

NEW BUSINESS

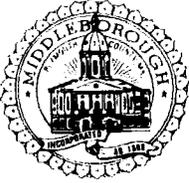
12-3-12

MIDDLEBOROUGH POLICE DEPARTMENT

99 NORTH MAIN STREET
MIDDLEBOROUGH, MA 02346

(508) 947-1212

Fax (508) 947-1009



Bruce D. Gates
Chief of Police

December 3, 2012

Board of Selectmen
Town Hall
Middleborough, MA

RE: Promotion

Honorable Board,

This is a request to have the Board vote to promote Sergeant Robert Ferreira to the position of Lieutenant effective January 3, 2013. Sgt. Ferreira is the sole candidate on the civil service list eligible to be promoted to Lieutenant at this time. He has proven to be reliable and dedicated since his promotion in 2008 to the rank of Sergeant.

As I have stated there will be steady personnel turnover in the up-coming years due to retirements. One of the two current Lieutenants has advised me that he will be retiring at the end of 2013. Because he is responsible for a number of duties including some critical functions of the Police Department such as Internal Affairs and Firearms Licensing I would request this promotion at this time. This will cause a smooth transition. Sgt. Ferreira has recently completed a week long course in Internal Affairs and would be placed in charge of that necessary function. This would prevent the possibility of an internal investigation that may linger past 2013 being investigated by someone preparing to retire.

This was discussed with the Finance Committee during the FY 2013 budget preparation and was funded in anticipation this would occur mid way thru FY 2013.

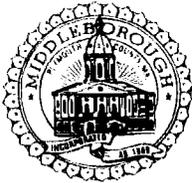
Respectfully Submitted,


Bruce D. Gates,
Chief of Police

C/c Charles Cristello
Town Manager

MIDDLEBOROUGH POLICE DEPARTMENT

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Bruce D. Gates
Chief of Police

December 3, 2012

Board of Selectmen
Town Hall
Middleborough, MA

RE: Requisition from Civil Service

Honorable Board,

This is a request to have the Board vote to send a requisition to Civil Service to send a list of candidates for one Police Officer position.

A veteran Police Officer has advised me he will be retiring in April or May 2013. As I have stated it takes a minimum of 10 months to do the hiring process, have the candidate meet the conditional requirements, attend the police academy and complete cruiser training.

There will an academy starting April 1, 2013 in Plymouth and if we start the hiring process now we would be more likely to secure a slot in this academy. The Plymouth academy director has advised that he has 116 letters of interest for 60 slots in this academy. So it is important we start this process now and secure one of these slots. We can conditionally hire a candidate but delay the start date until the academy starts. This means we do not have to pay an additional salary until the academy starts but secures a slot to start the replacement of this retiring officer.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bruce D. Gates", written over a horizontal line.

Bruce D. Gates,
Chief of Police

C/c Charles Cristello
Town Manager



Bank Building, 20 Centre Street, Middleborough, Massachusetts 02346

November 24, 2012

Board of Selectman
Lakeville Town Hall
346 Bedford Street
Lakeville, MA 02347

Board of Selectmen
Middleborough Town Hall
Nickerson Ave.
Middleborough, MA 02346

Honorable members:

On November 13, 2012 the Middleborough-Lakeville Herring
Fishery Commission voted unanimously to recommend the
following appointment:

VOLUNTEER OBSERVER for a term ending September 30, 2012: ²⁰¹³

Michael S. Bednarski

Mike is a fishery biologist who recently moved to
Middleborough. He is familiar with the herring migration
and is interested in being involved with the Commission.
We feel he will be an asset to the Commission. We request
that you consider him for appointment at your earliest
opportunity.

We request that home addresses and telephone numbers not be
published or placed on appointment cards.

Sincerely,

David J. Cavanaugh
Chairman



Bank Building, 20 Centre Street, Middleborough, Massachusetts 02346

November 24, 2012

Board of Selectmen
Middleborough Town Hall
Nickerson Ave.
Middleborough, MA 02346

Honorable members:

On November 13, 2012 the Middleborough-Lakeville Herring Fishery Commission (as a concerned party) voted unanimously to recommend the following:

As you know, Oliver Mill Park and the Thomas Memorial Park are "jewels in the crown" of Middleborough public parks. They attract a large number of tourists, picnickers, and photographers year round, not just during the herring migration.

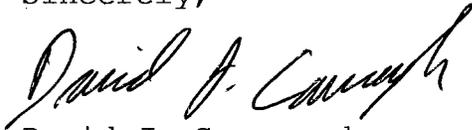
Oliver Mill Park is in need of work. Rock walls are crumbling, the fence is pathetic, and the parking lot has a pothole to swallow a small car. The Thomas Park benches are covered in graffiti, the grass is usually jungle-like, the fence is almost non-existent, and facilities have been damaged.

1. We wonder if a set schedule of maintenance (grass mowing, repairs, etc.) at Oliver Mill Park and the Thomas Memorial Park would facilitate a more favorable appearance and help solve some of the problems.
2. Also, "broken window syndrome" states essentially that any small areas of blight in the landscape facilitate the feeling that the area is uncared for. Thus, the public is less likely to take "ownership" of that

area, and treat it with respect. The more that long grass, disrepair, and an unkempt appearance are allowed, the public is less apt to care about the area.

We know that maintenance and repairs can be expensive (and get more expensive the longer it is put off). We hope you will take a leadership role to see that these (and all other outlying park areas) are properly maintained.

Sincerely,

A handwritten signature in cursive script that reads "David J. Cavanaugh". The signature is written in dark ink and is positioned above the typed name.

