-Boycott Warranty. During the term of this Contract, neither the Contractor nor any "affiliated company" as hereafter defined, shall 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 by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. Choice of Law. This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County or Town is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District of Superior courts in Barnstable County.

19. Force Majeure. Neither party shall be liable to the other nor be deemed to be in breach of this Contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to: acts of God or the public enemy, wars, fires, floods, epidemics, strikes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. 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 section and, shall indemnify the County and Towns against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contract, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements. Not-for-Profit entities that receive federal funds from the County must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

21. Headings, Interpretation and Severability. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Contract. If any provision of this Contract is declared or found to be 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.

22. Waiver of Liability. The Contractor and the County hereby covenant and agree to waive any and all claims against Barnstable County and the Towns and release Barnstable County and the towns from any liability arising out of the Scope of Services described in the attached "Exhibit A".

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this _____ day of in the year two thousand and fourteen.

FOR THE COUNTY:

BARNSTABLE COUNTY COMMISSIONERS:

Ron Beaty

Leo Cakounes

Mary Pat Flynn

Date

**FOR THE CONTRACTOR:
CRACK-SEALING, INC.**



Robin A. White, President
04-10-2017

Date

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

Rochester Bituminous Products Inc.
83 Kings Highway
West Wareham, MA 02576

THIS AGREEMENT, made this _____ day of _____ 2017 by and between Rochester Bituminous Products, Inc. (hereinafter referred to as Contractor), and Ron Beaty Leo Cakounes and Mary Pat Flynn as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: Barnstable County issued an Invitation for Bids for the Road Reconstruction Projects for Towns in Barnstable County on January 18, 2017.

WHEREAS: The Invitation for Bids was bid in compliance with MA General Law Chapter 30, 39M.

WHEREAS: The vendor is the bidder offering the lowest price for the Town of Orleans.

NOW THEREFORE, the County and the Contractor do mutually agree as follows:

1. Employment of Contractor. The County hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. Scope of Services. The Contractor shall perform the scope of services as set forth in Barnstable County's Invitation for Bids dated January 18, 2017 and the Contractor's proposal dated February 15, 2017, incorporated herein by reference as Attachment A.
3. Time of Performance. Work in connection with the Agreement shall begin April 1, 2017 through March 31, 2018.
4. Payment. The Towns shall compensate the Contractor for services provided under Section 2, Scope of Services, a maximum not-to-exceed fee pricing submitted in their bids and highlighted on the attached spreadsheet. Travel and other expenses authorized shall be within the total contract limiting fee). Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the Town within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each Town fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1-June 30) to the Town no later than July 31st of the year when the resources were prepared.
5. Termination or Suspension of Contract for Cause. If through any sufficient cause, the Contractor or the Town shall fail to fulfill or perform its duties and obligations under this Contract, or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to terminate or suspend this Contract, by giving written notice to the other party of such termination or

suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.

6. Termination for Convenience of County or Town. The Town shall have the right to discontinue the work of the Contractor and cancel this contract by written notice to the Contractor of such termination and specifying the effective date of such termination. In the event of such termination or suspension of this Contract, the Contractor shall be entitled to just and equitable compensation for satisfactory work completed, for services performed and for reimbursable expenses necessarily incurred in the performance of this Contract up to and including the date of termination or suspension.

7. Changes. The Town may, from time to time, require changes in the Scope of Contractor Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by the Town and the Contractor, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

9. Subcontracting. None of the services to be provided by the Contractor pursuant to this Contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the Town. No subcontract or delegation shall relieve or discharge the Contractor from any obligation or liability under this Contract except as specifically set forth in the instrument of approval. If this Contract is funded in whole or in part with federal funds, Contractor further agrees to comply with the provisions of the Office of Management and Budget Circular A-110, as amended, with respect to taking affirmative steps to utilize the services of small and minority firms, women's business enterprises and labor surplus area firms. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Contract. The Town shall have the right to obtain a copy of the subcontract upon request.

10. Interest of Members of County, Towns and Others. No officer, member or employee of the County, or Towns and no member of its governing body of the locality or localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly financially interested or has any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

11. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest directly or indirectly which would conflict in any manner or degree with the performance of its services hereunder.

12. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County/Town thereto; provided, however that claims for money due or to become due the Contractor from the County/Town under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County/Town.

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the

end of the applicable retention period, whichever is later. If this contract is funded in whole or in part with state or federal funds, the state or federal grantor agency, the Town or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review and copying of records.

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the County or Towns request to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County or Towns.

15. Publication, Reproduction and Use of Material. No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The County or Towns shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Contract.

16. Political Activity Prohibited. None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. Anti-Boycott Warranty. During the term of this Contract, neither the Contractor nor any "affiliated company" as hereafter defined, shall 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 by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. Choice of Law. This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County or Town is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District of Superior courts in Barnstable County.

19. Force Majeure. Neither party shall be liable to the other nor be deemed to be in breach of this Contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to: acts of God or the public enemy, wars, fires, floods, epidemics, strikes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. 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 section and, shall indemnify the County and Towns against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contract, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements. Not-for-Profit entities that receive federal funds from the County must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

21. Headings, Interpretation and Severability. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Contract. If any provision of this Contract is declared or found to be 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.

22. Waiver of Liability. The Contractor and the County hereby covenant and agree to waive any and all claims against Barnstable County and the Towns and release Barnstable County and the towns from any liability arising out of the Scope of Services described in the attached "Exhibit A".

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this _____ day of in the year two thousand and fourteen.

