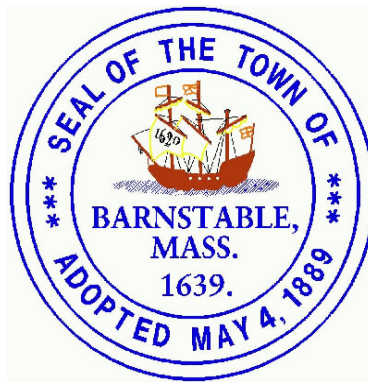


INVITATION FOR BID

PROJECT MANUAL

TOWN OF BARNSTABLE BARNSTABLE MUNICIPAL AIRPORT

CONSTRUCTION SPECIFICATIONS FOR AIRPORT PAVEMENT MARKING PROJECT



DATE ISSUED: MAY 5, 2011

BID DUE DATE – 5/27/11, 2 PM
BID SITE VISIT – 5/18/11, 10 am at Barnstable Municipal Airport
Gourley Conf. Room, 480 Barnstable Rd., Hyannis, MA
KEY CONTACT: Johanna Boucher, Purchasing Agent (508) 862-4741
Johanna.boucher@town.barnstable.ma.us

This document and any addenda thereto are issued electronically only. It is the responsibility of every bidder who receives this bid and all associated documents to check the Town of Barnstable Bid & RFP System (www.town.barnstable.ma.us) for any addenda or modification to this solicitation, if they intend to respond. The Town of Barnstable accepts no liability to provide accommodation to bidders who submit a response based upon an out of date solicitation document. Bidders may not alter (manually or electronically) the bid language or any bid documents. Unauthorized modifications to the body of the bid, specifications, terms or conditions, or which change the intent of this bid are prohibited and may disqualify a response.

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PREVAILING WAGES dated 5/2/11

**SECTION 1
TOWN OF BARNSTABLE
BARNSTABLE MUNICIPAL AIRPORT
INVITATION FOR BID**

AIRPORT PAVEMENT MARKING PROJECT

The Purchasing Agent of the Town of Barnstable, on behalf of the Barnstable Municipal Airport Commission, the awarding authority, is requesting bids for the following:

AIRPORT PAVEMENT MARKING PROJECT

Sealed bids will be received at the Town of Barnstable, School Administration Building, Attn: Johanna Boucher, Purchasing Agent, 230 South Street, 3rd Floor, Hyannis, MA 02601 until **2:00 p.m. on May 27, 2011**. (Tel. 508-862-4741, Fax 508-862-4717)

The work to be performed under this contract consists of the painting of taxiway centerlines and enhanced centerlines at various locations throughout the airfield. The project also includes the removal of pavement markings by grinding at selected locations on the airfield. The contractor shall furnish all materials, tools, and labor to complete project in accordance with specifications.

Bid specifications may be obtained on the Town of Barnstable Website, Bid & RFP System at www.town.barnstable.ma.us immediately. All bidders must register on the Bid & RFP System to receive documents. Full size drawings are available in the office of the Purchasing Agent.

Bids shall be in a sealed envelope bearing the words "**Town of Barnstable –Airport Pavement Marking Project**". The public bid opening will be held at the Town of Barnstable, School Administration Building, Basement Conference Room, 230 South St, Hyannis, MA on **May 27, 2011, 2:00 pm**. To receive consideration, proposals shall be submitted no later than the above date and time for the opening.

To receive consideration, proposals shall be submitted on the appropriate forms no later than the above date and time schedule for the opening. Proposals must be accompanied by a bid security in the amount of **five (5%) percent of the bid price** in the form of a bid bond or certified, treasurer's or cashier's check issued by a responsible bank or trust company. If, upon acceptance of the bid, a Bidder fails to enter into a Contract with the Town of Barnstable, the bid security shall be forfeited to and become the property of the Town.

There will be a pre-response site visit at the project site, meet in the lobby of the Barnstable Municipal Airport, Hyannis, MA on **May 18, 2011, 10:00 am** at the project site, Barnstable Municipal Airport, 480 Barnstable Road, Hyannis, MA. All questions regarding the project should be submitted through the Purchasing Agent via email at johanna.boucher@town.barnstable.ma.us.

Contractors shall be required to comply with all applicable Massachusetts General Law Chapter 3039M, and all other applicable Massachusetts General Laws.

The successful bidder will be required to furnish a Labor and Materials Payment bond in the amount of one fifty (50%) of the contract amount.

All bidders shall be required to provide Certification of Occupational Safety and Health Administration (OSHA) Training in accordance with Massachusetts General Law 30: Section 39S, as amended by Chapter 306 of the Acts of 2004, effective 7/1/06.

Bidders are not to include in their Bid Proposal sales and compensating use taxes on materials and supplies purchased for this project. All materials used are tax exempt.

A weekly certified payroll submittal shall be required of the successful bidder in accordance with MGL C149, S27B. No payments will be made by the Town until all payroll information necessary for the Town to determine compliance with prevailing wage law requirements for the time period of the payment request have been submitted. The Contractor shall not discriminate with regard to the personnel employed on this project on the basis of race, color, creed, national origin, gender, sexual preference, handicap or age. Prevailing Wage Rates dated May 2, 2011 apply to this project.

The Town of Barnstable reserves the right to reject any or all proposals or to accept any proposal that appears to be in the best interest of the Town.

END OF SECTION

SECTION 2

INSTRUCTIONS TO BIDDERS

1. SECURING DOCUMENTS

- A. The Notice to Bidders, Instructions to Bidders, General Conditions, Special Conditions, Contract Agreement, Labor Rates, Itemized Proposal, and Application and Certification for Payment and all other documents in these Project Specifications and Drawings referenced in the Agreement, as well as any addenda issued prior to receipt of bids, compose the Contract Documents.
- B. Copies of these bid documents and all applicable attachments are available on the Town of Barnstable website on the Bid & RFP System at www.town.barnstable.ma.us. Contact for this bid: Town of Barnstable, Procurement & Risk Management, Attention: Johanna Boucher, 230 South Street, 3rd Floor, Hyannis, MA 02601, (508) 862-4741. All questions regarding this invitation should be addressed to Johanna Boucher, email address is: johanna.boucher@town.barnstable.ma.us.

2. BID FORMS

- A. All bids must be submitted on the forms bound herein. All blank spaces in the proposal form shall be properly completed in ink and all erasures and corrections initialed by the contractor.
- B. All bids must be submitted to the above address in a sealed envelope containing the bid, properly marked "**Airport Pavement Marking Project**". It is the responsibility of the bidder to ensure that bids are delivered to the specified location prior to the time and date designated.
- C. The Town may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids, except as limited under the General Laws, Chapters 30 and 149, applicable sections, as amended to date.
- D. Any bid received after the time and date designated will not be considered.

3. BID SECURITY

- A. Bid Security in the amount of **FIVE PERCENT (5%) of the bid dollars** (this includes all alternates, if any included in this bid) shall accompany each bid submittal. At the option of the Bidder, the security may be a bid bond issued by a surety authorized to do business in the Commonwealth, certified check, or treasurer's or cashier's check issued by a responsible bank or trust company, payable to the Town of Barnstable. Personal checks and cash will not be accepted.
- B. The bid security shall secure the execution of the Contract and the furnishing of a performance and payment bond by a successful bidder.
- C. Should any bidder to whom an award is made fail to enter into a Contract therefor within five (5) days, Saturdays, Sundays, and legal holidays excluded, after notice of award has been mailed to him or fail within such time to furnish Performance and Payment Bonds as required, the amount so received from such bidder through their bond, certified check, treasurer's or cashier's check as bid deposit shall become the property of the Town of Barnstable, as liquidated damages; provided that the amount of the bid deposit which becomes the property of the Town of Barnstable shall not, in any event, exceed the difference between their bid price and the bid price of the next lowest responsible and eligible bidder; and that provided further that in the case of death, disability, bona fide

clerical or mechanical error of a substantial nature, or other unforeseen circumstances affecting the bidder, their deposit shall be returned to them.

- D. Bid deposits of the three lowest responsible and eligible bidders will be held by the Awarding Authority during the time stipulated for the execution of the contracts, and may be disposed of in such a manner as will accomplish the purpose for which they are submitted. After expiration of such period, bid guarantees not disposed, or the amounts thereof, will be returned within five (5) days, Saturdays, Sundays and legal holidays excluded.

4. DEFINITIONS

- A. All definitions set forth in the General Conditions are applicable to all bidding documents, which include the Advertisement, Instructions to Bidders, Addenda issued prior to receipt of general bids.
- B. Addenda are written or graphic instruments issued prior to the execution of the contract which modify or interpret the bidding documents, including drawings and specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents upon execution of the Agreement.

5. BIDDER'S REPRESENTATION

- A. Each bidder, in submitting their proposal, represents that they have read and understood the bidding documents.
- B. Each bidder represents that they have visited the site, familiarized themselves with the local conditions under which the work is to be performed, compared the site with the drawings and specifications, satisfied themselves of the conditions of delivery, handling and storage of materials, and all other matters that may be incidental to the work, including subsurface conditions before submitting their proposal.
- C. Each bidder represents that their bid is based upon the materials and equipment described in the bidding documents, including any addenda issued thereto.
- D. Submission of a proposal will be considered as evidence of the bidder's representation. No allowance will subsequently be made to the successful bidder by reason of any error or omission on his part, due to his neglect in complying with the requirements of this article, except with respect to conflicts with the General Laws.

