

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

Elaine Davis
Chief Procurement Officer

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REQUEST FOR PROPOSALS

Barnstable County, on behalf of the Cape Cod Commission, requests proposals for technical assistance related to 3D mapping for water quality and development impacts on Cape Cod.

Proposals 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 April 11, 2016 at 11:30AM. **No exceptions. Note: All times listed in this RFP are in prevailing Eastern Time.**

NOTE: One original and five (5) copies of each proposal shall be submitted. As per MA General Law, Chapter 30B, proposals are to be submitted in two separate envelopes. One envelope must contain the technical proposal and be clearly labeled "3D Mapping – Technical Proposal". Price proposals are to be submitted in a separate envelop, clearly labeled "3D Mapping - Price Proposal". **NO faxed submissions will be accepted.**

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

All proposals submitted for this project are subject to the provisions of Massachusetts General Laws, Chapter 30B as amended.

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 28th day of May, Two Thousand and Sixteen.

Elaine Davis
Chief Procurement Officer

REQUEST FOR PROPOSALS

Barnstable County, Massachusetts, through its Chief Procurement Officer and on behalf of the Cape Cod Commission (the Commission) is seeking proposals from qualified contractors for technical support for mapping and visualizing in 3D format the impacts of water quality and development decisions on Cape Cod.

Barnstable County reserves the right to cancel this RFP at any time until the proposals are opened and to reject any or all proposals if its Chief Procurement Officer determines that such action is in the best interest of Barnstable County. Barnstable County is an equal opportunity /Americans with Disabilities Act (ADA) employer.

This request includes the following sections:

- I. Background
 - II. Project Description/Scope of Work
 - III. Proposal Submission/Requirements
 - IV. Proposal Evaluation Process
- Attachment A – Certificate of Non-Collusion and Tax Compliance
Attachment B – Reference Form
Attachment C – Agreement
Attachment D – Project Area

I. BACKGROUND

The Commission is the regional planning agency created in 1990 to serve the citizens and 15 towns of Barnstable County, Massachusetts. An unprecedented growth boom on Cape Cod in the 1980s prompted the Massachusetts General Court (the state legislature) to pass the Cape Cod Commission Act in 1989. The Act was signed into law by the Governor in January 1990. The Act found that the region known as Cape Cod (Barnstable County) "possesses unique natural, coastal, historical, cultural, and other values that are threatened by uncoordinated or inappropriate uses of the region's land and other resources."

The Commission completed a Clean Water Act Section 208 Area Wide Water Quality Management Plan Update for Cape Cod in 2015 with a specific focus on nitrogen in marine waters. The Commission working in conjunction with the municipalities is developing and implementing watershed level plans across the region with the goal of restoring water quality while minimizing costs to year round residents through the use of a variety of technologies and adaptive management.

The Commission's mission is "to keep a special place special." In order for the Commission to continue to fulfill its mission, and to assist in communicating the complex interactions between the natural and built systems in the region, the Commission wishes to focus its efforts on utilizing GIS and particularly CityEngine and ArcGIS Pro in the emerging field of 3D analysis. Specifically, this 3D analysis is intended to assist the Commission in regional planning, land use and resource protection initiatives, and will provide visual information to elected officials and stakeholders about the effects of development choices in the region and their associated impacts on capital infrastructure planning.

II. PROJECT DESCRIPTION/SCOPE OF WORK

The Commission intends to utilize a 3D GIS framework in several project locations of the region as part of a larger strategy to further regional initiatives and educate the County's constituents. This 3D GIS framework consists of three core components:

- obtaining and maintaining 3D base map data;

- manipulating and editing 3D data; and,
- analyzing and displaying results.

A 3D base map is a 3D model that incorporates existing features and attributes from several data sets, such as terrain, building models, planimetric features, landscaping and transportation data layers.

Using this base map, the Commission needs to be able to manipulate the massing and other parameters to create alternative scenarios of development and zoning for town center locations in the region. For example, the edited 3D base map could test the effect of alternative density, and future land use by modifying key input attributes and seeing the resulting built environment in the 3D GIS interface.

