

NEW BUSINESS

1-11-16

DECAS, MURRAY & DECAS

ATTORNEYS AT LAW

132 NORTH MAIN STREET • MIDDLEBORO • MASSACHUSETTS 02346 • (508) 947-4433

GEORGE C. DECAS (RETIRED)
DANIEL F. MURRAY, ESQUIRE
WILLIAM C. DECAS, ESQUIRE

PHONE: (508) 947-4433
FAX: (508) 947-7147

REPLY TO POST OFFICE BOX 201
MIDDLEBORO, MA 02346-0201
DECASMURRAYDECAS@YAHOO.COM

December 10, 2015

Jackie Shanley, Secretary to Board of Selectmen
(HAND DELIVER)

RE: 6 Webster Street – Leonard T. Freitag

Jackie:

I enclose in duplicate original a Notice To Vacate. Please ask the Selectmen to sign the duplicates and return to me. I will ask the Plymouth Deputy Sheriffs' office to serve the notice on Mr. Freitag.

Very truly yours,



Daniel F. Murray
Town Counsel

DFM/s
98-248

Enclosures

cc: Robert G. Nunes, Town Manager (*via email*)
Judy MacDonald, Treasurer & Collector (*via email*)

January 11, 2016

Leonard T. Freitag
6 Webster Street
Middleboro, MA 02346

RE: 6 Webster Street, Middleboro, MA - NOTICE TO VACATE

Dear Mr. Freitag:

Please be advised that the Town of Middleborough is the owner of the referenced property at 6 Webster Street which you now occupy for residential purposes. The Town of Middleborough became the owner of the property by virtue of a judgment of the Land Court to foreclose the right to redeem the property from the Town's taking of the property for unpaid taxes.

Please be advised that you must vacate the referenced property. Any rights you may have to occupy the premises are hereby terminated. You are to vacate the premises not later than seven (7) days after your receipt of this notice. If you fail to vacate and remove your personal property in the time stated, the Town reserves its right to take appropriate action to remove you from the premises pursuant to law.

Very truly yours,

Town of Middleborough Board of Selectmen

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF MIDDLEBOROUGH
BOARD OF SELECTMEN (BOARD OF HEALTH)**

NOTICE OF BETTERMENT AGREEMENT December 21, _____, 2015 _____.
NOTICE OF BETTERMENT

TO THE REGISTER OF DEEDS OF PLYMOUTH COUNTY

NOTICE is hereby given that the Board of Selectmen of the Town of Middleborough acting as a Board of Health pursuant to General Laws, Chapter 111, Section 127B 1/2 entered into a Betterment Agreement

Dated September 23, 2015 with Barbara & Arsene Frappier
(insert date) (insert name(s) of property owner(s))

with respect to real estate located at 1 Brendon Heights
(insert address of property)

in Middleboro, Massachusetts and described in a deed recorded in the Plymouth County

Registry of Deeds in Book 5335, Page 240
(insert book and page)

or filed as Document Number _____ with the Plymouth
(insert document number of deed)

District of the Land Court. The purpose of the Betterment Agreement is to authorize and enable the aforesaid property owner(s) to cause the said property to be serviced properly

by a septic system funded by financial assistance from the Town of Middleborough in the sum of up to and not exceeding

Nineteen Thousand Five Hundred Nineteen &.00/100 (\$ 19,519.00).
(insert amount in writing) (insert amount in numbers)

The aforesaid property owner(s) shall be responsible to pay the Town of Middleborough for all funds advanced to the owner(s) pursuant to the Betterment Agreement together with interest.

The Betterment Agreement and this Notice shall be subject to the provisions of Chapter 80 of the General Laws relative to the apportionment, division, reassessment and collection of Assessment, abatement and collections of assessments and to interest. The lien for betterment under Chapter 80, the Betterment Agreement and this Notice of Betterment Agreement shall take effect by operation of law on the day immediately following the due date of such assessment or apportioned part of such assessment.

This Notice of Betterment Agreement shall be a betterment under Chapter 80.

Allin Frawley, Chairman

Leilani Dalpe, Vice Chairman

John M. Knowlton

Diane C. Stewart

Stephen J. McKinnon

Board of Selectmen
Town of Middleborough

**Commonwealth of Massachusetts
County of Plymouth**

**On This _____ day of _____ 20____ before me the
undersigned Notary Public, personally appeared _____, proved
to me through satisfactory evidence of identification which was _____
to be the person whose name is signed on the preceding or attached document, and
acknowledged to me that he/she signed it voluntarily for its stated purpose(s).**

**Signature of Notary
Jacqueline M. Shanley**

**(Seal)
My commission expires:**

Jacqueline Shanley

From: Judy MacDonald
Sent: Wednesday, January 06, 2016 11:05 AM
To: Jacqueline Shanley
Cc: Robert G. Nunes
Subject: Selectmen vote
Attachments: 56819482_1-Selectmen Vote - Chapter 70B (High School Feasibility Study).doc

Hi Jackie,

Please see the attached vote that Bond Counsel is requesting from the Board of Selectmen. This vote must be taken before I can short term borrow the funds for the High School feasibility study. Could you please put on the agenda for Monday, January 11, 2015.

Thank you,

Judy

Judy M Mac Donald, CMMC, CMMT

Treasurer/Collector
Town of Middleborough
20 Centre Street 3rd Floor
Middleborough, MA 02346
(PH) 508-946-2421
Fax 508-947-5447
jmcdnld@middleborough.com

VOTE OF THE BOARD OF SELECTMEN

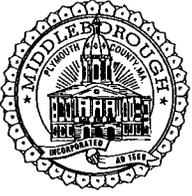
I, the Clerk of the Board of Selectmen of the Town of Middleborough, Massachusetts (the "Town"), certify that at a meeting of the board held _____, 2016, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: that we hereby determine, in accordance with G.L. c. 70B, that the amount of the cost of the high school feasibility study project authorized by a vote of the Town passed on October 5, 2015 (Article 12) not being paid by the school feasibility study grant is \$682,685 and we hereby approve of the issuance of notes and bonds in such amount under said G.L. c. 70B.]

I further certify that the vote was taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above vote) was filed with the Town Clerk of the Town of Middleborough (the "Town Clerk") and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended.

Dated: _____, 2016

Clerk of the Board of Selectmen



Assessor's Office

10 Nickerson Avenue
Middleborough, Massachusetts 02346

Telephone (508) 946-2411

Fax (508) 946-4430

Middleborough Board of Selectmen
10 Nickerson Avenue
Middleboro, MA 02346

December 31, 2015

Honorable Members,

The Assessors' Office is in possession of two extra office chairs that we do not need. These chairs were offered to all town departments via email, including a photo, and no other department was interested in them.

I request that these chairs be deemed surplus so they can be put out to bid, disposed of, or take any other action thereon.

If you have any questions, please contact me and I will be happy to assist you.

Respectfully,

Barbara Erickson, M.A.A.

Assessor/Appraiser for the
Middleborough Board of Assessors

BE/jc

Cc: Board of Assessors

Jacqueline Shanley

From: Christopher Peck
Sent: Wednesday, January 06, 2016 9:09 AM
To: Jacqueline Shanley
Cc: Robert G. Nunes
Subject: BOS Agenda Item for 1/11/15

Jackie,

Can you please add the following item to the BOS agenda for Monday night.

“Vote and sign Waste Zero Trash Metering agreement”. This is the contract to sell the town trash bags in local stores and have Waste Zero manage the trash bag inventory.

I will drop off the contracts tomorrow.

Thanks,
Chris

Christopher Peck
Director of Public Works
Middleborough, MA 02346

PH: 508-946-2481

FX: 508-946-2484

cpeck@middleborough.com



WasteZero
Save Money. Reduce Waste.