David J. Cavanaugh
Chairman



Town of Middleborough
Office of Economic & Community Development
20 Centre Street
Middleborough, MA 02346

Tel: 508-946-2402, Fax: 508-946-2402

November 28, 2012

Memorandum

To: Board of Selectmen

From: Jane Kudcey, Program Manager, Office of Economic & Community Development (OECD)

RE: Request for approval of signature for Star Mill Rental Restriction and Monitoring Agreement

Gentlemen,

I am requesting a vote of approval for the Chair to sign the Rental Restriction for 18 affordable units at the Residences at Star Mill, 35 East Main St. and the Monitoring Agreement between the OECD and Heritage Corp, the developer, to have the OECD monitor the income qualification of the Low to Moderate Income applicants for the lottery for the affordable units.

Thank you.

c: Charles Cristello, Town Manager

LOCAL INITIATIVE PROGRAM

**REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
RENTAL PROJECT
Local Action Units**

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this _____ day of _____, 2012_ by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD") pursuant to G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007, the City/Town of Middleborough, Massachusetts ("the Municipality"), and 35 East Main Street, LLC a Massachusetts limited liability company, having an address at 70 Quincy Avenue, Quincy, Massachusetts, and its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Developer intends to construct a rental housing development known as at a 7.332 acre site on 35 East Main Street in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project is to consist of a total number of 69 rental dwellings (the "Units") and 18 of the Units will be rented at rents specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low and Moderate Income Units");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Developer have made application to DHCD to certify that the units in the Project are Local Action Units (as that term is defined in the Guidelines) within the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Developer hereby agree and covenant as follows:

1. Construction. The Developer agrees to construct the Project in accordance with plans and specifications approved by the Municipality and DHCD (the "Plans and Specifications"). In addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved "Alternative Development Plan" as set forth in the Guidelines), and must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

6 of the Low and Moderate Income Units shall be one bedroom units;
12 of the Low and Moderate Income Units shall be two bedroom units;
0 of the Low and Moderate Income Units shall be three bedroom units; and,
0 of the Low and Moderate Income Units shall be four bedroom units.

All Low and Moderate Income Units to be occupied by families must contain two or more bedrooms. Low and Moderate Income Units must have the following minimum areas:

| | | |
|---------------------|---|------------------|
| studio units | - | 250 square feet |
| one bedroom units | - | 700 square feet |
| two bedroom units | - | 900 square feet |
| three bedroom units | - | 1200 square feet |
| four bedroom units | - | 1400 square feet |

During the term of this Agreement, the Developer covenants, agrees, and warrants that the Project and each Low and Moderate Income Unit will remain suitable for occupancy and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for the handicapped. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability. (a) Throughout the term of this Agreement, each Low and Moderate Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live regularly in the Low and Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a

stable inter-dependent relationship; or an individual. The "Area" is defined as the Boston, Cambridge, Quincy MSA/HMFA/Non-Metropolitan County.

(b) The monthly rents charged to tenants of Low and Moderate Income Units shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a Family whose gross income equals eighty percent (80%) of the median income for the Area, with adjustment for the number of bedrooms in the Unit, as provided by HUD. In determining the maximum monthly rent that may be charged for a Low and Moderate Income Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rents and utility allowances for the Low and Moderate Income Units are set forth in Exhibit B attached hereto.

Annually as part of the annual report required under Subsection 2(e) below, the Developer shall submit to the Municipality and DHCD a proposed schedule of monthly rents and utility allowances for all Low and Moderate Income Units in the Project. Such schedule shall be subject to the approval of the Municipality and DHCD for compliance with the requirements of this Section. Rents for Low and Moderate Income Units shall not be increased without the Municipality's and DHCD's prior approval of either (i) a specific request by Developer for a rent increase or (ii) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Developer to all affected tenants.

(c) (c) If, after initial occupancy, the income of a tenant of a Low and Moderate Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the unit will be deemed a Low and Moderate Income Unit so long as the unit continues to be rent-restricted and the tenant's income does not exceed 140% of the maximum income permitted. If the tenant's income exceeds 140% of the maximum income permitted at the time of annual income determination, the unit will be deemed a Low and Moderate Income Unit until the tenant's one-year lease term expires. When the over-income tenant voluntarily vacates the unit and when the unit is again rented to an Eligible Tenant, the unit will be deemed a Low and Moderate Income Unit and included in the Subsidized Housing Inventory upon the Municipality's application to DHCD.

(d) If, after initial occupancy, the income of a tenant in a Low and Moderate Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Developer shall annually determine whether the tenant of each Low and Moderate Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to DHCD as provided in section 2(g), below.

(f) The Developer shall enter into a written lease with each tenant of a Low and Moderate Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such lease.

(g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that each of the Low and Moderate Income Units continues to be Low and Moderate Income Unit as provided in sections 2 (a) and(c), above; and that the Project and the Low and Moderate Income Units have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

3. Subsidized Housing Inventory. (a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR 56.03(2). All of the Units will be deemed low and moderate income housing to be included in the Subsidized Housing Inventory.

(b) Units included in the Subsidized Housing Inventory will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Developer are in default hereunder; (2) the Project and each of the Low and Moderate Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) each Low and Moderate Income Unit remains a Low and Moderate Income Unit as provided in section 2(c), above.