The Commission intends to use the 3D environment to visualize and compare these alternatives in terms of their outward appearance, and their potential effect on resources and capital infrastructure needs. This will require that any 3D basemap be able to function on a portable desktop device for working sessions with local officials, and that final results of the scenario development process may be displayed for the public in an ArcGIS online environment, or similar, leveraging any required technology to do so.

In addition, the Commission wishes to receive training in the necessary workflow and specific skills in this 3D GIS framework. This will include guiding the Commission in the required steps to establish the 3D base map and developing the skills and knowledge to create sliders to enable the generation of alternative scenarios. This knowledge will allow the Commission to use 3D analysis for future projects. Specifically, the Commission wishes to understand the data needs, rule requirements, and other considerations to allow for development of the Commission's 3D capabilities.

At this time, the Commission is seeking assistance in developing a 3D basemap for several locations around the Cape that are either critical areas of focus for water quality and/or economic development reasons. Attachment D shows the project areas for which the Commission desires to receive a detailed 3D basemap, including approximate acreage. The specific objectives of the project are:

- Generate 3D base map using appropriate software, such as CityEngine/ArcGIS Pro,
- Build and display features based on 3D attributes,
- Create ways to manipulate the features and to illustrate alternative scenarios
- Visually display the modifications to the project area,
- Recalculate and report impacts to the project area based on modifications,
- Train staff on an appropriate workflow for implementation of 3D in other projects,
- Provide guidance and training on 3D software as appropriate, particularly CityEngine and ArcGIS Pro, and
- Provide support and recommended techniques, data preparation and tools needed for implementation.

TASK 1 – CREATE 3D BASE MAP

The goal of this task is to create 3D base maps of existing development in the town centers identified in Attachment D. The 3D Basemap should include the following elements:

- Topography/terrain
- Planimetric data
- Roadways and parking fields
- Buildings
- Trees

Architecturally accurate un-textured models were purchased for an approximately 40 acre area of one of these centers (Hyannis), which should be incorporated into the 3D Base map. The remaining areas will employ procedural techniques to generate building masses based on attributes within the data. The Cape Cod Commission currently has the following data available for use in this effort:

- Orthoimagery – taken in 2014 and used for Planimetric capture
- DEMs – delivered in conjunction with the LIDAR from 2011
- LIDAR – limited classification flyover from 2011
- Planimetric – a suite of features including buildings, fences, poles, signs, trees, street furniture, towers, storage tanks, etc.
- Existing conditions data appended to the building footprints within the project areas including building height, waste water treatment type, estimated wastewater flow, density indicator, building use and residential unit size. Additional data required for reporting will be provided by Cape Cod Commission staff.
- Existing Zoning from the Towns assessing data

The Cape Cod Commission has a robust GIS platform capable of performing all aspects of this scope

- ArcGIS Server
- ArcGIS Portal
- ArcGIS Desktop Advanced
- ArcGIS Pro
- CityEngine

The 3D Basemap must be designed to allow users to experiment with alternative scenarios and explore different density, height and wastewater treatment options and allow a comparison between the existing and scenario features and the impacts resulting from the changes made. The Commission anticipates that the model will be used to illustrate changes in zoning regulations or proposed redevelopment plans of properties in the area in public meetings, and should therefore be capable of being used in a portable desktop environment (laptop).

DELIVERABLES

- Set up 3D Basemap of existing development within the project area in an appropriate software (either CityEngine, ArcGIS Pro or both) and incorporate un-textured models, rule-based procedures, and other data sources, as needed.
- 3D models must be capable of allowing alternative scenario development in Task 2.