Cal Cunningham
Vice President &
General Counsel

o: 919.322.1220
c: 336.287.7466
8540 Colonnade Center Dr.
Suite 210
Raleigh, NC 27615
ccunningham@wastezero.com
www.WasteZero.com

A 5

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REPLY TO POST OFFICE BOX 201
MIDDLEBORO, MA 02346-0201
DECASHMURRAYDECAB@TOWN.COH

December 15, 2015

Christopher Peck, DPW Superintendent
(to be picked up)

RE: Wastezero Trash Metering Agreement

Dear Chris:

I reviewed the referenced and have the following:

Page 4: ¶16-c - There are no warranties.

Removed the Exclusion by deleting 16(c)

Page 5: ¶18 - This is a liability limitation provision which you may accept. ✓

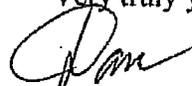
Page 7: ¶26, 3rd line - Reference to "Retailer" is an error since no retailer is a party to the agreement.

Removed

General: There should be the usual tax certification affidavit. There may be enough space at the bottom of page 7.

Included

Very truly yours,



Daniel F. Murray
Town Counsel

DFM/s
15-103-4

Chris,

Above changes made per your request. See enclosed, revised documents.

Please send one back w/ Town's approval. but we know if you have questions.

DFM

DECAS, MURRAY & DECAS

ATTORNEYS AT LAW

132 NORTH MAIN STREET • MIDDLEBORO • MASSACHUSETTS 02346 • (508) 947-4433

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- Page 7: ¶26, 3rd line - Reference to "Retailer" is an error since no retailer is a party to the agreement.
- General: There should be the usual tax certification affidavit. There may be enough space at the bottom of page 7.

Very truly yours,


Daniel F. Murray
Town Counsel

DFM/s
15-103-4

WASTEZERO TRASH METERING AGREEMENT

This WasteZero Trash Metering Agreement (this “Agreement”) is made and entered into this the ____ day of _____, 2015 (the “Effective Date”), by and between WasteZero, Inc., a Delaware corporation, hereinafter referred to as “WasteZero”, and the Town of Middleborough, Massachusetts, hereinafter referred to as “Municipality”.

WITNESSETH

WHEREAS, Municipality is responsible for the disposal of solid waste for its residents, runs a pay-as-you-throw program and desires to upgrade its services to include stocking of retail stores and related services; and

WHEREAS, over the last two decades, WasteZero has become the nation’s leading municipal partner to implement variable rate solid waste finance programs that “meter the trash”, thereby allocating the costs of municipal waste disposal to residents based on their use of services and creating incentives to reduce landfilled waste and encourage recycling; and

WHEREAS, WasteZero designs, implements and manages the WasteZero Trash Metering® Program and manufactures and sells WasteZero Trash Metering® Bags (the “Official Municipal Bags”) and provides WasteZero Retail Store Distribution® services therein; and

WHEREAS, Municipality desires to adopt the WasteZero Trash Metering® Program, whereby WasteZero will manufacture and distribute Official Municipal Bags to certain retail stores and provide certain logistics, accounting, collection and support services related thereto (the “Program”).

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Term. This Agreement will be binding on all parties for a period from the Effective Date of this Agreement until three (3) years from the Effective Date (the “Initial Term”). Upon the expiration of the Initial Term, upon mutual agreement of the Parties, the term of the Agreement may be renewed for two (2) successive two (2) year terms, the “Extension Terms” (the Extension Terms and the Initial Term, hereinafter collectively the “Term”).

2. WasteZero Services. During the Term, WasteZero will (i) manufacture and supply Official Municipal Bags that comply with the specifications set forth in Exhibit A (the “Specifications”) to those retailers recommended by Municipality and set forth in Exhibit B (the “Retailers”) for sale by Retailers to residents of the Municipality; and (ii) provide the “Services” set forth in Exhibit C by the start date also set forth in Exhibit C.

3. Program Implementation. On the Effective Date, WasteZero will move the existing Municipality-owned inventory of Official Municipal Bags to a fully bonded and insured warehouse within service distance of Municipality and begin performing the Services (the “Program Transition Phase”). The “Start Date” will be the agreed date for complete implementation of the Program and the initiation of retail sales. After the Transition Phase, WasteZero assumes responsibility for manufacturing, inventorying and distributing Official

Municipal Bags as set forth herein and such that no further purchase order or appropriation is required by Municipality.

4. Designated Retailers. No later than the Effective Date, Municipality will provide WasteZero with a recommended list of Retailers to be set forth on Exhibit B (the “Retailer List”) that Municipality would prefer to participate in the Program. WasteZero will endeavor to sign up those Retailers to participate in the Program and sell Official Municipal Bags. Addition or removal of Retailers from the Retailer List will be subject to mutual agreement between WasteZero and the Municipality.

5. Exclusive Agreement. During the Term, so long as WasteZero is able to deliver sufficient Official Municipal Bags to the Municipality, the Municipality will not purchase or sell, directly or indirectly (i.e., through a third party) trash bags for its pay-as-you-throw program other than the Official Municipal Bags referred to herein.

6. Inventory Target. After the Transition Phase, to ensure that an adequate inventory of Official Municipal Bags is available for purchase by Retailers, WasteZero will use commercially reasonable efforts to maintain an average number of Official Municipal Bags in WasteZero’s inventory in accordance with the target set forth in Exhibit C (the “Average Inventory Target”).

7. Terms of Distribution. In order to preserve the sale-tax free status of the Official Municipal Bags at retail sale, Municipality acknowledges and agrees that Official Municipal Bags supplied to Retailers will be sold and supplied to Retailers by WasteZero on behalf of Municipality, such that upon a sale of Official Municipal Bags title to such Official Municipal Bags will first transfer from WasteZero to the Municipality and then from the Municipality to the Retailer.

8. Sales Tax. Retailers will not be required to charge sales tax on sales of Official Municipal Trash Bags at the point of sale. Municipality acknowledges and agrees that WasteZero is not liable to collect or remit sales or use tax for or on behalf of Municipality for the Supplies or Services provided to Municipality herein.

9. Orders. Retailers will submit written or verbal orders for Official Municipal Bags (“Orders”) directly to WasteZero, as Municipality’s agent. Orders will set forth the type and quantity of Official Municipal Bags. Orders received by WasteZero will be delivered within five (5) business days of Order placement, subject to WasteZero’s right to reject an Order from a Retailer that is on credit hold. If this period includes a holiday observed by WasteZero, then WasteZero will notify Retailers of schedule changes for the affected order. Deliveries of Official Municipal Bags pursuant to this Agreement will be F.O.B. any plant or warehouse of WasteZero.

10. Customer Service Support. WasteZero will provide a toll free number with customer service support during business hours for retailers or residents to call with concerns or complaints about any aspect of the Program. In the event the Official Municipal Bags fail to meet the Specifications in any material respect, WasteZero will, on a “no fault” basis, replace the Official Municipal Bags in accordance with WasteZero’s Return and Replacement Policy as set forth on Exhibit D.

11. Bag Revenue. WasteZero will invoice Retailers the applicable Official Municipal Trash Bag purchase price set forth in Exhibit A (the “Retail Bag Prices”). All revenue received by WasteZero from the sale of Official Municipal Trash Bags to Retailers will be “Bag Revenue”.

12. Custodial Banking Account. WasteZero will deposit all Bag Revenue in a custodial banking account established by WasteZero in the name of Municipality in a bank insured by the Federal Deposit Insurance Corporation (the "Deposit Account"). The Municipality grants WasteZero permission to open the Deposit Account on behalf of Municipality in accordance with the Custodial Banking Agreement attached as Exhibit F. WasteZero will deposit all Bag Revenue into the Deposit Account.