4. Marketing. Prior to marketing or otherwise making available for rental any of the Units, the Developer must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the tenant selection process for the Low and Moderate Income Units and must set forth a plan for affirmative fair marketing of Low and Moderate Income Units to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of

NAACP, Boston Chapter v. Kemp. If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Developer must list all Low and Moderate Income Units with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (617-635-3321). All costs of carrying out the Marketing Plan shall be paid by the Developer. A failure to comply with the Marketing Plan by the Developer or by the Municipality shall be deemed to be a default of this Agreement. The Developer agrees to maintain for five years following the initial rental of the last Low and Moderate Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Developer or the Municipality. The Developer and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Developer, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Developer or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

5. Non-discrimination. Neither the Developer nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, handicap, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Developer shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Developer agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Developer and the Project in order to monitor the Developer's compliance with the terms of this Agreement.

7. Recording. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, if the Project consists in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the County where the Project is located (collectively hereinafter the "Registry of Deeds"), and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Developer hereby represents, covenants and warrants as follows:

- (a) The Developer (i) is a limited liability company duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.
- (b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances, including mortgages referred to in paragraph 17, below).
- (d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

9. Transfer Restrictions.

(a) The Developer shall provide DHCD and the Municipality with thirty (30) days' prior written notice of the following:

(i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or

(ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any limited partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return

on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

(b) Prior to any transfer of ownership of the Project or any portion thereof or interest therein, the Developer agrees to secure from the transferee a written agreement stating that transferee will assume in full the Developer's obligations and duties under this Agreement.

10. Casualty; Demolition; Change of Use (a) The Developer represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Developer shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project or permit the use of any residential rental Unit for any purpose other than rental housing during the term of the Agreement unless required by law.

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development
Attention: Local Initiative Program Director
100 Cambridge Street, 3rd Floor
Boston, MA 02114

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

Developer: 35 East Main Street, LLC
c/o The Heritage Company
70 Quincy Avenue
Quincy, MA 02169
Attn: Michael Kiley

13. Term. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement is made for the benefit of DHCD, and DHCD shall be deemed to be the holder of the affordable housing restriction created by this Agreement. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns and enure to the benefit of DHCD and the Municipality and their successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Senior Lender Foreclosure. (a) Notwithstanding anything herein to the contrary, but subject to the provisions of this Section, if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional or governmental lender shall acquire the Project by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the Project in lieu of foreclosure, and provided that the holder of such mortgage has given the Municipality and DHCD not less than sixty (60) days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Project in lieu of foreclosure to attempt to structure a workout or other arrangement to avoid such foreclosure, conveyance in lieu of foreclosure, or similar remedial action and the Municipality or DHCD has failed within such sixty (60) days to locate a purchaser for the Project who is capable of operating the Project for the uses permitted under this Agreement and who is reasonably acceptable to such mortgage holder, then except as provided below, the rights and restrictions herein contained shall not apply to such mortgage holder upon such acquisition of the Project or to any purchaser of the Project from such mortgage holder, and the Project shall, subject to Paragraph (b) below, thereafter be free from all such rights and restrictions. Notwithstanding the foregoing, the rights and restrictions contained herein shall terminate only to the extent it is financially infeasible to maintain the level of affordability required by this

Agreement or some lesser level of affordability (i.e., fewer Local Action Units or Local Action Units affordable to persons or families with higher annual incomes than those required by this Agreement.) "Financially infeasible" shall mean (i) with respect to the operation of the Project, that the rent and other income from the Project is, or is reasonably projected to be, less than the reasonable expenses required (or reasonably projected to be required) to maintain and operate the Project and (ii) with respect to a sale of the Project, that the restrictions would prevent (or be reasonably projected to prevent) the senior mortgage holder from recovering all amounts due and owing with respect to its financing of the Project, including without limitation, principal, interest, charges, costs, expenses, late fees and prepayment premiums. Financial infeasibility shall be determined by the senior mortgage holder in its reasonable discretion after consultation with the Municipality and DHCD. The senior mortgage holder shall notify the Municipality and DHCD of the extent to which the rights and restrictions contained herein shall be terminated and the Developer agrees to execute any documents required to modify this Agreement to conform to the senior mortgage holder's determination. The Developer hereby irrevocably appoints any senior mortgage holder and each of the Municipality and DHCD, its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any such documents on behalf of the Developer should the Developer fail or refuse to do so.

(b) The rights and restrictions contained herein shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure by (i) Developer, (ii) any person with a direct or indirect financial interest in Developer, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Project is subsequently acquired by a Related Party during the period in which this Agreement would have remained in effect but for the provisions of this Section, this Agreement shall be revived and shall apply to the Project as though it had never lapsed.

(c) In the event such holder conducts a foreclosure or other proceeding enforcing its rights under such mortgage and the Project is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Project plus all future advances, accrued interest and all reasonable costs and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess shall be paid to the Municipality in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Municipality pursuant to this Section in connection with such proceeding (provided, that in the event that such excess shall be so paid to the Municipality by such holder, the Municipality shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Municipality in accordance herewith, provided that such holder shall give the Municipality prompt notice of any such claim and shall not object to intervention by the Municipality in any proceeding relating thereto). To the extent the Developer possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the full extent permissible by law, the Developer hereby assigns its interest in such amount to said holder for payment to the Municipality.

15. Further Assurances. The Project Sponsor and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. Default. (a) The Developer and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Developer or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Developer or the Municipality hereunder without receiving a Default Notice from Developer or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Developer or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16, then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed low and moderate income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Developer agrees that DHCD or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Developer of its obligations under this Agreement in a state court of competent jurisdiction. The Developer further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Developer shall reimburse DHCD for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent to Regulatory Agreement attached hereto and made a part hereof.