FOR THE COUNTY:

BARNSTABLE COUNTY COMMISSIONERS:

Ron Beaty

Leo Cakounes

Mary Pat Flynn

Date

FOR THE CONTRACTOR:



THOMAS N. RUSSO
4-11-17

Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/10/17

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Polito Insurance Agency, Inc. 231 Bussey Street Dedham, MA 02026	CONTACT NAME: PHONE (A/C No. Ext): (781) 329-4160 FAX (A/C No.): (781) 329-2834 E-MAIL ADDRESS: tom@politoinsurance.com
	INSURERS AFFORDING COVERAGE
INSURED Rochester Bituminous Products Inc. 83 Kings Highway Wareham, MA 02576	INSURER A: Associated Industries of Mass
	INSURER B: Evanston Insurance Company
	INSURER C: Safety Insurance Company
	INSURER D: Hartford Insurance Company
	INSURER E: INSURER F:

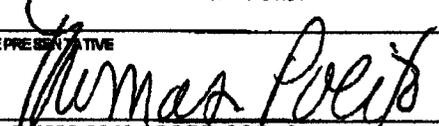
COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-ECT <input type="checkbox"/> LOC		3EG2831	8/31/16	8/31/17	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		6216181	1/1/17	1/1/18	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	VWC6012148012008	12/6/16	12/6/17	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
D	Inland marine		04MSZF1955	2/12/17	2/12/18	TOTAL LIMITS 1,200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER **CANCELLATION**

Town of Orleans Orleans, MA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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COUNTY OF BARNSTABLE
PURCHASING

DEPARTMENT OF FINANCE
SUPERIOR COURT HOUSE
P.O. BOX 427
BARNSTABLE, MASSACHUSETTS 02630

Phone: (508) 375-6637

Fax: (508) 362-4136

Email:

edavis@barnstablecounty.org

Elaine Davis
Chief Procurement Officer

March 30, 2017

MEMORANDUM

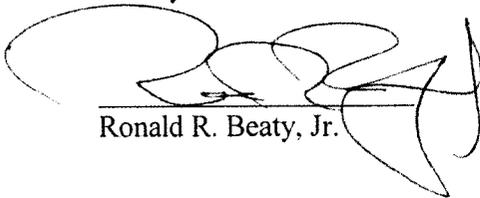
TO: County Commissioners
FROM: Elaine Davis, Chief Procurement Officer
RE: Notice of Award

Barnstable County issued a bid for the Road Reconstruction for Towns in Barnstable County for the period of April 1, 2017 through March 31, 2018. The Commissioners have already awarded contracts for the Towns of Chatham, Wellfleet and Provincetown. The Towns of Sandwich, Barnstable and Falmouth have decided to reject all bids. The Town of Orleans will award to the low bidder, Rochester Bituminous Products, Inc. The Town of Harwich has decided to reject the low bid from Rochester Bituminous and award to the second low bidder MCE Dirtworks, Inc.

Please award the bids as above and as highlighted on the attached spreadsheet.

Thank you.

County Commissioners:



Ronald R. Beaty, Jr.



Mary Pat Flynn



Leo Cakounes

04/05/17
Date

129.1	COLD PLANED (MILLED) PAVING	7.50	3,750.00	70.00	35,000.00	33.00	16,500.00	45.00	22,500.00
460	HOT MIX ASPHALT PAVEMENT MACHINE PLACED	77.42	232,260.00	120.00	360,000.00	89.00	267,000.00	84.00	252,000.00
472.1	HOT MIX ASPHALT PAVEMENT HANDWORK	125.00	43,750.00	200.00	70,000.00	133.00	46,550.00	135.00	47,250.00
	TOTAL		279,760.00		465,000.00		330,050.00		321,750.00
HARWICH									
129.1	COLD PLANED (MILLED) PAVING	35.00	17,500.00	30.00	15,000.00	2.00	1,000.00	18.00	9,000.00
220	DRAINAGE STRUCTURE ADJUSTED	232.00	19,720.00	300.00	25,500.00	200.00	17,000.00	245.00	20,825.00
460	HOT MIX ASPHALT PAVEMENT MACHINE PLACED	74.42	413,775.20	105.00	583,800.00	90.00	500,400.00	78.85	438,406.00
472.1	HOT MIX ASPHALT PAVEMENT HANDWORK	105.00	42,000.00	175.00	70,000.00	125.00	50,000.00	105.00	42,000.00
472.2	PARTIAL DEPTH PAVEMENT PATCH	20.00	16,000.00	50.00	40,000.00	30.00	24,000.00	25.00	20,000.00
	TOTAL		508,995.20		734,300.00		592,400.00		530,231.00
PROVINCETOWN									
129	BIT CONC EXC BY COLD PLANER			9.50	19,000.00	7.05	14,100.00	12.00	24,000.00
129.1	COLD PLANED (MILLED) PAVING			55.00	5,500.00	34.00	3,400.00	35.00	3,500.00
220	DRAINAGE STRUCTURE ADJUSTED			300.00	12,000.00	295.00	11,800.00	280.00	11,200.00
220.2	DRAINAGE STRUCTURE REBUILT			250.00	10,000.00	240.00	9,600.00	235.00	9,400.00
358.1	WATER GATE ADJUSTED W CONCRETE COLLAR			165.00	8,250.00	190.00	9,500.00	150.00	7,500.00
403.3	PAVEMENT RECLAMATION INC FG&c AND CALCIUM CHLORIDE			25.00	25,000.00	11.20	11,200.00	0.01	10.00
460	HOT MIX ASPHALT PAVEMENT MACHINE PLACED			117.00	93,600.00	102.00	81,600.00	100.00	80,000.00
472.1	HOT MIX ASPHALT PAVEMENT HANDWORK			200.00	20,000.00	143.00	14,300.00	150.00	15,000.00
472.2	PARTIAL DEPTH PAVEMENT PATCH			60.00	12,000.00	53.00	10,600.00	43.00	8,600.00
482.3	SAWING ASPHALT PAVEMENT			5.00	500.00	3.00	300.00	2.00	200.00
504	GRANITE CURB TYPE VA-4			55.00	27,500.00	43.00	21,500.00	45.00	22,500.00
580	Curb Remove and Reset			20.00	20,000.00	30.00	30,000.00	25.00	25,000.00
	TOTAL				253,350.00		217,900.00		206,910.00
Sandwich									
101.3	STREET SWEEPING	0.15	4,050.15	0.14	3,780.14	0.10	2,700.10	0.10	2,700.10
120.1	UNCLASSIFIED EXCAVATION	20.00	1,660.00	25.00	2,075.00	26.75	2,220.25	10.00	830.00
129.1	COLD PLANED (MILLED) PAVING	30.00	14,400.00	25.00	12,000.00	32.50	15,600.00	25.00	12,000.00
220	DRAINAGE STRUCTURE ADJUSTED	220.00	9,460.00	250.00	10,750.00	370.00	15,910.00	245.00	10,535.00
220.2	DRAINAGE STRUCTURE REBUILT	200.00	800.00	150.00	600.00	540.00	2,160.00	245.00	980.00
358.1	GATE BOX ADJUSTED	125.00	750.00	150.00	900.00	75.00	450.00	100.00	600.00
403.3	PAVEMENT RECLAMATION	3.40	57,871.40	3.80	64,679.80	3.35	57,020.35	3.20	54,467.20
460	HOT MIX ASPHALT	64.42	298,586.70	73.00	338,355.00	91.00	421,785.00	76.70	355,504.50
472.1	HOT MIX ASPHALT HANDWORK	125.00	15,750.00	150.00	18,900.00	165.00	20,790.00	105.00	13,230.00
999A	TEST HOLE FOR UTILITY LOCATION	100.00	300.00	550.00	1,650.00	175.00	525.00	50.00	150.00
	TOTAL		409,628.25		453,689.94		539,160.70		450,996.80
WELLFLEET									
460	HOT MIX ASPHALT PAVEMENT MACHINE PLACED		no bids	108.00	378,000.00	91.00	318,500.00	88.00	308,000.00