6. EXAMINATION OF BIDDING DOCUMENTS

Each bidder shall examine the bidding documents carefully and, not later than seven (7) days prior to the date for receipt of bids, shall make a written request to the Purchasing Agent for interpretation or correction of any ambiguity, inconsistency or error therein which they may discover. Any interpretation or correction will be issued as an addendum by the Purchasing Agent. Only interpretations or correction by addendum shall be binding. No bidder shall rely upon any interpretation or correction given by any other method.

7. ADDENDA

- A. Prior to the receipt of the bids, addenda will be forwarded to each person or firm recorded by the Procurement & Risk Management as having received the bidding documents and will be available for inspection wherever the bidding documents are kept available for that purpose.

- B. Addenda issued during the time of bidding shall be listed on proposal forms in the space provided. Failure of a bidder to receive any addendum shall not release the bidder from any obligations under their bid, provided said addendum was sent by e-mail, telegram, by U.S. mail, or successful facsimile to the address furnished by the bidder for transmittal of mail. Telegraphic addenda will be confirmed by U.S. mail.

8. REJECTION OF PROPOSALS

The bidder acknowledges the right of the Town of Barnstable to reject any or all bids and to waive any informality or irregularity in any bid received. In addition, the bidder recognizes the right of the Town of Barnstable to reject a bid if the bidder fails to furnish any required bid security, or fails to submit the data required by the bidding documents, or if the bid is in any way incomplete or irregular.

9. QUALIFICATIONS OF BIDDER

- A. Any bidder, if requested, shall submit a financial statement, experience records, and an equipment schedule, on forms to be provided by the Town of Barnstable. Financial statements shall reflect true financial conditions of bidder within three months prior to date of bid opening and shall be validated by a Certified Public Accountant.
- B. A bidder, in order to be eligible for the contract, must be able to show their financial ability to carry on the work until the project is complete and accepted by the Town of Barnstable.

10. LABOR AND MATERIALS PAYMENT

- A. Within five (5) days after the date of Notice of Award of Contract, Saturdays, Sundays and legal holidays excluded, the bidder to whom the award is made shall furnish a labor and materials bond, each equal to the full amount of the contract price to guarantee the faithful performance of all terms, covenants and conditions of the same. The bonds are to be issued by an acceptable bonding company qualified to do business under the laws of the Commonwealth of Massachusetts and satisfactory to the Town of Barnstable.
- B. The payment bond shall guarantee that the contractor shall pay in full all persons, firms or corporations who furnish labor or material or both labor and materials for, or on account of the work included herein. Payment bonds will be in effect until such time as the contractor furnishes proof that payment in full has been made for all materials used on the contract work. The bonds shall be paid for by the contractor. The Town of Barnstable shall have the right to demand proof that parties signing the bonds are duly authorized to do so.
- C. Every such bond shall have a power of attorney attached thereto, authorizing the Town of Barnstable to enter judgment thereon in any court in the United States of America or elsewhere against the obligors therein named for the amount therein named and shall be conditioned for the honest and faithful compliance with all provisions of the bidder or bidders.
- D. Materials Payment Bond form is included in this bid document.

- 11. **"OR EQUAL" CLAUSE:** (Statutory reference: M.G.L. C.30, §39M(b)) Where products, materials or equipment are prescribed by manufacturer name, trade name, or catalog reference, the word "or approved equal" shall be understood to follow. An item shall be considered equal to the item so named or described if, in the opinion of the Architect:
 - a. it is at least equal in quality, durability, appearance, strength and design;
 - b. it performs at least equally the function imposed for the public work being contracted for or the material being purchased; and
 - c. it conforms substantially, even with deviations, to the detailed requirements for the items as indicated by the specifications.

Any structural or mechanical changes made necessary to accommodate substituted Equipment under this paragraph shall be at the expense of the Contractor or Subcontractor responsible for the work item. See other paragraphs of the General Conditions for any procedures that may be used in determining compliance with the standards of this paragraph.

12. SUBSTITUTIONS

- A. The Bid shall be based on using the materials or products as specified and provided. Where several materials are specified by name for one use, any of those so specified may be supplied.
- B. Whenever the specified products or class of materials is specified exclusively by trade name, by manufacturer's name or by catalog reference, only such items shall be used, unless the Town's written approval for substitution is secured in accordance with the Conditions of the Contract.

13. WORK TIME LIMITS

- A. Contractor shall furnish a proposed construction schedule, in writing, with their bid. A final construction schedule shall be submitted at the time of delivery of the properly executed contract, contract bonds and certificate of insurance to the Awarding Authority, allowing for completion of the contract work prior to the date specified below and appearing on the Contract Form.

Thereupon the Town of Barnstable will review the completed documents and proposed schedule, ask for revisions or corrections, or issue a "NOTICE TO PROCEED" indicating its agreement with final contract terms.

- B. The completion date for the work to be performed under this contract is: 30 days after notice to proceed. Construction may begin immediately upon receipt of notice to proceed.

14. TAX EXEMPTION

The project is exempt from payment of Massachusetts sales tax to the extent permitted by MGL c.64H, Subsection 6F. Exemption Certificate E-046-001-079 shall be used in lieu thereof.

15. ACCEPTANCE OF PROPOSALS

Within thirty (30) days after the opening of the proposals the Town of Barnstable will act upon them. The acceptance of a proposal will be a Notice of Acceptance in writing signed by a duly authorized representative of the Town of Barnstable and accompanied by Labor and Materials Payment Bond forms. No other act of the Town of Barnstable shall constitute the acceptance of a proposal. The acceptance of the proposal shall bind the successful bidder to the contract. The rights and obligations provided for in the contract shall become effective and binding upon the parties only upon its formal execution.

16. TIME FOR EXECUTING CONTRACT AND PROVIDED CONTRACT BOND

- A. Any contractor whose proposal shall be accepted will be required to execute the contract and furnish contract bonds within five (5) days, Saturdays, Sundays and legal holidays excluded after the notice that the contract has been awarded to them.

17. PAYMENT OF EMPLOYEES

- A. For work done in the Town of Barnstable, the payment for employees of the contractor and any or all sub-contractors and suppliers shall comply with the wage scale current at the commencement of construction, as published by the Department of Labor and Industries, under provisions of the Massachusetts General Laws. The contractor and each of his sub-contractors and suppliers shall pay each of their employees engaged in work on the project under the contract in full, less deductions made mandatory by law, and not less often than once a week. All forms required by local authorities, the Commonwealth of Massachusetts, and the United States Government, shall be properly submitted. No payments will be made on any application for payment until all required payroll and Affirmative Action/Equal Opportunity information for the period covered by the application has been submitted to the Town.
- B. A copy of applicable wage rate schedules is attached and forms part of the contract documents.

18. WITHDRAWAL OF PROPOSALS

- A. At any time prior to the scheduled closing time for receipt of proposals, any bidder may withdraw his proposal, either personally or by telegraphic or written request. If withdrawal is made personally, proper receipt shall be given therefor.
- B. After the scheduled time for receipt of proposals and before award of contract, no bidder will be permitted to withdraw his proposal unless said award is delayed for a period exceeding thirty (30) days. Negligence on the part of the bidder in preparing his bid confers no rights for the withdrawal of the proposal after it has been opened.

END OF SECTION

SECTION 3

GENERAL CONDITIONS

1. THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Project Manager. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of Addenda relating to bidding requirements).

2. THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Project Manager and Contractor, (2) between the Owner and any Subcontractor or Sub-subcontractor, or (3) between any persons or entities other than the Owner and Contractor. The Project Manager shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Project Manager's duties.

3. THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

4. THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

5. THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

6. THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

7. THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work, which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

8. CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

9. INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

10. EXECUTION OF CONTRACT DOCUMENTS

The Contract Documents shall be signed by the Owner and Contractor.

All six (6) copies of the Contract Documents shall be signed by the Town of Barnstable and the Contractor.

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

11. OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

The Drawings, Specifications and other documents, including those in electronic form, prepared by the Town of Barnstable and their consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Town of Barnstable or their consultants, and unless otherwise indicated, the Town of Barnstable and their consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of Instruments of Service, except the Contractor's record set, shall be returned or suitably accounted for to the Project Manager upon request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Town of Barnstable Their consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Town of Barnstable and their consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Town of Barnstable and their consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's or their consultants' copyrights or other reserved rights.

12. TOWN OF BARNSTABLE (Owner)

GENERAL - The Town of Barnstable herein called the "Owner" is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner has designated an Project Manager, who shall forward authorizations and approvals from the Airport Manager. The term "Owner" means the Owner or, the Owner's authorized representative, the Project Manager. The Project Manager represents the Town of Barnstable throughout this Project. The Project Manager shall be responsible for all services associated with the project management of a first class, publicly constructed project in Massachusetts and as further described herein. The Project Manager shall be responsible for the management of the project as the Town of Barnstable. The Project Manager shall not have responsibility for the construction of the project. Such responsibilities shall remain with the General Contractor ("Contractor").

