

BARNSTABLE COUNTY
In the Year Two Thousand and Seventeen
Ordinance 17- 04

Adopting an Operating Budget for the Fiscal Year 2018, beginning July 1, 2017 and ending June 30, 2018. The Cape Cod Regional Government, known as Barnstable County hereby ordains;

BARNSTABLE COUNTY hereby ordains:

SECTION 1. A budget consisting of the appropriations listed in SECTION 2 below be adopted for the Fiscal Year July 1, 2017 through June 30, 2018.

SECTION 2. Appropriations for said budget are as follows:

GENERAL GOVERNMENT

County Commissioners	\$ 555,083
Assembly of Delegates	\$ 347,569
Resource Development Office	\$ 758,566
Information Technology	\$1,273,486
Department of Finance	<u>\$ 821,709</u>

Total General Government **\$3,724,913**

COUNTY SERVICES

Department of Facilities	\$2,302,888
Cooperative Extension	\$2,112,690
Registry of Deeds	\$2,659,154
County Dredge	<u>\$1,887,444</u>

Total County Services **\$8,962,176**

HEALTH & HUMAN SERVICES

Health & Environment Department	\$4,165,430
Human Services	\$1,085,298
Children's Cove	<u>\$ 725,866</u>

Total Health & Human Services **\$5,976,594**

PUBLIC SAFETY

Sheriff's Dept. Retirement Contribution	\$1,404,969
Fire Rescue Training Academy	<u>\$ 606,915</u>

Total Public Safety **\$2,011,884**

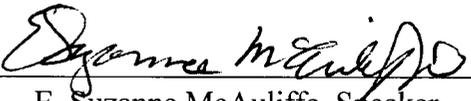
PLANNING & DEVELOPMENT	
Cape Cod Commission	<u>\$5,417,309</u>
Total Planning & Development	\$5,417,309
SHARED COSTS & DEBT SERVICE	
Fringe Benefits	\$1,161,044
Miscellaneous & Contingency	\$ 507,500
Debt Service	\$ 750,000
Total Shared Costs & Debt Service	<u>\$2,418,544</u>
TOTAL FY 2018 BUDGET	\$28,542,920

SECTION 3. No appropriation listed above may be exceeded without appropriate ordinance action to amend budget.

SECTION 4. The public notice for this proposed ordinance was published at least 48 hours prior to the February 8, 2017 meeting of the Board of Regional Commissioners.

SECTION 5. This ordinance shall take effect July 1, 2017.

Adopted by the Assembly of Delegates on May 3, 2017



E. Suzanne McAuliffe, Speaker
Assembly of Delegates

Approved by the Board of County Commissioners _____ (date), at _____ (time).

Leo G. Cakounes
Chairman

Mary Pat Flynn
Vice Chairman

Ronald Beaty
Commissioner

BARNSTABLE COUNTY
In the Year Two Thousand Seventeen

Ordinance 17-05

To authorize the County to purchase capital equipment, and implement capital improvements for use in conducting the business of the County and to borrow money to pay, therefore;

The Cape Cod regional government, known as Barnstable County hereby ordains:

The Board of Commissioners is hereby authorized to purchase capital equipment, and implement capital improvements for use in conducting the business of the County as follows:

Section 1.

- a. Purchase the following equipment for the Facilities Department for use in conducting business specific to the operations and services of the Barnstable County Commissioners:

<u>Item</u>	<u>Cost</u>	<u>Finance Account Number</u>
Replacement of Vehicle:	\$35,000.00	0053028 5837 2018
Total Cost	\$35,000.00	

- b. Implement the following capital improvements for the Facilities Department for use in conducting business specific to the operations and services of the Barnstable County Commissioners:

<u>Item</u>	<u>Cost</u>	<u>Finance Account Number</u>
Superior Courthouse - Roof Replacement	\$360,000.00	0052038 5801 2018
Superior Courthouse – Exterior Renovations	\$210,000.00	0052038 5807 2018
First District – Electrical Improvements	\$45,000.00	0051118 5811 2018
Total Cost:	\$615,000.00	

The total cost of equipment, improvements and projects equals (=) \$650,000.00.

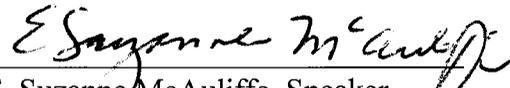
Section 2.

For the purposes set forth in Section 1, the County Treasurer, with the approval of the County Commissioners, may borrow from time to time, on the credit of the County, such sums as may be necessary, and may issue bonds and or notes of the County therefore;

Section 3.

All bonds or notes issued pursuant to this proposed ordinance shall be signed by the County Treasurer and countersigned by a majority of the County Commissioners. The County may sell securities at public or private sale upon such terms and conditions as the County Commissioners may deem proper but not at prices of less than par value. Indebtedness incurred under this proposed ordinance shall, except as herein provided, be subject to Chapter 35 of the Massachusetts General laws.

Adopted by the Assembly of Delegates on May 3, 2017



E. Suzanne McAuliffe, Speaker
Assembly of Delegates

Approved by the Board of County Commissioners _____ (date), at _____ (time).

Leo G. Cakounes
Chairman

Mary Pat Flynn
Vice Chairman

Ronald Beaty
Commissioner

BARNSTABLE COUNTY

In the Year Two Thousand Seventeen

Ordinance 17-06

The Cape Cod regional government, known as Barnstable County hereby ordains;

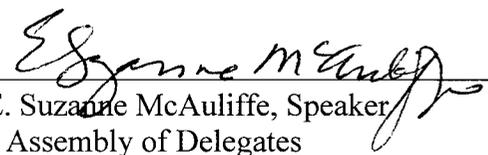
To add to the County's operating budget for Fiscal Year 2017, as enacted in Ordinance No. 16-06, by making supplemental appropriations for the Fiscal Year two-thousand and seventeen.

Section 1.

Based on a revised estimate of income of Barnstable County for the current fiscal year, made as of March 31, 2016, the sum set forth in section one, for the purpose set forth therein and subject to the conditions set forth in sections two through four of Barnstable County Ordinance 16-06, are hereby appropriated from the Statutory Reserve Fund as a supplemental appropriation for Barnstable County for the fiscal year ending June thirtieth, two thousand and seventeen. Said funds are to be expended for the ongoing costs related to the Fire Training Academy remediation. Said funds shall be derived from the Statutory Reserve Fund for FY2017.

<u>Budget #</u>	<u>Sub-Program</u>	<u>\$ Amount</u>
0019107 5790	General Fund – Transfer Out	
	Into Special Revenue Fund for Contractual Services	\$100,000
	TOTAL SUPPLEMENTAL APPROPRIATION	\$100,000

Adopted by the Assembly of Delegates on May 3, 2017


E. Suzanne McAuliffe, Speaker
Assembly of Delegates

Approved by the Board of County Commissioners _____ (date), at _____ (time).

Leo G. Cakounes
Chairman

Mary Pat Flynn
Vice Chairman

Ronald Beaty
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: County of Barnstable (and d/b/a): Cape Cod Commission	COMMONWEALTH DEPARTMENT NAME: Executive Office of Housing and Economic Development MMARS Department Code: EED
Legal Address: (W-9, W-4,T&C): 3225 Main Street, Barnstable, MA 02630	Business Mailing Address: One Ashburton Place, Room 2101, Boston, MA 02108
Contract Manager: Kristy Senatori	Billing Address (if different): same as
E-Mail: ksenatori@capecodcommission.org	Contract Manager: Robin Pezzone
Phone: 508-362-3828 Fax:	E-Mail: robin.pezzone@state.ma.us
Contractor Vendor Code: VC6000194979	Phone: 617-788-3627 Fax: 617-788-3605
Vendor Code Address ID (e.g. "AD001"): AD001 (Note: The Address ID must be set up for EFT payments.)	MMARS Doc ID(s): 2016SeaportCapeC RFR/Procurement or Other ID Number: Award Round 2015
<p style="text-align: center;"><u> </u> NEW CONTRACT</p> PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input 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 <u>815 CMR 2.00</u>) (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 <u>Employment Status Form</u> , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)	<p style="text-align: center;"><u> </u> x CONTRACT AMENDMENT</p> Enter Current Contract End Date <u>Prior</u> to Amendment: June 30 _____, 20 17 _____. Enter Amendment Amount: \$ <u>54,000</u> (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input checked="" 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). \$ <u>234,000</u>	
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 <u> </u> % PPD; Payment issued within 15 days <u> </u> % PPD; Payment issued within 20 days <u> </u> % PPD; Payment issued within 30 days <u> </u> % PPD. If PPD percentages are left blank, identify reason: <input checked="" type="checkbox"/> agree to standard 45 day cycle <input type="checkbox"/> statutory/legal or Ready Payments (<u>G.L. c. 29, § 23A</u>); <input type="checkbox"/> 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.) Seaport Economic Council grant funding for the Cape Cod Blue Economy in accordance with all information contained in Attachment A and Exhibits A - D. An amendment is necessary for more time to complete data analysis and develop a final report.	
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input type="checkbox"/> 1. may be incurred as of the <u>Effective Date</u> (latest signature date below) and no obligations have been incurred prior to the <u>Effective Date</u> . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date LATER than the <u>Effective Date</u> below and no obligations have been incurred prior to the <u>Effective Date</u> . <input type="checkbox"/> 3. were incurred as of _____, 20____, a date PRIOR to the <u>Effective Date</u> below, and the parties agree that payments for any obligations incurred prior to the <u>Effective Date</u> 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 <u>June 30</u> , 20 <u>18</u> , 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 <u>Contractor Certifications</u> (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 <u>Commonwealth Terms and Conditions</u> , this Standard Contract Form including the <u>Instructions and Contractor Certifications</u> , 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 <u>801 CMR 21.07</u> , 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>Leo Cakounes, Mary Pat Flynn, Ronald Beaty</u> Print Title: <u>Barnstable County Commissioners</u>	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: _____ Print Title: _____

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 10991 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 Comm-PASS, the Contract Manager must be listed on the Vendor Section tab.

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

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



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 147; 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 SmartBid subscription process at: www.comm-pass.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

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Commonwealth's ability to join the contractor as a third party defendant. Further, the term "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.

**ATTACHMENT A
ADDITIONAL TERMS AND CONDITIONS**

**ARTICLE I
Agreement**

THIS AGREEMENT, by and among the Massachusetts Executive Office of Housing and Economic Development of the Commonwealth of Massachusetts (hereinafter referred to as "EOHED") and the County of Barnstable (hereinafter referred to as "Public Entity"), jointly referred to as "The Parties", is dated effective as of _____, 2017 and comprises the following:

1. The COMMONWEALTH OF MASSACHUSETTS STANDARD CONTRACT FORM,
2. The COMMONWEALTH TERMS AND CONDITIONS,
3. this Attachment A, "Additional Terms and Conditions",
4. Exhibit A, "Grant Application",
5. Exhibit B, "Request for Payment Cover Sheet",
6. Exhibit C, "Public Entity Quarterly Reporting Form",
7. Exhibit D, "Request for Amendment Form",
8. Exhibit E, "Project Closeout Certification Form", and
9. Attachment B, Project Site Plan

These documents are referred to collectively as the "Contract".

**ARTICLE II
Definitions**

The following capitalized terms used in the Contract shall have the respective meanings ascribed to them below:

"Contract" shall mean the documents described in Article I in their entirety, as they may be amended, supplemented, or restated from time to time.

"Coordinator" shall mean the Seaport Economic Council Program Coordinator.

"Grant Application" shall mean the application submitted by the Public Entity to the Seaport Economic Council Program, attached as Exhibit A to the Contract.

"Grant Funds" shall mean the funds disbursed by EOHED to the Public Entity pursuant to the terms and conditions of the Contract.

"Seaport Economic Council" shall mean the economic development grant program authorized by Executive Order 564, and further described in the Seaport Economic

Council Program Guidelines promulgated by the Secretary, as such Guidelines may be modified or updated from time to time.

“Monetary Penalties” shall mean the full recoupment by EOHED of funds paid to Public Entity under the Contract and recovery of all Commonwealth administrative costs and legal fees related to the Contract, including enforcement thereof.

“Project” shall have the meaning set forth in Article VII.A.

“Project Site”, also referred to herein as the “Site”, shall mean the land and appurtenant easements, if any, identified in Section VII.A hereof and shown on the plan attached as Attachment B.

“Secretary” shall mean the Secretariat of the Executive Office of Housing and Economic Development of the Commonwealth of Massachusetts.

“Total Maximum Obligation” shall mean a sum of money not to exceed \$234,000 Dollars.

ARTICLE III

Purpose

The purpose of the Contract is to identify the roles, responsibilities, and obligations of each party as they relate to the implementation of the Seaport Economic Council Program for the Project. The Contract sets forth the parties’ mutual intentions and understandings. All Parties agree to devote the necessary resources and to work in good faith to achieve the objectives contemplated herein.

ARTICLE IV

Grant Administration

A. EOHED Project Management.

The Coordinator shall oversee the Seaport Economic Council Program on behalf of the Secretary.

B. Payment of Grant Funds.

EOHED shall disburse funds to the Public Entity in an aggregate amount not to exceed the Total Maximum Obligation within forty-five (45) days after receipt of invoices therefor, accompanied by the cover sheet form provided at Exhibit B, from the Public Entity, subject to the following terms and conditions.

1. Invoices for actual expenses should be submitted for reimbursement on a monthly basis by the 15th of the following month. Reimbursement shall be only for work completed and/or items purchased. The Coordinator may

withhold approval of an invoice based on the insufficiency of the report or the need for further verification. The Coordinator will promptly notify the Public Entity of any disapproved invoice and provide adequate time for correction. With prior authorization from the Coordinator, the Public Entity may deviate from or suspend the Reimbursement Schedule.

2. In instances where payment is requested prior to funds being disbursed by the grantee, documentation of payment by the grantee to its contractors must be submitted to the appropriate EOHEd grant manager within 60 days of receipt of funds from EOHEd. Appropriate forms of verification of payment are copies of issued checks, or ledger statements from the grantees accounting system demonstrating payment, including payment numbers, amounts, and vendor paid to and date the check/EFT was processed.
3. EOHEd will set aside 5% of the total grant award as retainage until the Project (or the portion of the Project completed with Grant Funds) is demonstrated to be complete. The 5% will be deducted from the final invoice and will be paid promptly upon demonstration that the Project has been completed.
4. In order to be reimbursed for expenditures, the Public Entity is required to obligate funds by June 30 of the fiscal year (July 1 through June 30) in which the expenditure has been made, and to submit invoices by the immediately following August 5th. **Late invoices from the Public Entity will not be accepted for payment by EOHEd.** A request to carryover funds from one fiscal year to the next shall not alter the June 30 and August 5 obligation and invoicing deadlines set forth in this paragraph for expenditures made in any given fiscal year.