472.1	HOT MIX ASPHALT PAVEMENT HANDWORK			no bids	170.00	17,000.00	142.00	14,200.00	165.00	16,500.00
	TOTAL		no bids			395,000.00		332,700.00		324,500.00
Orleans										
120.1	Unclassified	30.00	6,000.00	28.00	5,600.00	29.00	5,800.00	15.00	3,000.00	
129	BIT CONCRETE EXC. BY COLD PLANER	2.25	40,500.00	2.60	46,800.00	3.55	63,900.00	2.10	37,800.00	
129.1	COLD PLANED (MILLED) PAVING	35.00	7,000.00	40.00	8,000.00	37.00	7,400.00	5.00	1,000.00	
220	DRAINAGE STRUCTURE ADJUSTED	220.00	4,400.00	300.00	6,000.00	3.25	6,500.00	230.00	4,600.00	
220.2	DRAINAGE STRUCTURE REBUILT	200.00	5,000.00	200.00	5,000.00	485.00	12,125.00	225.00	5,625.00	
358.1	WATER GATE ADJUSTED W/ CONCRETE COLLAR	75.00	1,875.00	200.00	5,000.00	75.00	1,875.00	50.00	1,250.00	
403.3	PAVEMENT RECLAMATION INC FG&c AND CALCIUM CHLORIDE	3.25	39,100.00	4.50	54,000.00	3.75	45,000.00	3.95	47,400.00	
460	HOT MIX ASPHALT PAVEMENT MACHINE PLACEMENT	74.42	357,216.00	104.00	499,200.00	89.25	428,400.00	80.85	388,080.00	
472.1	HOT MIX ASPHALT PAVEMENT HANDWORK	105.00	42,000.00	185.00	74,000.00	154.75	61,900.00	105.00	42,000.00	
472.2	PARTIAL DEPTH PAVEMENT PATCH	30.00	15,000.00	50.00	25,000.00	38.75	19,375.00	35.00	17,500.00	
482.3	SAWING ASPHALT PAVEMENT	4.00	480.00	1.00	120.00	3.00	360.00	2.00	240.00	
999a	TEST HOLE FOR UTILITY LOCATION	100.00	500.00	500.00	2,500.00	165.00	825.00	50.00	250.00	
	TOTAL		518,971.00		731,220.00		653,460.00		548,745.00	

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

M.C.E. Dirtworks, Inc
3 Main St., Unit #5
Eastham, MA 02642

THIS AGREEMENT, made this _____ day of _____ 2017 by and between MCE Dirtworks, Inc. (hereinafter referred to as Contractor), and Ron Beaty Leo Cakounes and Mary Pat Flynn as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: Barnstable County issued an Invitation for Bids for the Road Reconstruction Projects for Towns in Barnstable County on January 18, 2017.

WHEREAS: The Invitation for Bids was bid in compliance with MA General Law Chapter 30, 39M.

WHEREAS: The vendor is the responsive, responsible bidder offering the lowest price for the Town of Harwich.

NOW THEREFORE, the County and the Contractor do mutually agree as follows:

1. **Employment of Contractor.** The County hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. **Scope of Services.** The Contractor shall perform the scope of services as set forth in Barnstable County's Invitation for Bids dated January 18, 2017 and the Contractor's proposal dated February 9, 2017, incorporated herein by reference as Attachment A.
3. **Time of Performance.** Work in connection with the Agreement shall begin April 1, 2017 through March 31, 2018.
4. **Payment.** The Towns shall compensate the Contractor for services provided under Section 2, Scope of Services, a maximum not-to-exceed fee pricing submitted in their bids and highlighted on the attached spreadsheet. Travel and other expenses authorized shall be within the total contract limiting fee). Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the Town within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each Town fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1-June 30) to the Town no later than July 31st of the year when the resources were prepared.
5. **Termination or Suspension of Contract for Cause.** If through any sufficient cause, the Contractor or the Town shall fail to fulfill or perform its duties and obligations under this Contract, or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to

terminate or suspend this Contract, by giving written notice to the other party of such termination or suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.

6. Termination for Convenience of County or Town. The Town shall have the right to discontinue the work of the Contractor and cancel this contract by written notice to the Contractor of such termination and specifying the effective date of such termination. In the event of such termination or suspension of this Contract, the Contractor shall be entitled to just and equitable compensation for satisfactory work completed, for services performed and for reimbursable expenses necessarily incurred in the performance of this Contract up to and including the date of termination or suspension.

7. Changes. The Town may, from time to time, require changes in the Scope of Contractor Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by the Town and the Contractor, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

9. Subcontracting. None of the services to be provided by the Contractor pursuant to this Contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the Town. No subcontract or delegation shall relieve or discharge the Contractor from any obligation or liability under this Contract except as specifically set forth in the instrument of approval. If this Contract is funded in whole or in part with federal funds, Contractor further agrees to comply with the provisions of the Office of Management and Budget Circular A-110, as amended, with respect to taking affirmative steps to utilize the services of small and minority firms, women's business enterprises and labor surplus area firms. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Contract. The Town shall have the right to obtain a copy of the subcontract upon request.

10. Interest of Members of County, Towns and Others. No officer, member or employee of the County, or Towns and no member of its governing body of the locality or localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly financially interested or has any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

11. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest directly or indirectly which would conflict in any manner or degree with the performance of its services hereunder.

12. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County/Town thereto; provided, however that claims for money due or to become due the Contractor from the County/Town under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County/Town.