TASK 2 – 3D MODIFICATIONS AND VISUALIZATION

The goal of this task is to use the 3D environment created in Task 1 to visualize changes in development parameters and quantify the impacts of changes to the existing conditions and incorporate alternate scenarios for the area. The Commission is interested in simulating the impact of a variety of design decisions, so that decision makers can easily understand the sustainability, environmental footprint or cost implications of different development configurations. The 3D environment should allow users to create dynamic shapes representing buildings in different development configurations by adjusting the following:

- Housing density or residential unit size
- Height/building stories
- Wastewater treatment per parcel
- Building use and building size
- Street facing building setback

The estimated impacts of these changes should be reported for each structure with no more than 5 indicators, such as:

- Population
- Wastewater generation
- Traffic generation
- Parking generation
- Job creation

The metrics driving these indicators will be derived from industry estimating standards and in consultation with the Commission. Alternative indicators may be substituted for the items listed above in discussion with the Commission.

DELIVERABLES

- Create the methodology and “rules” for the manipulation of 3D buildings in the 3D basemap for each town center
- Create functionality in CityEngine/ArcGIS Pro to allow for the manipulation of metrics to trigger changes in the 3D model
- Create 5 rules and adjustable sliders of performance metrics that will allow users to modify 3D models
- Report the impacts resulting from alternate designs on a limited number of indicators (5)

TASK 3 – 3D TRAINING

The goal of this task is to provide the Commission staff with an understanding of the workflow needed to complete Tasks 1 and 2 for future planning and technical assistance projects.

Using the deliverables created under Tasks 1 and 2, or alternate data sets as determined by the vendor, provide training to Commission staff (6-7 individuals) in the 3D basemap generation process to enable the Commission staff to become familiar with the data needs, methodology, processes, software requirements and issues to consider for future 3D projects. This training should include:

- Review of existing workflow, software choices, alternate approaches, data and techniques for generating three dimensional elements of existing conditions.
- Training on the workflow needed for creating a 3D base map, including:
 - leveraging existing 3D data, third-party 3D software, and planimetrics data, as appropriate
 - rule development for rendering models in City Engine using building foot prints, lidar, assessing data or other, as appropriate
- How to build additional 3D features based on attributes
- How to modify existing 3D objects and features in the project area
- Rules and techniques to calculate and visualize impacts from changes in the development pattern or configuration, such as changes in zoning standards, fiscal conditions or environmental parameters.

The Commission also anticipates an ongoing need for technical support about this workflow and requests up to 20 hours of ongoing assistance (to be made available during regular business hours).

DELIVERABLES

- Training sessions for between 6-7 Commission staff members – can be provided on-site at the Cape Cod Commission, remotely or a combination of both.

- Remote technical support (20 hours) for the duration of the contract during regular business hours.

PROJECT SCHEDULE

All tasks need to be completed on or before June 30, 2016.

III. PROPOSAL SUBMISSION REQUIREMENTS

General Information

One original and five (5) copies of the original proposal shall be delivered to the Office of the County Commissioners/Chief Procurement Officer at the address below **no later than Monday, April 11, 2016 at 11:30AM**. Late proposals will not be accepted.

Barnstable County Purchasing Department
Superior Courthouse
3195 Main Street, P.O. Box 427
Barnstable, MA 02630

Unforeseen Office Closure

If, at the time of the scheduled bid opening, Superior Courthouse is closed due to uncontrolled events such as fire, weather, or building evacuation, the bid opening will be postponed until 2:00 p.m. on the next normal business day. Bids will be accepted until that date and time.

Consistent with MA General Law, Chapter 30B, **proposals are to be submitted in two separate envelopes**. One envelope must contain the technical proposal and be clearly labeled **“3D Mapping – Technical Proposal.”** Price proposals are to be submitted in a separate envelope, clearly labeled **“3D Mapping- Price Proposal.”**

Addenda - Any supplemental instructions, amendments or changes in the Request for Proposals, or attached documents, shall be in the form of written addenda to this Request. If issued, such addenda shall be sent by email or fax to all persons on record as having received a Request for Proposals.

The Chief Procurement Officer shall unconditionally accept a proposal without alteration or correction, except as provided in this paragraph. A Proposer may correct, modify or withdraw a proposal by written notice received in the County Commissioner’s Office prior to the time and date for the opening of proposals. After the opening of proposals, a Proposer may not change any provision of the proposal in a manner prejudicial to the interests of the Chief Procurement Officer, fair competition, and in compliance with MGL chapter 30B. The Chief Procurement Officer shall waive minor informalities or allow the Proposer to correct them.

The Chief Procurement Officer shall not open the proposals publicly per M.G.L. c. 30B Section 6, but shall open them in the presence of one or more witnesses at the time specified herein. Until the completion of the evaluation process or until the time for acceptance specified herein, the contents of the proposals shall remain confidential and shall not be disclosed to competing Proposers.

It is the responsibility of every respondent who receives this RFP electronically to check for any addenda or modification to this solicitation. Barnstable County accepts no liability to provide accommodation to respondent who submit a proposal based upon an out of date solicitation document.

Respondents may not alter (manually or electronically) the RFP language or any documents. Unauthorized modifications to the body of the RFP, specifications, terms or conditions, or which change the intent of this RFP are prohibited and will disqualify a proposal.

The Chief Procurement Officer may cancel the Request for Proposal, or may reject in whole or in part any and all proposals if, she determines the cancellation or rejection serves the best interests of the County. Should funds for the services called for in this RFP and any resulting contract not be appropriated or be significantly reduced, Barnstable County reserves the right to cancel any contract between said agencies and the Selected Proposer.

Non-Price Technical Proposal Requirements

1. Cover letter including name, address, and telephone number of consultant team, firm, or individual and principal contact person.
2. Signed (original and handwritten) Certificate of Non-Collusion and Tax Compliance (Attachment A.)
3. Type of organization (i.e. corporation, partnership, joint venture, sole proprietor, etc.), history, ownership and background including experience that clearly demonstrates the firm/individual and any proposed sub-contractors or partner firms is/are qualified to provide these services with respect to work being requested.
4. Project narrative indicating an understanding of the project scope, approach, and other comments the Proposer deems relevant.
5. Resumes for each individual to be assigned to the project and a staffing plan linking individuals to specific portions of the project scope.
6. Listing and description of previous similar assignments including: location and project description, consultant team's involvement, start/end dates of project. A minimum of three client references are to be provided using Attachment B – Reference Form. Please note, the references should include projects started within the past three (3) years, which were supervised by the same Project Manager that will be assigned to this project.
7. A list of the resources, personnel, data, or other assistance which the proposer expects are required from the Commission in order to accomplish each task in the Scope of Services within the required time frame.

Price Proposal

Under separate sealed cover, clearly marked "3D Mapping – Price Proposal." the proposer should submit a price proposal clearly identifying and detailing all tasks to be performed and billing rates for personnel to be assigned to the project, direct cost expenses, and any other costs.

Questions Regarding Request for Proposals

All questions as to the interpretation of the Request for Proposal, Purchase Description and Specifications, Evaluation Criteria and all other Contract Documents shall be submitted in writing no later than April 5, 2016 at 4 pm to:

Elaine Davis, Chief Procurement Officer
3195 Main St., Box 427
Barnstable, MA 02630
Email: edavis@barnstablecounty.org
Phone: (508) 375-6637
FAX: (508) 362-4136

Written answers to such questions shall be issued as an addendum and sent to each person on record as having received a Request for Proposal via email or fax.

IV. EVALUATION PROCESS

Basis for Acceptance: Any proposal made will be accepted only on the basis that the Proposer represents that it is made in good faith without fraud, collusion or connection of any kind with any other Proposer for the same work; that the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person, firm or corporation; that no other person, firm or corporation has any interest in the contract; that no officer, agent or employee of the County is financially interested in the contract; that the Proposer is fully informed in regard to all provisions of the Contract Documents, including, without limitation, the specifications and drawings, if any; the damages, bonds and insurance, if any. No proposal shall be deemed responsive unless a Proposer has certified and signed the statutory required Non-Collusion Certificate (Attachment A.) In accordance with M.G.L. c.30B, the awarding of the contract is subject to the approval of the Barnstable County Commissioners.