C. Use of Grant Funds.

1. Approved Project Expenses. Under the scope and purpose of the Contract, EOHEd authorizes the Public Entity to distribute Grant Funds consistent with the terms and conditions of the Contract in furtherance with the goals of the Project. EOHEd shall provide Grant Funds up to the Total Maximum Obligation to the Public Entity to pay for costs incurred to complete the Project as follows:

Cape Cod Blue Economy

Specific conditions on funding and drawdown schedule are set forth in Article VII hereof.

D. General Conditions of Funding

1. Verification of Representations. Funding is contingent upon satisfactory verification of all Project information and representations contained in the Grant Application. Determinations of such verification shall be made in the Secretary's sole discretion. The Public Entity is responsible for providing to the Secretary such

information and documentation that the Secretary deems necessary for such determination.

2. No Obligation to Increase Budget. EOHED has no obligation to increase or reprogram the Grant Funds for any reason, including, but not limited to, a change in the Project's budget. It is the sole responsibility of the Public Entity to cover any and all cost overruns and secure any and all additional funding necessary for the Project.

3. No Arbitrage. For funds that are received on a cost reimbursement, for which the Public Entity invoices for the costs of performance when rendered, and for lump sum amounts, the funds received by the Public Entity must be held in a segregated non-interest bearing account and shall be expended by the Public Entity within 60 days to avoid arbitrage.

4. Obligation/Drawdown Deadlines. The Grant shall be obligated and expended as set forth in Article VII.

5. Additional Investment. If additional funds are required to complete the Project, including, but not limited to, private investment, the Public Entity shall use diligent efforts to obtain the funds necessary to complete the Project as set forth in Article VII. The Public Entity is responsible for requiring the Project to be designed to budget and ensuring the Project can be completed as necessary to achieve the economic development goals outlined in the Contract.

6. Remaining Balance. In no event shall EOHED be obligated to disburse Grant Funds in excess of the actual cost of constructing the Public Improvements. Excess Grant Funds remaining in the budget upon completion of the Project, if any, may not be claimed by the Public Entity.

ARTICLE V

Obligations of the Public Entity

A. Obligations of the Public Entity

In addition to any other requirements of the Contract, the Public Entity, by accepting any or all of such Grant Funds, shall:

1. Ensure compliance, including but not limited to any and all applicable local, state and federal rules, regulations and laws.
2. Submit invoices pursuant to Article IV.B

3. Provide quarterly reports to the Coordinator in the form of Exhibit C.
4. Cooperate fully and promptly with any other request for information that the Secretary or the Coordinator may make.
5. Ensure that all representations made in the Contract by the Public Entity remain true and correct.
6. Ensure that construction begins on this Project in accordance with Article VII.C and D.
7. Comply with all applicable federal, state and local laws in the course of undertaking the Project.

B. Compliance with Laws Regarding Contractors and Procurement

Without limiting the generality of Section V.A.7 above, the Public Entity shall comply, and ensure that its contractors comply, with the legal requirements set forth below.

1. The Public Entity shall comply with its procurement process and with Section 39M of Chapter 30 and Chapters 30B, 149 and 7 of the Massachusetts General Laws, to the extent applicable.
2. Pursuant to Section 6 of Chapter 7C of the Massachusetts General Laws (formally Section 40 of Chapter 7 of the Massachusetts General Laws, as amended by Chapter 165 of the Acts of 2012), Section 61 of Chapter 7 of the Massachusetts General Laws, and Executive Orders, including Executive Orders 524 and 526, the Supplier Diversity Office and the Division of Capital Asset Management and Maintenance (“DCAMM”) have set participation goals for Minority Business Enterprise (“MBE”) and Women Business Enterprise (“WBE”) participation on state construction projects and state-assisted construction projects. The current MBE and WBE participation goals for building construction and design awards will be a combined MBE/WBE goal as follows:
 - **10.4%** combined MBE/WBE participation on construction contract awards; and,
 - **17.9%** combined MBE/WBE participation on design contract awards.

Overall annual designations by the Public Entity, as well as MBE/WBE participation on individual projects with a combined MBE/WBE participation goal, must include a reasonable representation of both MBE and WBE firms that meets or exceeds the combined goal. The Supplier Diversity Office and DCAMM will determine whether there is reasonable participation by both MBE and WBE firms on individual projects under their respective

oversight. Participation by MBE and WBE firms shall be documented, tracked and reported on separately as MBE participation and WBE participation by prime vendors, subcontractors and the Public Entity. These participation objectives are goals and are not quotas or set-asides, and are neither floors nor ceilings. Such goals are not applicable, however, to the procurement of site work (horizontal construction) subject to Section 39M of Chapter 30 of the Massachusetts General Laws, as amended or Chapter 30B of the Massachusetts General Laws, as amended.

3. The Public Entity shall use diligent efforts to ensure that any contractors it employs or are employed on its behalf do not unlawfully misclassify workers as self-employed or as independent contractors, and will certify compliance with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
4. The Public Entity shall use diligent efforts to ensure that within the past five years, no officers, directors, employees, agents, or subcontractors of which the contractor has knowledge, been the subject of (a) an indictment, judgment, conviction, or grant of immunity, including pending actions, for any business-related conduct constituting a crime under state or federal law; or (b) a government suspension or debarment, rejection of any bid or disapproval of any proposed contract subcontract, including pending actions, for lack of responsibility, denial or revocation of prequalification or a voluntary exclusion agreement; or any governmental determination of a violation of any public works law or regulation, or labor law or regulation or any OSHA violation deemed "serious or willful."
5. In accordance with Executive Order 481 and under the pains and penalties of perjury, the Public Entity shall ensure that its Contractors do not knowingly allow the use of undocumented workers in connection with the performance of the contract; that pursuant to federal requirements, the Contractor shall verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination; and that it shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker(s).

The Public Entity understands and agrees that breach of any of these terms by its contractors during the contract period may be regarded as a material breach, subjecting the Public Entity to sanctions, including but not limited to Monetary Penalties, withholding of payments, contract suspension and termination of the Contract.

C. Signage

If signage is to be erected identifying the Project, such signage shall include an acknowledgement of the Grant. The Public Entity shall notify the Coordinator of the desire to erect such signage and the Coordinator shall approve the signage and grant acknowledgement.

D. Project Closeout

Upon completion of the Project, the Public Entity shall certify that there shall be no additional requests for payment. The Public Entity shall submit photographs of the work completed with the Grant Funds accompanied by the form provided at Exhibit E.

ARTICLE VI
Breach, Mitigation, and Remedies

A. Penalties for Breach of Contract

The Public Entity understands and agrees that in the event of a breach of any material term of the Contract during the contract period, the Secretary may, in his sole discretion:

1. Suspend, withhold or rescind the payment of Grant Funds;
2. Impose and collect Monetary Penalties;
3. Suspend, condition or terminate the Contract; and/or
4. Declare the Public Entity ineligible for participation in future programs administered by EOHEd.

The Secretary's rights and remedies set forth herein are not exclusive and do not preclude other remedies available to the Secretary at law or in equity. Any failure of EOHEd to enforce at any time any provision of the Contract shall in no way be construed to be a waiver of such provision or of any other provision hereof.

B. Failure to Timely Commence or Complete the Project

The Secretary, in his sole discretion, reserves the right to reduce, suspend, and cancel the Grant in the event that the Public Entity is not ready, willing, and able to expend the Grant Funds in furtherance of the Project as defined in Article VII, or if Public Entity fails to secure all of the funds necessary to fully complete the design and construction of the Project. If the Secretary determines, in his sole discretion, that there is a material failure by the Public Entity to commence or complete the Project in accordance with the terms of the Contract, the Secretary may suspend the Grant (including any payments pending) by sending written notice sent to the Public Entity. The Public Entity shall have an opportunity to cure and to provide clear and convincing evidence that the Project is in compliance with the terms of the Contract within 60 days of the date of the receipt of said notice. Failure to do so will terminate the Contract effective immediately.

C. Recoupment of Grant Funds Upon Sale of Project

The Secretary, in his sole discretion, may recoup previously paid Grant Funds to the Public Entity if the Public Entity sells or otherwise conveys ownership of the Project or all Project Site within thirty (30) years of the termination of the Contract.

D. Completion of the Project After Termination

In the event of any termination of the Contract by the Secretary pursuant to this Article VI, the Public Entity shall submit to EOHEd any and all materials that Public Entity owns related to the Project, including but not limited to, documents, financial pro forms and analysis, studies, drawings, plans, specifications and intellectual property associated with this project in any way. EOHEd shall have access to such material consistent with the provisions of Paragraph 7 of the Commonwealth Terms and Conditions. The Public Entity shall further consult with the Coordinator with respect to the means and strategy for pursuing reasonable and timely completion of the Project in accordance with the purpose and scope as defined in the Contract and the Seaport Economic Council Program.

Article VII
Scope of Project

A. Description of the Project

1. Description of Project Site.
Barnstable County/Cape Cod

2. Description of the Project.

This project will advance the region's maritime economy and bring increased, consistent and sustainable prosperity to the Cape and Islands by leveraging its natural coastal resources, the innovative ideas of the local community and existing marine related industries, to increase the number of businesses and jobs in the Cape and Islands region that are not heavily dependent on the seasonal/tourist economy. The currently funded project will satisfy the Phase 1 of the overall Blue Economy Initiative and will focus on data gathering and significant outreach activities with the goal of developing an Implementation Plan.

"In order to ensure the sustainability and resilience of Council investments, in the implementation of Council award, the awardee must:

- Document that they have considered the best available science and information regarding potential threats from rising sea level, more frequent and extreme weather events, and other climate change effects, including precipitation and temperature;

- Identify and incorporate best practices to improve the resilience of the proposed project to the effects of a changing climate; and
- Obtain all required permits, licenses and authorizations prior to seeking final reimbursement for approved project costs.”

B. Economic Development Goals of the Project

Jobs Created
 Total investment, other private and public funds leveraged
 Other public benefits

C. Original Drawdown Schedule REVISED DRAWDOWN

<i>Quarter/Year</i>	<i>Invoice Amount</i>	<i>Quarter/Year</i>	<i>Invoice Amount</i>
Calendar Year		Calendar Year	
[3 rd /2016]	\$ 25,000	[2 nd /2017]	\$56,837
[4 th /2016]	\$ 55,000	[3 rd /2017]	\$ 56,838
[1 st /2017]	\$ 50,000	[4 th /2017]	\$ 54,000
[2 nd / 2017]	\$ 50,000	[1 st /2018]	\$ 55,000
		[2 nd / 2018]	\$ 11,325
TOTAL	\$180,000	REVISED TOTAL	\$234,000

All Grant Funds shall be drawn and expended by the Public Entity no later than June 30, 2017. Drawdown per fiscal year shall not exceed \$167,675 in fiscal year 2017 ending on June 30, 2017 and \$66,325 in fiscal year 2018 ending on June 30, 2018.

NOTE: An amendment is necessary for more time to complete data analysis and develop a final report.

*EOHED will set aside 5% of the total grant award as retainage until the project (or the portion of the project completed with grant funds) is demonstrated to be complete. The 5% will be deducted from the final invoice and will be paid promptly upon demonstration that the project has been completed.

D. Project Schedule

The Public Entity shall undertake the Project on the following schedule:

- July 2016 – March 2017 Community Engagement activities
- July 2016 – Planning meetings with Blue Economy Steering Committee that establish workplan for Phase 1 grant.
- August 2016 – Workgroups and Regional partner coordination established

- November 2016 – Data gathering including socioeconomic data collected and prepared for use by Phase 1 project
- December 2016 – Resource needs assessment study complete
- February 2017 – Roadmap complete for integration of Blue Economy initiative into regional planning process
- March 2017 – Mechanisms for SBA and EDA grants identified for Blue Economy
- June 2017 – Implementation Plan preparation complete

REVISED MILESTONES

- July 2016 – March 2017 Community Engagement activities
- July 2016 – Planning meetings with Blue Economy Steering Committee that establish workplan for Phase 1 grant.
- August 2016 – Workgroups and Regional partner coordination established
- November 2016 – Data gathering including socioeconomic data collected and prepared for use by Phase 1 project
- December 2016 – Resource needs assessment study complete
- August 2017 – Roadmap complete for integration of Blue Economy initiative into regional planning process
- October 2017 – Mechanisms for SBA and EDA grants identified for Blue Economy
- November 2017 – Implementation Plan preparation complete

ARTICLE VIII

Notice

Pursuant to Paragraph 5 of the Commonwealth Terms and Conditions, unless otherwise explicitly set forth in the Contract, all notices or other communications required or permitted to be given hereunder shall be in writing and delivered by (i) hand, (ii) recognized overnight courier, (iii) electronic facsimile, or (iv) mailed, postage prepaid, by registered or certified mail, return receipt requested, addressed as follows (or to such other address and to such other person's attention as any party may from time to time specify by like notice to the other):

To EOHEd:

Robin Pezzone
 Seaport Economic Council Program
 1 Ashburton Place, Room 2101
 Boston, MA 02108

To the Public Entity:

Pursuant to paragraph 5 of the Commonwealth Terms and Conditions, notices shall be deemed given (i) when delivered if delivered by hand; (ii) one (1) day after being deposited with an overnight courier if sent by overnight courier; (iii) upon receipt of electronic or telephonic confirmation if sent by fax; or (iv) three (3) days after being deposited with the U.S. Postal Service if sent by mail.

ARTICLE IX **Miscellaneous**

A. Authority

Each party executing the Contract, in whole and in part, represents that such party has the full authority and legal power to do so and that such person, by signing and delivering the Contract, has created a legal, valid and binding and enforceable contract.

B. Amendment, Modification and Waiver

Any request to waive, modify, or discharge any terms of the Contract must be submitted in writing to the Coordinator in the form consistent with Exhibit D. Any amendment to the Contract shall be in writing, signed by all parties. Any oral waiver, change or discharge of any term or provision of the Authority shall be without authority and of no force or effect, whether or not notice has been given or received.