PAGE LEFT INTENTIONALLY BLANK

Executed as a sealed instrument as of the date first above written.

Developer: 35 East Main Street, LLC

By: [Signature]
Michael Kiley
its Manager

Department of Housing and
Community Development

By:

its _____
(Associate Director)

Municipality

By:

its _____
(Chief Executive Officer)

Attachments: Exhibit A - Legal Property Description
Exhibit B - Rents for Low and Moderate Income Units

LSlip\l-ra-r.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF NORFOLK, ss.

On this 27th day of September, 2012, before me, the undersigned notary public, personally appeared Michael J. Kiley, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, as Manager of the 35 East Main Street, LLC, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



MICHAEL B. GLASS
Notary Public
Commonwealth of Massachusetts
My Commission Expires July 25, 2014

[Signature]
Notary Public **Michael B. Glass**

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK, ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the City/Town of _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

Consent to Regulatory Agreement

COPY

The Undersigned being the holder of a Mortgage and Security Agreement and Financing Statement on the above described Project recorded with the Plymouth County Registry of Deeds in Book 40503, Page 28 hereby consents to the execution and recording of this Agreement and to the terms and conditions hereof.

Eastern Bank

By: Nicholas K. Moise
Nicholas K. Moise its Senior Vice-President

(If the Project has more than one mortgagee, add additional consent forms. Execution of the consent form by a mortgagee is only necessary if the mortgage has been recorded prior to the Regulatory Agreement.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF Suffolk, ss.

October 3, 2012

On this 3 day of October, 2012, before me, the undersigned notary public, personally appeared Nicholas K. Moise, proved to me through satisfactory evidence of identification, which were personally known, to be the person whose name is signed on the preceding document, as Senior Vice President of Eastern Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
Print Name:
My Commission Expires:

Helen M. McGrath

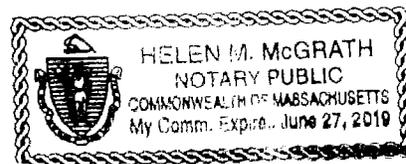


EXHIBIT A

Re:

(Project name) The Residences at Star Mill

(City/Town) Middleborough, Massachusetts

(Developer) 35 East Main Street, LLC

Property Description

The land together with the buildings and improvements thereon described as Lot B on that plan of land entitled "PLAN OF LAND AT 35 EAST MAIN STREET MIDDLEBORO, MASSACHUSETTS (PLYMOUTH COUNTY) PREPARED FOR THE HERITAGE COMPANIES 70 QUINCY AVENUE QUINCY, MA 02169" prepared by Odone Survey and Mapping recorded at the Plymouth County Registry of Deeds in Plan 56, Page 1029 of 2011 to which reference is hereby made for a more particular description of said Lot B.

Lot B contains 7.332 acres or 319,378 square feet of land, more or less, according to said plan.

EXHIBIT B

Re:

(Project name) Residences at Star Mill

(City/Town) Middleborough, Massachusetts

(Developer) 35 East Main Street, LLC

Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units

| | <u>Rents</u> | <u>Utility Allowances</u> |
|---------------------|--------------|---------------------------|
| Studio units | \$ n/a | \$ n/a |
| One bedroom units | \$ 937.00 | \$ 101.00 |
| Two bedroom units | \$ 1185.00 | \$ 135.00 |
| Three bedroom units | \$ n/a | \$ n/a |
| Four bedroom units | \$ n/a | \$ n/a |

MONITORING SERVICES AGREEMENT

This Monitoring Services Agreement (this "Agreement") is made this ___ day of _____ 2012, by and among the Town of Middleborough, 10 Nickerson Ave., Middleborough, MA 02346 ("Municipality"), 35 East Main Street, LLC, 70 Quincy Ave., Quincy, MA 02169, and its successors and assigns ("Developer"), and the Town of Middleborough's Office of Economic and Community Development ("Monitoring Agent").

RECITALS

WHEREAS, the Developer intends to construct a housing development known as The Residences at Star Mill (the "Project") consisting of sixty-nine (69) rental apartment residences at the property at 31-35 East Main Street, Middleborough, Massachusetts more particularly described as a portion of Assessors Map 51, Lot 4245 and being Lot B on that plan of land entitled PLAN OF LAND OF 35 EAST MAIN STREET MIDDLEBORO, MASSACHUSETTS (PLYMOUTH COUNTY) PREPARED FOR THE HERITAGE COMPANIES 70 QUINCY AVENUE QUINCY, MA 02169 which said plan is recorded at the Plymouth County Registry of Deeds in Plan book 56, Page 1029 ; and

WHEREAS, the Project has been approved pursuant to a Special Permit, dated February 10, 2011, recorded with the Plymouth Registry of Deeds at Book 40443, Page 227 (the "Special Permit"), which Special Permit requires that eighteen (18) of the units in the Project (the "Affordable Units") shall be permanently restricted as housing for low or moderate income persons or families, as those terms are defined by the Massachusetts Department of Housing and Community Development ("DHCD"); and

WHEREAS, the Affordable Units are meant to be considered as Local Action Units, pursuant to DHCD Guidelines (the "DHCD Guidelines");

WHEREAS, the Developer has executed and recorded a Regulatory Agreement and Declaration of Restrictive Covenants in the form required under the DHCD Guidelines.

WHEREAS, at the request of the Municipality, the Developer has agreed to retain the Monitoring Agent to perform certain administration, monitoring and enforcement services regarding compliance of the Project with the DHCD Guidelines during the term of affordability of the Affordable Units.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Monitoring Services. Monitoring Agent shall monitor the compliance of the Project with the Affordability Requirement, as more fully described herein.

