

# **COUNTY OF BARNSTABLE**

## **PURCHASING**

**Elaine Davis**  
Chief Procurement Officer

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

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### **Invitation for Bids**

**Barnstable County, on behalf of the Towns of Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Orleans, Sandwich, Wellfleet and Yarmouth is seeking sealed bids for Crackfilling Items for the period of April 1, 2015 through March 31, 2016, with the option to renew for one additional year.**

Bids will be received at the Superior Court House, Office of the County Commissioners, Purchasing Department, 3195 Main Street, P.O. Box 427, Barnstable, MA 02630, on or before **February 12, 2013 at 10:00 AM, no exceptions.**

Bid specifications may be obtained from the Barnstable County Purchasing Department, Superior Court House, P.O. Box 427, Barnstable, Massachusetts 02630.

Sealed envelopes containing bids shall be clearly marked **“Bid – Crackfilling Items – 2015”**.

**NOTE: One original and one (1) copy of each bid shall be submitted. NO faxed proposals will be accepted.**

The County of Barnstable reserves the right to accept or reject any or all bids, to waive any informality contained therein, and to award the contract as decided to be in the best interest of the County.

All submission for this project are subject to the provisions of Massachusetts General Laws, Chapter 30, 39M. Some items require MA Highway Prequalification.

The County of Barnstable fully complies with federal, state, and local laws and directives governing equal opportunity, affirmative action and non-discrimination in all county activities and actively solicits bids/proposals from MBE/WBE businesses in accordance with County policy.

Dated at Barnstable, Massachusetts, this 14<sup>th</sup> Day of January, Two Thousand and Fifteen.

Elaine Davis  
**Chief Procurement Officer**

## **INSTRUCTIONS TO BIDDERS**

### **1. Defined Terms.**

The term "County" means the County of Barnstable, MA through the County Commissioners.

The term "Successful Bidder" means the lowest, qualified, responsible, and responsive Bidder to whom the County (on the basis of the County's and Towns' evaluation as hereinafter provided) makes an award.

The term "Owner" means the Towns of Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Orleans, Sandwich, Wellfleet and/or Yarmouth, as appropriate.

### **2. Copies of Bidding Documents.**

- 2.1 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Advertisement or Invitation may be obtained from the Office of the County Commissioners.
- 2.2 Complete sets of Bidding Documents shall be used in preparing Bids; the County will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.3 The County, in making copies of Bidding Documents available on the above terms, does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

### **3. Examination of Contract Documents and Site(s).**

- 3.1 Before submitting a Bid, each Bidder must (a) examine the Contract Documents thoroughly, (b) visit the Towns to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work, (c) familiarize himself with federal, state and local laws, by-laws, rules and regulations that may in any manner affect cost, progress or performance of the Work; and (d) study and carefully correlate Bidder's observations with the Contract Documents.
- 3.2 The submission of a Bid will constitute an incontrovertible representation by the Bidder that he has complied with every requirement of this Article and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.
- 3.3 If this bid is received electronically, bidders are solely responsible for obtaining and completing required attachments that are identified in this bid and for checking for any addenda or modifications that are subsequently made to this bid or attachments. Barnstable County accepts no liability and will provide no accommodation to bidders who fail to check for amended bids and submit inadequate or incorrect responses. 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.

#### 4. **Interpretations.**

All questions about the meaning or intent of the Contract Documents shall be submitted to the County in writing. Replies will be issued by Addenda mailed or delivered to all parties recorded by the County as having received the Documents. Questions received less than seven days prior to the date for opening of Bids will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

#### 5. **Bid Security.**

- 5.1 Bid Security shall be made payable to the County, in an amount of five percent (5%) of the Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond.
- 5.2 The Bid Security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required Contract Security (Bonds, when required) and Insurance Binders, where upon it will be returned; if the Successful Bidder fails to execute and deliver the Agreement and furnish the required documents within five (5) working days of the Notice of Award, the County may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid Security of any Bidder whom the County believes to have a reasonable chance of receiving the award may be retained by the County until the earlier of the seventh (7th) day after the "effective date of the Agreement" (which term is defined in the General Conditions) by the County to Contractor and the required Contract Security is furnished or the sixty-first (61st) day after the Bid opening. Bid Security of other Bidders will be returned within seven (7) days of the Bid opening.

#### 6. **Contract Time.**

The Contract Time begins **April 1, 2015** and terminates **March 31, 2016**, or when the Contract amount has been expended, whichever occurs first. If the bids are extended for 1 year, then the new Contract period for all Towns will be from April 1, 2015 to March 31, 2016. The County reserves the right to extend the Contract under the same terms, conditions, and estimated quantities for a maximum period of one (1) year from date of expiration. If the County chooses to extend a contract, then the County will forward a written notice to the Contractor. If the Contractor refuses to extend the contract for the additional year (if selected by the County), then that Contractor will be considered in breach of contract and will not be allowed to bid on similar contracts for one (1) year.

#### 7. **Substitute Material and Equipment.**

The Contract, if awarded, will be on the basis of material and equipment described/ specified in the Contract Specifications. Whenever it is indicated in the Contract Specifications that a substitute or "approved equivalent" item of material or equipment may be furnished or used by Contractor if acceptable, application for such acceptance will not be considered by the County until after the "effective date of the Agreement".

## **8. Subcontractors, etc.**

- 8.1 If the General Conditions require the identity of certain Subcontractors and other persons and organizations to be submitted in advance of the Notice of Award, the apparent Successful Bidder, and any other Bidder so requested, will within seven days after the day of the Bid opening submit a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work as to which such identification is so required. Such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person and organization if requested. If, after due investigation, reasonable objection exists to any proposed Subcontractor, other person or organization, the apparent Successful Bidder will be requested to submit an acceptable substitute without an increase in Bid price.

If the apparent Successful Bidder declines to make any such substitution, the Contract shall not be awarded to such Bidder. Any Subcontractor, other person or organization so listed and for whom the County has no written objection is submitted prior to the giving of the Notice of Award will be deemed acceptable.

- 8.2 No Contractor shall be required to employ any Subcontractor, other person or organization against whom he has reasonable objection.

## **9. Bid Form.**

- 9.1 All Bids must be submitted on the Bid forms bound herein; additional copies may be obtained from the County.
- 9.2 Bid Forms must be completed in ink or by typewriter. The Bid unit price of each item bid on the form must be stated in words and numerals; in case of a conflict, words will take precedence.
- 9.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
- 9.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.
- 9.5 All names must be typed or printed below the signature.
- 9.6 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).
- 9.7 The address to which communications regarding the Bid are to be directed must be shown.

## **10. Submission of Bids.**

Bids shall be submitted at the time and place indicated in the Invitation to Bid and shall be included in an opaque sealed envelope, marked with the Project title and name and address of the Bidder and accompanied by all required documents. If the Bid is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face thereof.

## **11. Modification and Withdrawal of Bids.**

11.1 Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

11.2 If, within twenty-four (24) hours after Bids are opened, any Bidder files a duly signed written notice with the County and promptly thereafter demonstrates to the reasonable satisfaction of the County that there was a material and substantial mistake in the preparation of his Bid, that Bidder may withdraw his Bid. Thereafter, that Bidder will be disqualified from further bidding on the Work.

## **12. Opening of Bids.**

Bids will be opened publicly. They will be read aloud, and an abstract of the amounts of the base Bids will be made available after the opening of Bids.

## **13. Bids to Remain Open.**

All Bids shall remain open for sixty (60) days after the day of the Bid opening, but the County may, in its sole discretion, release any Bid prior to that date.

## **14. Award of Contract.**

14.1 The County may consider informal any bid not prepared and submitted in accordance with the provisions hereof. The County reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsive or conditional Bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of a column of figures and the correct sum thereof will be resolved in favor of the correct sum.

14.2 In evaluating Bids, the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements and prices if requested in the Bid forms shall be considered. The Contract shall be awarded to the lowest, qualified, responsive and responsible Bidder.

- 14.3 The qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the Work as to which the identity of Subcontractors and other persons and organizations must be submitted as provided in the Supplementary Conditions may be considered. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered.
- 14.4 Investigations may be conducted as deemed necessary (including but not limited to requesting a list of all projects completed by a Bidder) to assist in the evaluation of any Bid and to satisfactorily establish the responsibility, qualifications and financial ability of the Bidders, proposed Subcontractors and other persons and organizations to do the Work in accordance with the Contract Documents within the prescribed time.
- 14.5 The right is reserved to reject the Bid of any Bidder who does not satisfactorily pass any such evaluation.
- 14.6 If the Contract is to be awarded, it will be awarded to the lowest, qualified, responsive and responsible Bidder whose evaluation indicates that the award will be in the best interests of the Project.
- 14.7 If the Contract is to be awarded, the County will give the Successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

#### **15. Signing of Agreement.**

When the County gives a Notice of Award to the Successful Bidder, it will be accompanied by at least three (3) counterparts of the Agreement and all other Contract Documents. Within five (5) working days thereafter Contractor shall sign and deliver at least three counterparts of the Agreement to the County with all other Contract Documents (e.g. Bonds, Insurance Binders) attached.

#### **16. Special Legal Requirements.**

All bids shall be submitted in accordance with all requirements of all laws and regulations governing the performance of work on the Project or Services. Bidder warrants and represents that it has read and is familiar with all such requirements.

#### **17. Performance and other Bonds.**

Each successful Bidder shall supply the required Performance/Maintenance Bond and Labor/Materials (Payment) Bond, and shall provide the Bonds to each Town after receiving a written Notice to Proceed from that Town.

The General Conditions set forth the detailed requirements as to the Performance/Maintenance, and Labor/Materials Bonds.

**18. Other.**

- 18.1 Termination of a Contract or Services by any Town shall not invalidate or alter the terms of a Contract or Services with any other Town.
- 18.2 Each Town shall be solely responsible for payment of invoices due Contractor for quantities ordered and received by that Town only.
- 18.3 Bids shall be available for all divisions, departments, and political subdivisions of each Town including, but not limited to: water, fire, and school districts.
- 18.4 “As per MGL, Chapter 7, section 22, each political subdivision participating in this bid is solely responsible for any payment due vendor for its share of such purchase. Barnstable County, as lead purchasing agent shall not be liable for payment or for any claim based upon a breach of warranty or defects in the design, manufacture or installation of material, supplies or equipment purchase pursuant to this bid.”

**19. Fair Employment Practices.**

During the performance of this project, the Bidder and all of his Subcontractors, for himself, his assignees, and successors in interest, agree as follows: **The Bidder, in the performance of all work during, after and prior to completion of work under this Agreement, will not discriminate on grounds of race, color, religious creed, national origin, age or sex in employment practices, in the selection or retention of subcontractors, or in the procurement of materials and rentals of equipment. (Fair Employment Practices law of the Commonwealth M.G.L. Chapter 151B.)** The Bidder by signing this Agreement agrees to abide by the above paragraph to the best of his/her ability.

**BID FORM**

**BID IDENTIFICATION:            CRACKFILLING  
(UNIT PRICE WORK)**

**THIS BID IS SUBMITTED TO:**  
**(Name and Address**            **Office of the County Commissioners**  
**of Owner)**                      **Superior Court House**  
                                      **P.O. Box 427**  
                                      **Barnstable, Massachusetts 02630**

1. The undersigned BIDDER proposes and agrees, if the Bid is accepted to enter into an Agreement with the County, to complete all Work as specified or indicated in the Contract Documents for the Contract Unit Prices during the contract period of **April 1, 2015** to **March 31, 2016** and in accordance with the Contract Documents.
  
2. BIDDER accepts all of the terms and conditions of the Instructions to Bidders. This Bid will remain open for sixty (60) days after the day of Bid opening. BIDDER will sign the Agreement and submit other documents (e.g. Bonds, Insurance Binders) required by the Contract Documents within five (5) working days after the date of the County's Notice of Award.
  
3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that:
  - 3.1 BIDDER has examined copies of all the Contract Documents and of the following addenda:  

Date \_\_\_\_\_ Number \_\_\_\_\_  
Date \_\_\_\_\_ Number \_\_\_\_\_

(receipt of all of which is hereby acknowledged) and also copies of the Notice to Bidders and the Instructions to Bidders.
  
  - 3.2 BIDDER has examined the legal requirements (federal, state and local laws, by-laws, rules and regulations) and the conditions affecting cost, progress of performance of the Work and has made such independent investigations as BIDDER deems necessary.
  
  - 3.3 This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation, and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; BIDDER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm or corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for himself any advantage over any other Bidder or over the County.
  
4. BIDDER will complete all the Work assigned for the unit price(s) listed in the Bid Form.
  
5. The following documents are attached to and made a condition of this Bid:
  - 5.1 A tabulation of Subcontractors and other persons or organizations required to be identified in this Bid.

6. Communications concerning this Bid shall be addressed to:

Company Name: \_\_\_\_\_

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

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Bidder's Contact Person: \_\_\_\_\_

7. Bid comparison will be based on each item unit price provided for each Town. Bidders may bid on any or all items for any or all Towns listed. Bid selection will be by each item by Town and will be based on the lowest, qualified, responsible, and responsive bid for each item for each Town.

8. It is the intent to award a contract to the two (2) lowest, qualified, responsible, and responsive bidders for both items.

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

10. The undersigned also certifies: 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; and, that all employees 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.

SUBMITTED on \_\_\_\_\_, 20\_\_.

**An Individual**

By \_\_\_\_\_ (SEAL)

(Individual's Name and Signature)

doing business as \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No.: \_\_\_\_\_

**A Partnership**

By \_\_\_\_\_ (SEAL)  
(Firm Name)

\_\_\_\_\_  
(General Partner Name and Signature)

Business address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_

**A Corporation**

By \_\_\_\_\_  
(Corporation Name)

\_\_\_\_\_  
(State of Incorporation)

By \_\_\_\_\_  
(Name of person authorized to sign and Signature)

(Corporate Seal)

Attest \_\_\_\_\_  
(Secretary)

Business address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone No.: \_\_\_\_\_

**A Joint Venture**

By \_\_\_\_\_  
(Name and Signature)

\_\_\_\_\_  
(Address)

By \_\_\_\_\_  
(Name and Signature)

\_\_\_\_\_  
(Address)

(Each joint venture must sign. The manner of signing for each individual, partnership and corporation that is party to the joint venture should be in the manner indicated above.)

**CERTIFICATE of NON-COLLUSION AND TAX COMPLIANCE**

Pursuant to MGL Chapter 62C, Section 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

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

**Company:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Signature of Individual Signing**

**Bid, or Corporate Officer:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**Social Security Number**

**Or Federal Identification Number:** \_\_\_\_\_

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

Any person or corporation which fails to execute this document  
will be considered a non-responsive bidder  
and will be rejected pursuant to MGL Chapter 30, 39M.

**BID FORM  
CRACKFILLING  
(UNIT PRICE WORK)**

State the unit bid price (written in words and in numerals) for each Town listed. See page SP-1 for estimated quantities. Bidders may wish to contact each Town to obtain actual quantities purchased during prior years. Bidders may bid on any or all items for any or all Towns. Bid selection will be by each item and will be based on the lowest, qualified, responsible, and responsive bid for each item for each Town.

**Two Lowest Bidders:** It is the intent to award a contract to the two (2) lowest, qualified, responsible, and responsive bidders for **both items**. When needing work completed for each of these items, each Town shall first forward by e-mail or fax a Notice to Proceed to the lower of the two lowest bidders. If the lowest bidder does not schedule the work requested within forty-eight (48) hours of receiving the Notice to Proceed and/or can not begin (and remain at) work within ten (10) working days, then the Town shall have the right to forward a Notice to Proceed to the second low bidder. Each Town shall follow its own policy in the case of the need to break a tied bid.

**MASSDOT Prequalification:** The Towns presently intend to use Chapter 90 (State) funds to finance some of the work. Therefore, Bidders for **both items** are required to be **prequalified** through the Massachusetts Department of Transportation (MASSDOT) FOR THE Towns of Sandwich, Bourne and Harwich. Bids received from Bidders not prequalified by the MASSDOT will be declared invalid.

**Price Adjustments:** Price adjustments for cost fluctuations will be allowed for liquid asphalt, diesel fuel, gasoline, Portland cement, and steel as specified by MASSDOT and the following. **Liquid asphalt** (greater than 100 tons and variance from base price of 5% or more) adjustment will be allowed for **both items**. **Diesel fuel** (variance from base price of 10% or more) adjustment will be allowed for **both items**. **Gasoline** (variance from base price of 10% or more) adjustment will be allowed for **Bid Item Numbers: None**. **Portland cement** (greater than 100 C.Y.) adjustment will be allowed for **Bid Item Numbers: None**. **Steel** (variance from base price of 5% or more) adjustment will be allowed for **Bid Item Numbers: None**. No other Bid Items will be allowed these adjustments. MASSDOT procedures shall be used to determine the adjustments, except as noted herein. The price adjustments shall be based on the difference between the "base price" and the "order price". The "base price" shall be the most recent published MASSDOT liquid asphalt, diesel fuel, gasoline, Portland cement, or steel price available on the day that the bids are due. The "order price" shall be the most recent published MASSDOT liquid asphalt, diesel fuel, gasoline, Portland cement, or steel price available on the day that a Town places an order for a specific item. A Town ordering work shall be provided with **only one (1) invoice for each project**. This invoice shall include the name of the item(s) installed, the quantity installed, the original unit bid price(s), and the price adjustment(s) (including back-up information such as calculations, MASSDOT publication) for each project. **A second invoice for the adjustment(s) submitted at a later date shall not be acceptable.**

<b><u>ITEM NO.40</u></b>	<b><u>HOT APPLIED ASPHALTIC CRACKFILLER</u></b>	<b><u>PER GAL.</u></b>
<u>Town</u>	<u>Unit Bid Price Written in Words</u>	<u>In Numerals</u>
Dennis	_____	\$ _____
Eastham	_____	\$ _____
Orleans	_____	\$ _____
Harwich	_____	\$ _____

<b><u>ITEM NO.41</u></b>	<b><u>MODIFIED ASPHALT-FIBER CRACKFILLER</u></b>	<b><u>PER GAL.</u></b>
<u>Town</u>	<u>Unit Bid Price Written in Words</u>	<u>In Numerals</u>
Barnstable	_____	\$ _____
Brewster	_____	\$ _____
Chatham	_____	\$ _____
Dennis	_____	\$ _____
Falmouth	_____	\$ _____
Harwich	_____	\$ _____
Orleans	_____	\$ _____
Wellfleet	_____	\$ _____
Yarmouth	_____	\$ _____
Bourne	_____	\$ _____
* <b>Sandwich</b>	_____	\$ _____

\* Requires MA Highway Prequalification

## GENERAL CONDITIONS

### ARTICLE 1 - CONTRACT DOCUMENTS, INTENT, AMENDING, AND REUSE

#### Intent:

- 1.1 The Contract Documents comprise the entire Agreement between the County and CONTRACTOR concerning the Work. The Contract Documents are complementary: what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.
- 1.2 It is the intent of the Contract Documents to describe a functionally complete Project or Service (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or Laws or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the County, the Towns or CONTRACTOR, or any of their agents or employees from those set forth in the Contract Documents, nor the Notice to Proceed.

### ARTICLE 2 CONTRACTOR'S LIABILITY INSURANCE

- 2.1 CONTRACTOR shall purchase and maintain such comprehensive general liability and other insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR'S performance and furnishing of the Work and CONTRACTOR'S other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, by any Subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:
  - 2.1.1 Claims under workers' or workmen's compensation, disability benefits and other similar employee benefit acts;
  - 2.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR'S employees;
  - 2.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR'S employees;

- 2.1.4 Claims for damages insured by personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (b) by any other person for any other reason;
- 2.1.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;
- 2.1.6 Claims arising out of operation of Laws or Regulations for damages because of bodily injury or death of any person or for damage to property; and
- 2.1.7 Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The insurance required above shall include the specific coverages and be written for not less than the limits of liability and coverages provided as follows:

- 1. Workmen's Compensation: In accordance with the Workmen's Compensation Laws that are applicable to the employees engaged in the Work. The limit of Employer's Liability Insurance shall be not less than \$500,000 each accident.
- 2. Public Liability Insurance for Personal Injury:
  - a. Individual limit of \$1,000,000 each person.
  - b. Total limit of \$ 3,000,000 for each accident.
- 3. Property Damage Insurance:
  - a. Each claim \$ 1,000,000.
  - b. Aggregate \$ 3,000,000.
- 4. If the CONTRACTOR sublets any portion of his work, then he shall also provide:
  - a. Contractor's Protective Liability Insurance:
    - (1) Individual limit for personal injury of \$1,000,000.
    - (2) Total limit for personal injury for one accident of \$3,000,000.
  - b. Contractor's Protective Property Damage Insurance with a limit of \$1,000,000/\$3,000,000.

Any Subcontractor under contract with CONTRACTOR to perform Work on the Project shall hold the County, the Towns and agents harmless, and purchase and maintain such comprehensive general liability and other insurance as will provide protection from claims set forth herein.

The County and the Towns shall be specifically named as additional insureds on all required insurance policies of the CONTRACTOR and any Subcontractors.

In addition, CONTRACTOR shall maintain such completed operations insurance for at least one year after final payment and furnish the County with evidence of continuation of such insurance at final payment.

### **ARTICLE 3 - CONTRACTOR'S RESPONSIBILITIES**

#### **Supervision and Superintendence:**

3.1 CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

#### **Labor, Materials and Equipment**

3.2 CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without a Town's written consent.

3.3 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by the County or a Town, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier.

#### **Laws and Regulations**

3.4 CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, the County or Towns shall not be responsible for monitoring CONTRACTOR'S compliance with any Laws or Regulations.

## **Taxes**

- 3.5 State taxes will be excluded from all General and Sub-bids. The Towns shall provide their exemption certificate number(s) to the CONTRACTOR. CONTRACTOR shall pay all taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

## **Use of Premises**

- 3.6 CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Project site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against the County or any Town by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold the County and all Towns harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against the County and all Towns to the extent based on a claim arising out of CONTRACTOR'S performance of the Work.

## **Safety and Protection**

- 3.7 CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work (examples: OSHA Regulations regarding Excavation safety: 29 CFR Part 1926 and Confined Space Procedures: 29 CFR 1910.146). CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:
- 3.7.1 all employees on the Work and other persons and organizations who may be effected thereby:
  - 3.7.2 all the Work and materials and equipment to be incorporated there-in, whether in storage on or off the site; and
  - 3.7.3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.

CONTRACTOR shall comply with all applicable Laws, regulations and Guidelines of any public body (examples: OSHA, DIGSAFE, MHD Work Zone Safety Guidelines) having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to in paragraph 3.7.1 or 3.7.2 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any sub-contractor, supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of the County, any Towns or anyone employed by any of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR). CONTRACTOR'S duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed.

### **Indemnification**

- 3.8 To the fullest extent permitted by Laws and Regulations CONTRACTOR shall indemnify and hold harmless the County, the Towns and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of the Work.

### **Separate Contracts**

- 3.9 The County and the Towns have the right to let other contracts in connection with the Work and the CONTRACTOR shall properly cooperate with any such other contractors.

### **ARTICLE 4 - UNIT PRICE WORK**

- 4.1 Initially, the Contract Price will be deemed to include for Unit Price Work an amount equal to the established unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classification of Unit Price Work performed by CONTRACTOR will be made by each Town.
- 4.2 Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR'S overhead and profit for each separately identified item.
- 4.3 When the accepted quantities of Work vary from the estimated quantities, the CONTRACTOR shall accept as payment in full, so far as contract items are concerned, payment at the original Contract unit prices for the accepted quantities of Work done. No allowance will be made for any increased expenses, loss of expected reimbursement or loss of anticipated profits suffered or claimed by the Contractor, resulting either directly or indirectly from such increased or decreased quantities.

- 4.4 The CONTRACTOR shall make monthly estimates of the materials complete in place for the amount of Work performed in accordance with the Contract. The estimates will be itemized for review and approval by each Town. Each estimate will show the total value of the Work done to date, the total money due the CONTRACTOR since the previous estimate and the money paid the CONTRACTOR to date. This estimate will be considered approximate only and shall be subject to correction. Five (5%) percent of all payments due the CONTRACTOR for Work done and materials furnished will be withheld until final completion of the Work. The acceptance by the CONTRACTOR of the final payment, including the retainage of five (5%) percent, shall operate as a release to the specific Town of all claims and all liabilities to the CONTRACTOR for all Work done or materials furnished in connection with the Contract. Final payment shall be as provided in G.L. Ch.30, Section 39G. The payment to the CONTRACTOR of said final payment does not, however, release them or their sureties from any obligation under this contract.
- 4.5 It shall be the responsibility of the CONTRACTOR to inform each Town when the sum of all orders for units of work is within 90% of the total Contract price for that Town. The CONTRACTOR'S total billing can not exceed the total Contract price without prior written approval by each Town.
- 4.6 All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

## **ARTICLE 5 - WARRANTY AND GUARANTEE; TESTS AND INSPECTION; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

### **Warranty and Guarantee**

- 5.1 CONTRACTOR warrants and guarantees to the County and the Towns that all Work will be in accordance with the Contract Documents and will not be DEFECTIVE. Prompt notice of all defects shall be given to CONTRACTOR. All DEFECTIVE Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

### **Access to Work**

- 5.2 The County's or Town's representatives, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

### **Tests and Inspections**

- 5.3 CONTRACTOR shall give each Town timely notice of readiness of the Work for all required inspections, tests or approvals. CONTRACTOR shall furnish written information to each Town stating the original sources of all materials manufactured away from the actual site of the Work. In order to insure a proper time sequence for required inspection and approval, this information shall be furnished at least two weeks in advance of the incorporation in the Work of any such materials.

- 5.4 If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of a specific Town, it must, if requested by that Town, be uncovered for observation. Such uncovering shall be at CONTRACTOR'S expense unless CONTRACTOR has given that Town timely notice of CONTRACTOR'S intention to cover the same and that Town has not acted with reasonable promptness in response to such notice.
- 5.5 Neither observations by the County or a Town, nor inspection, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR'S obligations to perform the Work in accordance with the Contract Documents.

### **Two Year Correction Period**

- 5.6 If within two (2) years after the date of Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be DEFECTIVE, CONTRACTOR shall promptly, without cost to the Town and in accordance with Town's written instructions, either correct such DEFECTIVE Work, or, if it has been rejected by the Town, remove it from the site and replace it with NONDEFECTIVE Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the Town may have the DEFECTIVE Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

### **ARTICLE 6 - PERFORMANCE AND OTHER BONDS**

- 6.1 CONTRACTOR shall furnish Performance and Maintenance, and Labor and Materials Bonds, each in an amount 100% of the Contract Price as security for the faithful performance and payment of all CONTRACTOR'S obligations under the Contract Documents. These Bonds shall remain in effect at least until two (2) years after the date when final payment becomes due, except as otherwise provided by Law or Regulation or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the forms prescribed by Law or Regulation or by the Contract Documents and be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.
- 6.2 If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 6.1, CONTRACTOR shall within five (5) days thereafter substitute another Bond and Surety, both of which must be acceptable to the County.

## **ARTICLE 7 - EFFECTIVE DATE**

The Effective Date of the Agreement shall be the date that the County determines that the Contract is complete, signs the Agreement and forwards a Notice to Proceed to CONTRACTOR.

## **ARTICLE 8 - CHANGES IN THE WORK**

- 8.1 The County or any Town, 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 County, Town or the Engineer as their duly authorized agent.
- 8.2 The Contract Sum and the Contract Time may be changed only by Change Order.
- 8.3 The cost or credit to the Town from a Change in the Work shall be determined by mutual agreement.

## **ARTICLE 9 - WAGE RATES**

- 9.1 Full compliance with applicable federal, state and local wage laws is required on all Work done for any Town.
- 9.2 The County and Towns shall not be held liable should the CONTRACTOR fail to compensate any person(s) in accordance with the prevailing (minimum) wage rates included herein. The CONTRACTOR claims full responsibility to compensate the person(s) associated with the project accordingly and will assume any liability on behalf of the County and Towns, should a person(s) associated with the project file a claim pursuant to MGL Chapter 149.
- 9.3 The "work classifications" provided by the CONTRACTOR on the required "Weekly Payroll Report Form" shall exactly match the classifications provided in the "Minimum Wage Rates". Should the CONTRACTOR use an unlisted classification, it shall be the CONTRACTOR's responsibility to contact the Department of Labor and Industries in order to determine a matching classification or obtain minimum wage rate for the new classification.

## **ARTICLE 10 - ENGINEER**

- 10.1 The Engineer (as designated by each Town) will provide general administration of the Contract and will be the Town's representative during the construction period.
- 10.2 The Engineer shall at all times have access to the Work wherever it is in preparation and progress.

- 10.3 The Engineer will make periodic 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 Engineer, he will keep the Town informed of the progress of the Work, and will endeavor to guard the Town against defects and deficiencies in the Work of the CONTRACTOR. The Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Engineer will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for the CONTRACTOR'S failure to carry out the Work in accordance with the Contract Documents.
- 10.4 Based on such observations and the CONTRACTOR'S Application for Payment, the Engineer will determine the amounts owed to the CONTRACTOR.
- 10.5 The Engineer will be, in the first instance, the interpreter of the requirements of the Contract Documents.
- 10.6 The Engineer will have authority to reject Work which does not conform to the Contract Documents.

#### **ARTICLE 11 - TERMINATION OF CONTRACT**

The County and the Towns reserve the right to terminate this Contract or Services whenever it deems that the CONTRACTOR is in violation of laws, regulations and/or provisions of this Contract. Termination of a Contract or Services by any Town shall not invalidate or alter the terms of a similar Contract or Services with any other Town.

#### **ARTICLE 12 – MISCELLANEOUS**

- 12.1 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically, but without limitation, moneys that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 12.2 The County and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 12.3 This CONTRACT shall be deemed to include all terms and requirements imposed by laws related to the performance of the Work on the Project or Services.
- 12.4 This is not an exclusive contract to provide services or materials to the County and Towns. The County and Towns reserve the right to contract for similar services or materials.

## SPECIAL PROVISIONS

### SCOPE OF WORK

The Work under this Contract consists of providing Crackfilling as described herein to the Towns of Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Orleans, Sandwich, Wellfleet and Yarmouth through an Agreement with the County of Barnstable.

All Work done under this Contract shall be in conformance with the 1988 Massachusetts Highway Department (MASSDOT) Standard Specifications for Highways and Bridges, the Supplemental Specifications, the 2005 Standard Special Provisions, the 2010 Construction Standard Details, and the 2009 Manual on Uniform Traffic Control Devices, all as amended, and these Special Provisions. The General Conditions and Special Provisions shall take precedence over the General Requirements of the Standard Specifications.

**As noted on the Bid Form liquid asphalt and diesel fuel price adjustments will be allowed for both items.**

### ESTIMATED QUANTITIES BY TOWN

Each Town has provided the following estimated quantities for each bid item that it presently intends to order. These estimated quantities are for bid purposes only and can not be guaranteed. If there is no quantity provided for an item, then that specific Town does not intend to use that item; however, each bidder is encouraged to provide a bid should any Town wish to change its priorities.

<u>Item</u>	<u>Title</u>	<u>Unit</u>	<u>Barn.</u>	<u>Bourne</u>	<u>Brewster</u>	<u>Chat.</u>	<u>Dennis</u>	<u>Eastham</u>
40	Hot Applied Asphalt Crackfiller	Gallon	0	0	0	0	3000	3000
41	Modified Asphalt-Fiber Crackfiller	Gallon	6500	2500	2500	2500	3000	0

<u>Item</u>	<u>Title</u>	<u>Unit</u>	<u>Falm.</u>	<u>Harwich</u>	<u>Orleans</u>	<u>Sand.</u>	<u>Wellflt.</u>	<u>Yarm.</u>
40	Hot Applied Asphalt Crackfiller	Gallon	0	3000	1000	0	0	0
41	Modified Asphalt-Fiber Crackfiller	Gallon	7500	0	3500	7000	2000	6000

### WORK SCHEDULE

The Contractor shall commence Work within **ten (10)** working days of receiving a Notice to Proceed from a Town. If the Contractor can not begin work within the **ten (10)** working days, that Town may order such services from such contractors as are available, and the Contractor shall reimburse that Town for all expenses incurred above the Contract Price. When needing work completed for those items that will be awarded to the two (2) lowest bidders, each Town shall first forward by e-mail or fax a Notice to Proceed to the lower of the two lowest bidders. If the lowest bidder does not schedule the work requested within **forty-eight (48) hours** of receiving the Notice to Proceed and/or can not begin (and remain at) work within **ten (10) working days**, then the Town shall have the right to forward a Notice to Proceed to the second low bidder.

Work is restricted to a normal eight-hour day, five-day week, with Contractor and all subcontractors working on the same shift.

No Work shall be done on this Contract on Saturdays, Sundays or holidays or on the day before or the day after a long weekend which involves a holiday without prior approval by the specific Town.

### **OSHA REQUIREMENT**

Any employee found on the worksite without documentation of the 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. OSHA certifications must be submitted with the certified payrolls for all workers during the first week they work on a project.

### **PROGRESS OF WORK**

The Contractor shall promptly start and continue actual construction work under this Contract with the necessary equipment to properly execute and complete this Contract in the specified time. No cessation of Contractor's operations will be allowed without the approval of the Engineer. The rate of progress shall be satisfactory to that Town and the Engineer. The Contractor shall furnish to the Engineer a schedule for the Work prior to the start of construction.

### **CONTRACT DOCUMENTS IN THE FIELD**

The Contractor shall keep a copy of the Contract Documents at the work site at all times while work is being performed and said copy is to be available to those in charge of work.

### **POLICE SERVICES**

Each Town shall provide all Town police services at no cost to the Contractor to direct traffic when such protection is required by that Town's Police Department. The Contractor shall be solely responsible for contacting and scheduling police services with the Police Department. If the Contractor must cancel police services, he must do so within the time limits set by the Police Department. **If the Contractor does not cancel police services within the time limits, then Contractor shall be responsible to promptly pay the minimum required amount.**

### **PUBLIC SAFETY AND CONVENIENCE**

The Contractor shall be required without additional compensation to provide safe and convenient access to all abutters during the prosecution of the Work.

No excavation shall be left open during non-working hours.

MSDS sheets and information shall be available on site and copies submitted to a Town as requested.

**NECESSARY ACCESS FOR FIRE APPARATUS AND OTHER EMERGENCY VEHICLES SHALL BE MAINTAINED AT ALL TIMES. THE CONTRACTOR SHALL COORDINATE WITH THE POLICE AND FIRE DEPARTMENTS AT ALL TIMES REGARDING ACCESS.**

For the protection of life and property, all backfill operations shall follow closely behind completed work. The Contractor shall insure that no excavation be left open, unguarded, or water filled during any period of time when work is not actually in progress. It is the purpose and intent that all excavations and backfill, including consolidation operations, and temporary surfacing within an area be accomplished expeditiously before proceeding to other work areas.

Contractor shall comply with all applicable Laws, regulations and Guidelines of any public body (example: OSHA, DIGSAFE, MASSDOT Work Zone Safety Guidelines, Police) having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary signs/ safeguards for such safety and protection at no extra cost to the Owner. See General Conditions also.

### **CLEANUP**

Cleanup shall be done on a daily basis. At the end of each working period, the Contractor shall completely backfill all holes and trenches, and remove all equipment from the traveled way. The Contractor shall ensure that all safety marking and warning devices are satisfactorily in place prior to leaving any job.

During the course of the Work, the Contractor shall keep the site of his operations in as clean and neat condition as is possible. He shall dispose of all residue resulting from the construction work and, at the conclusion of the work, he shall remove and haul away any surplus excavation, broken pavement, lumber, equipment, temporary structures, and any other refuse remaining from the construction operations, and shall leave the entire site of the work in a neat and orderly condition.

Sweeping and cleaning of surfaces beyond the limits of the Project to clean up material caused by spillage or vehicular tracking during the various phases of the work shall be considered as incidental to the Work being performed under the Contract and there will be no additional compensation.

### **PROTECTION OF UTILITIES AND PROPERTY**

The Contractor shall be responsible for the repair or replacement, at his own expense, of any damage to utilities and/or property caused by his acts or neglect, and shall leave them in the same condition as they existed prior to commencement of the Work. In case of damage to utilities, the Contractor shall promptly notify the utility owner and shall, if requested by the Engineer, furnish labor and equipment to work temporarily under the owner's direction in providing access to the utility. Pipes or other structures damaged by the operation of the Contractor may be repaired by the municipality or by utility owner which suffers the loss. The cost of such repairs shall be borne by the Contractor, without compensation therefor.

Full compensation for furnishing all labor, materials, tools, equipment and incidentals for doing all the work involved in protecting or repairing property as specified in this section, shall be considered included in the prices paid for the various Contract items of Work and no additional compensation will be allowed therefor.

### **PROVISIONS FOR TRAVEL AND PROSECUTION OF THE WORK**

For the items that require traffic control, the Contractor shall supply and use traffic control devices, positioning and methodology, conforming with the Manual on Uniform Traffic Control Devices (MUTCD) and MASSDOT Work Zone Safety Guidelines at no additional cost to any Town. Traffic control devices required only during working hour operations shall be removed at the end of each working day. Signs having messages that are irrelevant to normal traffic conditions shall be removed or properly covered at the end of each work period. Signs shall be kept clean at all times and legends shall be distinctive and unmarred.

Particular care should be taken to establish and maintain methods and procedures which will not create unnecessary or unusual hazards to public safety.

**DISPOSAL OF SURPLUS MATERIALS**

All materials not required or needed for use on the Project, and not required to be removed and stacked, shall become the property of the CONTRACTOR and shall be removed from the site and legally disposed of. No separate payment will be made for this Work, but all costs in connection therewith shall be included in the prices bid for various Contract items.

**HOT APPLIED ASPHALTIC CRACK FILLER (Item No.40)**

The Work under this item shall include the preparation of cracks in existing bituminous concrete pavement which may be overlain with new bituminous concrete or stone seal, and the filling of the prepared cracks with a fiber reinforced asphaltic compound. Work shall be completed on bituminous concrete in an "as is" condition (e.g. Towns will not sweep areas beforehand).

The crackfilling material shall be a fiber reinforced asphaltic compound of the following material and properties:

ASPHALT -	Grade PG 58-28, PG 64-22, or PG 64-28 (formerly AC 20)
	Penetration of 75-100
FIBER -	Polyester fiber
	Concentration- 6-8% by weight to asphalt
	Length- 7 mm
	Denier- 15 dpf
	Color- natural
	Crimp- none
	Tensile Strength- 75,000 psi, minimum (+/- 5,000 psi)
	Specific Gravity- 1.32 to 1.40

Fibers shall be added in the presence of the Engineer and shall be added only once for each individual batch mixed in order to insure a consistent concentration of fibers in the compound. Adding fibers and other materials "on-the-fly" will not be allowed.

Only cracks larger than 1/4-inch in width, as determined by the Engineer, shall be sealed. Overbanding shall not exceed 4" in width after placement. **Expansion of the overband by traffic or weather will result in a deduction in the total gallons applied equal to the ratio of the expansion to the overband.** (As an example, a 1" expansion of a 4" overband will result in a 25% deduction in the total gallons of crackfiller applied.)

The air compressor shall be portable and capable of furnishing not less than 100 cubic feet of air per minute at a pressure of not less than 90 pounds per square inch at the nozzle. The compressor shall be equipped with traps that will maintain the compressed air free of oil and water. Manually operated, gas powered air-broom or self-propelled sweeper designed especially for use in cleaning roadway pavements shall be used to remove debris, dirt, and dust from the cracks.

The melting kettle required to melt the joint sealing compound shall be an indirect fired type double-walled boiler. The space between the inner and outer walls shall be filled with a suitable heat transfer oil or substitute having a flash point of not less than 600 degrees Fahrenheit. The kettle must be equipped with a satisfactory means of agitating the joint sealer at all times by continuous stirring with mechanically operated paddles and/or by a continuous circulating gear pump attached to the heating unit. The kettle must be equipped with a thermostatic control calibrated between 200 degrees F and 550 degrees F.

The joint filler applicator shall be an Extrudament as manufactured by Hercules Inc., or approved equivalent.

The equipment used in the performance of the required Work shall be subject to the approval of the Engineer and shall be maintained in a satisfactory working condition at all times.

All cracks shall be thoroughly cleaned (including vegetation) by blowing with compressed air or other approved method just prior to the placement of the joint sealing material. All cracks shall be sterilized by use of a propane air torch generating 2,000 degrees F. and 3,000 foot/second velocity to eliminate all vegetation, dirt, moisture and seeds. All debris removed from the cracks shall be removed from the pavement surface immediately by means of a power sweeper, hand or air broom.

No crackfiller material shall be placed in wet cracks or where snow, ice, or frost are present, nor when the air temperature is below 32 deg. F.

Cracks shall be completely filled by hot extrusion from the applicator with the filler material at 320 deg.F (minimum) and overlain with a membrane of approved filler material in one continuous operation.

Hot applied asphaltic crackfiller will be measured for payment by the actual number of gallons of filler applied to the pavement. Hot applied asphaltic crackfiller will be paid for at the Contract unit price per gallon, which price shall include all labor, material, equipment and incidental costs required to complete the Work.

#### **MODIFIED ASPHALT-FIBER CRACKFILLER (Item No. 41)**

The Work under this item shall include the preparation of cracks in existing bituminous concrete pavement which may be overlain with new bituminous concrete or stone seal, and the filling of the prepared cracks with a modified asphalt-fiber compound. Work shall be completed on bituminous concrete in an "as is" condition (e.g. Towns will not sweep areas beforehand).

The crackfilling material shall be a modified asphalt-fiber compound designed especially for improving strength and performance of the parent asphalt sealant. The asphalt binder shall consist of a blend of neat asphalt binder and chemically modified crumb rubber (CMCR) that meets the following specifications:

PG 64-28 or PG 70-28 after modification.

Viscosity of not more than 3PaS at 300 degrees F.

Modification at a minimum shall consist of 5% CMCR and the maximum particle size for the CMCR shall be 80 mesh (#80 sieve).

The performance grade of the neat asphalt binder shall not exceed a PG 58-XX.

The asphalt supplier shall provide testing for the neat asphalt binder and modified asphalt binder in accordance with AASHTO M320.

Fiber reinforcing materials shall be short-length polyester fibers having the following properties:

Length*	0.25in.+0.02
Elongation at Break; ASTM D2256-90	38%
Melting Point; ASTM D3418-82	>475 degrees F (246 degrees C)
Crimps/Inc; ASTM D3937-90	None
Cross Section	Round
Denier; ASTM D1577-90	4.5 Nominal dpf
Tensile Strength; ASTM D2256-90	>70,000 psi
Diameter	0.0085 in. **
Specific Gravity; ASTM D792-91	1.32 to 1.40

\* At temperatures ranging from ambient to maximum finished product mix temperature

\*\* Subject to Normal Variations

Modified asphalt-fiber compound shall be mixed at a rate of 8% fiber weight to weight of asphalt cement.

Only cracks larger than 1/4-inch in width, as determined by the Engineer, shall be sealed. Overbanding shall not exceed 4" in width after placement. **Expansion of the overband by traffic or weather will result in a deduction in the total gallons applied equal to the ratio of the expansion to the overband.** (As an example, a 1" expansion of a 4" overband will result in a 25% deduction in the total gallons of crackfiller applied.)

The air compressor shall be portable and capable of furnishing not less than 100 cubic feet of air per minute at a pressure of not less than 90 pounds per square inch at the nozzle. The compressor shall be equipped with traps that will maintain the compressed air free of oil and water. Manually operated, gas powered air-broom or self-propelled sweeper designed especially for use in cleaning roadway pavements shall be used to remove debris, dirt, and dust from the cracks.

The melting kettle required to melt the joint sealing compound shall be an indirect fired type double-walled boiler. The space between the inner and outer walls shall be filled with a suitable heat transfer oil or substitute having a flash point of not less than 600 degrees Fahrenheit. The kettle must be equipped with a satisfactory means of agitating the joint sealer at all times by continuous stirring with mechanically operated paddles and/or by a continuous circulating gear pump attached to the heating unit. The kettle must be equipped with a thermostatic control calibrated between 200 degrees F and 550 degrees F and must be capable of pumping an 8% fiber content blend.

The equipment used in the performance of the required Work shall be subject to the approval of the Engineer and shall be maintained in a satisfactory working condition at all times.

All cracks shall be thoroughly cleaned (including vegetation) by blowing with compressed air or other approved method just prior to the placement of the joint sealing material. All cracks shall be sterilized by use of a propane air torch generating 2,000 degrees F. and 3,000 foot/second velocity to eliminate all vegetation, dirt, moisture and seeds. All debris removed from the cracks shall be removed from the pavement surface immediately by means of a power sweeper, hand or air broom.

No crackfiller material shall be placed in wet cracks or where snow, ice, or frost are present, nor when the air temperature is below 32 degrees F.

The asphalt-fiber compound shall be thoroughly mixed for a minimum of one (1) hour before application can begin. Whenever material is added to the tank, sealing operations shall be suspended for one (1) hour to allow for the minimum required mixing time. Minimum application temperature shall be 320 degrees F.

Fibers and CMCR shall be added in the presence of the Engineer and shall be added only once for each individual batch mixed in order to insure a consistent concentration of fibers in the compound. Adding fibers and other materials “on-the-fly” will not be allowed.

Sealant shall be delivered to the pavement cracks through a high pressure hose line and applicator shoe. A boiler slag aggregate shall be broadcast over the cracks to prevent sealant from being picked up.

Modified asphalt-fiber crackfiller will be measured for payment by the actual number of gallons of filler applied to the pavement. Modified asphalt-fiber crackfiller will be paid for at the Contract unit price per gallon, which price shall include all labor, material, equipment and incidental costs required to complete the Work.

#### **REQUIRED FORMS**

- **Bid Deposit – 5% of bid price in the form of a certified, treasurer’s, or cashier’s check payable to Barnstable County; or a bid bond from a licensed surety registered to do business in the Commonwealth of Massachusetts.**
- **Bid Form (pages BF-1 to BF-4).**
- **Certificate of Non-Collusion and Tax Compliance (page BF-5).**
- **Bid Pricing (pages BF-6 to BF-7).**