

# **COUNTY OF BARNSTABLE**

## **PURCHASING**

### **DEPARTMENT OF FINANCE**

SUPERIOR COURT HOUSE

P.O. BOX 427

BARNSTABLE, MASSACHUSETTS 02630

Phone: (508) 375-6637

Fax: (508) 362-4136

Email:

stebo@barnstablecounty.org

**Stephen Tebo**  
Chief Procurement Officer

## **INVITATION FOR BIDS**

Barnstable County is seeking sealed bids for the supply and delivery of a towable, diesel powered push boat, less than 26 feet to be used by the County Dredge Program.

Bid specifications may be obtained from the Barnstable County Purchasing Department, Superior Court House, P.O. Box 427, 3195 Main Street, Barnstable, Massachusetts 02630.

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 **August 20, 2019 at 10:00AM.**

Sealed envelopes containing bids shall be clearly marked **“Pushboat FY ‘20”**

**NOTE: One original and two (2) copies 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 bids 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 July 22, Two Thousand and Nineteen.

**Stephen Tebo**  
**Chief Procurement Officer**

**BARNSTABLE COUNTY  
INVITATION FOR BIDS FOR A 26 FOOT PUSHBOAT**

**I. General Information and Bid Submission Requirements**

Barnstable County is seeking sealed bids for the supply and delivery of a 26 feet towable, diesel powered push boat, to be used by the County Dredge Program.

**Delivery:**

All bids must be delivered to:

Barnstable County Purchasing Department  
3195 Main Street  
PO Box 427  
Barnstable, MA 02630

Bids must be delivered by **August 20, 2019 at 10:00AM.**

One original and two copies of the bid should be submitted.

**Signature:**

A bid must be signed as follows: 1) if the bidder is an individual, by her/him personally; 2) if the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with the corporate seal affixed.

**Time for Acceptance:**

The contract will be awarded within 60 days after the opening of bids. The time for award may be extended for up to 45 additional days by mutual agreement between Barnstable County and the apparent lowest responsive and responsible bidder.

All bids must remain in effect from 60 days from date of response.

**Changes and Addenda:**

If any changes are made to this bid, an addendum will be issued. Addenda will be e - mailed or faxed to all bidders on record as having picked up the bid documents.

**Questions about the Bid:**

Questions concerning this Request for Bids must be submitted in writing no later than August 13, 2019 to:

Chief Procurement Officer  
PO Box 427  
3195 Main Street

Barnstable, MA 02630  
Fax: (508) 362-4136  
Email: stebo@barnstablecounty.org

Questions may be delivered, mailed, or faxed. Written responses will be e-mailed or faxed to all bidders on record as having picked up the bid.

**Modification or Withdrawal of Bids, Mistakes, and Minor Informalities:**

A bidder may correct, modify, or withdraw a bid by written notice received by the County prior to the time and date set for the opening. Modifications must be submitted in a sealed envelope clearly labeled "Modification No. \_\_\_" to the address listed in part one of this section. Each modification must be numbered in sequence, and must reference the original Invitation for Bids.

After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the County or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the document, the mistake will be corrected to reflect the intended correction, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the document, but the intended correct bid is not similarly evident.

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.

**Right to Cancel/Reject Bids:**

Barnstable County reserves the right to cancel this BID, or reject in whole or in part any and all bids, if it is determined that cancellation or rejection serves the best interest of Barnstable County.

**Prices to Remain Firm:**

All prices submitted in response to this IFB must remain firm for 60 days following the bid opening.

**Unforeseen Office Closure:**

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

## **INSURANCE REQUIREMENTS:**

Prior to the commencement this Contract, the Vendor shall procure and maintain during the life of the Contract and beyond as required, the types and limits of insurance as outlined below:

- a. All insurance required of the Vendor will be maintained with companies assigned a letter rating in the "A- VIII" category from A.M. Best or which are otherwise acceptable to the County of Barnstable, and which are lawfully authorized to do business in the Commonwealth of Massachusetts.
- b. Each policy (except workers' compensation and personal property) shall include County of Barnstable, and all other political subdivisions/entities as their interests may appear in the awarded scope of work (herein after referred to as "all other political subdivisions"), its officers and employees as Additional Insureds or loss payees as their interests may appear. Each policy shall indicate that the coverage is primary and non-contributory.
- c. Each policy shall contain a waiver of subrogation in favor of County of Barnstable, and "all other political subdivisions," its officers and employees.
- d. No policy must be allowed to expire, be cancelled or materially modified without thirty (30) days' prior written notice to the Chief Procurement Officer, County of Barnstable.

### **Liability Insurance**

The Vendor shall be fully responsible for all claims for damages for bodily injury, including wrongful death, and all claims for property damage, which may result from the performance of this Contract by the Vendor, or any of their respective agents or employees. The Vendor's liability shall not be limited to the extent of the insurance required herein. The Vendor shall take out and maintain in force during the life of this Contract the following types of insurance to protect the County of Barnstable, and "all other political subdivisions," its agents, and employees from claims which may arise from operations by himself or by anyone directly or indirectly employed by Vendor or working on their behalf.

- a. **Commercial General Liability Insurance:** to cover all claims for damages for bodily injury including accidental death, as well as claims for property damage which may arise out of operations performed in connection with the Contract. The policy shall provide a combined single limit for bodily injury and property damage of one million dollars (1,000,000) per occurrence, and two million dollars (\$2,000,000) aggregate. Personal and Advertising Injury coverage shall be provided at a limit of (\$1,000,000).

The County of Barnstable and "all other political subdivisions" shall be named as an additional insured on all public liability and property damage insurance policies. The policy shall include a waiver of subrogation in favor of the County of Barnstable, and "all other political subdivisions." No insurance policy obtained pursuant to this section shall contain a deductible or self insured retention.

- b. **Automobile Liability:** to cover the liability of the Vendor arising from operations on and off the site of all motor vehicles whether they are owned, non-owned or hired. The policy shall be on an occurrence form with a combined single limit for bodily injury and property damage liability of at least one million dollars (\$1,000,000).

The policy should include a Broadened Pollution Endorsement (CA 99 48) if Vendor is bringing fuel cans or possible pollutants, mobile equipment or other gas powered tools on-site. If hauling hazardous materials, contaminants or pollutants, the policy shall include coverage form MCS-90 in accordance with Sections 29 and 30 of the Motor Carrier Act of 1980.

- c. **Umbrella Liability:** to protect the Vendor against all claims excess of the commercial general liability and automobile liability mentioned above and employer's liability coverage mentioned in the paragraph below. The coverage provided by the umbrella policy shall be at least as broad as the underlying policies. The limit of protection provided by the policy shall be a minimum of one million dollars (\$1,000,000) or such other amount if required by the County of Barnstable and indicated via addendum to this Contract.

**Workers' Compensation and Employer's Liability Insurance**

Before commencing performance of this contract, the Vendor shall provide insurance for the payment of compensation and the furnishing of other benefits under the Massachusetts General Laws Chapter 152 (the so-called Workers Compensation Law) to all persons to be employed under this contract, the workers' compensation laws of any other state if there are any persons employed outside of Massachusetts, and any requirement for compensation required under any Federal Act for any maritime employee, longshoreman or harbor workers, and shall continue such insurance in full force and effect during the term of this contract. The contract shall, without limiting the generality of the foregoing, conform to the provisions of the General Laws Chapter 149 S34(a), which section is incorporated herein by reference and made a part hereof.

The Vendor shall provide employer's liability insurance in an amount not less than \$500,000 for each accident or disease for each employee.

**Personal Property Insurance**

Any tools, equipment, materials, and other personal property owned by Vendor shall be at the sole responsibility and risk of Vendor. The County of Barnstable, and "all other political subdivisions" shall not be liable for any loss, damage, or theft to such property. Any insurance that Vendor elects to maintain on Vendor's personal property and materials shall be at the sole responsibility and cost of Vendor.

**Pollution Legal Liability:**

If applicable, the Contractor shall provide insurance coverage for bodily injury and property damage resulting from Contractor's liability arising out of pollution related exposures such as asbestos abatement, lead paint abatement, tank removal, mold remediation, removal of contaminated soil, etc. The policy shall also include coverage for on-site and off-site bodily injury and loss of damage to or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of irritants, contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water, whether it be gradual, or sudden and accidental. The policy shall also include defense and clean-up costs. The policy shall provide a minimum limit of one million dollars (\$1,000,000) per occurrence for this project. If the policy is claims made, the retroactive date shall be no later than the commencement date of this contract and the policy shall include an extended reporting period of at least one year from substantial completion and acceptance of the work by the County of Barnstable or owner of the project.

**Additional types of Insurance**

The Vendor shall provide such other types of insurance as may be required by the County of Barnstable and indicated via addendum to this insurance requirement.

**Proof of Insurance**

No work shall be commenced on the site by the Vendor until copies of the policy or certificates of the types of insurance required hereby have been furnished to the Chief Procurement Officer, in a form satisfactory to her. If the Vendor provides a Certificate of Liability Insurance, it must

indicate each policy number, insurance company, policy effective and expiration date, and limits of insurance. The certificate must make specific reference to the Contract number. It must also provide proof that the policy(ies) has been properly endorsed to add the County of Barnstable, and “all other political subdivisions” as an additional insured and to add a waiver of subrogation in favor of the County of Barnstable, and “all other political subdivisions,” and to provide the County of Barnstable with at least thirty (30) days’ notice of any cancellation, termination or material modification. The certificate must be signed by a duly authorized representative of the issuing insurance companies.

In addition, renewal certificates must be received by the County of Barnstable thirty (30) days prior to any policy expiration. Further, policies must not be allowed to expire or be canceled without thirty (30) days prior written notice to the Chief Procurement Officer, County of Barnstable.

**Effect of Failure to Continue Insurance in Force**

Failure to provide and continue in force insurance required by this contract shall be deemed a material breach of this contract and shall operate as an immediate termination thereof.

**II. PURCHASE DESCRIPTION/SCOPE OF SERVICES:**

**Engine room**

- Hp minimum 300.
- Four stroke diesel engine.
- 1200 gph bilge pump with automatic float.
- Led engine room overhead light.
- Minimum of 300 gallons of fuel.
- Coolant tanks with level indicators.

**Hull**

- LOA 25 to 26 feet.
- Beam 12 feet.
- Draft 3.5 to 4 feet.
- Plating ¼ inch hull and bulk works.
- Bottom framing ½ inch by 5 inch flat bar 18” maximum spacing.
- Shaft and rudder tubes minimum 3/8 inch thick propeller shaft completely enclosed.
- Push knees 4 feet above and 2 feet below deck.
- Cooling channel iron system closed loop welded continually to bottom of hull.
- 3/8 thick rounded hull corners.
- Full length engine stringers.
- Seams butts and corners 100% . welded
- Doublers on hull penetrations and deck fittings.
- One towing bit four side cleats and one smaller towing bit on bow.
- Full skeg capable of supporting full weight of boat.
- Bull rail around entire boat with drains.
- Framed and grating to protect rudders and steering linkage.

### Steering

- Power over hydraulic steering with jog stick controls.
- Main rudder and 2 flanking rudders.

### Winches

- Two Two5 ton Towing winches mounted on the rear of the boat behind pilot house attached photo.



### Paint

- Hull sandblasted inside and out.
- Epoxy undercoating Epoxy topcoat black hull white pilot house and engine room.
- Anti-fouling paint black.
- Nonskid on decking.

### Pilot house

- Dimensions 4'X7'X7'.
- Vertical exhaust stack.
- Led Light mast 3 white lights forward 1 white light aft and 2 yellow lights aft.
- Wings for GPS and VHF on mast.

- Led navigation lights and all around anchor light.
- Instrumentation panel tach oil pressure water, temperature and volts.
- Radar mount on top of mast.
- 12 circuit distribution panel.
- Overhead led light.
- 11 foot eye level.
- Wind shield wipers.
- Heater with fan.

### **Drive train**

- 4 blade bronze propeller.
- 2.5 inch stainless propeller shaft.
- 3:1 reduction gear.

### **Extra equipment**

- Upgrade to 500 gallon fuel tank.
- Onboard fuel transfer system.
- Hydraulic pump capable of excepting bio hydraulic oil.
- Hydraulic tank for winch and a frame piston.
- Hydraulic controls mounted in pilot house for winch and piston.
- 10,000 pound hydraulic winch mounted forward of pilot house.
- A frame mounted on push knees see attached photo.



Bidders are to include with their bid submission a description of the vessel with an itemized list that includes all information as it pertains to the specifications listed herein. Bidders should also include photographs of vessel and main components of the vessel being bid.

**Delivery**

Vessel will be shipped to the county at:

3195 Main St  
Barnstable, MA 02630

Barnstable County reserves the right to have the Dredge Director, or his authorized representative inspect the vessel prior to acceptance to ensure the vessel meets the specifications and is in very good working condition.

It is solely the bidders responsibility, if so requested, to provide documentation and product demonstration to the Dredge Director or other experts for equipment, systems or components the bidder claims, assumes or considers equal to or better than equipment, systems or components specified herein. This demonstration and proof must occur within 5 days of notification from Barnstable County to the bidder that proof of claim of equivalency is sought.

Bidders are required to provide delivery within 60 days of receipt of order, unless an extension has been mutually agreed to by Barnstable County and the bidder.

All bids are to be FOB destination. The term FOB destination shall mean delivered on site at contractor risk, with all charged for transportation, insurance, personnel, loading and unloading prepaid by the contractor. Delivery must be made to the addresses listed above. The winning bidder is required to be responsible for the equipment until it is accepted at the locations listed above and approved by the Dredge Director. Any loss or damage incurred up until delivery and acceptance by Dredge Director shall be the sole liability/responsibility of the winning bidder.

**Bid Submission:**

Bidders are to include with their bid submission a description of the vessel being bid with an itemized list that includes all information as it pertains to the specifications listed herein. Bidders should also include photographs of the vessel and main components of the vessel being bid.

**Rule for Award:**

The bid will be awarded to the responsive, responsible bidder offering the lowest price.

**Required Documents:**

The following information is to be submitted with your response:

- Bid Form – Attachment A
- Attachment B: Certificate of Non-Collusion and Tax Compliance
- Description and Photographs of Vessel being bid

**BID FORM (Attachment A)**

**BARNSTABLE COUNTY**

**INVITATION FOR BIDS FOR A DIESEL POWERED, 25 – 26 Foot Pushboat**

The undersigned BIDDER proposes and agrees to supply and deliver a towable, diesel powered, 26 ftpushboat as specified in the attached Invitation for Bids.

BID PRICE:

Price Proposal: \_\_\_\_\_ dollars (\$\_\_\_\_\_)

BIDDER accepts all of the terms and conditions of the Invitation for Bids. This Bid will remain open for sixty (60) days after the day of Bid opening.

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.

Signed: \_\_\_\_\_ Print Name: \_\_\_\_\_

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

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

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

**Attachment B**

**CERTIFICATE OF NON-COLLUSION AND TAX COMPLIANCE:**

**CERTIFICATE OF NON-COLLUSION**

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

\_\_\_\_\_  
Signature of individual submitting bid or bid

\_\_\_\_\_  
Name of business

**TAX COMPLIANCE CERTIFICATION**

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature of person submitting bid or bid

\_\_\_\_\_  
Name of business

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.

**SAMPLE AGREEMENT**  
**AGREEMENT BETWEEN**

Barnstable County  
3225 Main Street  
Barnstable, MA 02630

and

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_ 2019 by and between (VENDER) \_\_\_\_\_, (hereinafter referred to as Contractor), and Mary Pat Flynn, Ronald Beaty and Ronald Bergstrom as they are the Commissioners of Barnstable County, but without any personal liability.

WITNESSETH, that the Contractor and County for the consideration hereinafter named agree as follows:

WHEREAS: Barnstable County issued an Invitation for Bids for a diesel powered pushboat

WHEREAS: The Invitation for Bids was bid in compliance with MA General Law Chapter 30B.

WHEREAS: The vendor is the responsive, responsible bidder offering the lowest price for the equipment specified.

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

1. Employment of Contractor. The County hereby agrees to engage the Contractor to perform the services hereinafter set forth in the Scope of Services. Contractor shall not be considered an employee of Barnstable County. Contractor hereby agrees to hold the County harmless from any claims regarding worker's compensation benefits, unemployment compensation benefits, retirement benefits, or any other benefit normally attributable to the status of "employee" and Contractor specifically agrees to pay for all damages incurred by the County, including costs, benefits, and reasonable attorney fees in the event the Contractor files such claim.
2. Scope of Services. The Contractor shall perform the scope of services as set forth in Barnstable County's Invitation for Bids dated XXXXX and the Contractor's bid dated XXXXX, 2019 incorporated herein by reference as Attachment A.
3. Time of Performance. Work in connection with the Agreement shall begin XXXX through XXXX.
4. Payment. The County shall compensate the Contractor for services provided under Scope of Services: XXXXX. Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the within fifteen (15) days, it shall be returned to the Contractor with a written explanation for the rejection. At the end of each fiscal year Contractor must submit any outstanding invoices for services performed or delivered during the fiscal year (July 1- June 30) to the County no later than July 31<sup>st</sup> of the year when the resources were prepared.
5. Termination or Suspension of Contract for Cause. If through any sufficient cause, the Contractor or the County shall fail to fulfill or perform its duties and obligations under this Contract,

or if either party shall violate or breach any of the provisions of this Contract, either party shall thereupon have the right to terminate or suspend this Contract, by giving written notice to the other party of such termination or suspension and specifying the effective date thereof. Such notice shall be given at least fifteen (15) calendar days before such effective date.

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

7. Changes. The County 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 County and the Contractor, shall be incorporated in written amendments to this Contract.

8. Non-Discrimination in Employment and Affirmative Action. The Contractor shall take affirmative action to ensure that qualified applicants and employees are treated without regard to age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or Vietnam Era Veteran status. The contractor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; Massachusetts General Laws Chapter 1518§(1); the Americans with Disabilities Act of 1990; and all relevant administrative orders and executive orders including Executive Order 246.

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

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

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

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

institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the County.

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

14. Findings Confidential. Any reports, information, data, etc., given to or prepared or assembled by the Contractor under this Contract which the County 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 County.

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

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

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

18. Choice of Law. This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor and the agents thereof, agree to bring any federal or state legal proceedings arising under this Contract, in which the County is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party. All parties to this contract and covenant agree that any disputes be litigated in the District or Superior courts in Barnstable County.

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

such delay.

20. Compliance with Laws. The Contractor shall promptly comply with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and any state or federal governmental authority relating to the delivery of the services described in this Contract subject to section 18 above. Unless otherwise provided by law, the Contractor shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the Contractor's failure to comply with the provisions of this section and, shall indemnify the County 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. Not-for-Profit entities that receive federal funds from the County must comply with the audit requirements outlined in the Office of Management and Budget OMB Circular A-133.

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

22. Waiver of Liability. The Contractor and the county hereby covenant and agree to waive any and all claims against Barnstable County and release Barnstable County from any liability arising out of the Scope of Services described in the attached "Exhibit A".

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_ in the year two thousand and fourteen.

**FOR THE COUNTY:**

BARNSTABLE COUNTY COMMISSIONERS:

\_\_\_\_\_  
Ronald Bergstrom

\_\_\_\_\_  
Mary Pat Flynn

\_\_\_\_\_  
Ronald Beaty

\_\_\_\_\_  
Date

**FOR THE CONTRACTOR: \_\_\_\_**

\_\_\_\_\_  
Date