(a) Affordability Requirement. (i) Initial Rentals. The Developer agrees to deliver to the Monitoring Agent the income, asset and age certifications, leases and Affordable Housing Restrictions with respect to initial rental of Affordable Units as required under the Regulatory

Agreement (the "Initial Rental Data"). The Monitoring Agent agrees to review the Initial Rental Data and determine the substantive compliance of the Project with the Affordability Requirement in accordance with the DHCD Guidelines. The Monitoring Agent shall also ensure substantive compliance with the approved Marketing Plan and lottery process. Upon completion of its review of Initial Rental Data, the Monitoring Agent shall deliver to the Municipality a copy of such data together with the Monitoring Agent's determination of whether the Affordability Requirement has been met. DHCD shall make the final determination of whether the Affordability Requirement has been met and shall notify the Municipality of its determination.

(ii) Annual Rentals. The Monitoring Agent also agrees to monitor rentals of Affordable Units (including review of income and asset certifications, leases and Affordable Housing Restrictions) for compliance with the terms of the Affordable Housing Restriction, and issuance of certifications, as appropriate, in connection with approval of re-rental.

(b) Annual Reports. Until the Affordability Requirement has been met, the Monitoring Agent agrees to prepare and deliver annually a report (the "Annual Compliance Report") to the Municipality on compliance of the Project with the Affordability Requirement. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action by the Monitoring Agent and/or Municipality against the Developer. The Monitoring Agent shall deliver the Annual Compliance Report within one hundred twenty (120) days of the end of each calendar year during the term of this Agreement.

(c) Supplemental Monitoring Services. The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable (i) the compliance by the Developer with the Affordability Requirement, and (ii) the compliance by the renters of the Affordable Units with the requirements of the Affordable Housing Restriction. The services hereunder shall include follow-up discussions with the Developer and/or renters of the Affordable Units, if appropriate, after an event of noncompliance. The Monitoring Agent shall be entitled to a reasonable fee for supplemental monitoring services as set forth in the Homebuyer Disclosure Statement executed by the buyer of the Affordable Unit.

2. Monitoring Services Fee. The Monitoring Agent shall receive a fee of \$7,200 from the Developer at the time of execution of this Agreement. Such fee shall constitute payment for the services of the Monitoring Agent with respect to compliance by the Developer with the Affordability Requirement in connection with initial rentals of the specific fixed Affordable Units. As provided in the Affordable Housing Restriction for each Affordable Unit, the Monitoring Agent shall receive a fee of \$200 per unit with respect to monitoring each subsequent year. Such fee shall be payable for all rentals of Affordable Units. If the Monitoring Agent's fee is not paid at the time of lease signing, the Monitoring Agent shall be entitled to payment from the Developer and or its rental agent. Neither DHCD nor the Municipality shall have any responsibility for payment of any fee to Monitoring Agent hereunder.

3. Enforcement Services. During the period of Initial Rent-up, in the event of serious or repeated violations of the substantive or reporting requirements of the Regulatory Agreement (with respect to the Affordability Requirement) or a failure by the Developer to take appropriate actions to cure a default under the Regulatory Agreement (with respect to the

Affordability Requirement), the Monitoring Agent shall have the right, with the prior consent of DHCD and the Municipality, to take appropriate enforcement action against the Developer, including, without limitation, legal action to compel the Developer to comply with the Affordability Requirement.

In the event of a violation of the provisions of a Affordable Housing Restriction, the Monitoring Agent shall have the right, with the prior consent of DHCD and the Municipality, to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the relevant Affordable Housing Restriction. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing a Affordable Housing Restriction against the Developer and or its rental agent/property manager..

The Monitoring Agent shall not be entitled to seek any compensation or reimbursement from the DHCD or the Municipality in connection with the enforcement services under this Section, it being understood that the Monitoring Agent shall look solely to the reimbursement rights described above for payment of the Monitoring Agent's costs and expenses.

4. Term. The monitoring services are to be provided for so long as there is any Affordable Unit subject to an Affordable Housing Restriction.

5. Responsibility of Monitoring Agent. The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

6. Successor Monitoring Agent/Further Delegation/Conflict of Interest. (a) This Agreement is terminable at will by the Monitoring Agent, the Developer or Municipality with sixty (60) days notice to the other parties. In addition, this Agreement is terminable immediately by DHCD should the Monitoring Agent be dissolved or become incapable of fulfilling its obligations during the term of this Agreement. In the event of termination of this Agreement, the Developer (during the period of Initial Rent-up) or the Municipality (after the period of Initial Rent-up) shall promptly appoint a successor monitoring agent to serve as Monitoring Agent for the remaining term of this Agreement.

(b) The Monitoring Agent shall not delegate all or any portion of its obligations hereunder without the prior approval of Developer and Municipality. If the Monitoring Agent performs any functions for the Developer, such as running the lottery, that would be subject to oversight by the Monitoring Agent, the Monitoring Agent must delegate oversight of such functions to an independent approved entity.

7. Indemnity. During the period of Initial Rent-up, the Developer agrees to indemnify and hold harmless the Monitoring Agent, DHCD and the Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, DHCD or the Municipality by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent, DHCD or the Municipality acting in bad faith or with negligence or a breach of any of said entities contractual obligations to the Developer.

8. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.

9. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

10. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.

11. Third-Party Beneficiaries. DHCD and the Municipality shall be entitled to enforce this Agreement and may rely on the benefits of this Agreement.