13. Retailer Credit Terms. WasteZero will collect payment and enforce payment obligations in accordance with its policies set forth in Exhibit D. Municipality acknowledges that collection efforts made by WasteZero are on behalf of Municipality. Municipality reserves the right to take any collection actions in addition to or beyond those steps set forth on Exhibit D, and WasteZero will have no liability to Municipality for a failure to collect payment from a Retailer.

14. Compensation.

a. During the Transition Phase, to compensate WasteZero for providing the Services described on Exhibit C with the inventory of Official Municipal Bags already paid for and owned by Municipality, WasteZero will receive the fee out of the Bag Revenue set forth on Exhibit A as the "WZ Transition Services Fee".

b. After all of the Municipality-owned inventory has been sold to Retailers, for the duration of the Term WasteZero assumes responsibility for manufacturing and inventorying Official Municipal Bags and WasteZero will receive that portion of fee set forth on Exhibit A as the "WZ Supplies and Services Fee".

c. Municipality hereby agrees that WasteZero is permitted monthly to withdraw the WZ Transition Services Fee and, thereafter, the WZ Supplies and Services Fee from the Deposit Account. All Bag Revenue other than the WZ Transition Services Fee and WZ Supplies and Services Fee will be the property of Municipality (the "Municipal Revenue").

d. At the Municipality's election and specific authorization, any Additional Services ordered by Municipality and that are separately invoiced to Municipality in accordance with Exhibit C may also be deducted by WasteZero from Bag Revenue.

e. Within thirty (30) days following the end of each calendar month, WasteZero will provide to Municipality (i) the Municipal Revenue for the prior calendar month via wire transfer, and (ii) financial statements for such calendar month, including: a bank statement, invoice register, cash receipts journal and accounts receivable aging report. Municipality must provide the account information in Exhibit E.

15. Bag Pricing Adjustments.

a. Inflation Cost Adjustment. The parties agree that the WZ Supplies and Services Fee is set, in part, and will be adjusted, to keep pace with inflation. On each anniversary of the Effective Date, the WZ Supplies and Services Fee shall be increased by the consumer price index, all urban consumers (CPI-U) plus 3 percent (3%). Notwithstanding the forgoing, it is agreed and understood that at no time during the Term may the WZ Supplies and Services Fee exceed the price stated in any applicable State Contract for Pay-as-you-Throw Bags for bags of the size and quantity supplied under this Agreement. If the State Contract price is less than the WZ Supplies and Services Fee, the WZ Supplies and Services Fee will be adjusted down to the applicable price

on the State Contract for Pay-as-you-Throw bags of the size and quantity supplied under this Agreement.

b. Extraordinary Resin Cost Adjustments. In the event of an extraordinary disruption in the wholesale markets for resin, causing a price spike, defined as an increase over a ninety (90) day period of greater than twenty percent (20%) from a trailing average Benchmark Resin Rate, WasteZero will adjust the WZ Supplies and Services Fee by such increase for the duration of the disruption. This provision is in lieu of termination of this Agreement under force majeure. The Benchmark Resin Rate is calculated using the average of linear low-density polyethylene ("LLDPE") extrusion liner film for Volumes I and II as reported by Plastics News trade publication. If Plastic News ceases publication, then the resin cost will be based on the average cost of LLDPE resin as reported in another reputable publication chosen by WasteZero.

c. Municipal Price Adjustments. Municipality may, at its sole discretion, increase the Retail Bag Price. Municipality must provide WasteZero at least fourteen (14) days' notice in advance of any such increase so WasteZero can prepared to manage inventory and communicate with Retailers.

16. Representations and Covenants.

a. Legal and Binding Agreement; Municipality's Obligations. Municipality has taken or will take any and all legal actions required in order for this Agreement to be binding on Municipality for the Term, including, if applicable, passage of a legislative resolution or ordinance adopting this Agreement or authorizing an official of the Municipality to enter it on the terms and conditions contained herein. Municipality will provide certification, if applicable, that the Official Municipal Trash Bags qualify for a waiver of local and state sales, use, or other taxes.

b. Representations of WasteZero. WasteZero warrants that the Official Municipal Trash Bags will, in all material respects, meet the Specifications. In the event the Official Municipal Trash Bags delivered to Retailers fail to meet the Specifications in any material respect, WasteZero will, as Municipality's sole and exclusive remedy for such failure, replace the Official Municipal Trash Bags in accordance with WasteZero's Return and Replacement Policy as set forth on Exhibit E.

17. Breach; Termination.

a. Termination for Breach. If either party reasonably concludes that the other is in material breach of this Agreement, such party will notify the other party in writing, including a detailed description of the alleged breach. If such breach is curable, the party alleged to be in breach will be allowed up to thirty (30) days after written notice by the other party in which to make necessary adjustments to remedy said deficiencies or to take action to remedy any deficiencies that require longer than thirty (30) days to cure. In the event the breaching party fails to correct (or take action to correct) such deficiencies within thirty (30) days after written notice of the deficiencies or breach, then the other party may terminate this Agreement, effective thirty (30) days after written notice of failure to correct (or failure to take action to correct) to the breaching party. If such breach is not curable, the Agreement will be terminated thirty (30) days from the date the non-breaching party provides the breaching party with written notice of such breach.

b. Insolvency. If any assignment is made by WasteZero or by any guarantor of WasteZero for the benefit of creditors, or if a petition is filed by WasteZero or by any guarantor of WasteZero for adjudication as bankrupt, or for reorganization or an arrangement under any

provision of the U.S. Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the U.S. Bankruptcy Act is filed against WasteZero and such involuntary petition is not discharged within ninety (90) days thereafter, in any event Municipality may terminate this Agreement upon written notice to WasteZero.

c. Termination for Convenience. Municipality may terminate this Agreement at any time upon sixty (60) days written notice if the Town eliminates its PAYT program for any reason.

d. Effect of Termination. Upon termination or expiration of this Agreement for any reason (i) WasteZero will ship to Municipality all Trash Metering Bags remaining in inventory, and Municipality will purchase from WasteZero all Trash Metering Bags in inventory on the effective date of termination at the then-current WZ Supplies and Services Fee and (ii) WasteZero will have no further liability or obligation under this Agreement, including without limitation, for servicing warranty claims, (iii) WasteZero will tender to Municipality the final Municipal Revenue, and (iv) WasteZero will have no continuing responsibility for the Services. Any other terms and conditions that contemplate performance following the effective date of termination or expiration, or that by their nature are intended to survive will survive termination.

18. Limitation of Liability. WASTEZERO WILL NOT BE LIABLE TO MUNICIPALITY, RETAILER, CUSTOMER OF RETAILER OR END USER FOR ANY SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, TREBLE OR PUNITIVE DAMAGES, OR ANY LOSS OF REVENUES, LOSS OF PROFITS OR LOSS OF REPUTATION ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE MANUFACTURE OR SALE OF PRODUCT OR PROVISION OF SERVICES. THESE LIMITATIONS APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF RECOVERING THESE DAMAGES OR LOSSES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, WASTEZERO'S AGGREGATE LIABILITY FOR ANY CLAIMS OR CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE MANUFACTURE OR SALE OF PRODUCT OR PROVISION OF SERVICES WILL NOT EXCEED THE TOTAL AMOUNT PAID BY MUNICIPALITY TO WASTEZERO DURING THE SIX MONTH PERIOD PRECEDING THE ACT GIVING RISE TO THE CLAIM FOR DAMAGES.

19. Force Majeure. WasteZero will not be liable for failure to perform under this Agreement if such failure arises out of causes beyond its reasonable control. Such causes may include but not be limited to acts of the government in its sovereign or contracted capacity, fires, floods, hurricanes, tornadoes, strikes, epidemics, quarantine restriction, freight embargoes, petroleum supply shortages or disruptions, and unusually severe weather. The obligations of WasteZero and Municipality, other than the obligation to pay money when due, shall be suspended if either party is unable to comply with this Agreement because of Force Majeure and WasteZero is unable to substitute bags of like kind and quality. Upon the elimination of the cause of such suspension, the respective obligations of WasteZero and Municipality shall be reinstated from the date of such elimination.

