

Bid# 8014
 Contract# BC-23-8014

**Contract for Services
 Terms and Conditions**

**Barnstable County
 3195 Main Street
 Barnstable, MA 02630**

THIS AGREEMENT is made this 21st day of June, 2023 by and between

WB Mason Co. Inc. 40 Communication Way Hyannis, MA 02601

(Contractor's Legal Name and Address)

(hereinafter referred to as Contractor), and Barnstable County (hereinafter referred to as County and collectively as the "Parties").

The Contract for Services Terms and Conditions and any agreed upon changes thereto included in any Contract Amendments shall take precedence over any additional or conflicting terms and conditions as may be included in any other document attached hereto.

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

1. Employment of Contractor. The Contractor hereby agrees to perform the services hereinafter set forth in the Scope of Services. 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 or Town, 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 set forth in

Attachment A

3. Contract Amendments. The following amendments to the Contract have been executed by duly authorized representatives of the Parties and are attached hereto and incorporated herein:

4. Time of Performance.

7/1/23

Start Date

12/30/23

End Date

5. Responsible County Official: The County Official and Department exercising managerial and budgetary control for this Contract shall be: Varies by location

6. Payment:

- A. The County shall compensate the Contractor for the services rendered at the rate of \$ 35.88 per case (e.g., hour, week, quarterly, project, etc.).
- B. In no event shall the Contractor be reimbursed for time other than that spent providing the described service(s).
- C. Payment will be made upon submittal and approval of the Contractor's Invoice(s) that is (are) received Monthly____, Quarterly____, Other____ (specify)_____.
- D. Reimbursement for Travel and Other Contractor Expenses:
 - ☐ All travel and meals are part of this Contract. No reimbursement will be made.
 - ☐ Contractor will be reimbursed for pre-approved travel in an amount not to exceed \$_____. Copies of receipts must be submitted. Any expense claimed by the Contractor for which there is no supporting documentation shall be disallowed.
 - ☐ Contractor will be reimbursed for OTHER expenses in an amount not to exceed \$_____.
 - ☐ OTHER Expenses shall be limited to: _____. Copies of receipts must be submitted. Any expense claimed by the Contractor for which there is no supporting documentation shall be disallowed.
- E. The total of all payments made against this Contract shall not exceed: \$ 156,436.80

Upon acceptance of the Contractor's invoice, payment will be made within thirty (30) days. If an invoice is not accepted by the County 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 County no later than July 31st of the year when the services were performed. Contractors shall submit invoices within sixty (60) days of completing the work.

7. Certification. Contractor certifies under the pains and penalties of perjury that pursuant to Mass. Gen. Laws ch.62C, §49A, that the Contractor has filed all state tax returns, paid all taxes and complied with all applicable laws relating to taxes; and that pursuant to Mass. Gen. Laws ch.151A, §19A(b), has complied with all laws of the Commonwealth relating to contributions and payment in lieu of contributions to the Employment Security System; and, if applicable, with all laws of the Commonwealth relating to Worker's Compensation, Mass. Gen. Laws ch.152 and payment of wages, Mass. Gen. Laws ch. 149, § 148. Pursuant to federal law, Contractor shall verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination;

8. 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.

9. 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.

10. 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 11246.

11. Subcontracting. None of the services to be provided to the County 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.

12. 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.

13. Conflict of Interest. Contractor acknowledges that it may be subject to the Massachusetts Conflict of Interest statute, Mass. Gen. Laws ch. 268A, and to that extent, Contractor agrees to comply with all requirements of the statute in the performance of this Contract.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 are 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.

21. 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.

22. Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the County, its elected or duly appointed officers, and employees against liability, losses, damages or expenses (including reasonable legal expenses) resulting from any claim based upon to the extent caused by breach of this contract or negligent acts, errors or omissions or willful misconduct of the Contractor, its employees or its agents in providing its service(s) to the County pursuant to the Contract. After prompt notification of a claim by the County, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The County shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law. Notwithstanding the foregoing, Contractor has no obligation to defend or pay indemnitee defense costs incurred prior to a final determination of liability or to pay any amount that exceeds the proportionate share of Contractor's finally determined percentage of liability as determined by a court of competent jurisdiction.

23. 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 Contract, Contractor understands and agrees to comply with all requirements outlined in the Office of Management & Budget Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200 subpart A-F)

24. **Tax Exempt Status.** The County is exempt from federal excise, state, and local taxes; therefore, sales to the County are exempt from Massachusetts sales and use taxes. If the County should become subject to any such taxes during the term of this Contract, the County shall reimburse the Contractor for any cost or expense incurred. Any other taxes imposed on the Contractor on account of this Contract shall be borne solely by the Contractor.

25. **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.

26. **Waiver of Liability.** The Contractor hereby covenants and agrees to waive any and all claims against Barnstable County and release Barnstable County from any liability for Contractor's negligent actions in performing of the Scope of Services.

27. **Amendments.** The County may, from time to time, require changes in the Scope of Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor costs, which are mutually agreed upon by the County and the Contractor, shall be incorporated in written amendments to this Contract.

28. **Entire Agreement.** The Parties understand and agree that this Contract and its attachments or amendments (if any) constitute the entire understanding between the Parties and supersede all other verbal and written agreements and negotiations by the Parties relating to the services under this Contract.

29. **Notice.** Unless otherwise specified, any notice hereunder shall be in writing addressed to the persons and addresses indicated below (Name, postal address, phone, email address):

To the County: Jennifer Frates, Chief Procurement Officer
3195 Main Street, Barnstable, MA 02630 jennifer.frates@capecod.gov

To the Contractor: Daniel Orr Jr.-Senior V.P.
WB Mason Co. Inc. 40 Communication Way Hyannis, MA 02601

Employees of Barnstable County shall not be held personally or contractually liable by or to the Contractor under any term or provision of this Contract or because of any breach thereof. This Contract is not binding until signed by an authorized County official.

IN WITNESS WHEREOF, the County and Contractor have executed this Agreement this date: 6/21/2023

FOR THE COUNTY:

BARNSTABLE COUNTY COMMISSIONERS:

DocuSigned by:
Mark Forest
 2ED22B60DD36416...
Mark Forest, Chair

FOR THE CONTRACTOR:

DocuSigned by:
Dan Orr
 Daniel Orr Jr.-Senior V.P.

6/15/2023

Date

Attachment A

PURCHASE DESCRIPTION/SCOPE OF SERVICES

Minimum evaluation criteria have been established for bidders:

- The bidder must have been in the business of providing photocopy paper for at least three years and shall have an organization suitable for delivering the paper in accordance with this IFB.
- The bidder must have an existing supply relationship with a manufacturer adequate for and devoted to the production of the paper which it intends to furnish and has the licenses, equipment, and personnel to deliver the paper as required.
- The paper and its delivery must meet the specifications.
- The bidder must have financial and personal resources of sufficient scope to assure prompt and satisfactory performance of the terms and conditions of this IFB.

Failure of a bidder to meet all of these minimum evaluation criteria will result in rejection of their bid.

The Towns will endeavor to order cases of paper specified in this IFB in truck/trailer shipping loads.

Conditional bids will not be accepted by the Awarding Authority.

The awarded bidder shall contact all locations listed on the attached spreadsheet to make arrangements to schedule delivery prior to start of school year.

Delivery is expected to take place during business hours when a custodian is on duty.

It is the responsibility of the Bidder to provide storage/warehousing for its products until the assigned delivery time.

Bids which substantially depart from the specifications and requirements will be rejected. The Awarding Authority shall be the sole judge as to whether a bid substantially departs from the bid specifications and requirements contained herein.

Specifications:

This procurement is for white premium no. 4 xerographic dual-purpose paper measuring 8 ½" x 11" , 20lb. with target minimum brightness of 92. The paper offered must be suitable for use on copiers, laser printers, ink jet printers, printing presses, and plain paper fax machines. The paper must be mill conditioned and packed in moisture proof packages with ten reams per case. One ream is 500 sheets of paper.

A sample of the paper offered may be requested at no cost to the Awarding Authority. The sample must be a ream of paper with the moisture proof wrapping showing the trade name of the paper and the manufacturer's number.

Delivery:

The unit price bid shall include delivery to the individual municipal entities to the location specified in the "Ship to" column on the Locations & Quantity Information Spreadsheet located within this IFB, for any municipal entity participating in this procurement unless other arrangements are agreed to by the entity and the low bidder after the bid award.

Delivery of materials and equipment must be made to each site during regular business hours.

All items shall be subject to the inspection and approval of the Awarding Authority. Acceptance of delivery of paper to the site shall not constitute final acceptance. In the event that any of the paper shall be rejected as damaged, unsuitable, or not in conformance with these specifications, such items shall be removed immediately and other items of proper quality as set forth in these specifications shall be furnished and delivered, all at the expense of the successful bidder. The weight, count, and measure will be determined at the points of delivery within two working days.

The successful bidder will furnish proof of delivery at each destination.

Payments:

Each political subdivision shall accept sole responsibility for any payments due for its share of any purchase made under the terms and conditions of this procurement.

No advance payments will be made but a purchase order will be issued by each entity. Payment will be made only after a deliveries have been made and invoice(s) has been duly received by the municipal entities participating in this joint procurement.

The Awarding Authority reserves the right to increase or decrease the quantity of any item specified herein. In the event of any such increase or decrease in the quantity of items procured, the price shall be adjusted reflect the unit price bid. Under no circumstances will the total procurement exceed the total amount of the contract(s) by more than twenty-five percent.

This contract is subject to the appropriation of funds by the Awarding Authority and its participating towns. If an event of non-appropriation occurs, any order that has been forwarded to the winning bidder will be canceled, and any goods and supplies that have been received will be returned.

Contract Term:

July 1, 2023, through December 31, 2023, unless an extension of time is agreed to between the location and the vendor.

Most municipalities will schedule a one-time delivery however, other sites will order as needed due to space and may go beyond the contract term if the vendor and location agree to an extension of time.

	Ship To			Dock or		Ship To	Ship To	
	Location	CASES	PALLETS	No Dock	Unloading	Contact	Phone	Bill to Address
Barnstable	Facilities Dept. Garage	160	4	No Dock	Need a truck w/liftgate and pallet jack	Donald Reynolds	(508)375-6602	Barnstable County
County	First District Court							3195 Main Street
	3195 Main Street							Barnstable, MA 02630
	Barnstable, MA 02630							
Town of	Town of Brewster	80	2	NO DOCK	Need a truck w/liftgate and pallet jack	Tom Thatcher	508-896-8089	Town of Brewster
Brewster	2198 Main Street							2198 Main Street
	Brewster, MA 02631					tthatcher@brewster-ma.gov	CELL:	Brewster, MA 02631
	Tom Thatcher						508-326-5732	
Cape Cod	Cape Cod Collaborative	40	1	NO DOCK		Amy Lipkind	508-420-6950	Cape Cod Collaborative
Collaborative*	1175 Rt. 28					a.lipkind@capecodcollaborative.org	x1114	418 Bumps River
	Yarmouth, MA 02664					Patrick Murphy		Osterville, MA 02655
						p.murphy@capecodcollaborative.org		
	Cape Cod Collaborative	40	1	DOCK		Amy Lipkind	508-420-6950	Cape Cod Collaborative
	418 Bumps River Road					a.lipkind@capecodcollaborative.org	x1114	418 Bumps River Road
	Osterville, MA 02655	*Cannot take full delivery, only 20 cases at a time per location						Osterville, MA 02655
Dennis Yarmouth	Dennis Yarmouth Regional School District							
	210 Station Ave	800	20	No dock	School has forklift	Steve Faucher	508-398-7670	District
	South Yarmouth, MA 02664					Fauchers@dy-regional.k12.ma.us		296 Station Ave
						Please contact Ellie Shallow 48 hours before to coordinate delivery		South Yarmouth, MA 02664
						ShallowE@dy-regional.k12.ma.us		
						508-398-7670		
Falmouth Public School	Falmouth High School	880	22	yes	loading dock	Marcel Sanchez		
	874 Gifford street					msanchez@falmouth.k12.ma.us	508 540 2200 Ext 40	Falmouth Public School
	Falmouth MA 02540							340 Teaticket Highway
								Falmouth MA 02536
Monomoy	Monomoy Regional High School	160	4	DOCK	Loading Dock	John Larson	508-237-1125	Monomoy Regional School District
Regional	75 Oak Street							425 Crowell Road
	Harwich, MA 02645							Chatham, MA 02633
	Monomoy Regional Middle School	200	5	NO DOCK	Pallet from	Ryanna Caivano	508-922-7534	Monomoy Regional School District
	425 Crowell Road				Tailgate			425 Crowell Road
	Chatham, MA							Chatham , MA 02633
	Harwich Elementary School	160	4	NO DOCK	Box truck w/drop tailgate for rear storage	Rick Sirois	508-237-1123	Monomoy Regional School District
	263 South Street							425 Crowell Road
	Harwich, MA 02645							Chatham, MA 02633
	Chatham Elementary School	40	1	No Dock	Deliver to school NO loading dock	Gregory Hines	508-400-5409	Monomoy Regional School District
	147 Depot Road							425 Crowell Road
	Chatham, MA 02633							Chatham, MA 02633