- A. The Owner shall at all times have access to the Work wherever it is in preparation and progress. The building shall be in use. Site closures will need to be coordinated thru the Owner.
- B. The Owner will make visits to the site to become generally familiar with the progress and quality of the Work in accordance with the Contract Documents. On the basis of on-site observations by the Owner, who will endeavor to guard against defects and deficiencies in the Work of the Contractor. The Project Manager will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with Contract Documents.
- C. Based on such observations (in the above) and the Contractor's Application for Payment, the Owner will determine the amounts owed to the Contractor and will issue Certificates for Payment in accordance with Paragraph 8.
- D. The Owner will be, in the first instance, the interpreter of the requirements of the Contract Documents.
- E. The Owner will have authority to reject Work that does not conform to the Contract Documents.
- F. The Town of Barnstable's Representative for this project and Project Manager will be: Frank Sanchez, Asst Airport Manger, or his authorized representative. Once the project contract is signed, all project questions, shop drawings, samples and requirements for approvals shall be directed to:

Barnstable Municipal Airport
Frank Sanchez, Asst. Airport Manger
480 Barnstable Road
Hyannis, MA 02601
Phone: 508- 778-7764

13. OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

14. OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Directive shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

15. ADMINISTRATION OF THE CONTRACT

The Town of Barnstable has an Project Manager assigned to this project whose duties and responsibilities are more fully described in the Contract Documents.

The Project Manager will provide administration of the Contract as described in the Contract Documents, and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work. The Project Manager will have authority to act on behalf of the Owner.

The Project Manager, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Project Manager will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Project Manager will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

The Project Manager will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Project Manager will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

Communications by and with the Owner's consultants shall be through the Project Manager. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors (retained by the Owner) shall be through the Project Manager. Except as may otherwise be specifically authorized in the Contract Documents, the Owner and the Contractor shall communicate with one another through the Project Manager all matters arising out of, or relating to, the Contract. The Owner shall not be bound by, nor shall it be responsible for, any directive relating to the Work issued by an officer, official, employee or agent of the Town of Barnstable unless such directive is specifically authorized Through the Project Manager.

Based on the Project Manager's evaluations of the Contractor's Applications for Payment, the Project Manager will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

The Project Manager will have authority to reject Work that does not conform to the Contract Documents. The Project Manager will have authority to require inspection or testing of the Work, whether or not such Work is fabricated, installed or completed.

The Project Manager will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Project Manager's action will be taken with such reasonable promptness as to cause

no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Project Manager's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Project Manager's review of the Contractor's submittals shall not relieve the Contractor of the obligations under the contract. The Project Manager's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences or procedures. The Project Manager's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

Project Manager, will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work that do not have a cost impact on the contract.

The Owner, represented by the Project Manager, will conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion. The Project Manager will receive from the Contractor for the Owner's review and records, "As-Built" Drawings, CD's, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

The Project Manager will interpret and decide matters concerning performance under and requirements of, the Contract Documents upon written request by the Contractor. The Project Manager's response to such requests will be made in writing within the time limits agreed upon or otherwise with reasonable promptness. Any delay shall not be recognized on account of failure by the Project Manager to furnish such interpretations until fifteen (15) days after written request is made for them.

Interpretations and decisions of the Project Manager will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

The Project Manager's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

16. CLAIMS AND DISPUTES

Definition. A Claim is a demand or assertion seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the Project. The term "Claim" also includes other disputes and matters in question arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

Time Limits on Claims. Claims by either party must be initiated within fourteen (14) days after occurrence of the event giving rise to such Claim or within fourteen (14) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Project Manager and the other party.

The Contractor's failure to provide written notice in strict accordance with this paragraph will result in the Contractor's having waived its claim. Written notice submitted by the Contractor must include pricing of the Claim.

The Contractor shall furnish the Project Manager with such additional documentation as the Project Manager may request to evaluate the Claim.

Continuing Contract Performance. Regardless of the disposition or status of a Claim except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

Claims for Additional Cost. Contractor hereby acknowledges that the Owner has the contractual right to delay the Work. Such right may not be exercised unreasonably. In addition, Contractor shall not be entitled to additional compensation as a result of delay, even if caused by the Owner or those for whom the Owner is responsible. The Contractor's sole remedy for any delay is an extension of time, notwithstanding the above. If the Contractor wishes to make Claim for an increase in the Contract Sum, for reasons other than delay or hindrance, written notice shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property.

If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Project Manager, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Project Manager, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds.

Claims for Additional Time

If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

No increase in contract Time will be allowed for Work which is delayed as a result of the Contractor's failure to timely submit, revise or resubmit shop drawings, product data and/or samples.

Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding fourteen (14) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

Claims for Consequential Damages. The Contractor waives Claims against the Owner for consequential damages arising out of or relating to this Contract. This waiver includes:

- .1 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This waiver is applicable, without limitation, to all consequential damages due to the Contractor's termination.

17. RESOLUTION OF CLAIMS AND DISPUTES

The Project Manager will review Claims and within ten (10) days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Project Manager is unable to resolve the Claim if the Project Manager lacks sufficient information to evaluate the merits of the Claim or if the Project Manager concludes that, in the Project Manager's sole discretion, it would be inappropriate for the Project Manager to resolve the Claim.

If the Project Manager requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Project Manager when the response or supporting data will be furnished or advise the Project Manager that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Project Manager will either reject or approve the Claim in whole or in part.

Upon receipt of a Claim against the Contractor or at any time thereafter, the Project Manager or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owners Project Manger or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

18. CONTRACTOR

GENERAL - The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

The Contractor shall perform the Work in accordance with the Contract Documents.

- A. The Contractor shall perform, supervise, and direct the Project, using their best skill and attention. The Contractor shall be solely responsible for all construction and installation means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.
- B. Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work. Water and Power is to be obtained from the existing building. The cost of the existing building utilities will be paid by the Owner.
- C. The Contractor warrants to the Town of Barnstable that all materials and equipment incorporated in the work will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards may be considered defective.

The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

If the Contractor performs Work, which it should know it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without written notice to the Owner and the Project Manager, the Contractor shall be responsible for such Work and shall bear the costs attributable to correction along with any other damages incurred by the Owner.

19. SUPERINTENDENT

The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the

Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

The Contractor shall designate in writing to the Owner the names of the Superintendent and necessary assistants prior to the commencement of Work. The Superintendent and necessary assistants shall not be removed without written notice to the Owner. If the Owner objects to the Contractor's Superintendent, or any assistant, whether initially or otherwise, the Contractor shall submit a replacement Superintendent or assistant at no increase in the Contract Sum or the Contract Time.

The Contractor's Superintendent and similar authorized representatives of any Sub-contractor, Supplier, or any other person or organization shall attend all meetings as requested by the Owner.

When the presence of a Subcontractor or Sub-subcontractor is required at a job meeting, the Subcontractor or Sub-subcontractor shall be represented by an authorized representative who is empowered to make binding commitments on all matters to be discussed at such meetings, including costs, payments, change orders, time schedules and manpower. Notices required under the Contract may be served on such representatives.

- A. The Contractor shall be responsible for the acts and omissions of all their employees and all Subcontractors, their agents and employees and all other persons performing any of the Work under a contract with the Contractor.
- B. The Contractor shall review, stamp with their approval and submit all samples and shop drawings as required and as directed for approval of the Town of Barnstable for conformance with the design and with the information given in the Contract Documents. The Work shall be in accordance with approved samples and shop drawings. Shop drawings must be received by the Project Manager at least fourteen (14) days before Contractor needs them returned. When Contractor needs plant material approved on site or at nursery, Contractor must give Owner at least fourteen (14) days notice to allow for sufficient time for Owner to review the material.
- C. The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by their operations. At the completion of the Work they shall remove all their waste materials and rubbish from and about the Project as well as their tools, construction equipment, machinery and surplus materials and shall clean all glass surfaces and shall leave the Work "broom clean" or its equivalent, except as otherwise specified. At the end of each workday, the Contractor will be responsible to secure the building openings being worked on in a manner satisfactory to the Owner. All debris shall be properly and legally disposed of per Federal and Massachusetts regulations.
- D. The contractor shall indemnify and hold harmless the Town and the Owner and it's agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts of any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. In any and all claims against the Town of Barnstable or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone whose acts of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor of any Subcontractor under Workmen's Compensation acts, disability benefits acts or other employee benefits acts.
- E. The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Owner at once.

- F. The Contractor shall secure and pay for the building permit, road opening permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract.
- G. The Contractor shall assure that all workers performing work under this contract have obtained certification for Occupational Safety and Health Administration (OSHA) training in accordance with Massachusetts General Law 30, Section 39S, as amended by Chapter 306 of the Acts of 2004, effective 7/1/06.
- H. Contractor will attend job site meetings with the Owner weekly.