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records

shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. If this contract is funded in whole or in part with state or federal funds, the state or federal grantor agency, the Town or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review and copying of records.

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the County or Towns request to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County or Towns.

15. Publication, Reproduction and Use of Material. No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The County or Towns shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Contract.

16. Political Activity Prohibited. None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. Anti-Boycott Warranty. During the term of this Contract, neither the Contractor nor any "affiliated company" as hereafter defined, shall 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 by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. Choice of Law. This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County or Town is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District of Superior courts in Barnstable County.

19. Force Majeure. Neither party shall be liable to the other nor be deemed to be in breach of this Contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to: acts of God or the public enemy, wars, fires, floods, epidemics, strikes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. 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 section and, shall indemnify the County and Towns against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contract, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements. Not-for-Profit entities that receive federal funds from the County must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

21. Headings, Interpretation and Severability. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Contract. If any provision of this Contract is declared or found to be 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.

22. Waiver of Liability. The Contractor and the County hereby covenant and agree to waive any and all claims against Barnstable County and the Towns and release Barnstable County and the towns from any liability arising out of the Scope of Services described in the attached "Exhibit A".

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this _____ day of in the year two thousand and fourteen.

FOR THE COUNTY:

BARNSTABLE COUNTY COMMISSIONERS:

Ron Beaty

Leo Cakounes

Mary Pat Flynn

Date

FOR THE CONTRACTOR:

Michael Chohan, pres.

4-10-17

Date

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

Noonan Brothers Petroleum Inc.
415 West Street
W. Bridgewater, MA 02379

THIS AGREEMENT, made this _____ day of _____ 2017 by and between Noonan Brothers Petroleum, Inc. (hereinafter referred to as Contractor), and Mary Pat Flynn, Ron Beaty and William Doherty as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: Barnstable County issued an Invitation for Bids for the Supply and Delivery of Gasoline and Diesel Fuel to Barnstable County and other Political Subdivisions on February 20, 2017.

WHEREAS: The Invitation for Bids was bid in compliance with MA General Law Chapter 30B.

WHEREAS: The vendor is the responsive, responsible bidder offering the lowest price for the County Dredge.

NOW THEREFORE, the County and the Contractor do mutually agree as follows:

1. Employment of Contractor. The County hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. Scope of Services. The Contractor shall perform the scope of services as set forth in Barnstable County's Invitation for Bids dated February 2 for the County Dredge locations only.
3. Time of Performance. Work in connection with the Agreement shall begin July 1, 2017 and continue until June 30, 2018.
4. Payment. The County shall compensate the Contractor for services provided under Scope of Services, \$.12 over the Boston Low over the Reseller Tank Car Boston Low Price as printed in the Journal of Commerce on the day of delivery. Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the County within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each County fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1-June 30) to the County no later than July 31st of the year when the resources were prepared.
5. Termination or Suspension of Contract for Cause. If through any sufficient cause, the Contractor or the County shall fail to fulfill or perform its duties and obligations under this Contract, or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to terminate or suspend this Contract, by giving written notice to the other party of such termination or

suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.

6. Termination for Convenience of County/Town. The County/Town shall have the right to discontinue the work of the Contractor and cancel this contract by written notice to the Contractor of such termination and specifying the effective date of such termination. In the event of such termination or suspension of this Contract, the Contractor shall be entitled to just and equitable compensation for satisfactory work completed, for services performed and for reimbursable expenses necessarily incurred in the performance of this Contract up to and including the date of termination or suspension.

7. Changes. The County may, from time to time, require changes in the Scope of Contractor Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by the County and the Contractor, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

9. Subcontracting. None of the services to be provided by the Contractor pursuant to this Contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the County. No subcontract or delegation shall relieve or discharge the Contractor from any obligation or liability under this Contract except as specifically set forth in the instrument of approval. If this Contract is funded in whole or in part with federal funds, Contractor further agrees to comply with the provisions of the Office of Management and Budget Circular A-110, as amended, with respect to taking affirmative steps to utilize the services of small and minority firms, women's business enterprises and labor surplus area firms. All subcontracts shall be in writing and shall contain provisions which are functionally identical to, and consistent with, the provisions of this Contract. The County shall have the right to obtain a copy of the subcontract upon request.

10. Interest of Members of County and Others. No officer, member or employee of the County, and no member of its governing body of the locality or localities in which the Project is situated or being carried out who exercises any functions or responsibility in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly financially interested or has any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

11. Interest of Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest directly or indirectly which would conflict in any manner or degree with the performance of its services hereunder.

12. Assignability. The Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County thereto; provided, however that claims for money due or to become due the Contractor from the County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. If this contract is funded in whole or in part with

state or federal funds, the state or federal grantor agency, the County or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review and copying of records.

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the County requests to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

15. Publication, Reproduction and Use of Material. No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The County shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Contract.

16. Political Activity Prohibited. None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

17. Anti-Boycott Warranty. During the term of this Contract, neither the Contractor nor any "affiliated company" as hereafter defined, shall 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 by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. Choice of Law. This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District or Superior courts in Barnstable County.

19. Force Majeure. Neither party shall be liable to the other nor be deemed to be in breach of this Contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to: acts of God or the public enemy, wars, fires, floods, epidemics, strikes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. 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 section and, shall indemnify the County against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contract, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements. Not-for-Profit entities that receive federal funds from the County must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

21. Headings, Interpretation and Severability. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Contract. If any provision of this Contract is declared or found to be 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.

22. Waiver of Liability. The Contractor and the county hereby covenant and agree to waive any and all claims against Barnstable County and release Barnstable County from any liability arising out of the Scope of Services described in the attached "Exhibit A".

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this _____ day of _____ in the year Two Thousand and Seventeen.