Rule for Award: Award will be made to the most responsive, responsible Proposer or Proposers offering the most advantageous proposal response, based on the evaluative criteria.

Contract Award: The Chief Procurement Officer shall award the contract by written notice to the selected Proposer within 30 days of the RFP deadline. The parties may extend the time for acceptance by mutual agreement. In accordance with M.G.L. c.30B, the awarding of the contract is subject to the approval of the Barnstable County Commissioners.

Contract Terms and Conditions: If awarded the contract, the selected Proposer will be expected to execute a contract substantially the same as in Attachment C. This contract will incorporate by reference the specifications of this RFP and approved scope of services submitted by the selected proposer. The consultant contract resulting from this RFP is expected to expire on June 30, 2016. Barnstable County may choose to renew this contract up to two times for additional one year periods; however, this renewal or extension option shall be exercised at the sole discretion of the Barnstable County Commissioners and shall not be subject to the agreement or acceptance of the contractor, pursuant to Chapter 30B, Section 12. Exercise of this option shall be based on a determination that it is more advantageous to renew or extend the contract than to undertake a new procurement. The contract resulting from this RFP shall be canceled if funds are not appropriated

Screening Proposals: Utilizing the proposal submission requirements and minimum (quality) criteria incorporated herein, the Evaluation Committee, to be designated by the Chief Procurement Officer, shall screen proposals as to their responsiveness, and identify those which are responsive.

Any proposal which, in the opinion of the Evaluation Committee, fails to include the information or documentation specified in the submission requirements shall be determined to be non-responsive and shall be rejected.

Any Proposer who fails to meet any of the standards set forth as minimum (quality) criteria shall be determined to be non-responsible and shall be rejected.

The County reserves the right to request additional information, should a proposal reach the state of final evaluation.

Minimum (Quality) Criteria:

- 1) A complete proposal including all items listed under Proposal Submission Requirements including all required documentation and certifications.
- 2) A Non-Price Technical proposal that clearly demonstrates an understanding of the Project Description/Scope of Work outlined in the RFP.
- 3) Proposer's project team must have and demonstrate a minimum of three years of experience using City Engine

including project creation and rule development in CGA programming language.

- 4) Proposer's project team must have and demonstrate a minimum of six months' experience using ArcGIS Pro.
- 5) Ability to complete all work and deliverables by June 30, 2016.
- 6) Satisfactory references.

Comparative Criteria:

1. Experience in 3D Mapping and creation of 3D Basemaps using CityEngine and ArcGIS Pro

Highly Advantageous - Proposer has implemented ten or more projects similar in scope within the past five years.

Advantageous – Proposer has configured and implemented five or more similar projects.

Not Advantageous – Submission of a proposal that meets minimum requirements.

2. Experience of firm's proposed Project Manager with projects of similar scope.

Highly Advantageous - The proposed Project Manager has six (6) years or more experience with projects of a similar scope.

Advantageous - The proposed Project Manager has four (4) years or more with projects of a similar scope.

Not Advantageous – Submission of a proposal that meets minimum requirements.

3. Experience in rule development in CityEngine

Highly Advantageous – Proposer has created custom CGA rules in CityEngine related to development impacts.

Advantageous – Proposer has implemented existing CGA rules in CityEngine created by another agency related to development impacts.

Not Advantageous – Submission of a proposal that meets minimum requirements.

ATTACHMENT A

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 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 Proposal, or Corporate Officer:

X _____

Telephone: _____

Social Security Number or Federal Identification Number:

SSN or EIN _____

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 30B.

ATTACHMENT B
REFERENCE FORM

Contractor: _____

Reference: _____
Address: _____

Contact: _____
Phone: _____
Fax: _____

Description and date(s) of supplies or services provided:

Reference: _____
Address: _____

Contact: _____
Phone: _____
Fax: _____

Description and date(s) of supplies or services provided:

Reference: _____
Address: _____

Contact: _____
Phone: _____
Fax: _____

Description and date(s) of supplies or services provided:

Attach additional sheets if necessary.

ATTACHMENT C
AGREEMENT
BETWEEN

Barnstable County through
Cape Cod Commission
3225 Main Street
Barnstable, MA 02630

and

THIS AGREEMENT, made this _____ day of _____ 2016 by and between _____ (hereinafter referred to as Contractor), and Barnstable County, acting by and through the Cape Cod Commission (hereinafter referred to as the Commission) but without any personal liability.

WITNESSETH THAT:

WHEREAS, the Commission is the regional planning and land use regulatory agency for the fifteen towns in Barnstable County, and

WHEREAS, the Commission requires technical assistance with 3D Mapping and

WHEREAS, the Contractor has been selected through a competitive procurement process to perform this assistance,

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

1. Employment of Contractor. The Commission hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the Commission harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the Commission, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.

2. Scope of Services. The Contractor shall perform the scope of services as set forth in Barnstable County's Request for Proposals dated _____ and its proposal dated _____, incorporated herein by reference.

3. Time of Performance. Work in connection with the Agreement shall begin upon execution of this Agreement and continue until June 30, 2016 unless an extension in time is agreed to in writing by both the Commission and the Contractor.

4. Payment. The Commission shall compensate the Contractor for services provided under Section 2, Scope of Services, at the rates and amounts detailed in the Proposer's Price Proposal dated _____ up to a maximum fee of \$ _____. Travel and other expenses authorized shall be within the total agreement limiting fee. Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the Commission within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each County fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1-June 30) to the Commission no later than July 31st.

5. Termination or Suspension of Agreement for Cause. If through any sufficient cause, the Contractor or the Commission shall fail to fulfill or perform its duties and obligations under this Agreement, or if either party shall violate or breach any of the provisions of this Agreement, either party shall thereupon have the right to terminate or suspend

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

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

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

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The Contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 151B§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

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

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

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

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

13. Recordkeeping, Audit, and Inspection of Records. The Contractor shall maintain books, records, and other compilations of data pertaining to the requirements of the Agreement to the extent and in such detail as shall properly substantiate claims for payment under the Agreement. All such records shall be kept for a period of seven (7) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Agreement. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. If this agreement is funded in whole or in part with state or federal funds, the state or federal grantor agency, the Commission or any of its duly authorized representatives or designees, shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records and other compilations of data of the Contractor which pertain to the provisions and requirements of this Agreement. Such access shall include on-site audits, review and copying of records.

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

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

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

17. Anti-Boycott Warranty. During the term of this Agreement, neither the Contractor nor any "affiliated company" as hereafter defined, shall participate in or cooperate with an international boycott, as defined in Section 999 (b) (3) and (4) of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1986, or engage in conduct declared to be unlawful by Sections 2 and 3 of Chapter 151E, Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity of which at least 51% of the ownership interested is directly or indirectly owned by the Contractor or by a person or persons or business entity or entities which directly or indirectly own at least 51% of the ownership interests of the Contractor.

18. Choice of Law. This Agreement shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Agreement, in which the Commission is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party.

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

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Agreement subject to section 18 above. Unless otherwise provided by

law, the Contractor shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the Contractor's failure to comply with the provisions of this section and, shall indemnify the Commission against any liability incurred as a result of a violation of this section. If the Contractor receives federal funds pursuant to this Contact, Contractor understands and agrees to comply with all federal requirements including but not limited to audit requirements outlined in the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200 Subpart A-F.)

21. Headings, Interpretation and Severability. The headings used herein are for reference and convenience only and shall not be a factor in the interpretation of the Agreement. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of the Agreement shall be enforced to the fullest extent permitted by law.

22. Data ownership. All data and information collected shall be and remain the property of the Commission. The proposer retains no right to use or access the data once the scope of this Agreement is complete.

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

FOR BARNSTABLE COUNTY:

FOR THE CONTRACTOR:

John Yunits, County Administrator

Date

Date

FOR THE COMMISSION:

Paul Niedzwiecki, Executive Director

Date



Attachment D: Project Areas