20. Insurance. WasteZero shall carry general liability insurance, including contractual liability coverage, in the amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in general aggregate. Upon written request, certificates of insurance naming Municipality as an additional insured will be provided to Municipality by WasteZero.

21. Non-Collusion. WasteZero has not entered into any agreement, directly or indirectly, or otherwise taken any action in restraint of free competitive bidding in connection with the submission of a bid or the engagement of Municipality for the purposes of entering into this Agreement.

22. Information and Cooperation. WasteZero compiles information regarding Municipality's PAYT Program and may use this data in research and marketing reports, a copy of which will be provided to Municipality at Municipality's request. During the Term of this Agreement, Municipality will cooperate with WasteZero and provide WasteZero with any information reasonably requested by WasteZero for the performance of its obligations and tracking of Program performance. This information may include semi-annual updates on the number of households utilizing Municipality's and/or its designee's residential solid waste collection and/or disposal service, the actual corresponding residential municipal solid waste tonnage disposed, and the actual residential recycling tonnage received. Municipality agrees that WasteZero may refer to Municipality's PAYT Program in its verbal and written communications.

23. Assignment. Neither party may assign this Agreement, or the rights hereunder, without prior written approval of the other, which approval will not be unreasonably withheld; provided, however, that WasteZero may, without any approval, assign this Agreement (i) to an affiliate of WasteZero or (ii) in connection with a merger or a sale or transfer of substantially all of WasteZero's assets (or such portion thereof relating to the subject matter of this Agreement). This Agreement will be binding upon and will inure to the benefit of the parties and their successors and assigns.

24. Governing Law; Arbitration. This Agreement will be governed by and construed in accordance with the laws of the state in which the Municipality is located. Any controversy or claim arising out of or related to this Agreement or any transactions contemplated herein that cannot be amicably resolved, will be resolved by binding arbitration held in the state in which the Municipality is located, or any other location mutually agreeable to the parties, by one arbitrator in accordance with the commercial arbitration rules of the American Arbitration Association. Notwithstanding the origin of the controversy or claim, either party may initiate arbitration. The decree or judgment of any award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

25. Notice. All notices and other communications hereunder will be in writing and may be given by personal delivery, nationally recognized express courier, registered or certified mail (return receipt requested), or facsimile (receipt confirmed). Such notice will be deemed effective when received if it is given by personal delivery, nationally recognized express courier, or facsimile, and will be effective three (3) days after mailing by registered or certified mail, so long as it is actually received within five (5) days (and, if not so received within five (5) days, is effective when actually received) by the parties at the addresses (or at such other address for a party as will be specified by like notice) set forth below:

If to WasteZero, to:
8540 Colonnade Center Drive, Suite 210
Raleigh, North Carolina 27615
Attn: Cal Cunningham
Tele. No. (919) 322-1220
Email: ccunningham@wastezero.com

with a copy to:
Wyrick Robbins Yates & Ponton, LLP
4101 Lake Boone Trail, Suite 400
Raleigh, North Carolina 27607
Facsimile No.: (919) 781-4865
Attention: Larry E. Robbins

If to Municipality, to:
Town of Middleborough
Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

26. Entire Agreement; Amendment. This Agreement (including the exhibits, schedules and attachments hereto) and the documents delivered pursuant hereto constitute the entire agreement and understanding among Municipality and WasteZero and supersede any prior agreement and understanding relating to the subject matter of this Agreement. This Agreement may be modified or amended only by a written instrument executed by Municipality and WasteZero acting through their duly authorized representatives. The provisions of this Agreement constitute separate and independent covenants, and the invalidity or unenforceability of one or more of the provisions hereof will not affect the validity or enforceability of the remaining provisions.

27. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this WasteZero Trash Metering Agreement as of the Effective Date.

Municipality

WasteZero, Inc.

By: _____

By: 

Name: _____

Name: J. CALVIN CUNNINGHAM

Title: _____

Title: VP, GENERAL COUNSEL

Date: _____

Date: 12/28/15

ATTEST:

Name:

Title: Clerk to the Municipality

STATE TAX FILING & VERIFICATION OF PAYMENT

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

WASTEZERO, INC.

TIN/EIN: 570936990

By: 

J. Calvin Cunningham, Vice President,
General Counsel and Corporate Secretary

EXHIBIT A
Official Municipal Trash Bag Specifications

1. Except as may be require by Force Majeure, the bag specifications for this Agreement:

| | | |
|---------------------|--|--|
| Bag Description | Large "Trash" | Small "Tall Kitchen" |
| Retail Pack | 5 Bags Per Sleeve 40 Sleeves Per Case | 5 Bags Per Sleeve 40 Sleeves Per Case |
| Bag Size | 32" by 34" inches | 24" by 28" inches |
| Bag Gauge | 1.5 mil | 1.5 mil |
| Bag Type | 3-ply, co-extruded | 3-ply, co-extruded |
| Bag Composition | Includes recycled content | Includes recycled content |
| Bag Closure | Drawstring | Drawstring |
| Package Insert | Agreed custom program information (Yellow insert) | Agreed custom program information (White insert) |
| Bag Print | Logo/artwork plus agreed custom Program information (Registered) | Logo/artwork plus agreed custom Program information (Registered) |
| Exterior Bag Color | TBD | TBD |
| Capacity Equivalent | 30 gallon | 15 gallon |

2. The Retail Bag Prices (price paid at point of sale):

| Bag Size | Bags per roll | Rolls per case | Price per roll | Price per case |
|-------------------|---------------|----------------|----------------|----------------|
| Large (32" x 34") | 5 | 40 | \$15.00 | \$600.00 |
| Small (24" x 28") | 5 | 40 | \$7.50 | \$300.00 |

3. WZ Transition Services Fee (per Case), charged on sale of Municipality-owned inventory until that inventory is exhausted and WasteZero assumes responsibility for further manufacturing, inventory and distribution.

| Contract Period | Large (Fee per Case) | Small (Fee per Case) |
|------------------|----------------------|----------------------|
| Transition Phase | \$10.00 | \$10.00 |

4. WZ Supplies and Services Fee (per Case):

| Contract Year | Large (Fee per Case) | Small (Fee per Case) |
|----------------------|----------------------|----------------------|
| Year 1 | \$64.00 | \$42.00 |
| Year 2 – End of Term | TBD | TBD |

TBD in Year 2 through the End of Term is determined in accordance with Paragraph 15a. Inflation Cost Adjustment.