FOR THE COUNTY:

BARNSTABLE COUNTY COMMISSIONERS:

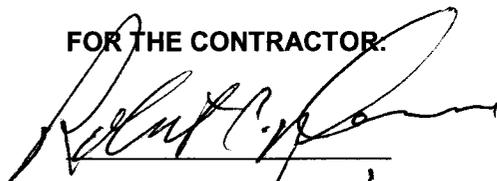
William Doherty

Mary Pat Flynn

Ron Beaty

Date

FOR THE CONTRACTOR:



Date

4/7/17

COUNTY OF BARNSTABLE
PURCHASING

DEPARTMENT OF FINANCE
SUPERIOR COURT HOUSE
P.O. BOX 427
BARNSTABLE, MASSACHUSETTS 02630

Elaine Davis
Chief Procurement Officer

Phone: (508) 375-6637
Fax: (508) 362-4136
Email:
edavis@barnstablecounty.org

March 16, 2017

MEMORANDUM

TO: County Commissioners
FROM: Elaine Davis, Chief Procurement Officer
RE: Notice of Award

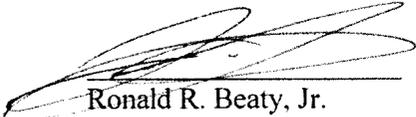
Barnstable County issued a bid for the Supply and Delivery of Gasoline and Diesel Fuel to Barnstable County and other Political Subdivisions. Five bids were received. Please award the bid to the following vendors as the responsive, responsible bidders offering the lowest prices as highlighted on the attached spreadsheet:

Petroleum Traders
Dennis K. Burke Oil
Noonan Brothers Petroleum
Peterson Oil
Diesel Direct

The term of the contract is July 1, 2017 through June 30, 2018. The Towns will enter into their own contracts with the vendors.

Thank you.

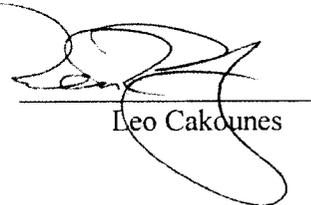
County Commissioners:



Ronald R. Beaty, Jr.



Mary Pat Flynn



Leo Cakounes

03/29/17

Date

GAS/DIESEL BID FY '18					
FIXED PRICE PREMIUM ULTRA LOW SULPHUR DIESEL					
SECTION	Petroleum Traders	Burke	Noonan	Peterson	Diesel Direct
Section 1: Barnstable Dept. of Public Works	No bid	No bid	1.787	1.85	1.7229
Section 3: Barnstable Golf Courses	No bid	No bid	1.888	1.90	1.7506
Section 4: Barnstable Municipal Airport	No bid	No bid	1.787	1.90	1.7506
Section 5: Barnstable School Department	No bid	No bid	1.787	1.85	1.7125
Section 7: Town of Bourne, a, b	No bid	1.8274	1.787	1.87	1.893
Section 7: Town of Bourne, d,e, ISWM	No bid	No bid	1.895	No bid	1.9719
Section 8: Town of Brewster	No bid	1.9174	1.787	1.90	1.893
Section 10: Town of Chatham	No bid	1.8574	1.787	1.88	1.957
Section 11: Town of Dennis	No bid	1.8574	1.797	1.88	1.7648
Section 14: Town of Eastham	No bid	1.8674	1.777	1.88	1.893
Section 15: Town of Falmouth	1.7992	1.7374	1.744	1.83	1.9598
Section 16: Town of Harwich	No bid	1.8674	1.764	1.82	1.7648
Section 18: Town of Mashpee	No bid	1.8674	1.754	1.90	1.7506
Section 19: Town of Orleans	No bid	1.8674	1.764	1.85	1.893
Section 20: Town of Sandwich	No bid	1.8674	1.744	1.85	1.893
Section 22: Upper Cape Regional Technical	No bid	1.874	1.754	1.85	1.893
Section 23: Town of Wellfleet	No bid	No bid	No bid	1.905	1.9719

OEP ULS DIESEL					
SECTION	Pet Traders	Burke	Noonan	Peterson	Diesel Direct
Section 6: Barnstable County Dredge	No bid	No Bid	0.12	No bid	.2544
Section 9: Centerville/Osterville/MM Fire	No bid	.1594	0.12	.095	.1355
Section 12: Dennis Water	No bid	.2268	0.15	.095	.1023
Section 13: Dennis Yarmouth Regional School District	No bid	.1499	0.084	.0575	.0933
Section 17: Hyannis Fire District	No bid	No bid	0.11	.095	.0881
Section 21: Town of Truro	No bid	.2664	0.17	.27	.1355
Section 24: Town of Yarmouth	No bid	.1568	0.084	.0575	.1023

FIXED PRICE REGULAR Gasoline					
SECTION	Petroleum Traders	Burke	Noonan	Peterson	Diesel Direct
Section 1: Barnstable Dept. of Public Works	No bid	No bid	1.667	1.815	No bid
Section 2: Barnstable Police Department	No bid	No bid	1.667	1.815	
Section 3: Barnstable Golf Courses	No bid	No bid	1.747	No bid	
Section 4: Barnstable Municipal Airport	No bid	No bid	1.687	1.865	
Section 5: Barnstable School Department	No bid	No bid	1.687	No bid	
Section 7: Town of Bourne, locations a,b	No bid	1.7299	1.677	1.815	
Section 8: Town of Brewster	No bid	1.7599	1.687	No bid	
Section 10: Town of Chatham (87 Octane)	No bid	1.7799	1.677	No bid	
Section 11: Town of Dennis	No bid	1.7799	1.697	No bid	
Section 14: Town of Eastham	No bid	1.7799	1.667	1.905	
Section 15: Town of Falmouth	1.6094	1.6599	1.644	1.775	
Section 16: Town of Harwich	No bid	1.7799	1.667	1.815	
Section 18: Town of Mashpee	No bid	1.7099	1.644	1.815	
Section 19: Town of Orleans	No bid	1.7799	1.667	1.83	
Section 20: Town of Sandwich	1.6185	1.7099	1.644	1.815	
Section 22: Upper Cape Regional Technical	No bid	1.7399	1.667	1.815	

OEP REGULAR GASOLINE					
SECTION	Petroleum Traders	Burke	Noonan	Peterson	Diesel Direct
Section 9: COMM	No bid	.1992	.12	No bid	.1355
Section 21: Town of Truro	No bid	.2664	.15	No bid	.1355
Section 24: Town of Yarmouth	.0896	.0925	.064	.085	.1125

OEP MID GRADE 87 OCTANE					
SECTION	Petroleum Traders	Burke	Noonan	Peterson	Diesel Direct
Section 17: Hyannis Fire	No bid	<u>No bid</u>	<u>.11</u>	<u>No bid</u>	<u>.1355</u>

SUBORDINATION OF MORTGAGE

WHEREAS, Ann M. Minor the owner of certain real estate located at 478 Pitcher's Way, East Hyannis, MA, Barnstable County, Massachusetts and

WHEREAS, Barnstable County is the holder of a mortgage on said premises which mortgage is dated **July 31, 2002** and registered in **Barnstable County Registry of Deeds, Book #18300 Page #36** in the original amount of **\$7,350.00** and

WHEREAS, Ann M. Minor has received commitment for mortgage financing from **Cape Cod Five Cents Savings Bank** in the amount of **\$142,000.00**.