C. Other

1. Severability. Should a court of competent jurisdiction hold any of the provisions the Contract as unenforceable, any such decision shall not affect or impair any of the remaining provisions of those of the Contract.

2. Word Meanings. Words such as "herein," "hereinafter," "hereof," and "hereunder" refer to the Contract as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural, and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

3. Applicable Law. The Contract shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, including the Section 63 of Chapter 23A of the General Laws, and the courts of such Commonwealth shall be the sole forum with respect to any legal process arising hereunder.

4. Counterparts. The Contract may be executed in several counterparts, and, as so executed, shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

5. Entire Agreement. The Contract embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

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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: County of Barnstable (and d/b/a): Cape Cod Commission	COMMONWEALTH DEPARTMENT NAME: Executive Office of Housing and Economic Development MMARS Department Code: EED
Legal Address: (W-9, W-4,T&C): 3225 Main Street, Barnstable, MA 02630	Business Mailing Address: One Ashburton Place, Room 2101, Boston, MA 02108
Contract Manager: Kristy Senatori	Billing Address (if different): same as
E-Mail: ksenatori@capecodcommission.org	Contract Manager: Ellen Cebula
Phone: 508-362-3828 Fax:	E-Mail: ellen.cebula@state.ma.us
Contractor Vendor Code: VC6000194979	Phone: 508-999-3030 Fax:
Vendor Code Address ID (e.g. "AD001"): AD001. (Note: The Address Id Must be set up for EFT payments.)	MMARS Doc ID(s): 2016SeaportCapeC RF/Procurement or Other ID Number: Award Round 2015
<p style="text-align: center;"><input checked="" type="checkbox"/> NEW CONTRACT</p> PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> <u>Statewide Contract</u> (OSD or an OSD-designated Department) <input type="checkbox"/> <u>Collective Purchase</u> (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> <u>Department Procurement</u> (Includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> <u>Emergency Contract</u> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <u>Contract Employee</u> (Attach <u>Employment Status Form</u> , scope, budget) <input type="checkbox"/> <u>Legislative/Legal or Other:</u> (Attach authorizing language/justification, scope and budget)	<p style="text-align: center;"><input type="checkbox"/> CONTRACT AMENDMENT</p> Enter Current Contract End Date <u>Prior</u> to Amendment: _____, 20____. Enter Amendment Amount: \$ _____ (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> <u>Amendment to Scope or Budget</u> (Attach updated scope and budget) <input type="checkbox"/> <u>Interim Contract</u> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <u>Contract Employee</u> (Attach any updates to scope or budget) <input type="checkbox"/> <u>Legislative/Legal or Other:</u> (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"/> <u>Rate Contract</u> (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"/> <u>Maximum Obligation Contract</u> Enter Total Maximum Obligation for total duration of this Contract (or <u>new</u> Total if Contract is being amended). \$ <u>180,000</u>	
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: <input checked="" type="checkbox"/> 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.) <u>Seaport Economic Council grant funding for the Cape Cod Blue Economy in accordance with all information contained in Attachment A and Exhibits A - D.</u>	
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 <u>Effective Date</u> (latest signature date below) and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date <u>LATER</u> than the <u>Effective Date</u> below and <u>no</u> obligations have been incurred <u>prior</u> to the <u>Effective Date</u> . <input type="checkbox"/> 3. were incurred as of _____, 20____, a date <u>PRIOR</u> to the <u>Effective Date</u> below, and the parties agree that payments for any obligations incurred prior to the <u>Effective Date</u> 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 <u>June 30</u> , 20 <u>18</u> , 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 <u>Contractor Certifications</u> (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 <u>Commonwealth Terms and Conditions</u> , this Standard Contract Form including the <u>Instructions and Contractor Certifications</u> , 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 <u>801 CMR 21.07</u> , 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: <u>Mary Pat Flynn</u> Date: <u>4-13-16</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Mary Pat Flynn, Sheila Lyons, Leo Cakounes</u> Print Title: <u>Barnstable County Commissioners</u>	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: <u>Jay Ash</u> Date: <u>5/4/16</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Jay Ash or designee Kate Paul</u> Print Title: <u>Secretary of the Executive Office of Housing and Economic Development.</u> CFO

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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 10991 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 Comm-PASS, the Contract Manager must be listed on the Vendor Section tab.

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 Paving 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

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to explain and justify the exemption and whether Contractor selection has been publicly posted.

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.

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

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.

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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 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 147; G.L. c. 29, s. 29F G.L. c. 30, § 39F, 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 SmartBid subscription process at: www.comm-pass.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

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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 "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 subcontractors, 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.

**ATTACHMENT A
ADDITIONAL TERMS AND CONDITIONS**

**ARTICLE I
Agreement**

THIS AGREEMENT, by and among the Massachusetts Executive Office of Housing and Economic Development of the Commonwealth of Massachusetts (hereinafter referred to as "EOHED") and the County of Barnstable (hereinafter referred to as "Public Entity"), jointly referred to as "The Parties", is dated effective as of _____, 2016 and comprises the following:

1. The COMMONWEALTH OF MASSACHUSETTS STANDARD CONTRACT FORM,
2. The COMMONWEALTH TERMS AND CONDITIONS,
3. this Attachment A, "Additional Terms and Conditions",
4. Exhibit A, "Grant Application",
5. Exhibit B, "Request for Payment Cover Sheet",
6. Exhibit C, "Public Entity Quarterly Reporting Form",
7. Exhibit D, "Request for Amendment Form",
8. Exhibit E, "Project Closeout Certification Form", and
9. Attachment B, Project Site Plan

These documents are referred to collectively as the "Contract".

**ARTICLE II
Definitions**

The following capitalized terms used in the Contract shall have the respective meanings ascribed to them below:

"Contract" shall mean the documents described in Article I in their entirety, as they may be amended, supplemented, or restated from time to time.

"Coordinator" shall mean the Seaport Economic Council Program Coordinator.

"Grant Application" shall mean the application submitted by the Public Entity to the Seaport Economic Council Program, attached as Exhibit A to the Contract.

"Grant Funds" shall mean the funds disbursed by EOHED to the Public Entity pursuant to the terms and conditions of the Contract.

"Seaport Economic Council" shall mean the economic development grant program authorized by Executive Order 564, and further described in the Seaport Economic

Council Program Guidelines promulgated by the Secretary, as such Guidelines may be modified or updated from time to time.

“Monetary Penalties” shall mean the full recoupment by EOHEd of funds paid to Public Entity under the Contract and recovery of all Commonwealth administrative costs and legal fees related to the Contract, including enforcement thereof.

“Project” shall have the meaning set forth in Article VII.A.

“Project Site”, also referred to herein as the “Site”, shall mean the land and appurtenant easements, if any, identified in Section VII.A hereof and shown on the plan attached as Attachment B.

“Secretary” shall mean the Secretariat of the Executive Office of Housing and Economic Development of the Commonwealth of Massachusetts.

“Total Maximum Obligation” shall mean a sum of money not to exceed \$180,000 Dollars.

ARTICLE III

Purpose

The purpose of the Contract is to identify the roles, responsibilities, and obligations of each party as they relate to the implementation of the Seaport Economic Council Program for the Project. The Contract sets forth the parties’ mutual intentions and understandings. All Parties agree to devote the necessary resources and to work in good faith to achieve the objectives contemplated herein.

ARTICLE IV

Grant Administration

A. **EOHEd Project Management.**

The Coordinator shall oversee the Seaport Economic Council Program on behalf of the Secretary.

B. **Payment of Grant Funds.**

EOHEd shall disburse funds to the Public Entity in an aggregate amount not to exceed the Total Maximum Obligation within forty-five (45) days after receipt of invoices therefor, accompanied by the cover sheet form provided at Exhibit B, from the Public Entity, subject to the following terms and conditions.

1. Invoices for actual expenses should be submitted for reimbursement on a monthly basis by the 15th of the following month. Reimbursement shall be only for work completed and/or items purchased. The Coordinator may

withhold approval of an invoice based on the insufficiency of the report or the need for further verification. The Coordinator will promptly notify the Public Entity of any disapproved invoice and provide adequate time for correction. With prior authorization from the Coordinator, the Public Entity may deviate from or suspend the Reimbursement Schedule.

2. In instances where payment is requested prior to funds being disbursed by the grantee, documentation of payment by the grantee to its contractors must be submitted to the appropriate EOHEd grant manager within 60 days of receipt of funds from EOHEd. Appropriate forms of verification of payment are copies of issued checks, or ledger statements from the grantees accounting system demonstrating payment, including payment numbers, amounts, and vendor paid to and date the check/EFT was processed.
3. EOHEd will set aside 5% of the total grant award as retainage until the Project (or the portion of the Project completed with Grant Funds) is demonstrated to be complete. The 5% will be deducted from the final invoice and will be paid promptly upon demonstration that the Project has been completed.
4. In order to be reimbursed for expenditures, the Public Entity is required to obligate funds by June 30 of the fiscal year (July 1 through June 30) in which the expenditure has been made, and to submit invoices by the immediately following August 5th. **Late invoices from the Public Entity will not be accepted for payment by EOHEd.** A request to carryover funds from one fiscal year to the next shall not alter the June 30 and August 5 obligation and invoicing deadlines set forth in this paragraph for expenditures made in any given fiscal year.

C. Use of Grant Funds.

1. Approved Project Expenses. Under the scope and purpose of the Contract, EOHEd authorizes the Public Entity to distribute Grant Funds consistent with the terms and conditions of the Contract in furtherance with the goals of the Project. EOHEd shall provide Grant Funds up to the Total Maximum Obligation to the Public Entity to pay for costs incurred to complete the Project as follows:

Cape Cod Blue Economy

Specific conditions on funding and drawdown schedule are set forth in Article VII hereof.

D. General Conditions of Funding

1. Verification of Representations. Funding is contingent upon satisfactory verification of all Project information and representations contained in the Grant Application. Determinations of such verification shall be made in the Secretary's sole discretion. The Public Entity is responsible for providing to the Secretary such

information and documentation that the Secretary deems necessary for such determination.

2. No Obligation to Increase Budget. EOHEd has no obligation to increase or reprogram the Grant Funds for any reason, including, but not limited to, a change in the Project's budget. It is the sole responsibility of the Public Entity to cover any and all cost overruns and secure any and all additional funding necessary for the Project.

3. No Arbitrage. For funds that are received on a cost reimbursement, for which the Public Entity invoices for the costs of performance when rendered, and for lump sum amounts, the funds received by the Public Entity must be held in a segregated non-interest bearing account and shall be expended by the Public Entity within 60 days to avoid arbitrage.

4. Obligation/Drawdown Deadlines. The Grant shall be obligated and expended as set forth in Article VII.

5. Additional Investment. If additional funds are required to complete the Project, including, but not limited to, private investment, the Public Entity shall use diligent efforts to obtain the funds necessary to complete the Project as set forth in Article VII. The Public Entity is responsible for requiring the Project to be designed to budget and ensuring the Project can be completed as necessary to achieve the economic development goals outlined in the Contract.

6. Remaining Balance. In no event shall EOHEd be obligated to disburse Grant Funds in excess of the actual cost of constructing the Public Improvements. Excess Grant Funds remaining in the budget upon completion of the Project, if any, may not be claimed by the Public Entity.

ARTICLE V

Obligations of the Public Entity

A. Obligations of the Public Entity

In addition to any other requirements of the Contract, the Public Entity, by accepting any or all of such Grant Funds, shall:

1. Ensure compliance, including but not limited to any and all applicable local, state and federal rules, regulations and laws.
2. Submit invoices pursuant to Article IV.B

3. Provide quarterly reports to the Coordinator in the form of Exhibit C.
4. Cooperate fully and promptly with any other request for information that the Secretary or the Coordinator may make.
5. Ensure that all representations made in the Contract by the Public Entity remain true and correct.
6. Ensure that construction begins on this Project in accordance with Article VII.C and D.
7. Comply with all applicable federal, state and local laws in the course of undertaking the Project.

B. Compliance with Laws Regarding Contractors and Procurement

Without limiting the generality of Section V.A.7 above, the Public Entity shall comply, and ensure that its contractors comply, with the legal requirements set forth below.

1. The Public Entity shall comply with its procurement process and with Section 39M of Chapter 30 and Chapters 30B, 149 and 7 of the Massachusetts General Laws, to the extent applicable.
2. Pursuant to Section 6 of Chapter 7C of the Massachusetts General Laws (formally Section 40 of Chapter 7 of the Massachusetts General Laws, as amended by Chapter 165 of the Acts of 2012), Section 61 of Chapter 7 of the Massachusetts General Laws, and Executive Orders, including Executive Orders 524 and 526, the Supplier Diversity Office and the Division of Capital Asset Management and Maintenance ("DCAMM") have set participation goals for Minority Business Enterprise ("MBE") and Women Business Enterprise ("WBE") participation on state construction projects and state-assisted construction projects. The current MBE and WBE participation goals for building construction and design awards will be a combined MBE/WBE goal as follows:
 - 10.4% combined MBE/WBE participation on construction contract awards; and,
 - 17.9% combined MBE/WBE participation on design contract awards.

Overall annual designations by the Public Entity, as well as MBE/WBE participation on individual projects with a combined MBE/WBE participation goal, must include a reasonable representation of both MBE and WBE firms that meets or exceeds the combined goal. The Supplier Diversity Office and DCAMM will determine whether there is reasonable participation by both MBE and WBE firms on individual projects under their respective

oversight. Participation by MBE and WBE firms shall be documented, tracked and reported on separately as MBE participation and WBE participation by prime vendors, subcontractors and the Public Entity. These participation objectives are goals and are not quotas or set-asides, and are neither floors nor ceilings. Such goals are not applicable, however, to the procurement of site work (horizontal construction) subject to Section 39M of Chapter 30 of the Massachusetts General Laws, as amended or Chapter 30B of the Massachusetts General Laws, as amended.