EXHIBIT B
Retailer List

| | |
|----------------------|--|
| Store name | |
| Store address | |
| PO Box | |
| City | |
| State | |
| Zip | |
| | |
| Contact name | |
| Contact phone | |
| | |
| Fax | |
| E-mail | |
| Store name | |
| | |
| Store address | |
| PO Box | |
| City | |
| State | |
| Zip | |
| | |
| Contact name | |
| Contact phone | |
| | |
| Fax | |
| E-mail | |
| Store name | |
| | |
| Store address | |
| PO Box | |
| City | |
| State | |
| Zip | |
| | |
| Contact name | |
| Contact phone | |
| | |
| Fax | |
| E-mail | |

EXHIBIT C
Services

1. Retail Store Distribution® Services: WasteZero will work directly with retailers in and around the Municipality to recruit them to participate in the Program and set up those who agree to participate. WasteZero will provide secure, dependable supply chain management to ship the Official Municipal Trash Bags to the participating retailers. WasteZero will develop and register distinct UPC codes for the Program to assist tracking of and sales of Official Municipal Bags. WasteZero will take and enter orders from retailers and process those orders for timely shipment and delivery. WasteZero will maintain customer service support to assist retailers or residents with any issues that may arise.
2. Inventory Management Services: WasteZero will inventory Official Municipal Bags at its fully bonded distribution facilities without the necessity of a purchase order or payment from Municipality. After the Transition Period, the inventory will remain titled to and insured by WasteZero until shipped to and received at a retail store. WasteZero will monitor inventory at its distribution centers to prevent stock outs or supply chain disruptions.
3. Accounting and Funds Management Services: WasteZero will handle all bookkeeping related to Retail Store Distribution® and Inventory Management, including billing and collecting payment from participating retailers and informing the Municipality of any retailers placed on a credit hold. WasteZero will manage, deposit all funds in and perform custodianship services with the approved bank account for Municipality. WasteZero will compile and provide to the Municipality monthly reports showing all retailer purchases, funds remitted from retailers and payments made to Municipality. WasteZero will also send notification to retailers of any Municipal-approved change in the Retail Bag Price.
4. Program Manager. WasteZero will assign a representative to serve as the Program's coordinator ("Program Manager"). The Program Manager will act as a main point of contact and assist Municipality to answer questions or provide support with regard to all aspects of the Program Services and Program Supplies, subject to the limitations described herein. The Program Manager will ensure that all of the Program Services and Supplies outlined herein are delivered and that Municipality has a primary point of contact to assist with any Program-related matters that might arise.
5. Communications Support Services. During the Term, WasteZero will assist with development of key messages and support for public communications of the Program, including preparing a case study document for public circulation. This communications support also includes providing data and messaging to help publicly celebrate the successes of the Program, providing information that helps residents to become better partners and helping Municipality effectively handle questions and/or issues as they arise on an ongoing basis.
6. Program Website. WasteZero will establish a website at www.wastezero.com \< designation for Municipality >, where the <designation for Municipality> will be text that uniquely identifies Municipality to Residents, or another URL as agreed. Upon accessing the web page for Municipality, Residents will be presented with information on topics including but not limited to: (i) retailers carrying the Official Municipal Bags, (ii) materials that can be recycled at curbside within Municipality (if any), (iii) materials that can be recycled at

(v2015-12-28)

convenience centers, including toxic materials such as paint and batteries (if any), (iv) convenience center locations, (v) as it becomes available, helpful information on reducing waste at home, or other information useful to residents, and (vi) Municipality's departmental website and /or appropriate local contact information for questions regarding curbside collection or other related local services. All information contained on the www.wastezero.com website or any supporting site will be developed, updated, and maintained in accordance with WasteZero's standard tools, formats and templates.

7. Additional Services. Additional Services are any services, materials or supplies desired by Municipality but not agreed to be provided by WasteZero under the terms of this Agreement. Upon mutual written agreement, WasteZero will perform Additional Services and directly bill Municipality or deduct the costs for such Additional Services from Bag Revenue.

8. Program Manager:
Harold Willis
8540 Colonnade Center Drive, Suite 210
Raleigh, NC 27615
Tele. No.: (919) 322-1223
Email: hwillis@wastezero.com

9. The Average Inventory Target after the Transition Phase is: 2 months

EXHIBIT D

Credit Policy and Procedures

WasteZero will invoice the Retailer for each delivery based on the delivery receipt indicating the number of bags and dollar amount by size sold to the Retailer on the date of delivery.

All invoices billed to Retailers are due and payable, net thirty (30) days from date of invoice.

WasteZero will use reasonable and customary efforts to collect all outstanding balances owed by Retailers to Municipality. WasteZero does not assume responsibility for Retailer defaults or uncollected amounts.

- In the event that the Retailer does not pay within terms, when the Retailer calls in an additional order, WasteZero will verbally remind the Retailer of the past due balances and ask for prompt payment. The Retailer will also be reminded that their account will be placed on hold when it becomes forty-five (45) days past the date of invoice (or 15 days past due).
- If an invoice becomes forty-five (45) days past the date of invoice (or fifteen (15) days past due), WasteZero will place the Retailer's account on hold, will not accept new orders from that Retailer, and will make no new deliveries to that Retailer until all invoices forty-five (45) days past the date of invoice (or fifteen (15) days past due) are paid in full. WasteZero will then remove the hold on the account, resume accepting new orders and deliver bags to the Retailer.
- In the event invoices become sixty (60) days past the date of invoice (or thirty (30) days past due):
 - The delinquent Retailer account will be referred to Municipality for further guidance on how to proceed.
 - No new orders will be accepted or deliveries made to the delinquent Retailer account in the future unless Municipality provides WasteZero with written authorization.
 - WasteZero will require Municipality to indemnify WasteZero for any Program Revenue Share that is written off in the future if Municipality requests that WasteZero reinstate shipments to the previously delinquent Retailer account.
- In no event will WasteZero initiate or threaten legal action against any delinquent Retailer. Municipality reserves the right to make any collection efforts or take any actions in addition to or beyond those WasteZero sets forth herein.

WasteZero Return and Replacement Policy

WasteZero wants Retailers and customers to be completely satisfied with the quality of Official Municipal Trash Bags. Should any Retailer or customer experience a *bona fide* product defect with his or her Official Municipal Trash Bags, WasteZero will replace the defective product at no charge with a product of equivalent specification. Defective products must be returned for inspection. The product defect must be related to the design, manufacture, or supply of the product and not related to Retailer or customer overload, mishandling or misuse. Replacements will be processed at the point of sale. Cash refunds or discounts are not authorized. To obtain appropriate credit, Retailers must return the defective product to WasteZero.

If WasteZero ships a greater quantity of product or product of different specification than product ordered by Retailer, at Retailer's election, WasteZero will honor a request for inventory return. Inventory returns must be coordinated with the WasteZero personnel with whom the original order was placed. WasteZero, however, will not bear the cost of correcting errors made by Retailers in their order placements.

Please Note: WasteZero does not give exchanges for Official Municipal Trash Bags purchased through unauthorized Retailers or individuals.

EXHIBIT E

Municipal Wire Transfer Worksheet

Please complete and submit this form to receive monthly cash receipts wire transfers from your WasteZero Retail Store Distribution® (RSD) program.

Municipality:

Beneficiary Financial Institution

Enter the beneficiary financial institution information in the fields provided below:

Account Number

Account Type

ABA/Routing #

Bank Name

Street 1

Street 2

City

State

Postal Code

EXHIBIT F

CUSTODIAL BANKING AGREEMENT

This Agreement is entered into on this ____ day of _____, 20__ between the City/Town of _____, _____ (Customer), with an address of _____ and WasteZero, Inc. (“WasteZero”), 8540 Colonnade Center Drive, Suite 210, Raleigh NC 27615, to grant permission from the Customer to WasteZero to open a custodial bank account with South State Bank, on behalf of the Customer. The Customer understands this account will be in the name of Customer, carry the tax identification number of Customer and authorized signers on the account will be properly authorized Waste Zero employees.

WasteZero will prepare the necessary documentation to establish a custodial bank account on behalf of the Customer with South State Bank. WasteZero will deposit all checks for payments from the retailers into this account. WasteZero will wire funds from this bank account to the Customer’s own bank account. WasteZero will provide a monthly report which includes the reconciled bank account statement, invoice register, cash receipts journal and accounts receivable aging report no later than thirty (30) days after the end of each month.

Municipality

WasteZero, Inc.

Authorized Signature of Customer

Authorized Signature of WasteZero, Inc.