NOW THEREFORE, in consideration of making of said mortgage loan in the amount of **\$142,000.00** and the sum of One (\$1.00) Dollar, the receipt of which is hereby acknowledged, and in order to avoid the inconvenience and expense of releasing and renewing the outstanding mortgage, the undersigned do hereby consent to the execution of the new first mortgage to **Cape Cod Five Cents Savings Bank** and do hereby, for value received, waive any and all priority of lien or right under or by virtue of the mortgage in **Barnstable County Registry of Deeds, Book #18300 Page #36** and do hereby covenant, agree and declare that said mortgage registered in **Barnstable County Registry of Deeds, Book #18300 Page #36** shall be in all respects subject to and subordinate to the new mortgage for **\$142,000.00** which is registered herewith at the Barnstable County Registry of Deeds.

IN WITNESS WHEREOF, Barnstable County has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Leo Cakounes, Mary Pat Flynn, and Ron Beaty hereto duly authorized, this **19th day of April, 2017**. The execution of these presents by two Commissioners constitutes a quorum of the Barnstable County Commissioners.

ITS: Barnstable County Commissioners

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

April 19, 2017

On this 19th day of April 2017, before me, the undersigned notary public, personally appeared _____

_____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY REGISTRY OF DEEDS
P.O. BOX 368
BARNSTABLE, MASSACHUSETTS 02630
Telephone 508-362-7733
Fax 508-362-5065

John F. Meade
Register

Memorandum of Contract Agreement

The County of Barnstable and the Union, UAW Local 1596, agree to extend the contract between said parties for a term of two (2) years. Said term will commence on July 1, 2016 and expire on June 30, 2018. The agreement will be subject to the following terms:

- 1) The Union agrees to accept a cost of living increase (COLA) pursuant to the following terms: A COLA of 2% for FY2017 retroactive to July 1, 2016 for all union employees on the payroll and working at the time the contract is approved and ratified by the County Commissioners
- 2) In FY2018 the union agrees to accept whatever COLA that is offered to non-Union County employees, effective when and if it is offered for that fiscal year and applicable to employees on the payroll and working at the time it may be awarded.
- 3) Union Steward agrees to work with non-Union registry personnel to “clean up” language in current contract. Including, but not limited to:
 - a. the removal of obsolete job descriptions.
 - b. Deleting references to terms and conditions that no longer affect the current economic package offered in the agreement. (See article XXVI etc.)
 - c. Eliminating and reorganizing portions of the appendix of the agreement. Replacing training schedules with ones agreed to after execution of prior agreement.

Dated this ____ day of April 2017.

For the County

Leo Cakounes, Chair

Mary Pat Flynn, Vice Chair

Ronald Beaty, Comm.

COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY REGISTRY OF DEEDS
P.O. BOX 368
BARNSTABLE, MASSACHUSETTS 02630
Telephone 508-362-7733
Fax 508-362- 5065

John F. Meade
Register

David B. Murphy
Assistant Register
Kathleen J. Grenier
Executive Administrative Assistant

To: Justyna Marczak, Asst. HR Director
From: David B. Murphy
Date: April 11, 2017
Re: Union Contract Extension

Dear Justyna,

Please see that attached signed "Memoranda of Agreement" between the County and UAW Local 1596 extending our contract for FY 2017 & FY 2018. I believe the Commissioners need to vote to ratify the terms of the agreement. Could you take the steps necessary to see that it is on the next available agenda for a vote? I would like to get the Registry staff the 2% COLA and retro checks as soon as possible.

If you have any questions or concerns please feel free to contact me.

Thanks,



David B. Murphy, Esq.
Asst. Register

COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE COUNTY REGISTRY OF DEEDS
P.O. BOX 368
BARNSTABLE, MASSACHUSETTS 02630
Telephone 508-362-7733
Fax 508-362-5065

John F. Meade
Register

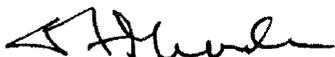
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 - a. the removal of obsolete job descriptions.
 - b. Deleting references to terms and conditions that no longer affect the current economic package offered in the agreement. (See article XXVI etc.)
 - c. Eliminating and reorganizing portions of the appendix of the agreement. Replacing training schedules with ones agreed to after execution of prior agreement.

Dated this 10 day of April 2017.

For the County



John F. Meade
Register of Deeds

For Local 1596



Fred Sarkinen
Union Steward Local 1596



B A R N S T A B L E C O U N T Y

Resource Development and AmeriCorps Cape Cod

P.O. Box 427
Barnstable, MA 02630
Julie Ferguson



(508) 375-6879 phone

DATE: April 10, 2017

TO: County Commissioners

FROM: Julie Ferguson

SUBJECT: New Fund Memo for District Attorney Grant to Human Services

Barnstable County and the Department of Human Services has received a new grant from the Cape and Islands District Attorney's office.

Please sign below so that the Finance Department may establish a new fund for this grant. The Contract is attached for your reference. This funding is for MY CHOICE MATTERS -DRUG PREVENTION.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julie Ferguson".