	Ship To			Dock or		Ship To	Ship To	
	Location	CASES	PALLETS	No Dock	Unloading	Contact	Phone	Bill to Address
Nantucket Public School	Nantucket Elementary School 30 Surfside Road Nantucket, MA 02554	80	2	No Dock		Diane O'Neil oneild@npsk.org		Nantucket Elementary School 10 Surfside Raod Nantucket, MA 02554
	Nantucket Intermediate School 30 Surfside Road Nantucket, MA 02554	80	2	Dock	off Backus Lane	Diane O'Neil oneild@npsk.org		Nantucket Intermediate School 30 Surfside Road Nantucket, MA 02554
	Nantucket High School 10 Surfside Road Nantucket, MA 02554	200	5	Dock		Diane O'Neil oneild@npsk.org		Nantucket High School 10 Surfside Road Nantucket, MA 02554
Nauset	Stony Brook Elementary 384 Underpass Road Brewster, MA 02631	40	1	NO DOCK		David Caolo	508-896-4545	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
	Eddy Elementary 2298 Main Street Brewster, MA 02631	80	2	NO DOCK		David Caolo	508-896-4545	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
	Eastham Elementary School 100 Schoolhouse Road Eastham, MA 02642	120	3	NO DOCK		Michael Chappel	508-255-0808	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
	Orleans Elementary School 46 Eldredge Park Way Orleans, MA 02653	80	2	NO DOCK		Anthony Sanzo	774-212-3993	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
	Wellfleet Elementary School 100 Lawrence Road Wellfleet, MA 02667 Attention: Harvey Smith	40	1	NO DOCK		David Samuels	508-349-3101	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
	Nauset Reg Middle School 70 Route 28 (garage) Orleans, MA 02653	120	3	NO DOCK	Pallet from Tailgate	Rick Peters	774-353-7486	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
	Nauset High School 100 Cable Road N. Eastham, MA 02651	160	4	DOCK		Tony Nannini	774-722-2537	Nauset Public Schools 78 Eldredge Park Way Orleans, MA 02653
Provincetown	Provincetown High School 12 Winslow St. Provincetown, MA 02657	80	2	No Dock	ground level	Darlene Van Alstyne dvanalstyne@provincetownschoools.com	(508) 487-5205	Provincetown Schools 12 Winslow St Provincetown, MA 02657
Sandwich	Sandwich High School 365 Quaker Meetinghouse Rd East Sandwich, MA 02537	480	12	Dock	Needs lifting tailgate	Chirs George cgeorge@sandwich.k12.ma.us	774-413-0560	Sandwich Public Schools 33 Water St. Sandwich, MA 02563
Truro	Truro Central School 317 Route 6 Truro, MA 02666	80	2	NO DOCK		Heather Harper harperh@truromass.org	508-487-1558 x 203	Truro Central School ATTN: Heather Harper PO Box 2029 Truro, MA 02666