

# TOWN OF BARNSTABLE

## MINORITY / WOMEN BUSINESS ENTERPRISE PLAN (MBE / WBE)



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### Reference:

Massachusetts Supplier Diversity Programs  
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**TOWN OF BARNSTABLE  
MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE)  
PROGRAM OVERVIEW**

**1. POLICY STATEMENT**

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

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

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

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

Mark S. Ells  
Town Manager

**2. Objective**

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

The main objective of the Town's policy is to provide any MBE/WBE who is able and willing to do business with the Town the access to bids, contracts and procurements Town-wide. In addition, this policy ensures that there is compliance with the goals established by the Town to promote the general use of minority workers, contractors and subcontractors. This policy also includes an

active outreach program that assists MBE/WBE entities in becoming state certified and registered with the Town. The goal of equal opportunity coupled with the Town's commitment to ensuring that contractor's comply with affirmative action polices when hiring subcontractors or workers is the essence of the Town of Barnstable's minority business policy.

All of the Town of Barnstable bidding opportunities as posted on the Town of Barnstable Bid & RFP System at [www.townofbarnstable.us](http://www.townofbarnstable.us) and the current MBE/WBE Policy is posted on the Purchasing Homepage.

**3. Responsibility for Implementation**

**A. TOWN MANAGER**

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

**B. CONTRACT COMPLIANCE OFFICER**

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

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

**4. Definitions**

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

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

<b>CATEGORY</b>	<b>DEFINITION</b>
<b>American Indian</b>	(or Native American) All persons having origins in any of the original peoples of North America, and who are recognized as an Indian by a tribe or tribal organization.
<b>Asian</b>	All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands including but not limited to China, Japan, Korea, India, the Philippines Islands and Samoa.
<b>Black</b>	All persons having origins in any of the Black groups of Africa, including, but not limited to, African-Americans, and all persons having origins in any of the original peoples of the Cape Verdean Islands.
<b>Eskimo and Aleut</b>	All persons having origins in any of the peoples of Northern Canada, Greenland, Alaska, and Eastern Siberia.
<b>Hispanic</b>	All persons of Mexican, Puerto Rican, Cuban, Central, South American, or Caribbean Island origin.
<b>And another other categories approved and certified as MBE or WBE by the Massachusetts State Supplier Diversity Office.</b>	

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

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

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

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

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

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

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

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

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

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

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

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

#### A. Construction (State Assisted Funding and Town Funded)

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

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

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

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

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

A list of currently certified MBEs and WBEs in design and construction fields is available on the SDO's website at <https://www.mass.gov/supplier-diversity-office>. The Town of Barnstable does not maintain a separate list of certified firms.

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

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

#### C. SDO Certification/Market Area

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

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

### 6. **Monitoring and Reporting Procedures**

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

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

1. Project start date, estimated completion date and percentage of completion at the time of each quarterly ending date;
2. Confirming MBE/WBE participation dollars based on awarded contract;

3. Amounts paid during the quarter to MBE/WBE and total amount paid to date for the project work.

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

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

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

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

## 7. **Outreach**

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

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

## 8. **Waiver/Reduction Request**

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

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

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

**TOWN OF BARNSTABLE  
MBE/WBE REQUIREMENTS**

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

**A. Affirmative Marketing Participation Goals**

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

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

Participation Percentages are as follows:

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

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

**B. Criteria for Adjustment of Goals**

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

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

**C. Project Dollar Thresholds**

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

**D. Supporting Documentation for Design and Construction Projects**

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



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

#### **E. Request for Adjustment of Design and Construction Goals**

1. As required by Chapter 193 of the Acts of 2004, the Awarding Authority must utilize the Standard Designer Application Form for Municipalities and Public Agencies not within Designer Selection Board (DSB) jurisdiction available on the DCAMM web site under Cities and Towns at: <https://www.mass.gov/orgs/division-of-capital-asset-management-and-maintenance>.
2. Requests by an Awarding Authority for Adjustment of MBE/WBE Participation Goals on an individual state assisted project must be submitted in writing to the SDO Director Massachusetts Supplier Diversity Programs at The McCormack Building, One Ashburton Place, Room 1017, Boston, MA 02108 or by e-mail at: [john.b.fitzpatrick@mass.gov](mailto:john.b.fitzpatrick@mass.gov), no less than fourteen (14) business days before the deadline for placement of advertisements for the contract.
3. Design and Construction Goals are separate goals and therefore, requests for adjustment must be applied for separately. Design participation may not be substituted for Construction participation, nor may Construction participation be substituted for Design participation. On modular projects the design services provided under the construction contract are construction-related participation.
4. The Requested Adjustment must include the reasons for the adjustment as well as any supporting documentation as described in paragraph D above.
5. A written response to the Request will be provided to the Awarding Authority prior to the advertising deadline.
6. Adjustment for MBE/WBE Participation Goals for NON-state assisted projects are subject to the Contract Compliance Officer's approval, subject to the same submittal requirements as stated in paragraph E.4 above.