Julie Ferguson

Leo Cakounes
County Commissioner

Mary Pat Flynn
County Commissioner

Ron Beaty
County Commissioner

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the [Executive Office for Administration and Finance \(ANF\)](#), the [Office of the Comptroller \(CTR\)](#) and the [Operational Services Division \(OSD\)](#) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: Barnstable County Department of Human Service (and d/b/a): Same	COMMONWEALTH DEPARTMENT NAME: District Attorney Cape & Islands MMARS Department Code: CPI
Legal Address: (W-9, W-4,T&C): P.O. Box 427, Barnstable, MA 02630	Business Mailing Address: 3231 Main Street, PO Box 455, Barnstable, MA 02630
Contract Manager: Beth Albert	Billing Address (if different): Same
E-Mail: balbert@barnstablecounty.org	Contract Manager: Kelli-ann McCabe
Phone: 508-375-6628 Fax: 508-362-0290	E-Mail: kelli-ann.mccabe@massmail.state.ma.us
Contractor Vendor Code: VC6000194979	Phone: 508-362-8113 Fax: 508-362-8221
Vendor Code Address ID (e.g. "AD001"): AD001. (Note: The Address Id Must be set up for EFT payments.)	MMARS Doc ID(s): CT-CPI-PP1FY17BARNSTABLECTY RFR/Procurement or Other ID Number: CT PP1 0340-0203
<p align="center"><input checked="" type="checkbox"/> NEW CONTRACT</p> PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input checked="" type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input type="checkbox"/> Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)	<p align="center"><input type="checkbox"/> CONTRACT AMENDMENT</p> Enter Current Contract End Date Prior to Amendment: _____, 20____. Enter Amendment Amount: \$ _____, (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services	
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or new Total if Contract is being amended). \$6,250.00.	
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___% PPD; Payment issued within 15 days ___% PPD; Payment issued within 20 days ___% PPD; Payment issued within 30 days ___% PPD. If PPD percentages are left blank, identify reason: ___agree to standard 45 day cycle ___ statutory/legal or Ready Payments (G.L. c. 29, § 23A); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy .)	
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) My Choice Matters. Substance Abuse Prevention Campaign.	
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input checked="" type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 3. were incurred as of _____, a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.	
CONTRACT END DATE: Contract performance shall terminate as of 6/30, 2017 , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.	
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions , this Standard Contract Form including the Instructions and Contractor Certifications , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.	
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Jack Yunits</u> Print Title: <u>County Administrator.</u>	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Michael O'Keefe</u> Print Title: <u>District Attorney</u>

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

CONTRACTOR LEGAL NAME (AND D/B/A): Enter the Full Legal Name of the Contractor's business as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#). If Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

Contractor Legal Address: Enter the Legal Address of the Contractor as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#), which must match the legal address on the 1099 table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

Contractor Contract Manager: Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on [COMMBUYS](#), the name of the Contract Manager must be included in the Contract on COMMBUYS.

Contractor E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

Contractor Vendor Code: The Department must enter the [MMARS Vendor Code](#) assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned. The Department is responsible under the [Vendor File and W-9s Policy](#) for verifying with authorized signatories of the Contractor, as part of contract execution, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the state accounting system.

Vendor Code Address ID: (e.g., "AD001") The Department must enter the MMARS Vendor Code Address Id identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the [Bill Paying](#) and [Vendor File and W-9](#) policies.

COMMONWEALTH DEPARTMENT NAME: Enter the full Department name with the authority to obligate funds encumbered for the Contract.

Commonwealth MMARS Alpha Department Code: Enter the [three \(3\) letter MMARS Code](#) assigned to this Commonwealth Department in the state accounting system.

Department Business Mailing Address: Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

Department Billing Address: Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

Department Contract Manager: Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

Department E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

MMARS Document ID(s): Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

RFR/Procurement or Other ID Number or Name: Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

PROCUREMENT OR EXCEPTION TYPE: Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See [State Finance Law and General Requirements](#), [Acquisition Policy and Fixed Assets](#), the [Commodities and Services Policy](#) and the [Procurement Information Center \(Department Contract Guidance\)](#) for details.

Statewide Contract (OSD or an OSD-designated Department). Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

Collective Purchase approved by OSD. Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

Department Contract Procurement. Check this option for a Department procurement including state grants and federal sub-grants under [815 CMR 2.00](#) and [State Grants and Federal Subgrants Policy](#), Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

Emergency Contract. Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

Contract Employee. Check this option when the Department requires the performance of an [Individual Contractor](#), and when the planned Contract performance with an Individual has been classified using the [Employment Status Form](#) (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) "See [Amendments, Suspensions, and Termination Policy](#)."

Enter Current Contract End Date: Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

Enter Amendment Amount: Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

AMENDMENT TYPE: Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. **Amendment to Scope or Budget.** Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#), incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

Interim Contracts. Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

Contract Employee. Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly

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posted.

COMMONWEALTH TERMS AND CONDITIONS

Identify which [Commonwealth Terms and Conditions](#) the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See [Vendor File and W-9s Policy](#).

COMPENSATION

Identify if the Contract is a **Rate Contract** (with no stated Maximum Obligation) or a **Maximum Obligation Contract** (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as [available and encumbered](#) prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth [Bill Paying Policy](#) for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under [G.L. c. 29, s. 23A](#)). See [Prompt Pay Discounts Policy](#). PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments ([G.L. c. 29, § 23A](#)); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for *all* payments under a Contract. Initial grant or contract payments may be accelerated for the *first* invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the [Expenditure Classification Handbook](#)) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the [Effective Date](#) (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default [Effective Date](#) (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the [Settlement and Release Form](#) when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the [Effective Date](#) for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the [Effective Date](#) under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to [G.L. c.4, §.9](#).

CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here. A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to [G.L. c.4, §.9](#).

CERTIFICATIONS AND EXECUTION

See [Department Head Signature Authorization Policy](#) and the [Contractor Authorized Signatory Listing](#) for policies on Contractor and Department signatures.

Authorizing Signature for Contractor/Date: The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Contract Start Date](#)". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable.** Proof of Contractor signature authorization on a [Contractor Authorized Signatory Listing](#) may be required by the Department if not already on file.

Contractor Name /Title: The Contractor Authorized Signatory's name and title must appear legibly as it appears on the [Contractor Authorized Signatory Listing](#).

Authorizing Signature For Commonwealth/Date: The [Authorized Department Signatory](#) must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Start Date](#)". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See [Department Head Signature Authorization](#). The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an [approved Interdepartmental Service Agreement \(ISA\)](#). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

Department Name /Title: Enter the Authorized Signatory's name and title legibly.

CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

Commonwealth and Contractor Ownership Rights. The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

Qualifications. The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the [Secretary of State's website](#) as licensed to do business in Massachusetts, as required by law.

Business Ethics and Fraud, Waste and Abuse Prevention. The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

Collusion. The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

Public Records and Access The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under [Executive Order 195](#) and [G.L. c. 11, s.12](#) seven (7) years beginning on the first day after the final payment

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under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under [950 C.M.R. 32.00](#).

Debarment. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, [Executive Order 1417](#); [G.L. c. 29, s. 29F](#); [G.L. c. 30, § 39R](#); [G.L. c. 149, § 27C](#); [G.L. c. 149, § 44C](#); [G.L. c. 149, § 148B](#) and [G.L. c. 152, s. 25C](#).

Applicable Laws. The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable [Massachusetts General Laws](#); the Official [Code of Massachusetts Regulations](#); [Code of Massachusetts Regulations](#) (unofficial); [801 CMR 21.00](#) (Procurement of Commodity and Service Procurements, Including Human and Social Services); [815 CMR 2.00](#) (Grants and Subsidies); [808 CMR 1.00](#) (Compliance, Reporting and Auditing for Human And Social Services); [AICPA Standards](#); confidentiality of Department records under [G.L. c. 66A](#); and the [Massachusetts Constitution Article XVIII](#) if applicable.

Invoices. The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth [Bill Paying Policy](#). Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15th for performance made and received (goods delivered, services completed) prior to June 30th, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15th or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

Payments Subject To Appropriation. Pursuant to [G.L. c. 29 § 26, § 27 and § 29](#), Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by [G.L. c. 29, § 9C](#). A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

Intercept. Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to [G.L. c. 7A, s. 3](#) and [815 CMR 9.00](#). Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

Tax Law Compliance. The Contractor certifies under the pains and penalties of perjury tax compliance with [Federal tax laws](#); [state tax laws](#) including but not limited to [G.L. c. 62C](#); [G.L. c. 62C, s. 49A](#); compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under [G.L. c. 62E](#), withholding and remitting [child support](#) including [G.L. c. 119A, s. 12](#); [TIR 05-11](#); [New Independent Contractor Provisions](#) and applicable [TIRs](#).

Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts. The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing at **least 45 days prior** to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is **any risk** to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal

services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

Federal Anti-Lobbying and Other Federal Requirements. If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including [31 USC 1352](#); [other federal requirements](#); [Executive Order 11246](#); [Air Pollution Act](#); [Federal Water Pollution Control Act](#) and [Federal Employment Laws](#).

Protection of Personal Data and Information. The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).

Corporate and Business Filings and Reports. The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the [Secretary of the Commonwealth](#), the [Office of the Attorney General](#) or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

Employer Requirements. Contractors that are employers certify compliance with applicable state and [federal employment laws](#) or regulations, including but not limited to [G.L. c. 5, s. 1](#) (Prevailing Wages for Printing and Distribution of Public Documents); [G.L. c. 7, s. 22](#) (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); [minimum wages and prevailing wage programs and payments](#); [unemployment insurance](#) and contributions; [workers' compensation and insurance](#), [child labor laws](#), [AGO fair labor practices](#); [G.L. c. 149](#) (Labor and Industries); [G.L. c. 150A](#) (Labor Relations); [G.L. c. 151 and 455 CMR 2.00 \(Minimum Fair Wages\)](#); [G.L. c. 151A](#) (Employment and Training); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); [G.L. c. 152](#) (Workers' Compensation); [G.L. c. 153](#) (Liability for Injuries); [29 USC c. 8](#) (Federal Fair Labor Standards); [29 USC c. 28](#) and the [Federal Family and Medical Leave Act](#).

Federal And State Laws And Regulations Prohibiting Discrimination including but not limited to the [Federal Equal Employment Opportunity \(EEO\) Laws](#) the [Americans with Disabilities Act](#); [42 U.S.C. Sec. 12,101, et seq.](#), the [Rehabilitation Act](#), [29 USC c. 16 s. 794](#); [29 USC c. 16, s. 701](#); [29 USC c. 14, 623](#); the [42 USC c. 45](#); (Federal Fair Housing Act); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); the Public Accommodations Law [G.L. c. 272, s. 92A](#); [G.L. c. 272, s. 98](#) and 98A, [Massachusetts Constitution Article CXIV](#) and [G.L. c. 93, s. 103](#); [47 USC c. 5, sc. II, Part II, s. 255](#) (Telecommunication Act; Chapter 149, [Section 105D](#), [G.L. c. 151C](#), [G.L. c. 272](#), [Section 92A](#), [Section 98](#) and [Section 98A](#), and [G.L. c. 111](#), [Section 199A](#), and [Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities](#), and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also [MCAD](#) and [MCAD links and Resources](#).

Small Business Purchasing Program (SBPP). A Contractor may be eligible to participate in the SBPP, created pursuant to [Executive Order 523](#), if qualified through the SBPP COMMBUYS subscription process at: [www.commbuys.com](#) and with acceptance of the terms of the SBPP participation agreement.

Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized). The [Information Technology Mandatory Specifications](#) and the [IT Acquisition Accessibility Contract Language](#) are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the [Expenditure Classification Handbook](#) or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term

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"other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

Northern Ireland Certification. Pursuant to [G.L. c. 7 s. 22C](#) for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

Pandemic, Disaster or Emergency Performance. In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

Consultant Contractor Certifications (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to [G.L. Chapter 29, s. 29A](#)). Contractors must make required disclosures as part of the RFR Response or using the [Consultant Contractor Mandatory Submission Form](#).

Attorneys. Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to [G.L. c. 30, s. 65](#), and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

Subcontractor Performance. The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors. .

EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable [Executive Orders](#) (see also [Massachusetts Executive Orders](#)), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

Executive Order 481. [Prohibiting the Use of Undocumented Workers on State Contracts.](#) For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

Executive Order 130. [Anti-Boycott.](#) The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See [IRC § 999\(b\)\(3\)-\(4\)](#) and [IRS Audit Guidelines Boycotts](#)) or engages in conduct declared to be unlawful by [G.L. c. 151E, s. 2](#). A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth 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, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

Executive Order 346. [Hiring of State Employees By State Contractors](#) Contractor certifies compliance with both the conflict of interest law [G.L. c. 268A specifically s. 5 \(f\)](#) and this order; and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed

to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

Executive Order 444. [Disclosure of Family Relationships With Other State Employees.](#) Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

Executive Order 504. [Regarding the Security and Confidentiality of Personal Information.](#) For all Contracts involving the Contractor's access to personal information, as defined in [G.L. c. 93H](#), and personal data, as defined in [G.L. c. 66A](#), owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth [Information Technology Division's Security Policies](#). Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "[Security Policies](#)" (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"); (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the [Commonwealth's Terms and Conditions](#), withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under [G.L. c. 214, § 3B](#) for violations under M.G.L. c. 66A.

Executive Orders 523, 524 and 526. Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes [Executive Order 478](#)). [Executive Order 524](#) (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390). [Executive Order 523](#) (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.