3. The Public Entity shall use diligent efforts to ensure that any contractors it employs or are employed on its behalf do not unlawfully misclassify workers as self-employed or as independent contractors, and will certify compliance with applicable state and federal employment laws and regulations, including but not limited to minimum wages, unemployment insurance, workers' compensation, child labor, and the Massachusetts Health Care Reform Law, Chapter 58 of the Acts of 2006, as amended.
4. The Public Entity shall use diligent efforts to ensure that within the past five years, no officers, directors, employees, agents, or subcontractors of which the contractor has knowledge, been the subject of (a) an indictment, judgment, conviction, or grant of immunity, including pending actions, for any business-related conduct constituting a crime under state or federal law; or (b) a government suspension or debarment, rejection of any bid or disapproval of any proposed contract subcontract, including pending actions, for lack of responsibility, denial or revocation of prequalification or a voluntary exclusion agreement; or any governmental determination of a violation of any public works law or regulation, or labor law or regulation or any OSHA violation deemed "serious or willful."
5. In accordance with Executive Order 481 and under the pains and penalties of perjury, the Public Entity shall ensure that its Contractors do not knowingly allow the use of undocumented workers in connection with the performance of the contract; that pursuant to federal requirements, the Contractor shall verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination; and that it shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker(s).

The Public Entity understands and agrees that breach of any of these terms by its contractors during the contract period may be regarded as a material breach, subjecting the Public Entity to sanctions, including but not limited to Monetary Penalties, withholding of payments, contract suspension and termination of the Contract.

C. Signage

If signage is to be erected identifying the Project, such signage shall include an acknowledgement of the Grant. The Public Entity shall notify the Coordinator of the desire to erect such signage and the Coordinator shall approve the signage and grant acknowledgement.

D. Project Closeout

Upon completion of the Project, the Public Entity shall certify that there shall be no additional requests for payment. The Public Entity shall submit photographs of the work completed with the Grant Funds accompanied by the form provided at Exhibit E.

ARTICLE VI
Breach, Mitigation, and Remedies

A. Penalties for Breach of Contract

The Public Entity understands and agrees that in the event of a breach of any material term of the Contract during the contract period, the Secretary may, in his sole discretion:

1. Suspend, withhold or rescind the payment of Grant Funds;
2. Impose and collect Monetary Penalties;
3. Suspend, condition or terminate the Contract; and/or
4. Declare the Public Entity ineligible for participation in future programs administered by EOHED.

The Secretary's rights and remedies set forth herein are not exclusive and do not preclude other remedies available to the Secretary at law or in equity. Any failure of EOHED to enforce at any time any provision of the Contract shall in no way be construed to be a waiver of such provision or of any other provision hereof.

B. Failure to Timely Commence or Complete the Project

The Secretary, in his sole discretion, reserves the right to reduce, suspend, and cancel the Grant in the event that the Public Entity is not ready, willing, and able to expend the Grant Funds in furtherance of the Project as defined in Article VII, or if Public Entity fails to secure all of the funds necessary to fully complete the design and construction of the Project. If the Secretary determines, in his sole discretion, that there is a material failure by the Public Entity to commence or complete the Project in accordance with the terms of the Contract, the Secretary may suspend the Grant (including any payments pending) by sending written notice sent to the Public Entity. The Public Entity shall have an opportunity to cure and to provide clear and convincing evidence that the Project is in compliance with the terms of the Contract within 60 days of the date of the receipt of said notice. Failure to do so will terminate the Contract effective immediately.

C. Recoupment of Grant Funds Upon Sale of Project

The Secretary, in his sole discretion, may recoup previously paid Grant Funds to the Public Entity if the Public Entity sells or otherwise conveys ownership of the Project or all Project Site within thirty (30) years of the termination of the Contract.

D. Completion of the Project After Termination

In the event of any termination of the Contract by the Secretary pursuant to this Article VI, the Public Entity shall submit to EOHEd any and all materials that Public Entity owns related to the Project, including but not limited to, documents, financial pro forms and analysis, studies, drawings, plans, specifications and intellectual property associated with this project in any way. EOHEd shall have access to such material consistent with the provisions of Paragraph 7 of the Commonwealth Terms and Conditions. The Public Entity shall further consult with the Coordinator with respect to the means and strategy for pursuing reasonable and timely completion of the Project in accordance with the purpose and scope as defined in the Contract and the Seaport Economic Council Program.

Article VII
Scope of Project

A. Description of the Project

1. Description of Project Site.
Barnstable County/Cape Cod

2. Description of the Project.

This project will advance the region's maritime economy and bring increased, consistent and sustainable prosperity to the Cape and Islands by leveraging its natural coastal resources, the innovative ideas of the local community and existing marine related industries, to increase the number of businesses and jobs in the Cape and Islands region that are not heavily dependent on the seasonal/tourist economy. The currently funded project will satisfy the Phase 1 of the overall Blue Economy Initiative and will focus on data gathering and significant outreach activities with the goal of developing an Implementation Plan.

"In order to ensure the sustainability and resilience of Council investments, in the implementation of Council award, the awardee must:

- Document that they have considered the best available science and information regarding potential threats from rising sea level, more frequent and extreme weather events, and other climate change effects, including precipitation and temperature;

- Identify and incorporate best practices to improve the resilience of the proposed project to the effects of a changing climate; and
- Obtain all required permits, licenses and authorizations prior to seeking final reimbursement for approved project costs.”

B. Economic Development Goals of the Project

Jobs Created
 Total investment, other private and public funds leveraged
 Other public benefits

C. Drawdown Schedule

<i>Quarter/Year</i>	<i>Invoice Amount</i>
Calendar Year	
[2 nd / 2016]	\$ 20,000
[3 rd / 2016]	\$ 25,000
[4 th / 2016]	\$ 50,000
[1 st / 2017]	\$ 45,000
[2 nd / 2017]	\$ 40,000

All Grant Funds shall be drawn and expended by the Public Entity no later than June 30, 2017. Drawdown per fiscal year shall not exceed \$20,000 in fiscal year [2016] (ending on June 30, [2016]) and \$160,000 in fiscal year 2017 ending on June 30, 2017.

*EOHED will set aside 5% of the total grant award as retainage until the project (or the portion of the project completed with grant funds) is demonstrated to be complete. The 5% will be deducted from the final invoice and will be paid promptly upon demonstration that the project has been completed.

D. Project Schedule

The Public Entity shall undertake the Project on the following schedule:

- June 2016 – March 2017 Community Engagement activities
- July 2016 – Planning meetings with Blue Economy Steering Committee that establish workplan for Phase 1 grant.
- August 2016 – Workgroups and Regional partner coordination established

- November 2016 – Data gathering including socioeconomic data collected and prepared for use by Phase 1 project
- December 2016 – Resource needs assessment study complete
- February 2017 – Roadmap complete for integration of Blue Economy initiative into regional planning process
- March 2017 – Mechanisms for SBA and EDA grants identified for Blue Economy
- June 2017 – Implementation Plan preparation complete

ARTICLE VIII

Notice

Pursuant to Paragraph 5 of the Commonwealth Terms and Conditions, unless otherwise explicitly set forth in the Contract, all notices or other communications required or permitted to be given hereunder shall be in writing and delivered by (i) hand, (ii) recognized overnight courier, (iii) electronic facsimile, or (iv) mailed, postage prepaid, by registered or certified mail, return receipt requested, addressed as follows (or to such other address and to such other person's attention as any party may from time to time specify by like notice to the other):

To EOHED:

Seaport Economic Council Program
93 State Pier
New Bedford, MA 02740

To the Public Entity:

Pursuant to paragraph 5 of the Commonwealth Terms and Conditions, notices shall be deemed given (i) when delivered if delivered by hand; (ii) one (1) day after being deposited with an overnight courier if sent by overnight courier; (iii) upon receipt of electronic or telephonic confirmation if sent by fax; or (iv) three (3) days after being deposited with the U.S. Postal Service if sent by mail.

ARTICLE IX

Miscellaneous

A. Authority

Each party executing the Contract, in whole and in part, represents that such party has the full authority and legal power to do so and that such person, by signing and delivering the Contract, has created a legal, valid and binding and enforceable contract.

B. Amendment, Modification and Waiver

Any request to waive, modify, or discharge any terms of the Contract must be submitted in writing to the Coordinator in the form consistent with Exhibit D. Any amendment to the Contract shall be in writing, signed by all parties. Any oral waiver, change or discharge of any term or provision of the Authority shall be without authority and of no force or effect, whether or not notice has been given or received.

C. Other

1. Severability. Should a court of competent jurisdiction hold any of the provisions the Contract as unenforceable, any such decision shall not affect or impair any of the remaining provisions of those of the Contract.

2. Word Meanings. Words such as "herein," "hereinafter," "hereof," and "hereunder" refer to the Contract as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural, and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

3. Applicable Law. The Contract shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, including the Section 63 of Chapter 23A of the General Laws, and the courts of such Commonwealth shall be the sole forum with respect to any legal process arising hereunder.

4. Counterparts. The Contract may be executed in several counterparts, and, as so executed, shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

5. Entire Agreement. The Contract embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

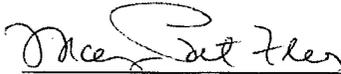
[Remainder of page is intentionally blank; signatures follow]

IN WITNESS WHEREOF, the parties hereto have executed the Contract under seal as of the day and year first above written.

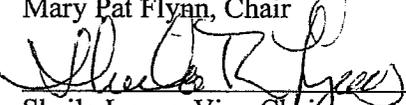
EXECUTIVE OFFICE OF HOUSING AND
ECONOMIC DEVELOPMENT OF THE
COMMONWEALTH OF MASSACHUSETTS

Jay Ash, Secretary

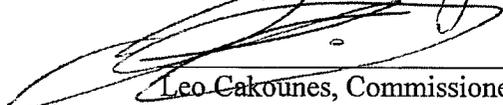
BARNSTABLE COUNTY COMMISSIONERS



Mary Pat Flynn, Chair



Sheila Lyons, Vice-Chair



Leo Cakounes, Commissioner

5/18/2014
Date

DISCHARGE OF MORTGAGE

Barnstable County, acting by and through the Cape Cod Commission, the holder of a mortgage

By William C. Buzzell & Erin L. Latka-Buzzell

to Barnstable County, acting by and through the Cape Cod Commission,

dated April 18, 2007

recorded with the Barnstable County Registry of Deeds Book 21951 Page 47

acknowledges satisfaction of the same.

Witness our hand and seal this _____ day of May 2017

BARNSTABLE COUNTY,

As County Commissioners

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of May 2017, before me, the undersigned notary public personally appeared _____

and proved to me through satisfactory evidence of identification, which was _____, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:



Esri Inc
380 New York Street
Redlands CA 92373

Subject: Renewal Quotation

Date: 04/28/2017
To: Anne Reynolds
Organization: Cape Cod Commission
Fax #: 508-362-3136 **Phone #:** 508-744-1240

From: Alaina Edgett
Fax #: 909-307-3083 **Phone #:** 909-793-2853 Ext. 1415
Email: aedgett@esri.com

Number of pages transmitted
(including this cover sheet): 6

Quotation #25784719
Document Date: 04/03/2017

Please find the attached quotation for your forthcoming term. Keeping your term current may entitle you to exclusive benefits, and if you choose to discontinue your coverage, you will become ineligible for these valuable benefits and services.

If your quote is regarding software maintenance renewal, visit the following website for details regarding the maintenance program benefits at your licensing level
<http://www.esri.com/apps/products/maintenance/qualifying.cfm>

All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your coverage at a later date.

Please note: Certain programs and license types may have varying benefits. Complimentary User Conference registrations, software support, and software and data updates are not included in all programs.

Customers who have multiple copies of certain Esri licenses may have the option of supporting some of their licenses with secondary maintenance.

For information about the terms of use for Esri products as well as purchase order terms and conditions, please visit
<http://www.esri.com/legal/licensing/software-license.html>

If you have any questions or need additional information, please contact Customer Service at 888-377-4575 option 5.



esri

380 New York Street
Redlands, CA 92373
Phone: 909-793-2853/1415
Fax #: 909-307-3083

Quotation

Date: 04/03/2017

Quotation Number: 25784719

Contract Number: 2012MPA6085

Cape Cod Commission
P.O. Box 226
Barnstable MA 02630-0226
Attn: Anne Reynolds

Phone: 508-362-3828
Customer Number: 1496

For questions regarding this document, please contact Customer Service at 888-377-4575.

Send Purchase Orders To:

Environmental Systems Research Institute, Inc.
380 New York Street
Redlands, CA 92373-8100
Attn: Alaina Edgett

Please include the following remittance address on your Purchase Order:

Environmental Systems Research Institute, Inc.
File #54630
Los Angeles, CA 90074-4630

Item	Qty	Material#	Unit Price	Extended Price
10	1	52384 ArcGIS Desktop Advanced Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	3,000.00	3,000.00
1010	4	52385 ArcGIS Desktop Advanced Concurrent Use Secondary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	1,200.00	4,800.00
2010	1	87194 ArcGIS Desktop Basic Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	700.00	700.00
3010	2	87195 ArcGIS Desktop Basic Concurrent Use Secondary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	500.00	1,000.00
4010	1	87232	500.00	500.00

Quotation is valid for 90 days from document date.

Any estimated sales and/or use tax has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state taxes directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

Issued By: Alaina Edgett **Ext:** 1415

[EDGETTA]

To expedite your order, please reference your customer number and this quotation number on your purchase order.



esri

380 New York Street
Redlands, CA 92373
Phone: 909-793-28531415
Fax #: 909-307-3083

Quotation

Page 2

Date: 04/03/2017

Quotation Number: 25784719

Contract Number: 2012MPA6085

Item	Qty	Material#	Unit Price	Extended Price
		ArcGIS Spatial Analyst for Desktop Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018		
5010	2	87233 ArcGIS Spatial Analyst for Desktop Concurrent Use Secondary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	200.00	400.00
6010	1	87198 ArcGIS 3D Analyst for Desktop Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	500.00	500.00
7010	2	87199 ArcGIS 3D Analyst for Desktop Concurrent Use Secondary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	200.00	400.00
8010	1	87236 ArcGIS Geostatistical Analyst for Desktop Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	500.00	500.00
9010	1	98696 ArcGIS Publisher for Desktop Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	500.00	500.00
10010	1	87192 ArcGIS Desktop Basic Single Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	400.00	400.00
11010	4	87193 ArcGIS Desktop Basic Single Use Secondary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	300.00	1,200.00
12010	1	98134 ArcGIS Data Interoperability for Desktop Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018	500.00	500.00
13010	1	100571	500.00	500.00



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380 New York Street
Redlands, CA 92373
Phone: 909-793-28531415
Fax #: 909-307-3083

Quotation
Page 3

Date: 04/03/2017

Quotation Number: 25784719

Contract Number: 2012MPA6085

Item	Qty	Material#	Unit Price	Extended Price
		ArcGIS Network Analyst for Desktop Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018		
14010	1	123236	6,795.00	6,795.00
		Esri Business Analyst Basic for Desktop State Maintenance Start Date: 07/01/2017 End Date: 06/30/2018		
15010	1	127626	800.00	800.00
		Esri CityEngine Advanced Concurrent Use Primary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018		
16010	1	127657	675.00	675.00
		Esri CityEngine Advanced Concurrent Use Secondary Maintenance Start Date: 07/01/2017 End Date: 06/30/2018		
17010	5	150543	489.00	2,445.00
		GeoPlanner for ArcGIS (for use with ArcGIS Online); Includes 1 Named User Single Use Term License Start Date: 07/01/2017 End Date: 06/30/2018		
18010	5	153148	500.00	2,500.00
		ArcGIS Online Named User Level 2 Term License Start Date: 07/01/2017 End Date: 06/30/2018		
19010	1	157023	1,800.00	1,800.00
		ArcGIS Developer Professional Annual Subscription Start Date: 07/01/2017 End Date: 06/30/2018		
21010	2	161328	5,000.00	10,000.00
		ArcGIS Enterprise Standard Up to Four Cores Maintenance Start Date: 07/01/2017 End Date: 06/30/2018		



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Phone: 909-793-2853/1415
Fax #: 909-307-3083

Quotation

Page 4

Date: 04/03/2017

Quotation Number: 25784719

Contract Number: 2012MPA6085

Item Qty Material#

Unit Price

Extended Price

Item Subtotal	39,915.00
Estimated Tax	0.00
Total	USD 39,915.00

DUNS/CEC: 06-313-4175 CAGE: 0AMS3



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Phone: 909-793-2853/1415
Fax #: 909-307-3083

Quotation

Page 5

Date: 04/03/2017

Quotation No: 25784719

Customer No: 1496

Contract No: 2012MPA6085

Item Qty Material#

Unit Price

Extended Price

IF YOU WOULD LIKE TO RECEIVE AN INVOICE FOR THIS MAINTENANCE QUOTE YOU MAY DO ONE OF THE FOLLOWING:

- RESPOND TO THIS EMAIL WITH YOUR AUTHORIZATION TO INVOICE
- SIGN BELOW AND FAX TO 909-307-3083
- FAX YOUR PURCHASE ORDER TO 909-307-3083
- EMAIL YOUR PURCHASE ORDER TO Service@esri.com

REQUESTS VIA EMAIL OR SIGNED QUOTE INDICATE THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION AND THAT YOUR ORGANIZATION DOES NOT REQUIRE A PURCHASE ORDER.

If there are any changes required to your quotation, please respond to this email and indicate any changes in your invoice authorization.

If you choose to discontinue your support, you will become ineligible for support benefits and services. All maintenance fees from the date of discontinuation will be due and payable if you decide to reactivate your support coverage at a later date.

The items on this quotation are subject to the terms of this quotation and of your signed agreement with Esri, if applicable. If no such agreement covers any item, then Esri's standard terms and conditions found at <http://www.esri.com/legal/software-license> apply to your purchase of that item. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Acceptance of this quotation is limited to the terms of this quotation. State and local government entities in California or Maryland buying under the State Contract are also subject to the terms and conditions found at <http://www.esri.com/legal/supplemental-terms-and-conditions>. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

By signing below, you are authorizing Esri to issue a software support invoice in the amount of USD \$39,915.00 plus sales tax, if applicable.

Please check one of the following:

I agree to pay any applicable sales tax.

I am tax exempt. Please contact me if Esri does not have my current exempt information on file.

Barnstable County Commissioners:

Leo Cakounes, Chair

Mary Pat Flynn, Vice-Chair

Ronald Beaty, Commissioner

Date

[EDGETTA]

THIS OFFICIAL FORM MUST NOT BE ALTERED.
ALL MODIFICATIONS MUST BE MADE BY SEPARATE RIDER.

**COMMONWEALTH OF MASSACHUSETTS
LICENSE TO OCCUPY REAL PROPERTY**

1. SUBJECT MATTER AND TABLE OF CONTENTS

1.1 Subject Matter

Each of the references in this License to Occupy Real Property (this License) to any of the following subjects incorporates the data stated for that subject in this § 1.1 and, unless defined elsewhere in this License, constitutes the definition of the listed subject.

DATE OF LICENSE:

LICENSOR: County of Barnstable, acting by and through its
duly elected County Commissioners

ORIGINAL ADDRESS OF LICENSOR: 3195 Main Street
Barnstable, Massachusetts 02630

LICENSEE: The Commonwealth of Massachusetts acting by
and through the Commissioner of its Division of
Capital Asset Management and Maintenance
(DCAM) on behalf of the User Agency

ORIGINAL ADDRESS OF LICENSEE: Division of Capital Asset Management and
Maintenance
One Ashburton Place, 15th Floor
Boston, Massachusetts 02108-1518

LICENSEE'S REPRESENTATIVE: Name: Susan Smiley, Director of Facilities
Address: Executive Office of Energy and
Environmental Affairs
100 Cambridge Street, Suite 900
Boston, Massachusetts 02114
and / or such other persons as Licensee
may designate from time-to-time, as set
forth in § 4.3

USER AGENCY: Executive Office of Energy and Environmental Affairs, Massachusetts Office of Coastal Zone Management

ORIGINAL ADDRESS OF USER AGENCY: 251 Causeway Street, Suite 800
Boston, Massachusetts 02114

BUILDING (ADDRESS): 3195 Main Street
Barnstable, Massachusetts 02630-1105

LICENSED PREMISES: Floor(s): partial second
Room(s)/Suite: N/A
within the Building as shown in Exhibit N/A, together with all of the Licensor's Improvements (as defined in § 4.1) made within the Licensed Premises pursuant to the provisions of this License. This License must never be construed as creating or vesting in Licensee any estate in the Licensed Premises, but granting to Licensee only the limited privileges of entry, use, and occupancy as described in this License. This License does not constitute the granting of an interest in real property for any purpose, and Licensee does not have any right to make improvements to the Licensed Premises.

USABLE AREA OF LICENSED PREMISES: Office Space: 140 square feet
Storage Space: 0 square feet

RESERVED PARKING SPACES: Number: None
Location: N/A

PERMITTED USES: Subject to the provisions of § 6.1, Licensee must use the Licensed Premises for the following purposes: office uses and all other lawful uses consistent with the operations of the User Agency.

LICENSE TERM: Beginning on the Date of Occupancy, as defined in § 3.2, and continuing until June 30, 2017 (Expiration Date). The "Expiration Date" includes any effective date of termination of this License, unless otherwise indicated.

HOURS OF OPERATION:

During the License Term, Licensee is permitted to operate and use the Licensed Premises for the Permitted Uses during the following times: 24 hours per day, seven days a week.

LICENSE FEE:

\$5,000.00, payable in a one-time, lump-sum payment; payment of which is due June 30, 2017.

BUSINESS DAY:

Unless otherwise provided by this License, "business day" means any day *other than* Saturday, Sunday, or a designated holiday of the Commonwealth of Massachusetts on which the offices of the Commonwealth of Massachusetts are closed, whether throughout the Commonwealth of Massachusetts or only in Suffolk County.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

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RIDER, CERTIFICATE, EXHIBITS, AND OTHER ACCOMPANYING DOCUMENTS

These are incorporated into and made part of this License:

Rider to License

Certificate of Compliance with Executive Order No. 481

- Exhibit A: Plan Showing Location of the Licensed Premises within the Building
- Exhibit A-1: Licensor’s Measured Drawing of the Licensed Premises
- Exhibit A-2: Site Plan Showing Location of Reserved Parking Spaces
- Exhibit B: Schematic Space Plan of the Licensed Premises
- Exhibit C: Specifications for the Licensed Premises
- Exhibit D: Construction Schedule

2. LICENSED PREMISES; USABLE AREA

2.1 Licensed Premises; Appurtenant Rights

- (a) Licensors grants to Licensee the privileges to enter upon and to use the Licensed Premises for the Permitted Uses, subject to the provisions of this License.
- (b) Licensee has as appurtenant to the Licensed Premises, the right to use in common with other occupants of the Building (and subject to the rules of the Building as set forth in § 6.3): (i) the common lobbies, malls, corridors, stairways, elevators, service areas, and loading platform of the Building; (ii) the pipes, ducts, conduits, wires, and appurtenant meters and equipment serving the Licensed Premises in common with other premises within the Building; (iii) common pedestrian walkways and landscaped areas; (iv) if the Licensed Premises include less than the entire floor area of any floor of the Building, the common restrooms, corridors, and elevator lobbies located on such floor and serving the Licensed Premises; and (v) all other areas in or about the Building from time-to-time intended for general use by occupants of the Building.

2.2 Usable Area

- (a) For the purposes of this License, "Usable Area" means, with respect to the Licensed Premises or any space removed from or added to the Licensed Premises, the square footage determined by measuring the entire floor area of the Licensed Premises (or such other space) bounded by a line established by the predominant inside finish of the permanent outside Building walls that abuts the floor (not from the inside face of the windows) and by the interior surface of corridor walls or other demising walls. Deductions must not be made for columns or other projections necessary to the Building structure or systems or for partitions subdividing the Licensed Premises. Notwithstanding the foregoing, under no circumstances does the Usable Area include elevator shafts, vestibules, stair enclosures, elevator machine rooms or other building equipment areas, janitorial, electrical, or mechanical closets, loading platforms, or restrooms, irrespective of whether Licensee occupies the entire floor or the entire Building.
- (b) Licensors acknowledges that Licensee has relied upon the information contained in Exhibit A-1, Licensors's Measured Drawings of the Licensed Premises, in establishing the Usable Area of the Licensed Premises set forth in § 1.1 and that the License Fee is predicated upon the Licensed Premises having a Usable Area equal to or exceeding the Usable Area of the Licensed Premises set forth in § 1.1 as so established. Licensors warrants and represents to Licensee that Exhibit A-1 is complete and accurate in all respects. If it is determined that Exhibit A-1 is not accurate and that the Usable Area of the Licensed Premises is smaller than depicted in said Exhibit A-1 by a factor of one percent or more, then, at the option of Licensee, this License must be amended to state the actual Usable Area of the Licensed Premises, and the License Fee must be adjusted downward to reflect such actual Usable Area.

3. LICENSE FEE; DATE OF OCCUPANCY

3.1 License Fee, Payment

- (a) Licensee agrees to pay, and Licensors agrees to accept, the License Fee described in § 1.1. Equal monthly installments of the License Fee are payable on or before the tenth day of the month for which said License Fee is due unless otherwise indicated in § 1.1. If the License

Term commences other than on the first day of a month or ends other than on the last day of a month, the License Fee for such fractional month must be prorated unless otherwise provided by § 1.1. Notwithstanding the first sentence of this § 3.1, any prorated License Fee for the portion of the month in which the License Term commences must be paid at the same time as the first installment of monthly License Fee for the first full month of the License Term unless otherwise provided by § 1.1.

- (b) If any installment of License Fee is not paid when due, Licensor is entitled to late payment interest on the overdue amount in accordance with and subject to G. L. c. 29, § 29C, and any regulations or administrative bulletins promulgated under said statute.

3.2 Date of Occupancy; Commencement of License Fee Obligation

- (a) The obligation of Licensee to pay the License Fee begins on the Date of Occupancy. The Date of Occupancy is the earlier of (i) the 15th day after the Licensed Premises are available for Licensee's occupancy, or (ii) the day Licensee actually takes occupancy of the Licensed Premises and begins to use the Licensed Premises for any or all of the Permitted Uses.
- (b) Notwithstanding that Licensor may have met all of the requirements set forth in the preceding paragraph for establishing the Date of Occupancy, the Date of Occupancy is not deemed to occur before the Completion Date set forth in § 4.2 unless Licensee actually takes occupancy of the Licensed Premises and begins to use the Licensed Premises for any or all of the Permitted Uses before the Completion Date. Licensee agrees to execute a letter to Licensor confirming the Date of Occupancy within ten business days after the Date of Occupancy has occurred.

3.3 Licensee's Entry Before License Term Without Charge

- (a) With the prior approval of Licensor, Licensee may enter the Building and Licensed Premises before the Date of Occupancy without payment of any additional sums in order to install telephone equipment, cabling, furniture and fixtures, and to otherwise prepare the Licensed Premises for occupancy by Licensee. Licensor must not withhold or delay such approval, provided that Licensee coordinates Licensee's work with the construction of the Licensor's Improvements and any other work being performed by Licensor in the Building so as not to interfere with or increase the cost of such work of Licensor or delay the Completion Date. As a condition of granting such approval, Licensor may require that Licensee and Licensee's contractors be accompanied by a representative of Licensor, and Licensee agrees on behalf of itself and Licensee's contractors to comply with any and all reasonable directions given by said representative of Licensor.
- (b) In order to assist Licensee with Licensee's preparation, move into, and occupancy of the Licensed Premises, Licensor must provide Licensee and Licensee's agents and contractors with all information concerning the Building's structure, systems, utilities, equipment, and services reasonably required by Licensee. Such information must be provided within reasonable promptness following a request by Licensee, whether before or after commencement of the License Term.

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4. IMPROVEMENTS BY LICENSOR

4.1 Licensor's Improvements

Licensor, at Licensor's sole cost and expense (except as otherwise specifically provided in this License), must furnish all labor and materials necessary to construct the Licensed Premises and to make any and all improvements or alterations to the Building and exterior areas required by the Schematic Space Plan attached as Exhibit B, the Specifications for the Licensed Premises attached as Exhibit C, and all other provisions of this License. All such alterations and improvements to be made by Licensor in or about the Licensed Premises are referred to as the "Licensor's Improvements."

4.2 Completion Date; Licensee Delays; Standard for Substantial Completion

- (a) Subject to Licensee Delays, as defined in this § 4.2, and any Force Majeure Event, as defined in § 14, all of the Licensor's Improvements must be substantially completed and the Licensed Premises made available for Licensee's occupancy within _____ weeks after delivery of a fully executed copy of this License to Licensor (the Completion Date). If, at any time, it appears that this deadline will not be met, Licensor must notify Licensee immediately, in writing. Such notice must advise Licensee of each reason for delay and of the new projected Completion Date.
- (b) If the Completion Date is delayed due to a Force Majeure Event, then the Completion Date, as it may be amended from time to time, must be extended by the actual number of days the Completion Date is delayed as a result of a Force Majeure Event, but in any event, such extension of the Completion Date for Force Majeure Causes must not exceed 150 days in the aggregate without Licensee's consent, which consent may be withheld by Licensee, for any reason or for no reason, in Licensee's sole discretion.
- (c) If the Completion Date is delayed due to a Licensee Delay, then the Completion Date set forth above, as it may be amended from time to time, must be extended by the actual number of days the Completion Date is delayed by such Licensee Delay. For the purposes of this License, "Licensee Delay" means any delay in the Completion Date that is directly and primarily caused by any of the following acts or omissions of Licensee, provided such act or omission continues for a period of more than two business days after receipt of notice from Licensor that such act or omission is likely to cause a delay in the Completion Date (such notice to be sent to Licensee in an envelope bearing the following notice on the outside in bold-face type NOTICE OF LICENSEE DELAY -- OPEN IMMEDIATELY):
 - (i) Delays in the delivery, installation, or completion of any work performed by Licensee or Licensee's contractors; or
 - (ii) Any failure by Licensee to perform any of Licensee's obligations under this License.
- (d) The extension of the Completion Date for Licensee's Delays is Licensor's sole and exclusive remedies for Licensee's Delays, notwithstanding the provisions of § 15.7 or any other provision of this License.
- (e) The Licensor's Improvements are substantially complete for the purposes of this License only when (i) Licensor performs the work required to be performed by Licensor, including complete installation of all structural and mechanical elements, walls, partitions, windows, floor and

ceiling coverings, wiring, fixtures, life-safety systems, decorations, paint, and exterior improvements, with only Punchlist Items excepted, (ii) the water supply, sewage, heating, ventilating, air conditioning, and electric facilities are available to Licensee in accordance with the obligations assumed by Licensor under this License, and (iii) the Licensed Premises are free of debris and construction materials, are in a usable and licensable condition, and have been cleaned by Licensor.

- (f) Subject to Licensee Delays and Force Majeure Causes only, Licensor must cause the Licensor's Improvements to be completed in accordance with the Construction Schedule annexed as Exhibit D. Licensor must keep Licensee apprised of the progress of the work to be performed by Licensor under this License. If there is any delay in the progress of the work of five days or more, Licensor must notify Licensee of such delay immediately, regardless of whether Licensor anticipates that such delay causes a delay in the Completion Date. Said notice must advise Licensee of all changes or adjustments in the Construction Schedule, the cause of each change or adjustment, and the corrective efforts, if any, made or to be made by Licensor.
- (g) If, for reasons other than Licensee Delays or a Force Majeure Event, the Licensor's Improvements are not substantially completed within 60 days after the Completion Date, as it may be extended for Licensee Delays, a Force Majeure Event, or otherwise by agreement of Licensor and Licensee, Licensee has, in addition to any other remedies available to Licensee under this License, or at law or in equity, the right to terminate this License by giving Licensor a written Notice of Termination, which option may be exercised by Licensee immediately or at any time after the expiration of said 60 days and without further notice. Such termination of this License by Licensee does not relieve Licensor of its obligation to pay Licensee any and all costs, fees, and expenses that Licensee may incur as a result of Licensor's delay in making the Licensed Premises available for use and occupancy by Licensee, as provided in the preceding paragraph, and such termination does not limit any claim for damages to which Licensee may be lawfully entitled by reason of Licensor's failure to perform its obligations.
- (h) Notwithstanding Licensee's consent to any extension of the Completion Date, all Punchlist Items must be completed promptly by Licensor, and in any event such items must be completed no later than 30 days after the Date of Occupancy. For the purposes of this License, "Punchlist Items" means only minor and insubstantial details of decoration or mechanical adjustment that do not impair Licensee's ability to use and occupy the Licensed Premises in accordance with the provisions of this License. On or before the Date of Occupancy, Licensor and Licensee must conduct a walk-through of the Licensed Premises and must identify, in writing, all Punchlist Items to be completed by Licensor.
- (i) The construction of the Licensor's Improvements must be (i) coordinated with any work being performed by Licensee, provided that such coordination does not materially interfere with Licensor's construction schedule, delay the Completion Date, or increase the cost of the Licensor's Improvements, (ii) completed in a good and workmanlike manner, (iii) performed and completed in compliance with all applicable laws, ordinances, codes, and regulations, and (iv) performed and completed at Licensor's sole expense, including the cost of all design work, materials, labor, and state and local permits. Approval by Licensee of any Working Drawings or changes in Working Drawings, whether expressly given or resulting from Licensee's inaction, must never be construed as a waiver of any of the requirements of this paragraph.

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4.3 Licensee's Representative

Licensee designates the individual(s) named in § 1.1 as Licensee's Representative, with full power and authority to make decisions on behalf of Licensee with respect to matters pertaining to the design and construction of the Licensor's Improvements, except that Licensee's Representative has no authority whatsoever to alter, waive, or modify any provision of this License, which may only be done in accordance with the provisions of § 15.2. Licensor must rely only upon communications received from such individuals, unless otherwise notified by Licensee in writing.

5. LICENSOR'S COVENANTS

5.1 Ownership; Signatory Authority; Debarment; Pending Proceedings; Changes

Licensor warrants and represents as follows:

- (a) Licensor has record title to the premises (or holds a current and valid lease of the premises) of which the Licensed Premises are a part, and that there are no encumbrances affecting the Licensed Premises or Building that would prohibit or interfere with the construction of the Licensor's Improvements or the use of the Licensed Premises for the Permitted Uses.
- (b) Licensor's name appears in this License exactly as Licensor's name appears on Licensor's record title to the Licensed Premises if Licensor owns the Licensed Premises, or exactly as Licensor's name appears in Licensor's lease.
- (c) Licensor has full legal capacity to enter into this License.
- (d) If Licensor is not a natural person or natural persons, but Licensor is, rather, a so-called "creature of the law" (e.g., a corporation, a general or limited partnership, a trust, a limited liability company, etc.), Licensor is validly organized and existing, Licensor is in good standing in the state, commonwealth, province, territory, or jurisdiction of its organization, and Licensor is authorized and qualified to do business in the state, commonwealth, province, territory, or jurisdiction in which the Licensed Premises are located.
- (e) The execution of this License is duly authorized, and each person executing this License on behalf of Licensor has full authority to do so and to fully bind Licensor.
- (f) Licensor is not debarred or suspended from contracting with the Commonwealth of Massachusetts under any applicable debarment statute or regulation.
- (g) Licensor knows of no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law-enforcement agency against or affecting Licensor or Licensor's properties in which any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of this License or Licensor's ability to carry out Licensor's obligations.
- (h) If the status of any warranty and representation by Licensor in this § 5.1 changes or ceases to be accurate during the License Term, Licensor must notify Licensee in writing of each such change or cessation within ten business days after the occurrence of such change or cessation and must thereafter, within an additional ten business days, complete and submit to Licensee all

commercially reasonable documentation that is necessary and appropriate to such change or cessation, all at no cost or expense to Licensee.

5.2 Delivery of Licensed Premises; Compliance with Law

- (a) Licensor warrants and represents that Licensor delivers the Licensed Premises to Licensee in good, clean, and licensable condition, and otherwise in accordance with the provisions of this License, and that the construction of the Licensor's Improvements and Building common areas to which Licensee has appurtenant rights, and the use of the Licensed Premises by Licensee for the Permitted Uses must be in full compliance with (i) all applicable overleases, (ii) all requirements of Licensor's mortgages and insurance policies, (iii) all laws, ordinances, codes, and regulations (including, without limitation, those pertaining to handicapped accessibility) of governmental authorities with jurisdiction, and (iv) all regulations of the Board of Fire Underwriters or any similar insurance-rating body or bodies.
- (b) If, at any time, any governmental authority with jurisdiction or the Board of Fire Underwriters or any similar insurance-rating body notifies Licensor or Licensee that all or any part of the Licensed Premises or Building is not constructed or maintained in compliance with any applicable law, ordinance, code, or regulation, and demands compliance, then Licensor, upon receipt of such notification, must promptly cause such repairs, alterations, or other work to be done promptly so as to bring about the compliance demanded. Licensor may defer compliance so long as the validity of any such law, order, or regulation is contested in good faith by Licensor and by appropriate legal proceedings, provided that such failure to comply must not in any way interfere with Licensee's use of the Licensed Premises for the Permitted Uses, or subject Licensee or its employees or invitees to any increased risk of injury to their persons or property, or adversely affect any other right of Licensee under this License, or impose any additional obligation upon Licensee.

5.3 Right of Entry

At reasonable times and without unreasonably interfering with Licensee's use, occupancy, and enjoyment of the Licensed Premises, Licensor or Licensor's agents may enter the Licensed Premises to make repairs or to view the Licensed Premises. Licensor must give Licensee a minimum of 48 hours notice for such visits (which notice may be given by "FAX" in the case of minor repairs taking one day or less to complete or to view the Licensed Premises); provided, however, that Licensor may enter the Licensed Premises at any hour and without 48 hours notice in the case of an emergency affecting the Licensed Premises.

5.4 Correction of Defective Work; Repair of Licensed Premises and Building

- (a) During the License Term, Licensor must promptly remedy, repair, or replace any defective aspects of the Licensor's Improvements of which Licensor becomes aware after the Date of Occupancy (Latent Defects).
- (b) Subject to Licensor's obligation to correct Latent Defects, Licensor must keep and maintain the Licensed Premises, including, without limitation, all equipment and fixtures furnished by Licensor as part of the Licensor's Improvements (whether located within or outside of the Licensed Premises) in such good repair, order, and condition as the same are in at the beginning of the License Term, reasonable wear and tear, damage caused by fire or casualty (except as provided in § 7.1), and damage caused by the negligence, breach of this License, or willful misuse of Licensee excepted. Without limiting the foregoing, but subject to any additional or

limiting provisions of Exhibit C, Licensor's obligations include repair of broken glass, doors, floor coverings, interior walls and partitions, ceiling tiles, plumbing and lighting fixtures, locks, fire protection equipment, heating, ventilation, and air conditioning equipment, and cabling. Licensor must make such repairs to the roof, foundation, exterior walls, floor slabs, and common areas and facilities of the Building, including finishes, as may be necessary to keep them in good condition.

- (c) Routine repairs to the Licensed Premises or to any of the Licensor's Improvements outside of the Licensed Premises must be made by Licensor within five business days after Licensor discovers or is notified by Licensee of the condition requiring repair, or within such shorter time period as may be required by applicable law, code, or regulation. "Routine repairs" means any repair that is not an "emergency repair," as defined in the next paragraph.
- (d) Emergency repairs to the Licensed Premises, the Licensor's Improvements, or any other portion of the Building must be made immediately upon notice to Licensor or Licensor's authorized representative of the condition requiring repair. As used in this License, "emergency repair" means any repair or replacement that is required to remove an immediate threat to the life, health, or safety of persons or property upon the Licensed Premises or the appurtenant areas described in § 2.1.
- (e) All repairs by Licensor must be completed (i) at Licensor's sole cost and expense, (ii) in a good and workmanlike manner, (iii) with respect to repairs of the Licensed Premises and the Licensor's Improvements only, with materials of equal or better quality than the original, and (iv) in compliance with all applicable laws, ordinances, codes, and regulations.
- (f) In (i) scheduling and carrying out the repairs required by this License, (ii) making any optional repairs, alterations, or improvements to the Building or the Licensed Premises, and (iii) performing routine maintenance of Building systems, fixtures, or equipment, Licensor must make all reasonable efforts to minimize interference with Licensee's access to and use of the Licensed Premises. If any such repairs or maintenance by Licensor causes Licensee to be deprived of the use of all or a material portion of the Licensed Premises for a period of more than two consecutive business days, the License Fee for each succeeding day must be abated in proportion to the deprivation unless said repairs or maintenance are required due to damage caused by the negligence, breach of this License, or willful misconduct of Licensee or Licensee's agents or contractors.

5.5 Delivery of Services and Utilities

Licensor must furnish janitorial and other services, utilities, facilities, and supplies, as set forth in Exhibit C.

6. LICENSEE'S COVENANTS

6.1 Use of the Licensed Premises

- (a) Licensee must use the Licensed Premises only for the Permitted Uses set forth in § 1.1, Licensee must not cause or permit any nuisance in the Building and must not conduct any activity within the Licensed Premises or Building that interferes with the rights of tenants or occupants of the Building.

- (b) Licensee covenants and agrees that Licensee must not do or permit anything to be done in or upon the Licensed Premises or Building, or bring anything on the Licensed Premises or Building that increases the rate of insurance on the Licensed Premises or Building above the standard rate applicable to premises occupied for the Permitted Uses, or that voids such insurance. Licensee further agrees that if Licensee does any of the foregoing, Licensee must promptly pay to Licensor, on demand, any resulting increase as an additional fee, or Licensee must cease all activities that cause the increase or the voiding, as the case may be.

6.2 Care of the Licensed Premises

Licensee must not injure, deface, or commit waste in the Licensed Premises or any part of the Building. Licensee must exercise reasonable care to ensure that all systems, fixtures, and equipment installed by Licensor are used only for their intended purposes and that the electrical, mechanical, and structural systems of the Building and the Licensed Premises are not overloaded. Licensee must notify Licensor promptly of any damage to the Licensed Premises, malfunction of a system or fixture, or any other condition that requires repair by Licensor.

6.3 Compliance With Applicable Laws and Removal of Liens

Licensee must comply with all laws, orders, and regulations of federal, state, county, and city authorities, and with any of Licensor's rules and regulations that are set forth in this License or are established by Licensor, provided that they do not conflict with the provisions of this License, and further provided that they are delivered to Licensee and to the User Agency in the manner required for notices. Licensee may defer compliance so long as the validity of any such law, order, or regulation is contested in good faith by Licensee and by appropriate legal proceedings, if Licensee first gives Licensor appropriate assurance, reasonably satisfactory to Licensor, against any loss, cost, or expense on account of such deferral, and provided that such contest must not subject Licensor to criminal penalties or civil sanctions, loss of property, liens against property, or civil liability. Licensee must not cause or allow any liens of any kind to be filed against the Licensed Premises. If any liens are filed, within 15 days after receiving written notice of such filing, Licensee, at Licensee's sole cost and expense, must take whatever action is necessary to cause such lien to be bonded off or released of record without cost to Licensor.

6.4 Assignment and Sublicense

- (a) Licensee must not assign, sublicense, mortgage, pledge, or encumber this License (the result of any such action being referred to as a "Transfer") without Licensor's prior written consent, which consent must not be unreasonably withheld, conditioned, or delayed. By valid written instrument, any transferee must expressly assume, for itself and its successors and assigns, and for the benefit of Licensor, all of the obligations of Licensee under this License. Following such transfer, Licensee has no further obligations of Licensee under this License.
- (b) Licensor must advise Licensee in writing whether or not Licensor consents to a proposed Transfer within 30 days of receiving Licensee's request for such consent. If such consent is withheld, Licensor must specify the reasons, in writing, to Licensee. If Licensor fails to so notify Licensee within said time period, Licensor is deemed to have given Licensor's consent to the proposed Transfer.
- (c) The express or implied consent by Licensor to any Transfer does not constitute a waiver of Licensor's right to prohibit any subsequent Transfer.

- (d) Licensor acknowledges and agrees that the use or occupation of all or part of the Licensed Premises by an agency of state government other than the User Agency named in § 1.1, or the substitution of another agency of state government for the User Agency is not a Transfer, provided that the Licensed Premises continue to be used for the Permitted Uses. Nevertheless, Licensee must advise Licensor, in writing, if any agency of state government other than the User Agency named in § 1.1 occupies all or any portion of the Licensed Premises, or if there is a substitution of any agency of state government for such User Agency.

6.5 Yield Up at Termination of License

At the expiration or other termination of this License, Licensee must remove all Licensee's effects from the Licensed Premises. Licensee must surrender and deliver up the Licensed Premises to Licensor in the condition in which Licensee is required to maintain the Licensed Premises, as set forth in this License, reasonable wear and tear, and damage by fire or other casualty, excepted. Any personal property of Licensee remaining upon the Licensed Premises after Licensee has surrendered the Licensed Premises becomes the property of Licensor. If Licensor removes and disposes of any remaining property, Licensee agrees to pay the reasonable costs of removal and disposal, less any salvage value actually recovered by Licensor, provided that such claim is submitted to Licensee, in writing, within 30 days after Licensee vacates the Licensed Premises.

7. CASUALTY; EMINENT DOMAIN

7.1 Damage by Fire or Other Casualty

If any damage to the Licensed Premises or Building or the repair of either or both by Licensor (i) renders any part of the Licensed Premises unfit for use and occupation by Licensee or otherwise materially interferes with Licensee's use and occupancy of the Licensed Premises, or (ii) causes a material cessation or reduction in the services to be provided by Licensor under this License (even if Licensee may continue to use and occupy the Licensed Premises), the License Fee or a just portion of the License Fee must be abated until the Licensed Premises and/or such services have been restored as required by this License.

7.2 Eminent Domain

- (a) If all or any substantial part of the Licensed Premises or the Building is taken for any public or quasi-public use under governmental law or by right of eminent domain (the Taking), this License terminates at the election of Licensor, which may be made notwithstanding that Licensor's entire interest in the Building may not have been divested. Licensee may also elect to terminate this License if the Taking would materially interfere with Licensee's use and occupancy of the Licensed Premises (even if the Licensed Premises and Building are reconstructed by Licensor to the maximum extent practicable in the case of a partial Taking), or, in the case of a partial Taking, if (i) Licensee determines, in Licensee's reasonable business judgment, that any reconstruction of the Licensed Premises and/or the Building necessary for Licensee's use and occupancy of the Licensed Premises in accordance with the provisions of this License cannot, in ordinary course, be expected to be completed by Licensor within 150 days from the date of the Taking, or (ii) Licensor, having elected not to terminate this License, fails to complete such reconstruction within 150 days after the Taking.
- (b) If any Taking of the Licensed Premises or the Building, or the restoration of either or both by Licensor, (i) reduces the Usable Area of the Licensed Premises, (ii) renders any part of the

Licensed Premises unfit for use and occupation by Licensee, or otherwise materially interferes with Licensee's use and occupancy of the Licensed Premises, or (iii) causes a material cessation or reduction in the services to be provided by Licensor under this License (even if Licensee may continue to use and occupy the Licensed Premises), the License Fee or a just portion of the License Fee must be abated until the Licensed Premises, or their remains, and/or such services are restored, as required by this License. In the case of a Taking that reduces the Usable Area of the Licensed Premises, interferes with Licensee's use and occupancy of the Licensed Premises, or materially diminishes Licensor's services on a permanent basis, a just portion of the License Fee must be abated for the remainder of the License Term.

8. INDEMNIFICATION AND INSURANCE

8.1 Licensee's Self-Insurance

Licensor and Licensee acknowledge and agree that Licensee is self-insured and that Licensee is not required by this License to procure or maintain insurance of any kind for payment of damages to Licensor or any other party. Notwithstanding any other provision of this License, but subject to the provisions of § 12.1, Licensee's liability for injuries to persons or property is governed by the provisions of G. L. c. 258 or any successor statute.

8.2 Licensee's Personal Property, Assumption of Risk

All of the furnishings, equipment, effects, and personal property of every kind and nature of Licensee, and of all persons claiming by, through, and under Licensee, that, during the License Term, may be on the Licensed Premises or in the Building is at the sole risk and hazard of Licensee, except for damage or loss caused by the negligence, breach of this License, or willful misconduct of Licensor. If the whole or any part of such personal property is destroyed or damaged by fire, water, or other casualty, no part of such loss or damage is to be charged to or to be borne by Licensor, unless such loss or damage is due to the negligence, breach of this License, or willful misconduct of Licensor.

8.3 Waiver of Subrogation

To the extent that insurance proceeds are actually recovered under insurance maintained by or for the benefit of Licensor or Licensee (Licensee being under no obligation to maintain any insurance), Licensor and Licensee each releases the other from any and all liability paid for on account of such proceeds, and to such extent (and only to such extent), each waives all claims by way of subrogation. All insurance that is carried by Licensor with respect to the Licensed Premises, whether or not required by this License, must include provisions that deny to the insurer acquisition by subrogation of rights of recovery against Licensee to the extent such rights have been waived by Licensor, insofar as and to the extent that such provisions may be effective without making it impossible for Licensor to obtain insurance coverage from responsible companies qualified to do business in Massachusetts, even though extra premium may result from such provisions.

9. TERMINATION

- (a) This License expires on the date specified in § 1.1 (the Expiration Date), unless terminated earlier by either Licensee or Licensor without cause by giving written notice to the other party at least 30 days before the effective termination date stated in such written notice.

- (b) On the effective date of termination, the obligations and liabilities of Licensor and Licensee end (except for those which, under this License, continue after termination,) as if the License Term had expired on such termination date.

10. HOLDING OVER

Licensee agrees that Licensor may accept any License Fee tendered by Licensee after the expiration or earlier termination of this License. Nothing in this § 10 is to be construed to give Licensee a right to remain in occupancy of the Licensed Premises after the Expiration Date.

11. FISCAL YEAR APPROPRIATIONS AND AUTHORIZATIONS

11.1 Licensee's Obligations Subject to Appropriations and Authorizations

The fiscal year of the Commonwealth is the twelve-month period ending June 30 of each year. Appropriations and authorizations for expenditures by agencies of the Commonwealth are made on a fiscal-year basis. In accordance with G. L. c. 29, §27, the obligations of Licensee under this License for any fiscal year, are subject to the appropriation and the allotment of sufficient funds to the User Agency.

11.2 Termination of License for Lack of Appropriations and Authorizations

If, for any fiscal year during the License Term, sufficient funds for the discharge of Licensee's obligations under this License are not appropriated and authorized, then Licensee may terminate this License by written notice to Licensor, without any liability whatsoever for damages, penalties, or other charges arising from early termination, and without further recourse to either party; provided, however, that Licensee must pay the License Fee and any other charges due to Licensor for the period before Licensee's surrender of the Licensed Premises, and that Licensee must comply with the provisions of § 6.5 of this License.

12. PERSONAL LIABILITY

12.1 Liability of Licensee

No official, employee, or consultant of the Commonwealth of Massachusetts must ever be personally liable to Licensor, or to any successor-in-interest to Licensor, or to any person claiming through or under Licensor for or on account of any failure by Licensee to perform any of its obligations under this License, or for or on account of any amount that may be or may become due under this License, or for the satisfaction of any judgement against Licensee under this License, or on any claim, cause, or obligation whatsoever under the provisions of this License.

12.2 Liability of Licensor

No trustee, beneficiary, partner, director, officer, shareholder, or employee of Licensor must ever be personally liable to Licensee, or to any successor-in-interest to Licensee, or to any person claiming through or under Licensee for or on account of any failure by Licensor to perform any of its obligations under this License, or for or on account of any amount that may be or may become due

under this License, or for the satisfaction of any judgment against Licensor under this License, or on any claim, cause, or obligation whatsoever under the provisions of this License. Licensee must look solely to Licensor's interest in the Licensed Premises, the Building, and the land upon which the Building is located, and to the rents and profits derived from the Licensed Premises, the Building, and said land for the satisfaction of any claim or judgment against Licensor under this License. Notwithstanding the foregoing, nothing in this paragraph limits any right that Licensee may otherwise have to obtain injunctive relief against Licensor, or to claim the proceeds of any insurance maintained by Licensor for Licensee's benefit. In addition, nothing in this § 12.2 limits the recourse of Licensee on account of willful fraudulent conduct.

13. NOTICE

13.1 Notice

- (a) Unless otherwise expressly permitted under this License, all notices or other communication required or permitted to be given under this License must be in writing, signed by a duly authorized representative of the party giving notice, and given by hand delivery (including without limitation, courier and overnight delivery service), or mailed by United States certified mail, postage prepaid, return receipt requested.
- (b) Unless otherwise expressly stated in this License, notices must be addressed and sent to Licensor at the address appearing for Licensor in § 1.1 and to Licensee at the address appearing for Licensee in § 1.1, with copies to the User Agency (i) at the address of the Licensed Premises (after the Date of Occupancy) and (ii) at the address set forth for the User Agency in § 1.1 if different from the address of Licensee.
- (c) Under this § 13, Licensor and Licensee, at any time and from time-to-time, may designate a different address or different addresses to which notices must be sent. Notices sent in this manner are deemed given, for all purposes, (i) on the date shown on the receipt for delivery or (ii) as of the date notice is sent if delivery is refused.

13.2 Special Notice Where Failure to Reply Results in Consent or Approval

If the consent or approval of Licensor or Licensee is deemed under this License to be given to a request or submission following a period of non-reply, such consent or approval is effective only if the outside of the envelope containing the request or submission bears the following legend with the appropriate time period filled in, printed in bold-face all-uppercase type at least one-quarter inch high (28-point font):

**NOTICE: THIS REQUEST FOR
APPROVAL REQUIRES
IMMEDIATE REPLY. FAILURE
TO RESPOND WITHIN ____ DAYS**

RESULTS IN AUTOMATIC APPROVAL.

14. FORCE MAJEURE

Whenever this License requires performance on or by a fixed date, or within a fixed time or a reasonable time, if war, fire, flood, or other casualty, or strike, governmental regulation (including any delay in the payment of the License Fee caused by or resulting from an act or an omission of any branch, agency, or department of the government of the Commonwealth of Massachusetts, other than the User Agency or DCAM), weather, or any other event that is beyond the reasonable control of the party whose performance is required (each a "Force Majeure Event") delays performance, the time for performance must be extended for a period that is equal to the duration of the delay.

15. MISCELLANY

15.1 Entire Agreement

This License contains all of the agreements between Licensor and Licensee with respect to the subject matter of this License and supersedes all prior writings and dealings between them with respect to this License.

15.2 Changes in License

The provisions of this License cannot be modified in any manner except by a written instrument signed, sealed, and mutually agreed upon by all the parties to this License and approved as required by law. No such instrument is void for lack of consideration.

15.3 Binding Agreement

This License binds and inures to the benefit of the parties to this License and to their respective representatives, successors, and assigns.

15.4 Governing Law

This License must be construed and governed by the laws of the Commonwealth of Massachusetts. Licensor and Licensee agree to bring any Federal or State legal proceedings arising under this License, in which the Commonwealth of Massachusetts, the User Agency, or DCAM is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts.

15.5 Waiver

The failure of either party to seek redress for violation or to insist upon the strict performance of any covenant or condition of this License does not prevent a subsequent act, that would have originally constituted a violation, from having all the force and effect of a violation. No provision of this License is deemed to have been waived by any party unless such waiver is in writing and signed by an authorized representative of the party to be bound by such waiver.

15.6 No Broker

Licensor and Licensee each represents and warrants to the other that no broker, agent, commission salesman, or other person has represented Licensor or Licensee, as the case may be, in connection with the procurement or consummation of this License.

15.7 Rights and Remedies Not Exclusive

Unless otherwise expressly stated in this License, no mention in this License of any specific right or remedy precludes Licensor or Licensee from exercising any other right, or from having any other remedy, or from maintaining any action to which Licensor or Licensee may otherwise be entitled, either at law or in equity.

15.8 Accord and Satisfaction

No acceptance by Licensor of a lesser sum than the License Fee then due is deemed to be other than on account of the earliest installment of such License Fee due, and no endorsement or statement on any check of Licensor or Licensee, and no letter accompanying any check or payment from either Licensor or Licensee to the other, is deemed an accord and satisfaction, and Licensor and Licensee may accept such check or payment without prejudice to such party's right to recover any balance due with respect to such payment or pursue any other remedy provided in this License.

15.9 Debarred or Suspended Contractors

Licensor must not accept bids or proposals from, or enter into any contract with, any person or firm for the construction (including but not limited to the Licensor's Improvements), repair, or maintenance of the Licensed Premises if such person or firm is debarred or suspended from contracting with the Commonwealth of Massachusetts, with the government of the United States of America, or with both under any applicable statute or regulation. Licensor must require each person and firm with whom Licensor contracts for the construction, repair, or maintenance of the Licensed Premises to agree with Licensor not to accept bids or proposals from, or enter into any contract with, any such debarred or suspended person or firm for all or any part of the construction (including but not limited to the Licensor's Improvements), repair, or maintenance of the Licensed Premises, and Licensor must strictly enforce each such agreement.

15.10 Time of Essence

Time is of the essence to this License and to each of its provisions.

15.11 Affirmative Action; Non-discrimination in Hiring and Employment

Licensor must comply with all federal and state laws, rules, and regulations promoting fair-employment practices or prohibiting employment discrimination and unfair-labor practices and must not discriminate in the hiring of any applicant for employment or demote, discharge, or otherwise subject any qualified employee to discrimination in the tenure, position, promotional opportunities, wages, benefits, or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identity, as defined by chapter 199 of the Acts of 2011, or for exercising any rights afforded by law. Licensor commits to exercise diligent efforts in purchasing 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.

15.12 Severability

If any provision of this License is declared to be illegal, unenforceable, or void, then Licensor and Licensee are relieved of all obligations under that provision (or the application of that provision under circumstances in which that provision is illegal or unenforceable), provided, however, that the remainder of this License is enforced to the fullest extent permitted by law.

15.13 No Agreement Until Signed

No legal obligation arises with respect to the Licensed Premises or other matters covered by this License until this License is executed by Licensor, the User Agency, and the Division of Capital Asset Management and Maintenance, and delivery is made by and to each.

15.14 State Employees Barred from Interest

No official, employee, or consultant of the Commonwealth of Massachusetts must ever have any personal interest, direct or indirect, in this License or in Licensor, or participate in any decision relating to this License that affects the personal interest of such official, employee, or consultant, or that affects the interest of any corporation, partnership, or association in which such official, employee, or consultant is, directly or indirectly, interested.

15.15 Paragraph Headings

The paragraph headings in this License are for convenience of reference only and in no way define, increase, or limit the scope or intent of any provision of this License.

15.16 Counterparts

This License may be executed in any number of counterparts, each such counterpart is deemed to be an original for all lawful intents and purposes, and all such counterparts together constitute but one and the same License.

15.17 Rider, Certificate, Exhibits, and Other Accompanying Documents

Other than the "Certificate of Tax-and-Employment-Security Compliance," each exhibit and other accompanying document is an integral part of this License for all lawful intents and purposes. The "Certificate of Tax-and-Employment-Security Compliance" is required by the General Laws of the Commonwealth of Massachusetts for license agreements in which the Commonwealth of Massachusetts is the licensee, but the "Certificate of Tax-and-Employment-Security Compliance" is not part of the documents for which it is required and therefore is not attached to them.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Licensor and Licensee have executed multiple counterparts of this document, under seal in accordance with the laws of the Commonwealth of Massachusetts, Licensee having done so by the Commissioner of the Division of Capital Asset Management and Maintenance, who was joined by an authorized representative of the User Agency as an adjunctive signatory, neither of whom incurs any personal liability as a result of such signature.

LICENSOR: THE COUNTY OF BARNSTABLE, ACTING BY AND THROUGH ITS DULY ELECTED COUNTY COMMISSIONERS

By: _____

Printed Name: _____

Title: _____

LICENSEE: COMMONWEALTH OF MASSACHUSETTS ACTING BY AND THROUGH THE COMMISSIONER OF ITS DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE

By: _____
Carol W. Gladstone, Commissioner

USER AGENCY: EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS MASSACHUSETTS OFFICE OF COASTAL ZONE MANAGEMENT

By: _____

Printed Name: _____

Title: _____

Approved as to Matters of Form:

Peter A. Wilson, Deputy General Counsel
Division of Capital Asset Management and Maintenance

RIDER TO LICENSE

DATE OF LICENSE:

LICENSOR: The County of Barnstable, acting by and through its duly elected County Commissioners

LICENSEE: The Commonwealth of Massachusetts acting by and through the Commissioner of its Division of Capital Asset Management and Maintenance on behalf of the User Agency, the Massachusetts Office of Coastal Zone Management of the Executive Office of Energy and Environmental Affairs

BUILDING (ADDRESS): 3195 Main Street, Barnstable, Massachusetts 02630

LICENSED PREMISES: 140 square feet of office space on part of the second floor of the Building

Modify this License as follows:

1. Any references in this License to any of the following exhibits are inapplicable:
 - Exhibit A: Plan Showing Location of the Licensed Premises within the Building
 - Exhibit A-1: Licensor's Measured Drawing of the Licensed Premises
 - Exhibit A-2: Site Plan Showing Location of Reserved Parking Spaces
 - Exhibit B: Schematic Space Plan of the Licensed Premises
 - Exhibit C: Specifications for the Licensed Premises
 - Exhibit D: Construction Schedule

2. Substitute for § 3.1 (a):

“Licensee agrees to pay, and Licensor agrees to accept, the License Fee described in § 1.1. The License Fee is payable in a one-time, lump-sum payment of \$5,000.00 and is due by June 30, 2017.”

3. Substitute for § 3.2 (a) and (b):

“The Date of Occupancy is July 1, 2016.”

4. § 4 is inapplicable because the Licensor's Improvements are not contemplated or proposed. However, if Licensor's Improvements are made during the License Term, § 4 is otherwise applicable.

Licensor and Licensee have executed multiple counterparts of this document, under seal in accordance with the laws of the Commonwealth of Massachusetts, Licensee having done so by the Commissioner of the Division of Capital Asset Management and Maintenance, who was joined by an authorized representative of the User Agency as an adjunctive signatory, neither of whom incurs any personal liability as a result of such signature.

LICENSOR: THE COUNTY OF BARNSTABLE, ACTING BY AND THROUGH ITS DULY ELECTED COUNTY COMMISSIONERS

By: _____

Printed Name: _____

Title: _____

LICENSEE: COMMONWEALTH OF MASSACHUSETTS ACTING BY AND THROUGH THE COMMISSIONER OF ITS DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE

By: _____
Carol W. Gladstone, Commissioner

**USER AGENCY: EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
MASSACHUSETTS OFFICE OF COASTAL ZONE MANAGEMENT**

By: _____

Printed Name: _____

Title: _____

Approved as to Matters of Form:

Peter A. Wilson, Deputy General Counsel
Division of Capital Asset Management and Maintenance

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE
OFFICE OF LEASING AND STATE OFFICE PLANNING**

CERTIFICATE OF COMPLIANCE WITH EXECUTIVE ORDER NO. 481

Pursuant to Executive Order No. 481, _____,
(name(s) of person(s) who signed the document to which this Certificate is attached for Landlord, Licensor, Mortgagee, *or* Prospective Lender)

_____ of _____ (Contractor),
(title(s) of person(s) who signed the document to which this Certificate is attached for Landlord, Licensor, Mortgagee, *or* Prospective Lender) (name of Landlord, Licensor, Mortgagee, *or* Prospective Lender named in the document to which this Certificate is attached)

whose principal place of business is located at _____
(address of principal place of business of Landlord, Licensor, Mortgagee *or* Prospective Lender named in the document to which this Certificate is attached)

certifies, as a condition of receiving Commonwealth funds under *(a)* the lease *or (b)* the short-term tenancy agreement *or (c)* the license *or (d)* the amendment *or (e)* the subordination, non-disturbance, and attornment agreement *or (f)* the change-of-ownership documents to which this Certificate is attached (this Contract) for the premises located at _____

(address of the premises as stated in

that:

_____ the document to which this Certificate is attached)

1. The following provisions of this certification are ancillary to this Contract and will be and are binding upon Contractor as if literally included among the provisions of this Contract.
2. Contractor must not and will not knowingly use undocumented workers in connection with Contractor's performance under this Contract.
3. Pursuant to federal requirements, Contractor must and will verify the immigration status of all workers assigned to Contractor's performance under this Contract without engaging in unlawful discrimination, and Contractor must not and will not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker.
4. Contractor is aware that any breach of item 2, item 3, or both item 2 and item 3 during the term of this Contract may be regarded as a material breach of this Contract, subjecting Contractor to sanctions, including by way of example only and not limitation, monetary penalties, withholding of Commonwealth funds and other payments, suspension or termination of this Contract or both, and any other remedy available to Tenant *or* Licensee under this Contract, at law, or in equity.

Signed under the penalties of perjury on _____, 20_____.

(signature(s) of person(s) whose name(s) and title(s) appear at the beginning of this Certificate)

AGREEMENT BETWEEN

Barnstable County
3225 Main Street
Barnstable, MA 02630

and

Robert Childs, Inc.
169 Great Western Road, Box 1341
S. Dennis, MA 02660

THIS AGREEMENT, made this _____ day of _____ 2017 by and between Robert Childs, 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 Supply of Roadway Materials to 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.

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 7, 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:

~~ROBERT CHILDS INC.~~ *Robert Childs*

4-25-2017

Date

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 9, 2017

MEMORANDUM

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

The County issued a bid for Roadway Materials on behalf of Towns in the County. Five (5) bids were received.

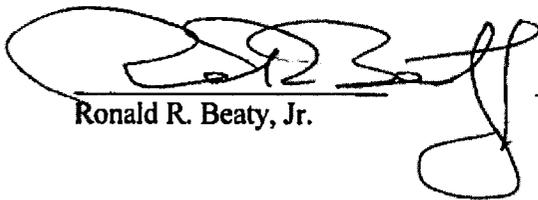
Please award the contracts to the following bidders as the responsive, responsible bidders offering the lowest prices as highlighted on the attached spreadsheet:

Cape Cod Aggregates
Robert Childs, Inc.
PA Landers
Aggregate Industries
Lawrence Lynch Corp

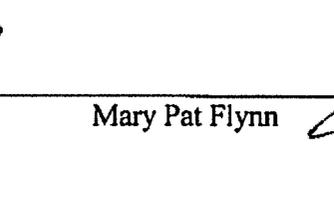
The term of the contract is from April 1, 2017 through March 30, 2018 with the option to renew for one additional year.

Thank you.

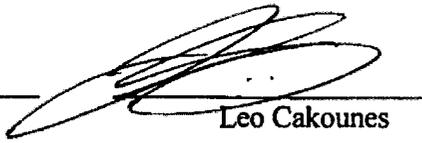
County Commissioners:



Ronald R. Beaty, Jr.



Mary Pat Flynn



Leo Cakounes

03/15/17
Date

COUNTY BID RESULTS
ROADWAY MATERIALS 1 BID OPENING - 2/16/2017

#	DESCRIPTION	TOWN	Aggregate			Aggregate	Lawrence Lynch			
			CC Aggregates	Robert Childs Inc	PA Landers		MILES	MILES		
50	HOT MIX LOADED ON TOWN TRUCKS	TON	Bourne	no bid	no bid	no bid	69.00	25.00	69.00	18.00
			Chatham	no bid	no bid	no bid	69.00	15.00	69.00	42.00
			Dennis	no bid	no bid	no bid	69.00	1.00	69.00	31.00
			Eastham	no bid	no bid	no bid	69.00	20.00	69.00	48.00
			Harwich	no bid	no bid	no bid	69.00	1.00	69.00	35.00
			Orleans	no bid	no bid	no bid	69.00	15.00	69.00	43.00
			Provincetown	no bid	no bid	no bid	69.00	45.00	69.00	78.00
			Sand	no bid	no bid	no bid	69.00	10.00	69.00	19.00
			Yar	no bid	no bid	no bid	69.00	5.00	69.00	23.00
51	Sand Borrow	TON	Bourne	11.95	16.50	12.25	no bid		no bid	
			Chatham	16.50	18.00	15.75	no bid		no bid	
			Dennis	12.95	16.00	15.75	no bid		no bid	
			Orleans	17.25	18.00	12.25	no bid		no bid	
53	1/2" Crushed Stone	TON	Bourne	22.50	22.00	19.25	no bid		no bid	
			Chatham	27.00	25.00	19.25	no bid		no bid	
			Den	24.00	24.00	22.75	no bid		no bid	
			Eastham	27.50	26.00	24.75	no bid		no bid	
			Orleans	25.00	26.00	22.75	no bid		no bid	
			Provincetown	31.00	36.00	28.00	no bid		no bid	
			Sand	22.50	24.00	19.00	no bid		no bid	
			Yar	24.00	24.00	21.00	no bid		no bid	
54	3/8" STONE	TON	Bourne	24.50	23.00	21.25	no bid		no bid	
			Chatham	29.00	26.00	21.25	no bid		no bid	
			Dennis	26.00	25.00	24.00	no bid		no bid	
			Orleans	27.00	27.00	24.00	no bid		no bid	
			Provincetown	33.00	37.00	31.00	no bid		no bid	
			Yarmouth	26.00	25.00	26.00	no bid		no bid	
55	Dense Graded Crushed Stone	TON	Bourne	17.00	16.00	17.00	no bid		no bid	
			Chatham	21.50	20.50	17.00	no bid		no bid	
			Den	18.50	20.00	20.00	no bid		no bid	
			Orleans	19.50	21.00	21.00	no bid		no bid	
			Provincetown	no bid	32.00	25.00	no bid		no bid	
			Sand	17.00	17.00	17.25	no bid		no bid	
			Yar	18.50	20.00	19.00	no bid		no bid	
57	RECYCLED ASPHALT	TON	Bourne	18.00	13.00	11.25	17.00		no bid	
			Chatham	20.50	15.00	13.00	15.00		no bid	
			Den	18.00	13.00	13.75	13.50		no bid	
			Eastham	20.00	17.00	15.95	16.00		no bid	
			Harwich	19.00	13.00	13.75	14.50		no bid	
			Sand	18.00	15.00	13.00	16.00		no bid	
58	3/4" CRUSHED STONE (DOUBLE WASHED)	TON	Bourne	24.50	22.00	24.00	no bid		no bid	
			Den	26.00	24.00	24.00	no bid		no bid	
			Falmouth	26.00	28.00	24.00	no bid		no bid	
			Orleans	27.00	26.00	26.00	no bid		no bid	
			Pown	33.00	37.00	30.00	no bid		no bid	

COUNTY OF BARNSTABLE
PURCHASING

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

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

Elaine Davis
Chief Procurement Officer

May 5, 2017

MEMORANDUM

TO: County Commissioners
FROM: Elaine Davis, Chief Procurement Officer
RE: Bid Renewal

The County issued an Invitation for Bids for a Contractor to Assist the Department of Human Services in Coordinating the Regional Network to End Homelessness. The contract allows us to renew the contract for one year options. The contract was awarded to Paula Schnepf as the responsive, responsible bidder offering the most advantageous proposal

Please vote to renew the contract with Paul aSchnepf, subject to appropriation, for one additional year at \$45.00 per hour not to exceed \$40,000.00. The term of the renewal will be July 1, 2017 through June 30, 2018.

Thank you.

County Commissioners:

Ronald R. Beaty, Jr.

Mary Pat Flynn

Leo Cakounes

Date