**TOWN OF BARNSTABLE  
MBE/WBE REQUIREMENTS**

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

**I. Pre-Bid Reduction/Waiver Procedures**

**A. Affirmative Marketing Participation Goals**

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

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

Participation Percentages are as follows:

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

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

**B. Criteria for Reduction/Waiver of Goals**

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

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

### **C. Supporting Documentation Required from Potential Construction Bidders**

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

### **D. Process for Requesting Waiver/Reduction of Construction Goals**

1. Requests from prospective general Bidders to reduce or waive the MBE/WBE participation goals for the bid requirement must be received by the Awarding Authority **no later than ten (10) calendar days before the general bids are due.**
2. The Awarding Authority shall not consider any request to reduce or waive the MBE/WBE Participation goals for the Contract that is received after the aforementioned deadlines.
3. Any reduction or waiver of the MBE/WBE participation goals for the Contract will be made by written addendum mailed (or emailed) to all persons who have taken out plans for the project within a reasonable period prior to bid submission.
4. Procedures and Timelines for the Waiver/Reduction of Construction Goals can be found in the attached Bidding Instructions.

**TOWN OF BARNSTABLE  
MBE/WBE REQUIREMENTS**

**BIDDING INSTRUCTIONS**

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

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

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

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

Participation Percentages are as follows:

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

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

**A. MBE AND WBE PARTICIPATION**

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

non-WBE general Bidder to meet the goals based upon a showing that “**Diligent Good Faith Effort**” was made to comply with the participation goals. If this criteria is met, the Awarding Authority must submit the General bidders request for **State Assisted** projects to the Executive Director of the Supplier Diversity Office (SDO) for final determination and for **Town funded** projects, the Contract Compliance Officer may make that final determination. All of the foregoing documentation shall accompany the Bidder's request for a reduction or waiver of the MBE/WBE participation goals. Such documentation shall include, at a minimum, the following:

- a. A list of all items of work under the Contract that the Bidder made available for subcontracting to MBE/WBEs. The Bidder shall identify all items of work, other than work to be performed by filed sub-Bidders, that the Bidder did not make so available and shall state the reasons for not making such work available for subcontracting to MBE/WBEs. The Bidder shall also demonstrate that, where commercially reasonable, subcontracts were divided into scopes or tasks capable of being performed by MBE/WBEs.
  - b. Evidence that the Bidder sent written notices soliciting Bids or proposals to perform the items of work made available by the Bidder for subcontracting to all MBE/WBEs qualified to perform such work. The Bidder shall identify (i) each MBE/WBE solicited, and (ii) each MBE/WBE listed in the SDO directory under the applicable trade category that was not solicited and reasons therefore. The Bidder shall also state the date that notices were mailed and provide a copy of the written notice(s) sent.
  - c. Evidence that the Bidder made reasonable efforts to follow up the written notices sent to MBE/WBEs with telephone calls or personal visits in order to determine with certainty whether the MBE/WBEs were interested in performing the work. Phone logs or other documentation must be submitted.
  - d. A statement of the response received from each MBE/WBE solicited, including the reason for rejecting any MBE/WBE who submitted a bid or proposal.
  - e. Evidence of reasonable efforts made, if any, to assist MBE/WBEs that needed assistance in obtaining bonding or insurance, or lines of credit with suppliers if the inability of MBE/WBEs to obtain bonding, insurance, or lines of credit is the reason given for the Bidder's inability to meet the MBE/WBE goals.
  - f. The Bidder may also submit any other information supporting its request for a waiver or reduction in the MBE/WBE participation goals, including without limitation evidence that the Bidder placed advertisements in appropriate media and trade association publications announcing the Bidder's interest in obtaining bids or proposals from MBE/WBEs, and/or sent written notification to MBE/WBE economic development assistance agencies, trade groups and other organizations notifying them of the Contract and the work to be subcontracted by the Bidder to MBE/WBEs. The Bidder shall also submit any other information reasonably requested by the Awarding Authority to show that the Bidder has taken all actions that could reasonably be expected to achieve the MBE/WBE participation goals.
4. If **filed Sub-Bids** are solicited for this Contract, requests from prospective general Bidders to reduce or waive the MBE/WBE participation goals for this Contract must be received by the Awarding Authority **no later than five (5) working days** after the list of filed sub-Bidders is mailed by the Awarding Authority to persons who have taken out plans for the Contract. If there are no filed sub-Bids solicited for this Contract, requests to reduce or waive the MBE/WBE participation goals for this Contract must be received by the Awarding Authority **no later than ten (10) calendar days** before

the date set for the receipt of general Bids. **THE AWARDING AUTHORITY WILL NOT CONSIDER ANY REQUEST TO REDUCE OR WAIVE THE MBE/WBE PARTICIPATION GOALS FOR THIS CONTRACT THAT IS RECEIVED AFTER THESE DEADLINES. Any reduction or waiver of the MBE/WBE participation goals for this Contract will be made by written addendum mailed to all persons who have taken out plans for the project.**

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

Forms attached for your use as follows:

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

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

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

and the filed sub-Bidder wishes that sub-subcontract to be credited toward the participation goals for this Contract, the filed sub-Bidder should submit a Letter of Intent from that MBE/WBE with its Bid.

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

**TOWN OF BARNSTABLE  
CONSTRUCTION PROJECTS  
CONTRACT INSTRUCTIONS**

**APPENDIX to General Conditions of the Contract**

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

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

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

Participation Percentages are as follows:

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

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

**1. Goals**

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

**2. MBE/WBE Participation Credit**

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



supplies to the construction industry from an established place of business. MBE/WBE participation credit shall be given the full amount of the purchase order only if the MBE/WBE supplier manufactures the goods or substantially alters them before resale. Otherwise, a contractor may count toward its MBE/WBE goal 60 percent of the total bid price for its expenditures of its materials and supplies required under a contract and obtained from a MBE/WBE regular supplier.

- D. MBE participation credit shall be given for the work performed by MBEs only; and WBE participation credit shall be given for the work performed by WBEs only. MBE participation may not be substituted for WBE participation, nor may WBE participation be substituted for MBE participation.

### **3. Establishing MBE/WBE Status.**

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

### **4. Subcontracts with MBE/WBEs**

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

### **5. Performance of Contract Work by MBE/WBEs**

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

purpose of giving MBE/WBE participation credit under this Contract that such MBE/WBE did not perform such work.

- D. With each progress payment request submitted by the Contractor to the Awarding Authority, the Contractor must provide the Contractor Progress Payment Report indicating the value of payments for each MBE and WBE firms for that period.

## **6. Notification of Changes in MBE/WBE Work**

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

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

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

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

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

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

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

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

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

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

### **9. Liquidated Damages; Termination**

A. If payment by the Awarding Authority or performance by the Contractor is suspended by the Awarding Authority as provided in paragraph 8 above, the Awarding Authority shall have the following rights and remedies if the Contractor thereafter fails to take all action necessary to bring the Contractor into full compliance with the requirements of this Article, or if full compliance is no

longer possible because the default of the Contractor is no longer susceptible to cure, if the Contractor fails to take such other action as may be required by the Awarding Authority to meet the MBE/WBE participation goals set forth in this Contract:

- (1) The Awarding Authority may terminate this Contract; and/or
- (2) The Awarding Authority may retain from final payment to the Contractor, as liquidated damages, an amount equal to the difference between:
  - (a) The total of the MBE/WBE participation goals set forth in this Contract; and
  - (b) The amount of MBE/WBE participation credit earned by the Contractor for MBE/WBE Work performed under this Contract as determined by the Awarding Authority, the parties agreeing that the damages for failure to meet the MBE/WBE participation goals are difficult to determine and that the foregoing amount to be retained by the Awarding Authority represents the parties' best estimate of such damages. Any liquidated damages will be assessed separately for MBE and WBE participation.

B. Before exercising its rights and remedies hereunder, the Awarding Authority may give the Contractor and any other interested party another opportunity to present evidence to the Awarding Authority that the Contractor is in compliance with the requirements of this Article or that there is some justifiable reason for waiving the requirements of this Article in whole or in part. The Awarding Authority may invite SDO to participate in any proceedings undertaken hereunder.

#### **10. Reporting Requirements**

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

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

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

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

**Project Number** \_\_\_\_\_  
**Project Location** \_\_\_\_\_  
**Project Name** \_\_\_\_\_

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

**BIDDER CERTIFICATION:**

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

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

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

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

**Name of Firm** \_\_\_\_\_

**Business Address** \_\_\_\_\_

**Print Name** \_\_\_\_\_

**Authorized Signature** \_\_\_\_\_

**Title** \_\_\_\_\_

**Telephone No.** \_\_\_\_\_

**Fax No.** \_\_\_\_\_

**Date** \_\_\_\_\_

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

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

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

Indicate SDO Certification: \_\_\_\_\_ MBE  
 (Include copy(s) of SDO Certification Letter) \_\_\_\_\_ WBE  
 \_\_\_\_\_ MBE/WBE

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

**MBE/WBE PARTICIPATION**

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

Total Dollar Value: \$ \_\_\_\_\_ %

Name of MBE/WBE Firm \_\_\_\_\_

Business Address \_\_\_\_\_

Print Name \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Title \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Date \_\_\_\_\_

Town of Barnstable

CC Form 3, rev. 1/20

**CONTRACTOR PROGRESS PAYMENT REPORT  
MINORITY/WOMEN BUSINESS ENTERPRISES PARTICIPATION**

**Project Number:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**Project Location:** \_\_\_\_\_

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

**Periodical Payment No.:** \_\_\_\_\_

**General Contractor:** \_\_\_\_\_

**MBE and/or WBE:** \_\_\_\_\_

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**General Contractor:**

**Minority and/or Women Business Enterprise**

\_\_\_\_\_  
**(Signed)**

\_\_\_\_\_  
**(Signed)**

\_\_\_\_\_  
**(Title)**

\_\_\_\_\_  
**(Title)**

\_\_\_\_\_  
**(Date)**

\_\_\_\_\_  
**(Date)**

Town of Barnstable

CC Form 4, rev. 1/20

**TOWN OF BARNSTABLE, MASSACHUSETTS**

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

**A. CONTRACTOR'S CERTIFICATION**

**NAME OF PROJECT:** \_\_\_\_\_

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

**CONTRACTOR'S CERTIFICATION**

\_\_\_\_\_ certifies that

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

\_\_\_\_\_  
Signature of Authorized Representative of Contractor



**REQUEST FOR WAIVER/REDUCTION**

**Town of Barnstable**

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

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

General Information:

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

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

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

COMBINED MBE/WBE Goal: \_\_\_\_\_ %

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

**Minimum Requirements:**

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

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

REQUEST FOR WAIVER/REDUCTION

**Town of Barnstable**

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

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

CERTIFICATION:

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

\_\_\_\_\_  
(Contractor authorized original signature) Date \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

Email: \_\_\_\_\_

APPROVED / REJECTED: \_\_\_\_\_  
Contract Compliance Officer Date

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

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

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

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

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

DEPARTMENT OF OCCUPATIONAL SAFETY, 100 CAMBRIDGE ST., 11<sup>TH</sup> FLR BOSTON, MA 02202

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

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

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

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

**BARNSTABLE MBE/WBE QUARTERLY REPORT (One Form per Project) CC Form 8 (rev. 1/20)**

**TOWN PROJECT MGR NAME:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

(your name)

Reporting Period

1. Contract Compliance Officer required to report to SDO quarterly **4th Quarter 2019 10/1/19 – 12/31/19**
2. Project Managers required to update projects to CCO (J. Boucher) as follows:

- a. Project Name: \_\_\_\_\_
- b. Funding Source (If multiple Sources, provide percentage of each) (ie. FAA, State, SRF, capital, etc)  
\_\_\_\_\_
- c. Percent Complete (Percentage): \_\_\_\_\_
- d. Town Project Manager Contact Phone Number: \_\_\_\_\_
- e. Duration of Project (Est. Start/Complete date): Start: \_\_\_\_\_ Est. Complete: \_\_\_\_\_

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

- f. Bid Release Date: \_\_\_\_\_ Award Date: \_\_\_\_\_
- g. Contractors Name: \_\_\_\_\_
- h. Contractor Proj Manager's Name: \_\_\_\_\_ Tel# \_\_\_\_\_
- i. Total Dollar Amount of Project: \_\_\_\_\_
- j. Total Dollar Amount MBE: \_\_\_\_\_
- k. Total Dollar Amount WBE: \_\_\_\_\_
- l. Total Dollar Amount DBE: \_\_\_\_\_ (if applicable)

3. Minority and Woman Business Summary by subcontractor name:

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

Name: \_\_\_\_\_ Address: \_\_\_\_\_

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

Amount Paid to Date: \_\_\_\_\_

Type of Work: \_\_\_\_\_

- b. WBE Contracts Awarded or Paid:

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Type of Work: \_\_\_\_\_

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

Amount Paid to Date: \_\_\_\_\_

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

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Type of Work: \_\_\_\_\_

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

Amount Paid to Date: \_\_\_\_\_

NOTE: If for some unforeseeable reason, the contractor is not meeting the MBE/WBE/DBE requirements during the course of the project, it is the Town Project Manager's responsibility to contact the Contract Compliance Officer (J. Boucher) immediately to discuss corrective action. Advising after the project is completed and the goal was not met is not acceptable.