Title

Title

Printed Name of Authorized Signature

Printed Name of Authorized Signature

Date

Date

Jacqueline Shanley

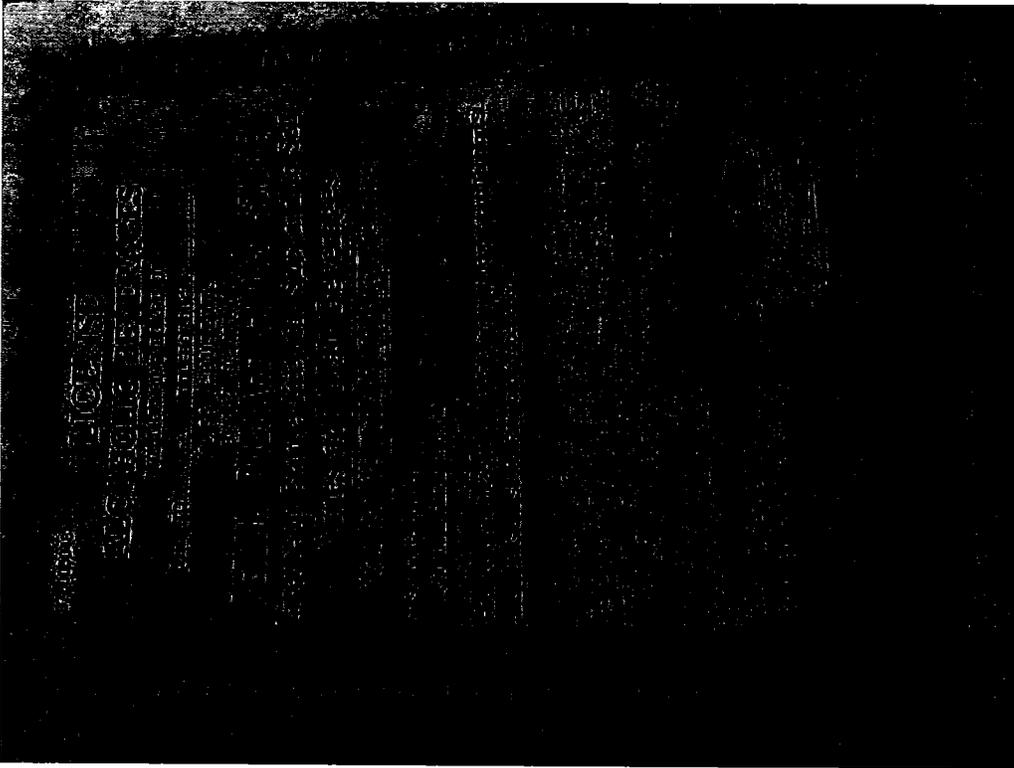
From: Sunup <sunupcorp1@gmail.com>
Sent: Wednesday, January 06, 2016 12:59 PM
To: Jacqueline Shanley
Subject: Request for extended hours on Sunday for Alcohol sale

Hi Jackie,

Location: 414 W Grove st.

On Sunday's we would like open from 10 am for Alcoholic beverage sale. Currently the license says from 12 pm. Could you please let me know the procedure? I attached the license copy below.

Thank you,
Rama



On Dec 23, 2015, at 6:52 PM, Sunup <sunupcorp1@gmail.com> wrote:

Thank you Jackie.
I collected the license today.

Happy Holidays !!

-Rama

On Dec 21, 2015, at 6:35 PM, Jacqueline Shanley <jshanley@middleborough.com> wrote:

Good Evening,



ENGINEERING SUCCESS TOGETHER

LETTER OF TRANSMITTAL

Date: December 3, 2015

Tel:

To: Mr. Christopher Peck
Director of Public Works
Town of Middleborough
48 Wareham Street
Middleborough, MA 02346

RE: Water System Mapping Contact

We are sending you: Attached Under separate cover via _____

The following items: Shop Drawings Specifications Plans
 Samples Copy of letter Report
 Electronic Files Contract

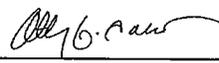
| Copies | Date | No. | Description |
|--------|-----------|-----|-------------------------------|
| 3 | 12/3/2015 | | Water System Mapping Contract |
| | | | |
| | | | |
| | | | |
| | | | |

These are transmitted as check below:

| <i>Purpose</i> | <i>Status</i> | <i>Resubmittals</i> |
|--|---|---|
| <input checked="" type="checkbox"/> For approval | <input type="checkbox"/> Approved as submitted | <input type="checkbox"/> Resubmit _____ copies for approval |
| <input type="checkbox"/> For your use | <input type="checkbox"/> Approved as noted | <input type="checkbox"/> Submit _____ copies for |
| <input type="checkbox"/> As requested | <input type="checkbox"/> Returned for corrections | <input type="checkbox"/> Return _____ corrected prints |
| <input type="checkbox"/> For review and comment | | |
| <input type="checkbox"/> _____ | | |

Remarks:

CC:

Signed: 
Anthony J. Garro
Vice President

AGREEMENT FOR PROFESSIONAL SERVICES

Between

TOWN OF MIDDLEBOROUGH
48 Wareham Street
Middleborough, MA 02346

And

BETA GROUP, INC.
315 Norwood Park South
Norwood, Massachusetts 02062

For

Asset Management Services – Water System Mapping

THIS *AGREEMENT* made this 11 day of ^{JANUARY, 2016} December, 2015, between the Town of Middleborough, Massachusetts, hereinafter called the "CLIENT", and BETA Group, Inc., hereinafter called the "ENGINEER" for certain Asset Management Services – Water System Mapping, hereinafter called "PROJECT".

Witnesseth for the considerations hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1 - ENGAGEMENT OF ENGINEER

- 1.1 CLIENT hereby engages the ENGINEER and the ENGINEER hereby accepts the engagement to provide Asset Management Services in connection with PROJECT.

ARTICLE 2 - SERVICES OF THE ENGINEER

- 2.1 ENGINEER will perform professional engineering services for the PROJECT, as more completely described in Attachment A, Scope of Services.
- 2.2 The ENGINEER will serve as the CLIENT'S professional engineering representative in those phases of the PROJECT to which this AGREEMENT applies and will consult with and advise the CLIENT during the performance of services provided under this AGREEMENT.
- 2.3 The ENGINEER will consult with Federal, State, CLIENT and other regulatory agency officials to define the requirements of the PROJECT and assist the CLIENT in obtaining agency approvals, where required.

- 2.4 The ENGINEER shall exercise the degree of skill and care customarily accepted as good professional practices and procedures by members of the same profession currently practicing under similar conditions in the same locality (Standard of Care). Consistent with this Standard of Care, the services shall conform to applicable laws, codes, ordinances and regulations of any governmental agency having jurisdiction over the PROJECT, at the time services are rendered.
- 2.5 Consistent with the Standard of Care referenced above, the ENGINEER shall be responsible for the professional and technical accuracy and the coordination of designs, drawings, specifications, estimates and other services provided under this AGREEMENT, including those of sub-consultants and/or sub-contractors of the ENGINEER.
- 2.6 The ENGINEER, including its sub-consultants and sub-contractors, shall provide services under this AGREEMENT in accordance with applicable laws, guidelines, standards and regulations of pertinent federal, state and local governmental authorities.
- 2.7 Estimates of probable PROJECT construction cost, if any by the ENGINEER represent ENGINEER'S best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the ENGINEER nor the CLIENT has any control over the cost of labor, materials or equipment, over the construction contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the ENGINEER cannot and does not guarantee that bids will not vary from any estimates.

ARTICLE 3 - RESPONSIBILITIES OF CLIENT

The CLIENT, at no cost to the ENGINEER, will:

- 3.1 Provide ENGINEER with all available information pertinent to the PROJECT.
- 3.2 Provide access to and make all provisions for the ENGINEER to enter upon public and private lands, as required for ENGINEER to provide the services under this AGREEMENT.
- 3.3 Designate a person to act as CLIENT'S representative with respect to the services to be provided under this AGREEMENT, such person to have complete authority to transmit instructions, receive information, interpret and define the CLIENT'S decisions with respect to the subject professional services.
- 3.4 Furnish all legal services required in connection with the subject PROJECT, including resolution of liability and site access issues with the adjacent property owner(s) and all negotiations in connection therewith.