20. SUBCONTRACTS

- A. A Subcontractor is a person who has a direct contract with the Contractor to perform any of the work of the project.
- B. Unless otherwise specified in the Contract Documents or in the Instructions to Bidders, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Town of Barnstable in writing, a directory of Subcontractors proposed for the principal portions of the Work. The Contractor shall not employ any Subcontractor to whom the Town of Barnstable may have a reasonable objection. Contracts between the Contractor and the Subcontractor shall be in accordance with the terms of this Agreement and shall include the General Conditions of this Agreement insofar as applicable.

21. SEPARATE CONTRACTS

The Town of Barnstable has the right to let other contracts in connection with the Work and the Contractor shall properly cooperate with any such other contractors. The Cell Block Improvement Project contract is currently underway under separate contract.

22. ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Town of Barnstable harmless from loss on account thereof.

23. TIME

- A. All time limits stated in the Contract Documents are of the essence of the Contract.
- B. If the Contractor is delayed at any time in the progress of the Work by changes ordered in the Work, by labor disputes, fire, unavoidable casualties, or other Acts of God beyond the Contractor's control, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

24. PAYMENTS

- A. Payments shall be made as provided under Section 4, Special Conditions.
- B. Payments may be withheld on account of 1) defective work not remedied, 2) claims filed, 3) failure of the Contractor to make payments properly to the Subcontractors or for labor, materials, or equipment, 4) damage to another contractor, 5) non-submission of required payroll and workforce documents, or 6) unsatisfactory execution of the Work by the Contractor.

- C. Final payments shall not be due until the Contractor has delivered to the Town of Barnstable a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Town of Barnstable indemnifying him against any lien.
- D. The making of final payments shall constitute a waiver of all claims by the Town of Barnstable except those arising from 1) unsettled liens, 2) faulty or defective Work appearing after Substantial Completion, 3) failure of the Work to comply with the requirements of the Contract Documents, or 4) terms of any special guarantee required by the Contract

Documents. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and still unsettled.

25. PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions in connection with the Work. They shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to 1) all employees on the Work and other persons who may be affected thereby 2) all the Work and all the materials and equipment to be incorporated therein, and 3) other property at the site or adjacent thereto. 4) the general public. He shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, except damage or loss attributable to faulty Drawings or Specifications or to the acts or omissions of the Town of Barnstable or anyone employed by either of them or for whose acts either of them may be liable but which are not attributable to the fault or negligence of the Contractor.

26. CONTRACTOR'S LIABILITY INSURANCE

The Contractor shall purchase and maintain such insurance as will protect them from claims under workmen's compensation acts and other employee benefit acts, for claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by themselves or by any Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than any limits of liability specified as part of this Contract, or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under Section 4-3. Certification of such insurance shall be filed with the Town of Barnstable, to the attention of Risk Management, 230 South Street, Hyannis, MA 02601.

27. TOWN OF BARNSTABLE'S LIABILITY INSURANCE

The Town of Barnstable shall be responsible for purchasing and maintaining their own liability insurance and, at their option, may maintain such insurance as will protect them against claims which may arise from operations under this Contract.

28. CHANGES IN THE WORK

- A. The Town of Barnstable without invalidating the Contract may order Changes in the Work Consisting of additions, deletions, or modifications, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by written Change Order signed by the Town of Barnstable or their duly authorized agent.

A change order shall be based upon agreement between the Owner and the Contractor. A Construction Change Directive by the Owner may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Owner alone.

- B. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order is a written instrument prepared by the Project Manager and signed by the Owner, and Contractor, stating their agreement upon all of the following:
- .1 change in the Work;
 - .2 the amount of the adjustment, if any, in the Contract Sum; and
 - .3 the extent of the adjustment, if any, in the Contract Time.

Change Order Proposals: Upon request of the Owner or the Project Manager, the Contractor shall, without cost to the Owner, submit to the Project Manager in such form as the Owners' Project Manager may require a written proposal for a Change Order in the Work. The proposal shall include the quantity and the cost of each item of material, the number of hours of work and the hourly rate for each class of labor, as well as the description and amounts of all other costs sought by the Contractor to perform the proposed Change. The Contractor shall also furnish to the Project Manager, bona fide proposals from Sub-contractors and suppliers for all labor and materials to be included in such work. The proposal shall be furnished promptly so as not to delay the Work and shall include an estimate of any additional time required to finish the Work. Percentages for overhead and profit in the proposal shall be in accordance with the contract.

Change Order Proposals shall be complete and definitive and the amount of the adjustment in the Contract Sum and the Contract Time, if any, shall be stated in the proposal for all Work affected by the Proposed Change. Once a Change Order is executed, the Contractor shall be required to perform all of the Work required therein (including incidental work and changes to related Work which may be required to complete the Change Order) in accordance with the Contract Documents for the amounts stated in the Change Order.

Contractor's Change Order Proposals: Contractor's requests for changes or substitutions shall be subject to the same requirements as a change initiated by the Project Manager or Owner.

In the Cost or credit to the Owner resulting from a Change in the Work, the value of such cost or credit shall be determined as follows, absent the applicability of a unit price for such items(s) set forth in the Contract.

- A. The cost of labor performed and material used by the Contractor with his own forces.
- B. The cost of Workman's Compensation, Federal Social Security, and the Commonwealth of Massachusetts Unemployment compensation in established rates, actual additional cost of payment bond.
- C. Actual costs of rental rates for equipment and used directly on the Work.
- D. Fifteen percent (15%) of Subparagraphs A, B, C of this section, for overhead, superintendence and profit, however, if the work to be performed results in a credit to the Owner, no percentage for overhead and profit will apply.
- E. On Work to be performed by a sub-contractor, the Contractor's allowance is to be seven and 1/2 percent (7.5%) applied to a total cost of Sub-contractor's Work, including his allowance.
- F. On any change involving the Contractor, Subcontractor or any Sub-subcontractor, their total cost or credit shall be combined before application of the percentage allowed for the Contractor's overhead and profit.

G. On work to be performed by a Subcontractor, the Subcontractor's allowance is to be fifteen percent (15%) for his overhead and profit.

H. The Contractor, when performing work shall, when requested, promptly furnish, in a form satisfactory to the Owner, itemized statements of the cost of the Work so ordered, including but not limited to, certified payrolls and copies of accounts, bills and vouchers to substantiate the above estimates.

29. CONSTRUCTION CHANGE DIRECTIVES

A Construction Change Directive is a written order prepared by the Project Manager and signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Project Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Project Manager on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, the Contractor shall keep and present, in such form as the Project Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 additional costs of supervision and field office personnel directly attributable to the change.

The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Project Manager. When both additions and credits covering related Work or substitutions are involved in a

change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Project Manager will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a claim.

When the Owner and Contractor agree with the determination made by the Project Manager concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

30. MINOR CHANGES IN THE WORK

The Project Manager will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

31. CORRECTION OF WORK

The Contractor shall correct any Work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the Work, and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of one year from the Date of Substantial Completion of the Contract or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Document. The provisions of this Paragraph apply to Work done by subcontractors as well as to Work done by direct employees of the Contractor.

32. PROJECT CLOSEOUT

A. SUBSTANTIAL COMPLETION

Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

When the Contractor considers that the Work, which the Owner agrees to accept, is substantially complete, the Contractor shall prepare and submit to the Project Manager a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Upon receipt of the Contractor's list, the Project Manager will make an inspection to determine whether the Work or designated portion thereof is substantially complete.

When the Work or designated portion thereof is determined by the Project Manager to be substantially complete, the Project Manager will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

B. FINAL COMPLETION AND FINAL PAYMENT

Upon receipt of a final Application for Payment, the Project Manager will inspect the Work. When the Project Manager finds the Work acceptable and the Contract fully performed, the Project Manager will promptly issue a final Certificate for Payment.

Final payment shall not become due until the Contractor submits to the Project Manager releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract.

Acceptance of final payment by the Contractor, a subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

33. NON-DISCRIMINATION

All unions, vendors, and contractors are hereby notified that the Town of Barnstable is an equal employment opportunity employer and that the Town of Barnstable requires the utilization of employees, and referral of potential employees without regard to race, color, national origin, sex, handicap or age. All entities with contractual agreements with the Town of Barnstable are informed of the Town of Barnstable's policy and are required to initiate a program of non-discrimination.

34. WAGE RATES

Full compliance with applicable Federal, State and Municipal Wage Laws is required on all work done for the Town of Barnstable. Prevailing Wage Rates sheets issued for this specific project for the Town of Barnstable attached hereto applies to this requirement.

35. AFFIRMATIVE ACTION PROGRAM

The Town of Barnstable will require contractors and subcontractors involved in local municipal projects to abide by the Affirmative Action guidelines attached, which form a part of this contract, if applicable, based on dollar threshold.

36. FORCE MAJEURE

The Contract shall be subject to Force Majeure considerations and in the event that either party hereto shall be prevented from the performance of any act required there under by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonable within the control of the party in performing any obligations shall be excused for the period of non-performance, and the period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the Owner.

Continued failure to perform for periods aggregating sixty (60) or more days, even for causes beyond the control of the Contractor, shall be deemed to render performance impossible, and the Owner shall thereafter have the right to terminate this agreement in accordance with the provisions of the section entitled "Termination of Contract".

37. TERMINATION OF CONTRACT

Subject to the provisions explaining Force Majeure, if the Contactor shall fail to fulfill in a timely and satisfactory manner its obligations under this agreement, or if the Contractor shall violate any of the covenants, conditions, or stipulations of this agreement, which failure or violation shall continue for seven (7) business days after written notice of such failure or violation is received by the Contractor, then the Owner shall thereupon have the right to terminate this agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination.

Additionally, the Town, by written notice, may terminate this contract, in whole or in part, when it is in the Town's best interest. If this contract is terminated, the Town shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

END OF SECTION

SECTION 4

SPECIAL CONDITIONS

1. MEASUREMENT AND PAYMENT

A. Method of Payment to Contractor

1. The Contractor shall make monthly applications for payment for labor and materials of the materials in place for the amount of work performed in accordance with the Contract.
2. The application and certificates for payment will be itemized on the A.I.A. Document sheets (preferred, or approved equal) provided for review and approval by the Town and submitted to the Owner by the first of each month. Each application will show the total value of the work done to date, the total money due the Contractor since the previous application and the money paid the Contractor to date. This application will be subject to corrections and adjustments by the Owner.
3. Five percent (5%) of all payments due the Contractor for work done and materials furnished will be retained until final completion of the work under the provisions of G.L. Ch. 30, Section 39G.
4. The acceptance by the Contractor of the final payment, including the retainage of five percent (5%), shall operate as a release to the Town of all claims and all liabilities to the Contractor for all work done or materials furnished in connection with the Contract, not including replacements of plant material or defects in work that arise over the one year maintenance period. Final payment shall be as provided in G.L. 30, Section 39G.
5. The payment to the Contractor of said final payment does not, however, release them or their sureties from any obligation under this Contract.

B. Town's Right to Withhold Payments

1. The Town may withhold from the Contractor so much of any approved payment due them as may in the judgment of the Town be necessary:
 - A. To assure payments of just claims then due and unpaid of any persons supplying labor or materials for the work:
 - B. To protect the Town from loss due to defective work not remedied; or

- C. To protect the Town from loss due to injury to persons or damage to the work or property of other contractors, subcontractors or others, caused by acts or neglect of the Contractor or their sub-contractors.
2. The Town shall have the right as agent for the Contractor to apply any such amounts so withheld in such manner as the Town may deem proper to satisfy such claims or to secure such protection.
3. No payments shall be made to the Contractor by the Town until all payroll, certified payroll, and workforce records for the period of the application have been submitted to the Town.

2. PARTIAL AWARD

The Town of Barnstable reserves the right to award all or part of the Contract items stated in the specification or to reduce the amount of work under any item by agreement with the lowest eligible bidder.

3. INSURANCE

1. **Indemnification** - Contractor will indemnify and hold harmless the Town of Barnstable and its employees against any and all claims for damages on account of bodily injury, including death, property damage, personal injury, and advertising injury by any act or omission due to negligence of the Contractor, subcontracts, its agents, or employees to any property of or under the control of the Town of Barnstable during the term or any extension of the resultant agreement, and in case of any action or actions or other legal proceedings shall be brought or instituted against the Town of Barnstable on account of any such claims, Contractor shall indemnify and hold harmless the Town of Barnstable. However, should the claim be due to the negligence of the Town of Barnstable and/or its employees, Contractor shall be held harmless, provided that nothing contained herein or elsewhere in this agreement constitutes an express or implied waiver of the Town of Barnstable's limited liability.
2. **General Insurance** - The Contractor shall, before commencing performance of the contract, be responsible for providing and maintaining insurance coverage in force for the life of the contract of the kind and in adequate amounts to secure all of the obligations under the contract and with insurance companies acceptable to the Town of Barnstable. All such insurance carried should not be less than the kinds and amounts designated herein, and the Contractor agrees that the stipulation herein of the kinds and limits of coverage shall in no way limit the liability of the Contractor to any such kinds and amounts of insurance coverage. Under all insurance coverage, required or not required by the Town, the Contractor shall indemnify, and hold harmless the Town of Barnstable, its elected or duly appointed offices, directors and employees against any claim based upon negligent, accidental or intentional acts or omissions of the contractor, its employees or its agents in providing its services to employees of the municipality or their dependants pursuant to the agreement.

With the exception of Professional Services Liability for architects, designers and engineers, and Worker's Compensation, the Town of Barnstable and its employees must be named as an additional insured and a certificate of insurance will be provided indicating such for each of the insurance policies or surety bonds obtained pursuant to the requirements established by the issuance of the contract. Upon execution of the contract the Contractor will provide copies of certificates of insurance to the Town of Barnstable, Administration & Technical Support Division and Procurement & Risk Management.

Failure to provide and continue in force such insurance as aforesaid may be deemed a material breach of this contract, and may constitute sufficient grounds for immediate termination of the same. All insurance maintained as provided for in the above shall be taken out and maintained at the sole expense of the Contractor. Annually, at time of vendor's policy renewal, updated insurance certificates shall be sent to the Town of Barnstable.

No cancellations of such insurance, whether by the insurer or by the insured party shall be valid unless written notice thereof is given by the parties proposing cancellation to the other party and to the Town of Barnstable at least thirty (30) days prior to the intended effective date thereof, which date shall be expressed in said notice, and which shall be sent out by registered mail, return receipt requested. These provisions shall apply to the legal representatives, trustees in bankruptcy, receiver, assignee, and/or the successor in interest of the Contractor.

All insurance coverage shall be placed with such company as may be acceptable to the Town of Barnstable and shall constitute a material part of the contract documents.

3. **Comprehensive General Liability Insurance**

The Contractor shall carry Commercial General Liability Insurance with an each occurrence limit of liability no less than One Million Dollars (\$1,000,000.00) and a general aggregate limit of liability no less than Two Million Dollars (\$2,000,000.00); and a Products/Completed Operations (***as may be required***) Aggregate limit no less than Two Million Dollars (\$2,000,000.00) for all injury and damages to or destruction of property during the policy period.

4. **Automobile Liability and Property Damage Insurance**

The Contractor shall carry business Automobile Liability Insurance covering all owned vehicles with a combined single limit no less than One Million Dollars (\$1,000,000.00) to cover all damage caused by contracted employees of the awarded Contractor. Level of insurance must adequately cover the liability exposure of project site and is subject to Town of Barnstable Risk Manager approval.

5. **Workers' Compensation Insurance**

The Contractor shall carry Workers' Compensation Insurance as required by Massachusetts General Law, c. 152, and Section 25, with a minimum limit of Employer's Liability as per Massachusetts General Law requirements.

The aforementioned insurance coverages shall remain in full force and effect throughout the period of the contract. Similar insurance coverage shall be provided by or in behalf of any subcontractor to cover their operations with the same minimum limits as required of the Contractor. Contractor's insurance shall be primary insurance to all insurance carried by Owner.

END OF SECTION

SECTION 5

PROPOSAL SUBMITTAL REQUIREMENTS

The following pages in Section 5 must be filled out in their entirety by the Bidder and submitted with the bid. Additionally 5% bid deposit is required with your bid submittal in the form of a bid bond, bank or certified check.

Form for General Bid	Page 28
State Tax Certification Clause	Page 32
Certificate of Non-Collusion	Page 32
OSHA Certification	Page 33
Reference Sheet	Page 35

REQUIRED BID SUBMITTAL FORM

**Airport Pavement Marking Project
Barnstable Municipal Airport**

FORM FOR GENERAL BID

To: Town of Barnstable, Awarding Authority

From: _____ Contractor

A Bid pricing as follows:

Base Bid: The undersigned proposes to furnish all labor and materials required for the

Airport Pavement Marking Project, Barnstable Municipal Airport,

Town of Barnstable, Massachusetts, in accordance with the accompanying plans and specifications prepared by Jacobs Engineering as specified below for pavement marking project for the bid price of:

PROPOSED SCHEDULE OF PRICES – BASE BID (Enhanced Markings and Taxiways A, B, and C) for AIRPORT PAVEMENT MARKING PROJECT						
Item Number	Estimated Quantity	Item and Unit Bid Price Written in Words	Unit Price		Amount	
			Dollars	Cents	Dollars	Cents
1A	9,000 SF	<u>Yellow Paint</u> at _____ Dollars and Cents per Square Foot	\$		\$	
1B	18,000 SF	<u>Black Paint</u> at _____ Dollars and Cents per Square Foot	\$		\$	
1C	4,000 SF	<u>Removal of Pavement Markings, Grinding</u> at _____ Dollars and Cents per Square Foot	\$		\$	

Total Base Bid Price Written in Figures: \$ _____

Total Base Bid Price Written in Words: _____

Bidder Name: _____

<p align="center">PROPOSED SCHEDULE OF PRICES –BID ALTERNATE NO. 1 (Taxiway D)</p> <p align="center">for</p> <p align="center">AIRPORT PAVEMENT MARKING PROJECT</p>						
Item Number	Estimated Quantity	Item and Unit Bid Price Written in Words	Unit Price		Amount	
			Dollars	Cents	Dollars	Cents
1A	600 SF	<u>Yellow Paint</u> at <hr/> Dollars and Cents per Square Foot	\$		\$	
1B	0 SF	<u>Black Paint</u> at <hr/> Dollars and Cents per Square Foot	\$		\$	
1C	200 SF	<u>Removal of Pavement Markings, Grinding</u> at <hr/> Dollars and Cents per Square Foot	\$		\$	