12. Entire Agreement. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, to wit, monitoring services, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent acknowledges that the Monitoring Agent is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the Developer, DHCD or the Municipality or any employee or agent of any of the foregoing, except for the agreements set forth herein.

13. Definitions. Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

DEVELOPER
35 EAST MAIN STREET, LLC

By: _____

Title: Michael J. Kiley - Manager

MONITORING AGENT
Middleborough Office of Economic and Community Development

By: _____

Title: _____

MUNICIPALITY
Town of Middleborough

By: _____

Title: _____



MIDDLEBOROUGH FIRE DEPARTMENT

125 North Main Street
Middleborough, Massachusetts 02346

Tel: 508-946-2461
Fax: 508-946-2464

LANCE M. BENJAMINO
Fire Chief

Middleborough Board of Selectmen
10 Nickerson Avenue
Middleborough, MA 02346

November 26, 2012

Dear Chairman,

I respectfully request the following vehicles currently located at The Middleborough Fire Department Central Station be deemed surplus so they can be put out to bid or disposed of:

- 1. 2003 Ford Crown Victoria Sedan (Car 94) VIN# 2FAFP71W03X137436**
- 2. 1998 Chevrolet Blazer (Car 92) VIN# 1GNDT13W8W2132684**

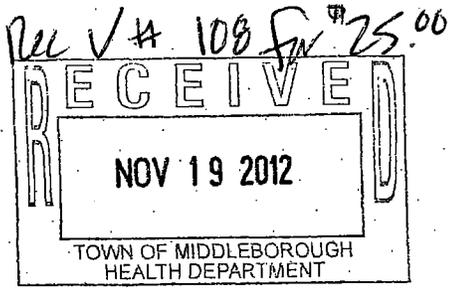
Both of the above vehicles are beyond their life expectancy and the cost of repairs and high mileage far outweigh their value. I highly recommend these vehicles be deemed surplus so they can be put out to bid, disposed of or take any other action thereon.

Any questions, comments or concerns please contact me.

Respectfully,

A handwritten signature in cursive script that reads "Lance Benjamino".

Lance Benjamino
Chief of Department



LICENSE APPLICATION/ RENEWAL
COMMON VICTUALLER

DATE 11/19/12 FEE \$ 25.00
NAME OF BUSINESS The main Drag
ADDRESS/LOCATION FOR PERMIT USE 75 N. Main St.
ASSESSORS MAP & LOT 50 P-6233
NAME OF APPLICANT/PETITIONER Leslie L. Muse
ADDRESS OF APPLICANT/PETITIONER 8 mulberry Circle
TELEPHONE # OF APPLICANT _____
F.I.D # OF APPLICANT/PETITIONER 11
IF A CORPORATION OR PARTNERSHIP, GIVE NAME, TITLE, AND HOME ADDRESS OF OFFICERS OR PARTNER N/A

Leslie L. Muse
SIGNATURE OF APPLICANT

TO: TREASURER/COLLECTOR
FROM: HEALTH DEPARTMENT

Please inform this department, as to whether or not the above property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and or municipal charges that remain unpaid for more than one year.

Does the property owner/petitioner/applicant owe taxes/municipal charges? NO

Signed [Signature]
(Treasurer & Collector)

Tracey complaint / River St

REPLY

REPLY ALL

FORWARD

Decas, Murray & Decas <decasmurraydecas@yahoo.com>

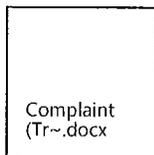
mark as unread

Fri 11/23/2012 9:36 AM

To: Jacqueline Shanley;

Cc: Charles Cristello; Robert Whalen; Jayson Tracy ACO Email;

1 attachment



November 23, 2012

Jackie Shanley, Secretary to Board of Selectmen (*via email*)

RE: Tracey zoning enforcement complaint – junkyard & kennel operations
– River Street

Dear Jackie:

I enclose a proposed complaint to be filed in the above matter. Please advise if the Board authorizes the filing of the complaint.

Very truly yours,

Daniel F. Murray

Town Counsel

DFM/s

12-121

Enclosure

cc: Charles J. Cristello, Town Manager (*via email*)

Robert J. Whalen, Building Commissioner (*via email*)

Jayson Tracy, Animal Control Officer (*via email*)

parts including tires, and wheels from the disassembled vehicles and trailers and selling of the parts. The business is also carried on on a street adjoining the property known as Auburn Street.

6. There is no special permit in effect which authorizes the activities described in paragraph 5.

7. The activities described in paragraph 5 are not allowed under the by-law and therefore violate the by-law.

8. Defendants Shawn M. Tracey and Judi-Ann Tracey operate a dog kennel at the property. The kennel houses more than five (5) dogs more than three (3) months old or older. The number of dogs housed at the kennel varies from time to time. More than fifteen (15) dogs more than three (3) months old or older have been housed at the kennel at a particular time. The by-law allows the use of kennels in the Industrial District as of right for less than six (6) dogs which are more than three (3) months old or older. The by-law in the Industrial District does not allow kennels for six (6) or more dogs which are three (3) months old or older except by special permit.

9. The kennel operation carried on by defendants and described in paragraph 8 is not allowed as of right under the by-law and requires a special permit from the board of appeals.

10. There is no special permit in effect which authorizes the activities described in paragraph 8.

11. The activities described in paragraph 8 are not allowed under the by-law and therefore violate the by-law.

WHEREFORE, plaintiffs demand that the court:

1. Issue a short order of notice.
2. Issue a preliminary injunction as follows:
 - (a) Order defendant Shawn M. Tracey to cease forthwith taking apart motor vehicles and trailers at the property at 84 River Street and at Auburn Street.
 - (b) Order defendant Shawn M. Tracey to remove forthwith from the property at 84 River Street and from Auburn Street all partially dissembled motor vehicles and trailers and all motor vehicle parts and trailer parts including tires and wheels and any other motor vehicle parts and/or trailer parts and components.
 - (c) Order that defendants Shawn M. Tracey and Judi-Ann Tracey not allow or permit anyone to take apart motor vehicles and/or trailers at the 84 River Street property and/or Auburn Street.

(d) Order the defendants Shawn M. Tracey and Judi-Ann Tracey to cease operation of a kennel at the 84 River Street property for more than five (5) dogs which are three (3) months old or older and to remove from the property all dogs in excess of five (5) which are three (3) months old or older.

3. Issue a permanent injunction making permanent the relief requested under Prayer 2 above.

4. Make such further order deemed meet and just.

PLAINTIFFS

By:

Daniel F. Murray, Esquire

BBO# 364440

P.O. Box 201

Middleboro, MA 02346

(508) 947-4433

DATED: November , 2012

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS:

AFFIDAVIT

Then personally appeared Robert J. Whalen who after being sworn deposed as follows:

1. I am a resident of Middleborough, Massachusetts.
2. I am the Town of Middleborough Building Commissioner.
3. I read the complaint in this case. The facts stated in paragraph 1 through 7 inclusive of the complaint are true.
4. This affidavit is made on my personal knowledge of the facts referred to above.

Signed under the penalties of perjury this _____ day of November, 2012.

Robert J. Whalen

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS:

On this _____ day of November, 2012, before me, the undersigned notary public, personally appeared the above named *Robert J. Whalen*, proved to me through satisfactory evidence of identification, which was personal knowledge of his identity to be the person whose name is signed on the preceding document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS:

AFFIDAVIT

Then personally appeared Jayson Tracy who after being sworn deposed as follows:

1. I am a resident of Carver, Massachusetts.
2. I am the Animal Control Officer of the Town of Middleborough.
3. I read the complaint in this case. The facts stated in paragraph 8 through 11 inclusive of the complaint are true.
4. This affidavit is made on my personal knowledge of the facts referred to above.

Signed under the penalties of perjury this _____ day of November, 2012.

Jayson Tracy

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS:

On this _____ day of November, 2012, before me, the undersigned notary public, personally appeared the above named *Jayson Tracy*, proved to me through satisfactory evidence of identification, which was personal knowledge of his identity to be the person whose name is signed on the preceding document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

Notary Public:

My Commission Expires:

Incorporated 1669
341 Years of Progress



CRANBERRY CAPITAL
OF THE WORLD

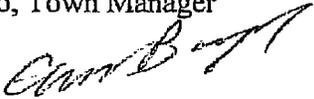


Andrew P. Bagas
D. P. W. Director

Town of Middleborough
Massachusetts
Department of Public Works
48 Wareham Street
Middleborough, MA 02346
Phone 508-946-2481 Fax 508-946-2484

DIVISIONS
Highway
Sanitation
Insect & Pest Control
Tree Warden
Wastewater
Water

November 8, 2012

To: Charles Cristello, Town Manager
From: Andrew Bagas 
RE: SERSG - 2013 Contract Award for Services

I recommend that the Board of Selectmen sign the attached 2013 Contract Award Sheet for Services for the Middleboro D.P.W. as submitted to the Southeastern Regional Services Group.

The bids were reviewed by SERSG and determined to be the lowest responsible bidders meeting specifications.

The Board of Selectmen of the Town of Middleborough voted at their meeting held on _____, 2012 to award contracts to the bidders listed below under the SERSG DPW Services IFB for a thirteen month period commencing 1/1/13. This award is conditioned upon the receipt of the appropriate documents specified in the above IFB. The SERSG Regional Administrator will collect these documents on behalf of the Board of Selectmen and present them to the Board for final approval and signature.

DPW SERVICES FOR A THIRTEEN MONTH PERIOD COMMENCING 1/1/13.

| <u>ITEM NO. and DESCRIPTION</u> | <u>UNIT PRICE</u> | <u>Quantity</u> | <u>Total Value</u> |
|--------------------------------------------------------|----------------------------|-----------------|---------------------|
| 1. Pavement Reclamation | | | |
| <u>Murray Paving & Reclamation - Holliston, MA</u> | | | |
| <i>BIDDER'S NAME</i> | | | |
| Pavement Reclamation | \$1.55 per square yard | 42,000 | \$65,100.00 |
| Adjust Catch Basins | \$260.00 each | 30 | \$7,800.00 |
| Structure Remodeling | \$400.00 each | 0 | \$0.00 |
| Structures Rebuilt | \$180.00 per vertical foot | 0 | \$0.00 |
| Excess Loading of Reclaimed Material | \$5.00 per cubic yard | 0 | \$0.00 |
| Lower/Raise Manholes | \$400.00 each | 16 | \$6,400.00 |
| Lower/Raise Water Gates | \$240.00 each | 24 | \$5,760.00 |
| Lower/Raise Gas Gates | \$220.00 each | 0 | \$0.00 |
| Trucking | \$85.00 per hour | 0 | \$0.00 |
| | Item Sub-Total | | \$85,060.00 |
| 2. In-Place Bituminous Concrete | | | |
| Zone E: Bridgewater, Raynham and Middleborough | | | |
| <u>PJ Keating - Lunenburg, MA</u> | | | |
| <i>BIDDER'S NAME</i> | | | |
| In-Place Bituminous Concrete | \$65.15 per ton | 10,000 | \$651,500.00 |
| Structure Adjustments | \$100.00 each | 12 | \$1,200.00 |
| Structures Remodeled | \$300.00 each | 0 | \$0.00 |
| Structures Rebuilt | \$100.00 per vertical foot | 0 | \$0.00 |
| Hand Work | \$98.00 per ton | 60 | \$5,880.00 |
| Sawcutting | \$1.00 per linear foot | 0 | \$0.00 |
| Playgrounds / Parking Lots | \$65.15 per ton | 0 | \$0.00 |
| | Item Sub-Total | | \$658,580.00 |
| 3. RANDOM CRACK SEALING | | | |
| <u>Crack-Sealing - Raynham, MA</u> | | | |
| | \$7.22 per gallon | 8,000 | \$57,760.00 |
| <i>BIDDER'S NAME</i> | \$4,318.00 per day | | \$0.00 |
| | Item Sub-Total | | \$57,760.00 |

5. HOT ASPHALT CHIP SEALComer Contracting Farmington, CT*BIDDER'S NAME*

| | | | |
|----------------------|------------------------|--------|---------------------|
| Leveling/Shim Course | \$107.00 per ton | 200 | \$21,400.00 |
| Stone Chip Seal | \$2.05 per square yard | 40,000 | \$82,000.00 |
| Leveling Course | \$107.00 per ton | 0 | \$0.00 |
| Double Chip Seal | \$3.95 per square yard | 0 | \$0.00 |
| Leveling Course | \$107.00 per ton | 0 | \$0.00 |
| | Item Sub-Total | | \$103,400.00 |

6. COLD PLANINGPJ Keating - Lunenburg, MA*BIDDER'S NAME*

| | | | |
|--|------------------------|-------|------------|
| | \$1.62 per square yard | 1,000 | \$1,620.00 |
|--|------------------------|-------|------------|

7. MICRO PAVINGSealcoating Inc. - Braintree, MA*BIDDER'S NAME*

| | | | |
|---------------------------------------------|------------------------|--------|--------------------|
| Surface Course (1 lift) | \$2.12 per square yard | 20,000 | \$42,400.00 |
| Leveling Course (2 lifts) | \$3.86 per square yard | 0 | \$0.00 |
| Leveling Course with crack repair (2 lifts) | \$4.29 per square yard | 0 | \$0.00 |
| | Item Sub-Total | | \$42,400.00 |

8. HOT IN-PLACE RECYCLINGHighway Rehab Corp - Brewster, NY*BIDDER'S NAME*

| | | | |
|--|------------------------|--------|-------------|
| | \$4.23 per square yard | 20,000 | \$84,600.00 |
|--|------------------------|--------|-------------|

10. INSTALLATION OF STEEL BEAM GUARD RAILCommonwealth Guardrail - Westfield, MA*BIDDER'S NAME*

| | | | |
|------------------------------------|-----------------------|-----|--------------------|
| Straight (Metal Posts) | \$18.25 per foot | 500 | \$9,125.00 |
| Straight (Wooden Posts-Galvanized) | \$18.20 per foot | 0 | \$0.00 |
| Straight (Wooden Posts-Rust) | \$18.40 per foot | 0 | \$0.00 |
| Curved (Galvanized) | \$19.50 per foot | 100 | \$1,950.00 |
| Curved (Rust) | \$19.60 per foot | 0 | \$0.00 |
| End Pieces (Galvanized) | \$48.00 each | 16 | \$768.00 |
| End Pieces (Rust) | \$50.00 each | 0 | \$0.00 |
| | Item Sub-Total | | \$11,843.00 |

16. CHLORINATED RUBBER TRAFFIC LINE PAINTING

Markings, Inc. -Pembroke, MA

BIDDER'S NAME

| | | | |
|---------------------------------|-------------------------|---------|-------------|
| 4" Yellow Centerline | \$0.037 per linear foot | 400,000 | \$14,800.00 |
| 4" White Line | \$0.037 per linear foot | 0 | \$0.00 |
| 4" Yellow Hatch Lines | \$0.360 per linear foot | 0 | \$0.00 |
| Crosswalks | \$0.360 per linear foot | 8,000 | \$2,880.00 |
| Stopline | \$0.360 each | 1,000 | \$360.00 |
| Stop Words | \$10.000 each | 0 | \$0.00 |
| Parking Lines | \$0.160 each | 0 | \$0.00 |
| Ts and Ls | \$1.000 each | 0 | \$0.00 |
| Directional arrows (federal) | \$15.000 each | 0 | \$0.00 |
| 8' "only" | \$15.000 each | 0 | \$0.00 |
| 3' "only" | \$10.000 each | 0 | \$0.00 |
| 8' "school" | \$33.500 each | 0 | \$0.00 |
| Traffic Islands | \$24.000 each | 0 | \$0.00 |
| Railroad Crossings | \$75.000 each | 0 | \$0.00 |
| Removal of Existing Paint Lines | \$0.250 per square foot | 0 | \$0.00 |
| Grinding for Inlay | \$0.250 per square foot | 0 | \$0.00 |
| | Item Sub-Total | | \$18,040.00 |

Total Estimated Value of All Contracts \$1,063,303.00

Chair, Board of Selectmen

Please note that this is a unit price contract. Contract values above are based on estimated quantities, and it is understood that the contractor will provide the quantities actually required by the municipalities.