- 3.5 Administer and pay all application and other fees related to regulatory reviews and permitting approvals with any Federal, State and local agencies having jurisdiction for the PROJECT.

ARTICLE 4 - COMPENSATION & PAYMENT

- 4.1 For the services performed under this Agreement, as outlined in Attachment A, the CLIENT will pay the ENGINEER a lump sum of \$74,250.
- 4.2 The lump sum fee for the Scope of Services described in Attachment A shall not exceed Seventy Four Thousand Two Hundred Fifty (\$74,250) Dollars without prior written approval from the CLIENT. Billings will be made on a monthly basis and based on the percentage of work completed.
- 4.3 Payment to ENGINEER shall be made within 30 days after receipt of an acceptable invoice; any invoice outstanding for more than 30 days after date of invoice will be subject to a financing charge of 1-1/2 percent per month. If the CLIENT objects to any invoice submitted by the ENGINEER, the CLIENT shall so advise the ENGINEER in writing, giving reasons therefore, within fourteen (14) calendar days of receipt of such invoice. If no such objection is made, the invoice will be considered acceptable and payable by the CLIENT.
- 4.4 Invoice payments must be kept current for services to continue. If the CLIENT fails to pay any invoice due to ENGINEER within 45 days of the date of invoice, ENGINEER may, without waiving any other claim or right against the CLIENT, suspend services under this AGREEMENT until the ENGINEER has been paid in full all amounts due ENGINEER and/or any of its Consultants and Sub-contractors. Sealed plans, final documents, reports and attendance at meetings/hearings will not be provided unless payment for services is current.
- 4.5 The acceptance of final payment by the ENGINEER shall constitute a waiver of all claims by the ENGINEER arising under this AGREEMENT.

ARTICLE 5 - SERVICES NOT INCLUDED

- 5.1 The following services are not included under the current AGREEMENT:
- Payment of invoices for police details, if required. These invoices will be processed and paid for by the CLIENT.
- 5.2 For additional services, compensation shall be negotiated with CLIENT in accordance with the terms described under Article 4. Additional services and compensation shall be as provided in a formal written Amendment to this AGREEMENT.

ARTICLE 6 - TIME OF COMPLETION

- 6.1 The work to be performed under this AGREEMENT shall commence upon receipt of an executed copy of this AGREEMENT. ENGINEER will perform services under this AGREEMENT as expeditiously as is consistent with professional skill and care and the orderly progress of work.
- 6.2 Services called for in this AGREEMENT are anticipated to be completed with 200 calendar days after written authorization to proceed from the CLIENT.
- 6.3 Unforeseen site/weather conditions or project delays beyond the control of the ENGINEER may result in an adjustment to the indicated schedule. Should such conditions arise, ENGINEER will notify CLIENT as soon as possible.

ARTICLE 7 - INDEMNIFICATION AND INSURANCE

- 7.1 CLIENT and ENGINEER shall at all times indemnify and save harmless each other and their officers, and employees on account of any claims, damages, losses, litigation, expenses, counsel fees, and compensation arising out of any claims, damages, personal injuries and/or property losses sustained by or alleged to have been sustained by any person or entity, and caused by the negligent acts, errors or omissions of the indemnifying party, its employees, or sub-contractors in connection with the PROJECT, and/or under this AGREEMENT.
- 7.2 Nothing herein contained shall be construed to obligate ENGINEER to prepare for or appear in litigation on behalf of CLIENT, except in consideration of additional compensation to be mutually agreed upon.
- 7.3 The ENGINEER shall carry insurance in the following types and limits:

| | |
|---|--|
| Workman's Compensation | Statutory Limits |
| Employer's Liability | \$1,000,000 |
| Comprehensive General Liability: | |
| Personal Injury | All \$1,000,000 each occurrence, |
| Bodily Injury | \$2,000,000 aggregate |
| Property Damage | |
| Comprehensive Automobile Liability Insurance: | |
| Combined Single Limit | \$1,000,000 |
| Professional Liability | \$1,000,000 per claim and in the aggregate |

- 7.4 Certificates of insurance will be furnished upon request. If CLIENT requires additional insurance coverage, and it is available, CLIENT agrees to reimburse ENGINEER for such additional expense.

ARTICLE 8 - TERMINATION OF AGREEMENT

- 8.1 Termination for Cause: If, through any cause, ENGINEER fails to fulfill in a timely manner the obligations under this Agreement, or if ENGINEER violates any of the provisions of this Agreement, CLIENT shall thereupon have the right to terminate this AGREEMENT by written notice to ENGINEER of such termination specifying the effective date thereof at least five (5) days before the effective date of such termination. Cause shall also include, but not be limited to, dissolution, termination of existence, insolvency, appointment of receiver, commencement of any proceeding under any bankruptcy or insolvency laws by or against the ENGINEER. If the AGREEMENT is terminated by CLIENT as provided herein, ENGINEER will be paid for services performed as of the date of notice is received, less payment for compensation previously made.
- 8.2 Termination for Convenience: Either party may terminate this AGREEMENT at any time by giving written notice to the other party of such termination and specifying the effective date of such termination. If the AGREEMENT is terminated by either party, ENGINEER will be paid for services performed as of the date of notice is given or received, less payments of compensation previously made.
- 8.3 Documents: In either of the foregoing events, finished documents prepared by the ENGINEER under this AGREEMENT shall be provided to the CLIENT and ENGINEER shall be entitled to receive just and equitable compensation for services provided under this AGREEMENT.

ARTICLE 9 - OWNERSHIP OF DOCUMENTS

- 9.1 Upon completion of services, one (1) hard copy of finished documents shall be furnished by the ENGINEER to the CLIENT. Final documents prepared by the ENGINEER shall become the property of the CLIENT upon receipt of final payment by ENGINEER. Any re-use of such documents without ENGINEER'S written verification of suitability for the specific purpose intended shall be without liability or legal exposure to ENGINEER or ENGINEER'S independent professional associates, sub-contractors or consultants. Distribution or submission to meet official regulatory requirements or for the purposes in connection with the PROJECT is not to be construed as an act in derogation of the ENGINEER'S rights under this AGREEMENT.
- 9.2 If any information hereunder is provided in electronic format, CLIENT recognizes that such plans, documents or other information recorded on or transmitted as electronic media, including contract drawings and specifications ("Electronic

Documents”) are subject to undetectable alteration, either intentional or unintentional, due to, among other causes, transmission, conversion, media degradation, software error, or human alteration. Accordingly, the Electronic Documents are provided to CLIENT for informational purposes only and not as record documents.

ARTICLE 10 - AUTHORIZATION TO BEGIN WORK

- 10.1 Execution of this AGREEMENT shall be considered Notice to Proceed.

ARTICLE 11 - CLIENT FURNISHED INFORMATION

- 11.1 CLIENT shall provide the ENGINEER with all available project related technical data including as-built drawings and all other relevant data. The ENGINEER will rely upon the accuracy and completeness of CLIENT furnished information in connection with the performance of services.

ARTICLE 12 – ASSIGNABILITY

- 12.1 Neither party to this AGREEMENT shall assign any interest in this AGREEMENT, nor transfer any interest in same (whether by assignment or notation), without the prior written consent of the other party.

ARTICLE 13 - LIMITATION OF LIABILITY

- 13.1 CLIENT hereby agrees that to the fullest extent permitted by law, ENGINEER’S total liability to CLIENT and any persons or entities claiming by, through or under the CLIENT, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the PROJECT and/or this AGREEMENT from any cause or causes including, but not limited to ENGINEER’S negligence, errors, omissions, strict liability, statutory liability, indemnity obligation, breach of contract or breach of warranty shall not exceed the liability limits specified in Article 7.