Total Bid Alternate No. 1 Price Written in Figures:

\$ _____

Total Bid Alternate No. 1 Price Written in Words: \$

<p align="center">PROPOSED SCHEDULE OF PRICES –BID ALTERNATE NO. 2 (Taxiway E) for AIRPORT PAVEMENT MARKING PROJECT</p>						
Item Number	Estimated Quantity	Item and Unit Bid Price Written in Words	Unit Price		Amount	
			Dollars	Cents	Dollars	Cents
1A	375 SF	<u>Yellow Paint</u> at <hr/> Dollars and Cents per Square Foot	\$		\$	
1B	0 SF	<u>Black Paint</u> at <hr/> Dollars and Cents per Square Foot	\$		\$	
1C	100 SF	<u>Removal of Pavement Markings, Grinding</u> at <hr/> Dollars and Cents per Square Foot	\$		\$	

Total Bid Alternate No. 2 Price Written in Figures:

\$ _____

Total Bid Alternate No. 2 Price Written in Words: \$

Total Bid (Base Bid Plus Bid Alternate #1 & #2) Price Written in Figures:

\$ _____

Total (Base Bid Plus Bid Alternate #1 & #2) Price Written in Words:

Rule for Award: Low bidder will be determined by the Awarding Authority based on the lowest price from a responsive, eligible bidder based on the Base Bid plus selected ordered alternates based on funding availability and in the Awarding Authority’s best interest.

B. This bid includes addenda numbered _____.

Bidder Name: _____

C. The undersigned agrees that, if he is selected as general contractor, he will within five (5) days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the awarding authority, execute a contract in accordance with the terms of this bid and furnish a labor and materials payments bond, of a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the awarding authority and each in the sum of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price.

D. The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor currently employed or to be employed on the work under other contracts and that he will comply fully with all laws and regulations applicable to awards made subject to section forty-four A of Chapter 149 of the Massachusetts General Laws.

E. The undersigned further certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made in good faith without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

F. Rule of Award: The Owner shall award this contract to the lowest responsive and eligible bidder based upon the base bid above.

Date: _____

Name of Bidding Concern: _____

By: _____
(Authorized Signature) (Print Name & Title of Person Signing Bid)

(Business Address)

(City and State)

Telephone _____ fax _____

e-mail address _____

REQUIRED BID SUBMITTAL FORM

TOWN OF BARNSTABLE

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals.

FIRM _____

SIGNATURE _____

ADDRESS _____

NAME (print) _____

TITLE _____

TELEPHONE _____

DATE _____

STATE TAX CERTIFICATION CLAUSE

I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all State Tax returns and paid all State Taxes under law.

* Signature of Individual or
Corporate Name (Mandatory)

By: _____
Corporate Officer
(Mandatory, if applicable)

**Social Security No. (Voluntary)
or Federal Identification No.

* Approval of a contract or other agreement will not be granted unless this certification clause, is signed.

Your Social Security Number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency **will not have a contract or agreement issued, reviewed, or extended. This request is made under the authority of Mass. G.L. 62C, S.49A.

REQUIRED BID SUBMITTAL FORM

Town of Barnstable Procedures OSHA Training Certification of contractors

As of July 1, 2006, the Town of Barnstable will comply with the amended MGL chapter 30 section 39s "**Contracts for Construction: Requirements**" as follows.

The Town of Barnstable in all bids and contracts that fall under the application of this law, as amended, will require bidders and/or contractors to comply with the requirements of certifying that they and their employees have complied with MGL chapter 30 section 39s. This law requires successful completion of a 10 hour OSHA safety training course prior to working on the Town's worksite or in the work subject to the bid or contract.

The Town will reject any bids that do not include proper certification submitted with the bids at the posted time for bid opening, however, the town may, at its sole discretion, allow up to two (2) working days for the contractor to submit the required certification. In those cases where contracts are offered without using the sealed bid process, the same certification will be due upon contract signing.

It is expected that the contractor, by signing the certification form provided with the bid is fully meeting the language of the law, as amended, and that they are accepting the responsibilities to comply with the law for the full term of the work.

The Town of Barnstable will pay certified payrolls that are deemed complete. The statute indicates that with the first certified payroll submitted to the Town, documentation must be provided that each employee on the payroll documents submitted to the Town has successfully completed the OSHA training.

Any employee whose name does not appear on the first certified payroll must submit certification with the first payroll they do appear on. Failure to provide full documentation may result in a delay in payment to the vendor as the packet submitted for payment would be determined to be incomplete.

Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

This certification requirement will go into effect for any bids received or contracts awarded after July 1, 2006 in accordance with MGL 30 39s as amended by Chapter 306 of the Acts of 2004.

REQUIRED BID SUBMITTAL FORM

**CERTIFICATION
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) TRAINING**

In accordance with Massachusetts General Law 30: Section 39S, as amended by Chapter 306 of the Acts of 2004, effective 7/1/06, for all contracts for the construction, reconstruction, alteration, remodeling or repair of any public work or the construction, reconstruction, installation, demolition, maintenance or repair of any public building estimated to cost more than \$10,000, the Contractor hereby certifies to the following:

(1) that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (2) that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

(b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

(c) The attorney general, or his designee, shall have the power to enforce this section including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts in all cases where, after investigation of the facts, he has made a finding that the award or performance has resulted in violation, directly or indirectly, of subsection (b), and he shall not be required to pay to the clerk of the court an entry fee in connection with the institution of the proceeding.

The undersigned hereby certifies under the penalties of perjury to the above:

Company: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Telephone: _____ Fax: _____

REQUIRED BID SUBMITTAL FORM

REFERENCES

BIDDER NAME: _____

Bidders must provide a list of at least 5 references to which similar projects have been completed, along with a name of a contact person and phone numbers. (municipalities desired, if applicable)

1. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

2. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

3. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

4. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

5. Town: _____ Project Date: _____

Contact: _____ Phone: _____

Project Value and Description: _____

Section 6

TOWN OF BARNSTABLE

**SUPPLEMENTAL EQUAL EMPLOYMENT OPPORTUNITY
ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION PROGRAM
MINORITY OR WOMAN BUSINESS ENTERPRISE PARTICIPATION REQUIREMENTS**

RESERVED - WAIVED FOR THIS PROJECT

**7.4% MBE and 4% WBE participation requirements apply to contacts valued at \$100K + .
See attached Town of Barnstable MBE/WBE Policy for forms to be submitted within five
(5) days after receipt of bid, if applicable.**

End of Section

SECTION 7

PREVAILING WAGE RATES

Prevailing wages apply to this project.

ATTACHED

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

In accordance with Massachusetts General Law Chapter 149, § 27B, a true and accurate record must be kept of all persons employed on the public works project for which the enclosed rates have been provided. A Payroll Form had been provided (Form CC-10) and includes all the information required to be kept by law. Every contractor or subcontractor is required to keep these records and preserve them for a period of three years from the date of completion of the contract.

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

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

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

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

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

SECTION 8

TOWN OF BARNSTABLE, MASSACHUSETTS
AGREEMENT BETWEEN CONTRACTOR AND TOWN OF BARNSTABLE

THIS AGREEMENT, made this _____ day of _____ 2011 by and between the TOWN OF BARNSTABLE, Massachusetts, hereinafter called Town of Barnstable, and _____ with legal address and principal place of business at _____ hereinafter called Contractor:

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the TOWN OF BARNSTABLE, the CONTRACTOR hereby agrees with the TOWN OF BARNSTABLE to commence and complete the **"Airport Pavement Marking Project"**. , hereinafter called the Project, for the consideration set forth in the Proposal and all extra work in connection therewith, under the terms as stated in the General and Supplemental General Conditions of the Contract; and at their own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintending, labor, insurance, and other accessories and services necessary to complete said Project in accordance with the conditions and prices stated in the Proposal dated ____ and the Construction Specifications/Invitation for bid dated _____, all of which are made a part hereof and collectively evidence and constitute the Contract.

Work Schedule - Work shall be completed within 30 days of notice to proceed. Construction may begin upon Notice to Proceed.

Contract Value - \$ _____

Force Majeure - The Contract shall be subject to Force Majeure considerations and in the event that either party hereto shall be prevented from the performance of any act required there under by reasons of strikes, lockouts, labor trouble, inability to procure materials, failure of power, fire, winds, Acts of God, riots, insurrections, war or other reason of a like nature not reasonable within the control of the party in performing any obligations shall be excused for the period of non-performance, and the period for the performance of such obligation shall be extended for an equivalent period for no additional cost to the Owner. Continued failure to perform for periods aggregating sixty (60) or more days, even for causes beyond the control of the Contractor, shall be deemed to render performance impossible, and the Owner shall thereafter have the right to terminate this agreement in accordance with the provisions of the section entitled "Termination of Contract".

Termination of Contract - Subject to the provisions of the section explaining Force Majeure, if the Contractor shall fail to fulfill in a timely and satisfactory manner its obligations under this agreement, or if the Contractor shall violate any of the covenants, conditions, or stipulations of this agreement, which failure or violation shall continue for seven (7) business days after written notice of such failure or violation is received by the contractor, then the municipality shall thereupon have the right to terminate this agreement by giving written notice to the contractor of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Additionally, the Town, by written notice, may terminate this contract, in whole or in part, when it is in the Town's best interest. If this contract is terminated, the Town shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Insurance - The Contractor shall maintain insurance with minimum limits as defined in the Invitation for Bid, Section 4, Special Conditions for the entire duration of the project work to be performed, and provide a certificate of insurance with the Town of Barnstable named as an additional insured. Renewal certificates of insurance must be submitted to the Town of Barnstable, Risk Management, 230 South St., Hyannis, MA 02601 on a yearly basis.

Governing Law – This contract is governed by the laws of the Commonwealth of the State of Massachusetts.

Massachusetts General Law Chapter 149 hereby applies to this contract. Prevailing Wage Rates dated May 2, 2011 apply to this contract. The contractor shall submit weekly certified payrolls with invoices to Barnstable Municipal Airport, Frank Sanchez, Asst. Airport Manager, 480 Barnstable Road, Hyannis, MA 02601. OSHA 10 certification required for all employees and subcontractors performing work on the job site.

Contractor will indemnify and hold harmless the Town of Barnstable and its employees against any and all claims for damages on account of bodily injury, including death, property damage, personal injury, and advertising injury by any act or omission due to negligence of the Contractor, subcontracts, its agents, or employees to any property of or under the control of the Town of Barnstable during the term or any extension of the resultant agreement, and in case of any action or actions or other legal proceedings shall be brought or instituted against the Town of Barnstable on account of any such claims, Contractor shall indemnify and hold harmless the Town of Barnstable. However, should the claim be due to the negligence of the Town of Barnstable and/or its employees, Contractor shall be held harmless, provided that nothing contained herein or elsewhere in this agreement constitutes an express or implied waiver of the Town of Barnstable's limited liability.

THE TOWN OF BARNSTABLE agrees to pay the Contractor for the performance of the Contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Article 1 MEASUREMENT AND PAYMENT of the Special Conditions.

The total payment shall not exceed this contract amount of \$_____, without the written authorization of the Town of Barnstable.

IN WITNESS WHEREOF, the parties to these present have executed this Contract in the year and day first above mentioned.

Approved as to form:

By:

Bruce Gilmore, Airport Attorney

CONTRACTOR

By

Daniel Santos, BMAC

Chairman

As required by Chapter 693 of the Acts of 1964, this is to certify that the Town of Barnstable, Massachusetts has an appropriation which is adequate to cover the cost of this contract.

By:

Mark Milne, Finance Director

The Certificate shall be signed by the auditor or accountant or other officer having similar duties of

the Town of Barnstable, Massachusetts and the official title noted below the signature.

SECTION 9

PAYMENT BOND

LABOR AND MATERIALS PAYMENT BOND

KNOWN ALL MEN AND WOMEN BY THESE PRESENT, THAT:

_____ as
principal, and

_____ as surety, are held and firmly bound unto
the Town of Barnstable, Hyannis, Massachusetts in the sum of:

lawful money of the United State of America, to be paid to the Town of Barnstable, Hyannis, Massachusetts, for which payments, well and truly to be made, we bind ourselves, our respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said principal has made a contract with the Town of Barnstable, Hyannis, Massachusetts, bearing the date of _____ of _____, 2011, for the construction project:

AIRPORT PAVEMENT MARKING PROJECT

Now the condition of this obligation is such that if the principal shall pay for all labor performed or furnished and for all materials used or employed in said contract and in any and all duly authorized modifications, alterations, extensions of time, changes or additions to said contract that may hereafter be made, notice to the surety of such modifications, alterations, extensions of time, changes or additions being hereby waived, the foregoing to include any other purpose or items set out in, and subject to, the provisions of Massachusetts General Laws, Chapter 30, Section 39A, and Chapter 149, Section 29, as amended, then this obligation shall become null and void; otherwise it shall remain in full force and virtue.

IN WITNESS THEREOF, we hereunto set our hands and seals this

_____ day of _____, 2011.

(Seal)

By: _____

By: _____

SECTION 10

PERFORMANCE BOND

Reserved – not required for this bid

SECTION 11

ACCEPTANCE OF BID

**TOWN OF BARNSTABLE
BARNSTABLE MUNICIPAL AIRPORT**

DATE: _____

_____ is hereby notified that their bid for _____ at the Barnstable Municipal Airport Terminal, Hyannis, Massachusetts in accordance with Invitation for Bid dated _____ and bid submittal dated _____ in the amount of \$_____ has been accepted.

It is requested that acknowledgement of this ACCEPTANCE be indicated by endorsement here on, and the original be returned to the Purchasing Department, 230 South Street 3rd Floor, Hyannis, MA 02601.

A formal contract will be drawn up based on the terms of the Invitation for Bid documents offered through the Procurement Office, subject to final approval by the Barnstable Municipal Airport Commission.

Daniel W. Santos, P.E.
Barnstable Airport Commission Chairman

TO: Purchasing Department
Johanna F. Boucher, Fax 508-862-4717
230 South Street, 3rd Floor
Hyannis, MA 02601

Receipt is hereby acknowledged for the above **ACCEPTANCE OF BID**.

BY: _____
Signature

DATE: _____

PRINT NAME: _____ TITLE: _____

SECTION 12

APPLICATION & CERTIFICATION FOR PAYMENT

CONTRACT # _____
 TITLE _____
 CONTRACTOR _____

TO: Barnstable Municipal Airport
 Frank Sanchez
 480 Barnstable Road
 Hyannis, MA 02601

Application Date _____
 Period From _____ To _____

NOTE: In order to receive payment for the monthly period covered by this application, this form shall be delivered to the Town of Barnstable on the third Monday of each month or the working day immediately preceding. Amounts not so applied for shall carry over to the next scheduled billing period.

CHANGE ORDER SUMMARY

Number	Date		
TOTALS			

ORIGINAL CONTRACT SUM \$ _____
 Net Change by Change Order \$ _____
 Contract Sum to Date \$ _____
 TOTAL COMPLETED TO DATE \$ _____
 Retainage \$ _____
 Total Earned Less Retainage \$ _____
 Less Previous Certificates for Payment. \$ _____
 Current Payment Due \$ _____

The undersigned certifies that the work covered by this application has been completed in accordance with the Contract Documents, that all amounts have been paid by them for Work and Materials for which previous Certificates for Payments have been issued and payments received from the Town of Barnstable, that all Contractor and Sub-contractor payroll data for the time period covered by this application has been submitted to the Town and that the current payment shown herein is now due.

CONTRACTOR: _____

BY: _____

DATE: _____

SECTION 13
TOWN OF BARNSTABLE
HYANNIS, MA 02601

TAX EXEMPTION NUMBER

Date: _____

TO WHOM IT MAY CONCERN:

This is to certify that whenever _____

purchases material and supplies for projects awarded by bid for the Town of Barnstable, all materials used on these projects are tax exempt.

Our Tax Exempt number is E-046-001-079.

SECTION 14

TOWN OF BARNSTABLE CHANGE ORDER

CHANGE ORDER NO. _____ DATE: _____

CONTRACT NO. _____ PROJECT NO. _____

CONTRACT TITLE: _____

CONTRACTOR'S NAME: _____

CONTRACTOR'S ADDRESS: _____

PREVIOUS CONTRACT AMOUNT \$ _____

AMOUNT OF THIS ORDER \$ _____

(decrease) (increase)

REVISED CONTRACT AMOUNT \$ _____

An (increase) (decrease) (no change) of _____ days in the contract is hereby authorized.

This order covers the contract modification hereunder described:

The work covered by this order shall be performed under the same terms and conditions as included on the original construction contract..

Change Approved:

By: _____ Date: _____
Contractor

Title: _____

TOWN OF BARNSTABLE

By: _____ Date: _____
Airport Manager

By: _____ Date: _____
Town Accountant
Verify funds are available for this Change Order

SECTION 15

TOWN OF BARNSTABLE

NOTICE TO PROCEED

DATE: _____, 2011

SUBJECT: CONTRACT: Airport Pavement Marking Project

To:

1. You are hereby given formal NOTICE TO PROCEED in accordance with the provisions of the subject contract.
2. It is requested that acknowledgment of this NOTICE be indicated by endorsement hereon, and that the original be returned to this office. The duplicate should be retained in your office files.

-

Frank Sanchez, Asst. Airport Manager

FIRST ENDORSEMENT

TO: Barnstable Municipal Airport
Frank Sanchez, Asst. Airport Manager
480 Barnstable Road
Hyannis, MA 02601

Receipt is hereby acknowledged of the above **NOTICE TO PROCEED**

under contract _____

By: _____

Date: _____

TOWN OF BARNSTABLE
BARNSTABLE MUNICIPAL AIRPORT

EXHIBIT A – TECHNICAL SPECIFICATIONS

Airport Pavement Marking Project

PROJECT ITEM 1

PAVEMENT MARKINGS

Description

1-1.1 This work shall consist of permanent pavement markings applied on the surface of airfield pavements in accordance with these Specifications and in conformity with the dimensions, designs and details shown, or as directed by the Engineer.

This item shall also consist of removing existing pavement markings by grinding in accordance with these Specifications and in conformance with the details and locations shown or as directed by the Airport.

Materials

1-2.1 MATERIALS ACCEPTANCE

The Contractor shall furnish manufacturer's certified test reports for materials shipped to the project. The certified test reports shall include a statement that the materials meet the specification requirements. The reports can be used for material acceptance or the Airport may perform verification testing. The reports shall not be interpreted as a basis for payment. The Contractor shall notify the Airport upon arrival of a shipment of materials to the site.

1-2.2 PAINT

Paint shall be waterborne in accordance with the requirements of paragraph 1-2.2a.

- a. The paint shall be waterborne and shall meet the requirements for Federal Specification TT-P-1952E for latex paints as listed below. The paint shall be white colored Federal Specification 37925 for runways, yellow colored Federal Specification 33538 or 33655 for taxiways, red colored Federal Specification 31136, and black colored Federal Specification 37038, as indicated on the Contract Drawings. Paint shall be furnished in Type II --fast drying time for no-pick-up when tested in accordance with ASTM D 711.
- b. White, yellow, and red paint markings shall be a double coat of water base reflective traffic paint with both the first and second coat to include reflective media. Reflective media shall conform to Paragraph 1-2.3 of these specifications. Reflective media shall be for all white, yellow, and red paint only.

1-2.3 REFLECTIVE MEDIA

Glass spheres shall meet the requirements of Federal Specification TT-B-1325D, Type III, and shall be treated with adhesion promoting and/or flotation coatings as specified by the manufacturer of the paint. The glass spheres shall be applied at a minimum rate of 10 pounds per gallon of paint. Glass spheres shall only be used with white, yellow, and red paint associated with the painting of all markings as noted on the Contract Drawings.

Construction Methods

1-3.1 WEATHER LIMITATIONS

The painting shall be performed only when the surface is dry and when the surface temperature is at least 45 degrees F (7 degrees C) and rising and the pavement surface temperature is at least 5 degrees F (2.7 degrees C) above the dew point. The suitability of the weather will be determined by the Engineer.

1-3.2 EQUIPMENT

Equipment shall include the apparatus necessary to properly clean the existing surface, a mechanical marking machine, a bead dispensing machine, and such auxiliary hand-painting equipment as may be necessary to satisfactorily complete the job.

The mechanical marker shall be an atomizing spray-type marking machine suitable for application of traffic paint. It shall produce an even and uniform film thickness at the required coverage and shall apply markings of uniform cross sections and clear-cut edges without running or spattering and without over spray and within the limits for straightness set forth herein. The machine shall have a gauge for measuring the quantity of paint used, graduated in gallons, or other approved measuring method.

Suitable adjustments shall be provided on the sprayer(s) of a single machine or by furnishing additional equipment for painting the width required.

1-3.3 PREPARATION OF EXISTING SURFACE

Immediately before application of the paint, the surface shall be dry and free from dirt, grease, oil, laitance, or other foreign material that would reduce the bond between the paint and the pavement. The area to be painted shall be cleaned by sweeping and blowing or by other methods as required to remove all dirt, laitance, and loose materials without damage to the surface.

1-3.4 LAYOUT OF MARKINGS

The proposed markings shall be laid out in advance of the paint application. The locations of markings to receive glass beads shall be as shown on the Contract Drawings and as approved by the Airport. The Contractor shall verify the location, alignment, radii, size, and color of all existing pavement markings prior to eradication of those markings. Control points shall be spaced at such intervals as will insure accurate location and reproduction of all markings.

The Contractor shall provide an experienced technician to supervise the location, alignment, layout, dimensions, and application of the paint.

1-3.5 APPLICATION

Paint shall be applied at the locations and to the dimensions and spacing shown on the plans. Paint shall not be applied until the layout and condition of the surface has been approved by the Airport. The edges of the markings shall not vary from a straight line more than 1/2 inch in 50 feet and markings dimensions and spacings shall be within the following tolerances:

Dimension and Spacing	Tolerance
36 inches or less	+/- 1/2 inch
Greater than 36 inches to 6 feet	+/- 1 inch
Greater than 6 feet to 60 feet	+/- 2 inches
Greater than 60 feet	+/- 3 inches

The paint shall be mixed in accordance with the manufacturer's instructions and applied to the pavement with a marking machine at the rate shown in Table 1. The addition of thinner will not be permitted. A period of time per the paint manufacturer's recommendation shall elapse between placement of a bituminous surface course and

application of the paint. All painting shall be performed by competent and experienced equipment operators, laborers, and artisans, in a neat and workmanlike manner, as approved by the Airport.

TABLE 1. APPLICATION RATES FOR PAINT AND GLASS BEADS

Paint Type	Paint Square feet per gallon, ft²/gal	Glass Beads, Type III Pounds per gallon of paint-- lb./gal.
Waterborne	115 ft²/gal. maximum	10 lb./gal. minimum

Glass beads shall be distributed upon the white and yellow pavement markings to receive glass beads immediately after application of the paint. A dispenser shall be furnished which is properly designed for attachment to the marking machine and suitable for dispensing glass beads. Hand casting of glass beads will not be permitted. Glass beads shall be applied at the rate shown in Table 1. Glass beads shall adhere to the cured paint or all marking operations shall cease until corrections are made.

All emptied containers shall be returned to the paint storage area for checking by the Airport. The containers shall not be removed from the airport or destroyed until authorized by the Airport.

1-3.6 PROTECTION

After application of the paint, all markings shall be protected from damage until the paint is dry. The Contractor shall be directly responsible and shall erect or place suitable warning signs, flags or barricades, protective screens, or coverings as required. All surfaces shall be protected from excess moisture and/or rain and from disfiguration by spatter, splashes, spillage, or drippings of paint. The Contractor shall remove from the site all debris, waster, loose or unadhered reflective media and by products generated by the surface preparation and application operations to the satisfaction of the Engineer. All wastes shall be disposed of legally offsite.

1-3.7 DEFECTIVE WORKMANSHIP OR MATERIALS

When any material not conforming to the requirements of the Specifications or Contract Drawings has been delivered to the project or incorporated in the work, or any work performed is of inferior quality, such material or work shall be considered defective and shall be corrected as directed by the Engineer, at the expense of the Contractor.

1-3.8 PAVEMENT MARKING REMOVAL

Existing pavement markings to be removed shall be removed by grinding as indicated on the details and as noted by the Airport. The Contractor shall remove existing pavement markings indicated on the Contract Drawings by grinding. The Contractor shall provide a power vacuum sweeper dedicated to paint grinding operations regardless of the number of sweepers needed for other work areas. No separate payment will be made for sweepers. Sweeping is considered incidental to grinding.

Method of Measurement

1-4.1 Quantities of pavement marking to be paid for shall be the number of square feet of marking of each type in place in accordance with the Specifications and accepted by the Airport. All white, yellow, and red markings

shall require a double coat and glass beads. Markings requiring double coat shall only be measured once for payment. The second coat of marking will not be measured and paid for separately.

1-4.2 There shall be no additional payment associated with repainting any pavement markings outside the limits of work which are damaged as a result of the Contractor’s operation. This shall be considered incidental to the project cost.

1-4.3 The quantity of pavement marking removal to be paid for shall be by the number of square feet of permanent pavement markings removed in place in accordance with the specifications and accepted by the Airport.

Basis of Payment

1-5.1 Payment for painted markings will be made at the contract unit price per square foot for “Yellow Paint,” or “Black Paint,” as shown on the surface without regard for a double coat for permanent paint. This price shall be full compensation for all preparation and layout, for furnishing and applying the paints, glass spheres, for all material, labor, equipment, tools, supplies and incidentals necessary to complete the work.

1-5.2 Payment for removal of painted pavement markings will be made at the contract unit price per square foot for “Removal of Pavement Markings, Grinding” as shown on the Contract Drawings. This price shall be full compensation for all preparation, grinding, cleanup, and for all material, labor, equipment, tools, supplies, and incidentals necessary to complete the removal of these markings.

Payment will be made under:

Project Item 1A -	Yellow Paint	_____ per Square Foot
Project Item 1B -	Black Paint	_____ per Square Foot
Project Item 1C-	Removal of Pavement Markings, Grinding	_____ per Square Foot

Federal Specification Referenced in this Section

<u>Number</u>	<u>Title</u>
Fed. Spec. TT-B-1325C	Beads (Glass Spheres) Retroreflective
TT-P-1952D	Paint, Traffic and Airfield Marking, Waterborne
Federal Standard 595	Colors used in Government Procurement
ASTM D 711	No-Pick-Up Time of Traffic Paint

END OF PROJECT ITEM

See Drawings SK-1 and SK-2 under separate cover (PDF)