ARTICLE 14 - LSP PROVISIONS

NOT USED

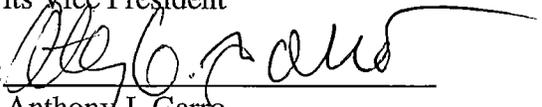
ARTICLE 15 - JURISDICTION

- 15.1 This AGREEMENT shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first written above.

CLIENT:
TOWN OF MIDDLEBOROUGH
By its Board of Selectman

ENGINEER:
BETA GROUP, INC.
By its Vice President

By: 

Anthony J. Garro

CERTIFICATION OF APPROPRIATION

The undersigned hereby certifies that an appropriation of the amount of this AGREEMENT is available therefore and that \$74,250 has been authorized to execute said AGREEMENT.

Town Accountant

REVIEWED AS TO FORM

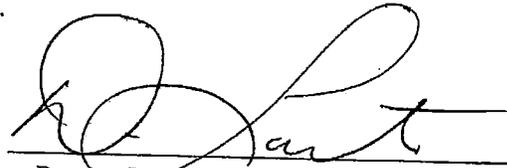


Town Counsel

BETA

TAX COMPLIANCE STATEMENT

Pursuant to M.G.L., c.62C, s. 49A, the undersigned hereby certifies under pains and penalties of perjury that BETA Group, Inc., to the best of my knowledge has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.



Donna Lantagne, Sr. Vice President

Signed under the penalties of perjury this 2nd day of December, 2015

**ATTACHMENT A
AGREEMENT BETWEEN
TOWN OF MIDDLEBOROUGH, MA and
BETA GROUP, INC**

PROJECT DESCRIPTION

CLIENT is seeking to develop a system wide map to be used as a management tool for its water system. The data we are proposing to develop will be structured in a format to facilitate integration with PeopleGIS (web) and existing Asset Management System data layers.

ENGINEER has structured the proposal into four tasks as presented in the following Scope of Work:

- **Task 1 – Database Design & Field Collection Plan**
- **Task 2 – Water System Mapping**
- **Task 3 – Service Card Scanning and Linking**
- **Task 4 – Deliverables**

SCOPE OF SERVICES

Task 1 – Database Design & Field Collection Plan

The first step in of this phase is to conduct a project Database Design meeting with the Town, to discuss all facets of the project. At this meeting, a schedule for the database design process will be established, which shall include:

- Review of available info (i.e. Existing Water System Mapping, Record Plans, Service Cards, etc.)
- Field data collection process
- PeopleGIS database configuration and integration

It is critical to the efficient development of the database that this meeting clearly defines what data will be collected, and how the data will be formatted for future access and use by the Town (i.e. Field Tablets, PeopleGIS Software and Modeling).

Task 2 – Water System Mapping

Field Data Collection Program

ENGINEER will perform a manual field survey of up to 3,000 Town-owned water structures using our Water Inventory Module and GIS based tools. The database design (to be established under Task 1) will serve as the framework for field data collection and the creation of the water system network.

ENGINEER assumes the water system networks consists of approximately 1,825 main and hydrant gate valves, 1,025 hydrants and 115 miles of pipe.

For the purposes of this proposal, each water structure will be located and the required attribute information will be coded via pre-defined pick lists. Collection of data will be subject to visibility, as some structures may be paved over or partially filled with sediment and debris. BETA will identify structures that could not be accessed during the inspection process. Town assistance may be required to access these structures.

It should be noted that this scope does not account for secondary site visits for locating of buried gates and valves. It is assumed that this circumstance will be addressed with the Town following the initial field data collection process, if necessary. However, if this level of effort is minimal (1 day of field work or less) no additional fees will be negotiated.

Water structures will be spatially located on plan view of Middleborough streets using the most up to date orthophotography and other data layers currently available through the Town and State GIS. For the purposes of this proposal, it is assumed that field and office water system attribute data to be collected will include the following:

General Data:

- Location (Street , Street Segment Name)
- Asset ID
- Owner

Structure Data:

- Gates: Type (Main, Hydrant, Service, and Division), Cover Condition
- Hydrants: Make, Model, Year , Condition, Number of Outlets
- Network Structures: Type (Well, Tank, Pump Station, Manhole, Meter, etc.) Name and Location
- Water Pipes: Diameter, Material
- Hydrant Laterals: Diameter, Material

A geometric network will be created by digitizing arcs (pipes) between nodes (valves, gates, hydrants and other water network structures) BETA will utilize ArcView GIS software to digitize pipe connectivity, using the data collected in the field, existing record plans and other available data sources, as provided by the Town.

QA/QC Procedures

ENGINEER will employ a mapping quality assurance/quality control (QA/QC) program that will include both in- and post-production controls. Mapping quality control managers (not involved in mapping production) will be responsible for ensuring all quality control steps are followed.

Task 3 – Service Card Scanning and Linking

The Town has provided ENGINEER with water service card scans organized by street. As part of The service cards be split into separate files by address and/or location and organized. These cards are 2-sided, so resulting files will be “multi-page” (2 page) files. Files will be named using the associated street address (street name and number) shown on the card, (i.e. “011 Allison Road.pdf”). Service cards will be linked to a parcel centroid point layer that will be generated though the Town’s or State most current available parcel layer.

Task 4 – Deliverables

ENGINEER will develop large format check plots of the mapped water infrastructure and other related appurtenances provided by the Town or observed in the field. A sample plot will be developed and delivered to the Town for approval. ENGINEER will perform internal quality control measures with its existing staff of water system design professionals prior to submitting check plots.

This contract assumes the first year user fees and setup fees for the PeopleGIS water module to be used by Town staff. Following the first year of use, the Town will be assessed a \$1,500 yearly user

fee to continue the services. If the Town chooses to discontinue these services, the data can be exported and delivered in Geodatabase format.

LICENSE AGREEMENT

I, Marjorie H. Thomas, Trustee of the Marjorie Thomas Investment Trust, of Middleboro, Plymouth County, Massachusetts, hereafter "Owner", hereby grants to the Town of Middleborough acting through its Board of Selectmen, hereafter "Licensee", a license to use my property hereafter described (the "property") on the following terms and conditions:

1. The property is located off Wareham Street on Don Boucher's Way in Middleborough, Massachusetts, contains a building and 8.60 acres of land more or less and is shown on Middleborough Assessors Map 58H as Lot 3226.
2. Licensee shall have the right to use the property for storage of vehicles, equipment and other personal property in connection with the operation of the Licensee's Department of Public Works.
3. This license is effective for the period from January 1, 2016 through June 30, 2016. The license may be terminated at any time by Owner or Licensee by written notice given to the other party at least ten (10) days prior to the effective date of termination of the license. The license is personal to Licensee and may not be assigned. This license is not a lease or other tenancy agreement.
4. Licensee shall indemnify and hold Owner harmless for any claims for damages arising out of or in connection with Licensee's use of the property hereunder.
5. Licensee shall pay to Owner the sum of One Thousand and Forty Dollars (\$1,100.00) for each month that this license is in effect as a fee for the license. Licensee shall pay or reimburse Owner for the electric bill for all electric service to the property incurred while the license is in effect, and Licensee shall make such payment or reimbursement within (3) weeks after Owner gives an electric bill to Licensee.

WITNESS the hands and seals of the undersigned this 11th day of January, 2016.

Owner:

LICENSEE:

Marjorie H. Thomas

By

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS:

On this ____ day of January, 2016, before me, the undersigned notary public, personally appeared Marjorie H. Thomas, a Trustee as aforesaid, provide to me through satisfactory evidence of identification which was a Commonwealth of Massachusetts Driver's License, to be the person whose name is signed on the attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires: