

NEW BUSINESS
6/27/16

Middleborough Veterans' Council
C/O John F. Glass VFW Post 2188
12 Station Street
Middleborough, MA 02346

MEMORANDUM

To: Board of Selectmen
Middleborough, MA 02346

From: Paul J. Provencher
Adjutant of the Middleborough Veterans' Council

Subject: Request to be a part of the selection process for the new Veterans' Services Officer for the town of Middleborough

Date: 22 June 2016

1. Historically the Middleborough Veterans' Council along with the Town Manager conducts the initial screening for new Veterans' Services Officers. They accept the resumes, log them in, review them, and conduct the first interviews of the applicants. They do the reference checks on the selected applicants forward them to the Board of Selectmen for their final interviews and the ultimate selection of the new agent.
2. The Middleborough Veterans' Council, in further discussions since their monthly meeting on Sunday 1 May 2016, would like to have the following council members on the screening committee: Wayne Packard (VFW), Bob Burke (Oak Point Veterans' Association (OPVA), Bruce Wright (American Legion (AL), Bob Lessard (AL), Bill Blight (DAV), and John Gill (OPVA). This represents a member from each of the member organizations of the council being on the committee. Also all the members of the screening committee are Middleborough residents. Joining them on this committee would be the town manager.
3. 2002 was the last time the services of a Middleborough Veterans' Council screening committee were needed. It is the hope of the council that the applicants forwarded to Board of Selectmen will be the same high caliber of veterans. At that time there were 22 applicants and 8 of them ended up being interviewed by the Board of Selectmen.

Jacqueline Shanley

From: Allison Ferreira
Sent: Thursday, June 23, 2016 12:44 PM
To: Jacqueline Shanley
Subject: CEHIC
Attachments: 20160623124003292.pdf

Jackie,

I located the following Town Meeting votes and motion which was made at a town meeting in 2007. The handwritten motion used to be submitted by the Town Moderator as the “charge” of the Committee, but the Town Meeting votes established the committee.

Thank you,
Allison

Allison J. Ferreira, CMMC

Town Clerk

Town of Middleborough

20 Centre Street, 1st Floor

Middleborough, MA 02346

(508) 946-2415 phone

(508) 946-2308 fax

aferreira@middleborough.com

SPECIAL TOWN MEETING
NOVEMBER 5, 2007

The Special Town Meeting was called to order at 7:04 PM by Moderator James Thomas, who declared a quorum present in the Middleborough High School Auditorium.

Everyone then stood for the Pledge of Allegiance.

The Moderator then asked the members if anyone wished to challenge anyone that may be an unregistered voter. No challenges were made at this time. He then asked everyone, except the Police Chief, to turn off all cell phones and pagers.

He then informed the meeting that the warrant was properly served.

Voted unanimously to take the simple majority votes by voice, and to only take a counted vote when the vote is in doubt.

The Moderator then explained to the meeting that all speakers are to be recognized by him, and that anyone wishing to "call" a question is to use the microphone, and those who are speaking are to be treated with courtesy and respect.

~~Voted unanimously to allow the Town Manager Stephen Lombard, the Town Accountant Steven Dooney, and Ted Lang, the retired C.O.A. Director, to speak if necessary, as they are non residents of the town.~~

A motion made and seconded to take Article 25 out of order, **passed** with a unanimous vote.

ARTICLE 26 Voted unanimously to name the committee established under Article 1 of the June 4, 2007, session of the May 21, 2007, Annual Town Meeting the "Citizens Environmental Health Impact Committee".

Further voted unanimously that two (2) additional At-Large members, with appropriate health or environmental background, to be appointed by the Moderator, until October 10, 2008, and that the expiration of all appointments that any successor appointments, shall be for a period of three (3) years.

ARTICLE 1:

Voted by a majority vote to transfer the sum of \$21,319.00 from Free Cash, in order to supplement the building department for the fiscal Year 2008 to be distributed as follows.

Dept. Name/ No.	Acct. No	AMOUNT	Comments
Building Department - 241	511137	6,915.00	Building Commissioner
Building Department - 241	511139	4,060.00	Plumbing & Gas Inspector
Building Department - 241	511140	4,848.00	Wiring Inspector
Building Department - 241	511104	5,496.00	Reg. Pay Clerical

**RECONVENED ANNUAL TOWN MEETING
JUNE 4, 2007**

The June 4, 2007, reconvened session of the May 21, 2007 Annual Town Meeting was called to order at 7:00PM by Moderator James Thomas who declared a quorum was present in the Middleborough High School Auditorium.

Everyone then stood for the Pledge of Allegiance.

The Moderator then asked if anyone wished to challenge any non-voters that may be in attendance. No challenges were made.

He then instructed the audience that anyone wishing to speak should do so through him, and to please use the microphone, and to state their name and address. He also instructed the members that all cell phones and pagers should be turned off and also to allow each speaker the same courtesy they would expect if they were to speak.

The Moderator was again granted approval to call for the negative votes first, when a simple majority vote is required.

The Moderator then asked if any other Committee or Commission needed to be addressed under Article 1. On a motion made by M. Victory Sylvia, it was:

Voted unanimously to form a five (5) person Committee to study and report back periodically to fellow concerned citizens about any pollution and any serious sickness, such as ALS, MS and other forms of cancer in Middleboro. The Committee to consist of one (1) person from the Conservation Commission (3 yrs), one person from the Board of Selectmen (2 yrs), one person from the Board of Health (2 yrs), the Town Manager (2 yrs) and one member at large (1 yr).

The Committee to be appointed by the Town Moderator and can be replaced whenever needed.

Before any action was taken on Article 2, the following statement was read by the Finance Committee Chairman:

“The fiscal year 2008 budget book presented to you tonight has been prepared and approved by the Finance Committee. Our primary function is to provide the citizens at Town Meeting with a realistic, comprehensive and fiscally stable spending plan that provides all of the necessary Town services within the constraints of our anticipated revenues. The members of your elected Finance Committee are not allowed to be part of any department, employ or committee in town so that we can provide you with an unbiased and detailed budget that best serves the citizens of Middleboro.

I, make a motion to form a five person committee to study and report back periodically to fellow concerned citizens about any pollution and any serious sickness such as ALS, MS and other forms of cancer in middleboro.

The committee to consist of one person from the Conservation Comm. (3 yrs) one from Board of Selectman (3 yrs) Board of Health (2 yrs) Town Manager (2 yrs) and one member at large (1-yr)

The committee to be appointed by the Town Moderator and can be replaced when ever needed,

"Our personalized services are free."

REPORT OF THE CITIZENS ENVIRONMENTAL HEALTH IMPACT COMMITTEE

This Committee was created to investigate why Middleborough has a high incident of ALS (Amyotrophic Labral Sclerosis) and Cancers. ALS and Cancers have a 10% of inheriting damaged genes or DNA. The remaining 90% have Environmental factors that cause these diseases.

ALS research has singled out the alteration of the gene SODI as a major event in ALS patients. This gene can be affected by heavy metals (lead, mercury, manganese) solvents, radiation, electromagnetic fields, viruses, pesticides, diet and the stress of warfare. For more information, go to:

www.alsa.org/research/about-als-research/environmental-factors.html.

Cancers start because of out-of control growths of abnormal cells. Normal body cells grow divide and die in an orderly fashion. Cancer cells continue to grow and divide. Instead of dying they outlive normal cells.

The DNA in these abnormal cells becomes damaged by exposure to something in the environment or a random cellular event.

There are over 300 elements or compounds listed as carcinogens by the ATSDR (Agency for Toxic Substances and Disease Registry: www.atsdr.cdc.gov/substances/toxorgansystems.asp).

Lifestyle factors are: obesity, drinking alcohol, suntan, smoking and infections by viruses, bacteria and fungus.

The committee held nine meetings in 2012. A tenth scheduled meeting was not held due to lack of quorum (4 members). Agenda items covered during these meetings were:

Rockland Industries Inc. 255 Plymouth Street, Middleborough is a Tier 1A hazardous waste site containing chlorinated benzene and many other cancer-causing chemicals. On Friday February 21, 2012 Mass DEP had a by invitation only briefing on what was accomplished at the NAPL excavation site. Nothing of substance was accomplished at this briefing.

On July 31, 2012 Mass DEP received a report from ROUX Associates, Inc., the company hired by Rockland Industries, Inc., to do the testing at this site. The report did not answer the many questions this committee and other commissions

had. December 31, 2012 will add another year to the 44 years of effort to clean up the site.

Other areas of concern are:

Middleboro Plating Company, 50 Cambridge Street, Mass, DEP # 4-101

Star Pond Site north of Summer Street, Mass DEP # 4-427 is a 1D site. No progress.

Shaw Varnish Works, 50 East Grove Street (Field of Dreams). No record of clean up of hazardous materials before field of dreams was built.

Blue Green Algae (Cyanobacteria) was not reported found in Middleborough ponds and water reservoirs or rivers and streams. The State Department of Public Health on August 10, 2012 listed an increase to 12 ponds, lakes and waterways with cyanobacteria levels exceeding 70,000 cells per milliliter.

Middleborough and other towns are now in the Mass DPH (Department of Public Health) monitoring program for Blue-Green Algae (cyanobacteria) and their toxins.

The cyanobacteria forms in shallow warm, slow moving or still water and they can house poisons called cyanobacterial toxins. The bloom appears as a blue-green scum it resembles pea soup, it may have a bad odor.

Short term exposure: The toxin produced can irritate the skin and eyes and causes asthma like symptoms.

Long term exposure or ingesting the toxin can cause: stomach cramps, vomiting, diarrhea, fever, headache, severe muscle and joint pain and seizures or convulsions. There are toxins that can attack the liver and nervous system. Children are at greater risk than adults, because of their lower weight. Animals could become extremely ill and even die if they ingest the contaminated water.

Boiling the water or cooking the fish **does not** remove the toxins.

For more information go to: www.cdc.gov/hab/cyanobacteria/facts.htm

The Mass DPH (Department of Public Health) has not completed compiling the Registry Reports on ALS or Cancer for the State.

Perry Little, Vice Chairman

REPORT OF THE CITIZENS ENVIRONMENTAL HEALTH IMPACT COMMITTEE (CEHIC)

This Committee was created to investigate why Middleborough has a high incident of ALS (Amyotrophic Lateral Sclerosis) and Cancers. Children of parents with ALS and Cancers have a 10% higher chance of inheriting damaged genes or DNA. The remaining 90% of cases have Environmental factors that cause these diseases.

ALS research has singled out the alteration of the gene SOD1 as a major event in ALS patients. This gene can be affected by heavy metals (lead, mercury, manganese), solvents, radiation, electro magnetic fields, viruses, pesticides, diet and the stress of warfare. For more information go to: www.alsa.org/research/about-als-research/environmental-factors.html.

Cancers start because of out-of control growth of abnormal cells. Normal body cells grow divide and die in an orderly fashion. Cancer cells continue to grow and divide. Instead of dying they outlive normal cells. The DNA in these abnormal cells become damaged by exposure to something in the environment or a random cellular event.

There are over 300 elements or compounds listed as carcinogens by the ATSDR (Agency for Toxic Substances and Disease Registry: www.atsdr.cdc.gov/substances/toxorgansystems.asp).

Lifestyle factors include: obesity, drinking alcohol, suntan, smoking and infections by viruses, bacteria and fungus.

Committee member, Selectman Ben Quelle arranged the use of the Nichols Middle School auditorium on Tuesday October 24, 2013 at 7pm for a presentation by Robert Knorr, PhD, Director of Environmental Epidemiology, Mass Department of Public Health, regarding the ALS/MS Registry Report covering the years 2007-2009. The survey did not include persons treated by the Veterans Administration and out of state doctors or hospitals. We would add that Vic Sylvia had compiled a list of 22 ALS deaths in Middleboro from 1942-2006 with a report of 12 between 1970 and 1984.

The committee scheduled eight meetings in 2013. Three scheduled meetings were not held due to lack of quorum (4 members).

Agenda items covered during these meetings were:

Rockland Industries Inc. 255 Plymouth Street, Middleborough is a Tier IA hazardous waste site containing chlorinated benzene and many other cancer-causing chemicals.

Other areas of concern are: Middleboro Plating Company, 50 Cambridge

Street, Mass, DEP # 4-101.

Star Pond Site north of Sumner Street, Mass DEP # 4-427 is a 1 D site. No progress.

Shaw Varnish Works, 50 East Grove Street (Field of Dreams). We researched and were unable to access records of clean up of the hazardous materials before the field of dreams was built.

Blue Green Algae (Cyanobacteria) was not reported found in Middleborough ponds and water reserves or rivers and streams. The State Department of Public Health listed an increase to 13-ponds, lakes and waterways with cyanobacteria levels exceeding 70,000 cells per milliliter. A PSA has been approved and is in the process of completion.

Middleborough and other towns are now in the Mass DPH (Department of Public Health) monitoring program for Blue-Green Algae (cyanobacteria) and their toxins. The cyanobacteria forms in shallow warm, slow moving or still water and they can house poisons called cyanobacterial toxins. The bloom appears as a blue-green scum it resembles pea soup, it may have a bad odor. Short term exposure: The toxin produced can irritate the skin and eyes and causes asthma like symptoms. Long tern exposure or ingesting the toxin can cause: stomach cramps, vomiting, diarrhea, fever, headache, severe muscle and joint pain and seizures or convulsions. There are toxins that can attack the liver and nervous system. Children are at greater risk than adults, because of their lower weight. Animals could become extremely. ill and even die if they ingest the contaminated water. Boiling the water or cooking the fish **does not** remove the toxins. For more information go to: www.cdc.gov/hab/cyanobacteria/facts.htm

Committee members currently include:

Vice Chairman:	Perry Little, 10/14
Minutes Secretary:	Susan Beaulieu
Citizens at Large:	Catherine MacDonald Lynn DeBoyes
Conservation Comm.	John J. Medeiros
Board of Health:	Stephen McKinnon



Phone: 508-946-2405
Fax: 508-946-0058

Town of Middleborough
Massachusetts
Board of Selectmen

MEMORANDUM

TO: Assessor's Office
Conservation Commission
Planning Board
Park Department
Zoning Board
Historical Commission
Agricultural Commission
FROM: Board of Selectmen
DATE: June 14, 2016
RE: **Town's Option to Buy Chapter Land-Notice to convert
To commercial use a portion of land which is taxed and classified as
agricultural/horticultural land under Chapter 61A of MGL
River Street, Map 004, Lot 3037**

The Board of Selectmen has received notice that **Howard A. Anderson, Robert F. Anderson and Emily P. Anderson, as the personal representatives of the Estate of Richard Place Anderson**, intend to convert a portion of this land to commercial use as a solar photovoltaic generating facility which will interconnect to the MG&E distribution grid.

Please submit written comments regarding this property to the Board by 12 Noon on Wednesday, June 22nd.

Thank you.

Attachments

ROBERT J. MATHER, ESQ.
ATTORNEY AT LAW

One Lakeville Business Park
Suite 1A
Lakeville, MA 02347

Tel (508) 946-0066
Fax (508) 946-4474
E-Mail: rjmather@rjmatherlaw.com

June 6, 2016

Board of Selectmen
Middleborough Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

Board of Assessors
Middleborough Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

Planning Board
Bank Building
20 Centre Street – 2nd Floor
Middleborough, MA 02346

Conservation Commission
Bank Building
20 Centre Street – 2nd Floor
Middleborough, MA 02346

Department of Conservation and Recreation
251 Causeway Street, Suite 900
Boston, MA 02114-2104
Attention: Commissioner

RE: Notice of Intent to convert to commercial use a portion of
land which is taxed and classified as agricultural/
horticultural land under Chapter 61A of Massachusetts
General Laws.

Dear Sir or Madam:

I am writing on behalf of and as attorney for Howard A. Anderson, Robert F. Anderson and Emily P. Anderson as the Personal Representative of the Estate of Richard Place Anderson. This notice is being provided to you pursuant to the applicable provisions of Section 14 of Chapter 61A of the Massachusetts General Laws.

The property in question is located on River Street and is a portion of the property shown on

Middleborough Assessor's Map 004 as Lot 3037 and is described in a deed recorded at the Plymouth County Registry of Deeds in Book 5212, Page 129.

This is notice to you of the intention of the owners to convert a portion of this land to commercial use as a solar photovoltaic generating facility which will interconnect to the Middleborough Gas and Electric distribution grid. The portion of the property that will be converted to commercial use contains 4.6 acres and is shown on the plan attached hereto as Exhibit "A".

As a result, the Town of Middleborough has a first refusal option to purchase the land shown on Exhibit "A" at full and fair market value to be determined by an impartial appraisal performed by a certified appraiser hired at the expense of the municipality.

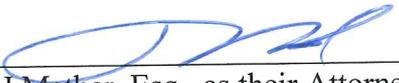
Although the town is entitled to a one hundred twenty (120) day period to exercise its option to purchase this land, it would be greatly appreciated if the matter could be expedited sooner. Any notification to the owner of this property that the option will not be exercised must be made in writing signed by the Board of Selectmen, and should be mailed to:

Howard A. Anderson, Robert F. Anderson and Emily P. Anderson as the Personal Representative
of the Estate of Richard Place Anderson
c/o Robert J. Mather, Esq.
1 Lakeville Business Park
Lakeville, MA 02347
Tel: 508-946-0066
Fax: 508-946-4474
Email: rjmather@rjmatherlaw.com

If you have any questions or require any additional information, please do not hesitate to contact the undersigned.

Thank you.

Howard A. Anderson, Robert F. Anderson and Emily P. Anderson as the Personal Representative
of the Estate of Richard Place Anderson

by: 
Robert J Mather, Esq., as their Attorney



Town of Middleborough

Massachusetts

PLANNING DIRECTOR
Ruth McCawley Geoffroy

Planning Board

Telephone (508) 946-2425
Fax (508) 946-1991

June 21, 2016

Ms. Diane Stewart, Chairwoman
Middleborough Board of Selectmen
Town Hall
10 Nickerson Ave
Middleborough, MA 02346

Re: **Chapter 61A Notice** - Howard A. Anderson, Robert F. Anderson and Emily P. Anderson (Estate of Richard P. Anderson), River Street, 4.6 Acre Leasehold, a portion of Assessors Map 004, Lot 3037

Honorable Board:

The Planning Board is in receipt of a Notice of Intent to Convert to Commercial Use a portion of land which is taxed and classified as agricultural/horticultural land under Chapter 61A of the Massachusetts General Laws. The 61A Notice was sent to the Town Boards dated June 6, 2016, for the above referenced Anderson property, being a 4.6 acre leasehold area which is a portion of Assessors Map 004, Lot 3037, located on River Street.

The Planning Department reports that this land has been a priority for Open Space protection for a number of years and several unsuccessful attempts have been made by The Wildlands Trust of Southeastern MA as well as the Massachusetts Department of Fisheries and Wildlife to purchase the Anderson property, which consists of farm fields and forest abutting the Wild and Scenic Taunton River. This property would have been combined with adjacent land owned by the Massachusetts Department of Fisheries and Wildlife to create a preservation corridor along the Taunton River (see Attached Map). The current proposal involves the lease of 4.6 acres of farm fields to a solar energy developer. The remainder of the 46.4 acre parcel will apparently remain as agricultural land.

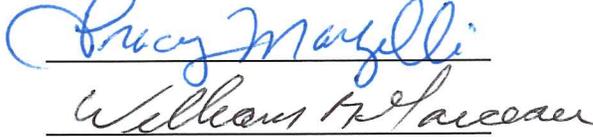
Ms. Diane Stewart, Chairwoman
June 21, 2016
Page 2

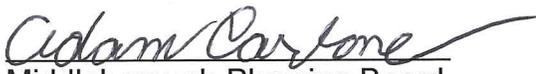
The Planning Board voted at their meeting of June 21, 2016, to recommend that the Town not exercise the Chapter 61A Agricultural Tax Program Option for the above referenced Anderson property, being a 4.6 acre leasehold area which is a portion of Assessors Map 004, Lot 3037, located on River Street.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact the Planning Department.









Middleborough Planning Board

CC: Conservation Commission
Board of Assessors
Joan Pierce, MA DF&W
Scott McFadden, Wildlands Trust



Town of Middleborough

CONSERVATION COMMISSION

20 CENTRE STREET
MIDDLEBOROUGH, MASSACHUSETTS 02346

PHONE: 1-508-946-2406
FAX: 1-508-946-2309

June 20, 2016

Board of Selectmen
Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

RE: Town's Option to Buy Chapter 61A Land: River Street (Map 4, Lot 3037)

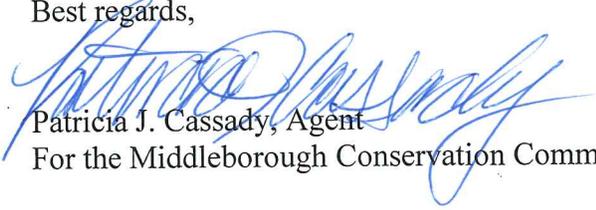
Honorable Board:

The Conservation Commission discussed the above-mentioned property at their June 16, 2016 meeting under communications and decided that they were not interested in pursuing the acquisition of this portion of the parcel for open space. The rear of the property is along the Taunton River and would be of interest to the Commission for protection. The Commission therefore recommends that the Town *not* exercise the Chapter 61A Tax Program Option for this portion of the property.

The Commission issued an Order of Conditions on October 28, 2015 for the proposed Solar Field under DEP File # SE220-1251 for the subject property.

If you have questions regarding this matter don't hesitate to contact the Conservation Department at 508-946-2406.

Best regards,


Patricia J. Cassidy, Agent
For the Middleborough Conservation Commission

CC: Planning Board
Board of Assessors
Agricultural Commission
Robert J. Mather, Esquire
Department of Conservation & Recreation



Assessor's Office

10 Nickerson Avenue
Middleborough, Massachusetts 02346

Telephone (508) 946-2410
Fax (508) 946-4430

June 9, 2016

Board of Selectmen
10 Nickerson Avenue
Middleboro, MA 02346

Honorable Members,

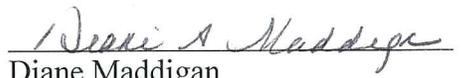
Howard A. Anderson, owner of land located on River Street in Middleborough and shown as lot 3037 on Assessors' map 004 has informed our office that he intends to convert 4.60 acres of his 46.60 acre parcel which is currently classified under Chapter 61A to other use.

The Board of Assessors has no objection to the removal of this land from Chapter 61A Agricultural/Horticultural classification.

Sincerely,

Anthony F. Freitas, Chairman


Paula Burdick


Diane Maddigan
Middleborough Board of Assessors

AF/be

Jacqueline Shanley

From: Robert M. Thomas <sbt92@comcast.net>
Sent: Monday, June 13, 2016 11:51 AM
To: Jacqueline Shanley
Subject: Surrender Of Earth Removal Permit

Dear Jackie,

I am emailing you today, in regards to the surrender of my earth removal permit. As of April 4, 2016 I met with an independent farm consultant, to discuss my options on my cranberry bog project. He suggested by the time I sell all the material on my propriety, and to build the cranberry bog, it will not be financially enough to offset the construction cost of the cranberry bog, i.e. cost of the pump, all irrigation lines, sprinkler heads, and cost of the vines themselves. He pointed out, that the money they are getting per barrel of cranberry's, in the independent market, isn't worth the effort to grow them. He also noted that with the 18 acres of property that I own, would be making it all into wetland, and that would deter my effort to sell the property if I wish, later on in life.

In 2007 when I started the paperwork to move the project forward, I talked with my Uncle at length, who happens to own 44 acres of growing bog in Lakeville. And at that time, he said, if I was to do all the work myself, the project would be feasible. During that time I was hoping, the independent cranberry industry would be making a comeback in the financial market. Unfortunately the independent market has not recovered enough to make the project worth completing. Please make note, that NO material has left the site, the work that has been done so far, is a matter of trees being cleared and stumped, and two areas have been stripped of the loam and subsoil. I met with Chris Peck and Trish Cassidy, on my property a month ago to discuss my plans to terminate the project. Chris Peck said he was okay with my decision, Trish Cassidy said I needed to fix my silt fence and to call her to come and inspect it when it was fixed. She came and inspected it last Thursday morning and said everything looked good. I would like to get on the towns agenda, and go before the board, to ask for my 50,000 dollars back, that I gave the town to hold for the surety bond, and ask the board of Selectmen to accept the termination of my Earth Removal Permit.

Thank you for your cooperation upon this matter,

Robert M. Thomas



Town of Middleborough

CONSERVATION COMMISSION

20 CENTRE STREET
MIDDLEBOROUGH, MASSACHUSETTS 02346

PHONE: 1-508-946-2406
FAX: 1-508-946-2309

MEMORANDUM

TO: Board of Selectmen

FROM: Patricia J. Cassady, Conservation Agent 

CC: Christopher Peck, DPW Director
Robert Nunes, Town Manager
Robert Thomas, Property owner
Outback Engineering, Inc.

DATE: June 21, 2016

RE: 182 Plympton Street (Map 26, Lot 5074) Earth Removal Project
DEP File # SE220-1169

This is an update on the above-mentioned site and a recent site inspection that was conducted. The site inspection was done on June 9, 2016 with Mrs. Thomas.

This site visit was to check that the silt fence was repaired as promised. During the site inspection I observed the following:

- 1) The silt fence for erosion control has been fixed except for one small area, which Mrs. Thomas agreed would be fixed.
- 2) No erosion from the site was seen in the wetland resource areas.

I spoke with Mr. Thomas today and went over the requirements with the Conservation Commission to close out his file under a Certificate of Compliance. This Certificate of Compliance is independent of the earth removal permitting process. The Conservation Department and Commission will be monitoring the site under the DEP permit listed above and will insure that the loaming and seeding will take place in all exposed areas prior to the issuance of the Certificate of Compliance and the removal of the silt fence.

If you have any other questions regarding this matter, don't hesitate to contact the Conservation Office at the above number.

pjc



Town of Middleborough

CONSERVATION COMMISSION

20 CENTRE STREET
MIDDLEBOROUGH, MASSACHUSETTS 02346

PHONE: 1-508-946-2406
FAX: 1-508-946-2309

MEMORANDUM

TO: Board of Selectmen

FROM: Patricia J. Cassady, Conservation Agent

CC: ✓ Christopher Peck, DPW Director
Robert Nunes, Town Manager
Robert Thomas, Property owner
Outback Engineering, Inc.

DATE: May 10, 2016

RE: 182 Plympton Street (Map 26, Lot 5074) Earth Removal Project
DEP File # SE220-1169

Per the request of the owner of 182 Plympton Street, Mr. Robert Thomas the Conservation Commission conducted a site inspection of the property with Christopher Peck, DPW Director on May 3, 2016.

This site visit was to observe the status of the earth removal project and proposed cranberry bogs. Mr. Thomas stated to us on-site that he is not going forward with the earth removal project and will not be installing cranberry bogs as planned. During the site inspection I observed the following:

- 1) Trees have been cut and removed, some top soil has been removed in areas and some grading has taken place.
- 2) The silt fence for erosion control needs to be fixed in several places. Mr. Thomas has agreed to fix this and schedule another site inspection.
- 3) No erosion from the site was seen in the wetland resource areas.

Mr. Thomas stated that he would like to put the loam back on the exposed areas and seed to stabilize the area. It was explained to Mr. Thomas that upon his request to withdraw the earth removal permit he will also need to close out the file under DEP File # SE220-1169 with the Conservation Commission.

If you have any other questions regarding this matter, don't hesitate to contact the Conservation Office at the above number.

pjc

Jacqueline Shanley

From: Christopher Peck
Sent: Tuesday, June 21, 2016 2:08 PM
To: Selectman Diane C. Stewart; Jacqueline Shanley; Robert G. Nunes
Cc: Patricia Cassady
Subject: RE: 182 Plympton St/Agenda
Attachments: doc20160621141136.pdf; IMG_1198.JPG; IMG_1199.JPG; IMG_1200.JPG; IMG_1201.JPG; IMG_1202.JPG

To All:

Here is my inspection report from today along with Trisha's inspection report from May 3, 2016. I have also attached a few pictures of the current conditions.

Please note he did not provide a check today.

Thanks,

Chris

Christopher Peck

Director of Public Works
Middleborough, MA 02346

PH: 508-946-2481

FX: 508-946-2484

cpeck@middleborough.com



From: Selectman Diane C. Stewart
Sent: Thursday, June 16, 2016 6:33 PM
To: Jacqueline Shanley; Robert G. Nunes
Cc: Christopher Peck
Subject: 182 Plympton St/Agenda

Hi Jackie:

Can you please take Mr. Thomas's request off the agenda for 6/20.

I am cc'ing Chris Peck to inspect the current condition of the property at 182 Plympton Street and report back about its condition and the BOS know of any recommendations RE: the potential restoration of the property. Once we receive his report, we will place it on the agenda.

Thanks,
Diane

Diane C. Stewart, Chairman
Board of Selectmen
Town of Middleborough
dstewart@middleborough.com

EARTH REMOVAL PERMIT
INSPECTION CHECKLIST

DATE: 6/21/16

PROJECT NAME: RM Thomas Exc., 182 Plympton St.

PROJECT #: #09-02

PAYMENT RECEIVED: \$ 400.00

EXP. DATE: 12/15/17

YES _____ NO X

CHECK # _____

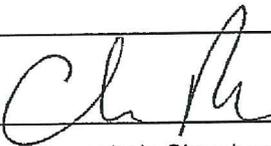
LOCATION: Plympton Street

(CIRCLE YES OR NO)

1. Knowledge of Town Hall observed Holidays: Yes No Comments: _____
2. Topsoil stockpile: Yes No Comments: _____
3. Bond or surety in place: Yes No Comments: _____
4. Standard highway signs in place: Yes No Comments: _____
5. No refining or screening: Yes No Comments: _____
6. Provisions for dust control adequate: Yes No Comments: _____
7. Depth and slope compliance: Yes No Comments: _____
8. Drainage compliance: Yes No Comments: _____
9. Warning signs along property line meet requirements:
 Yes No Comments: _____
10. Special conditions (Specified Below): Yes No Comments: _____
(ex: berm, 5 acre maximum, tree cutting, buffer, truck signs or assigned route, etc.)

General comments and observations: _____

I met with Robert Thomas on site. He has made the request to terminate his Earth Removal Permit. The conditions on the site are same as they were on May 3, 2016 when an inspection was done with the Conservation Agent. The site will require that the topsoil be put back in the areas that have been excavated and these areas seeded. In addition please note the requirements of the conservation agent from our May 3, 2016 inspection.



Inspector's Signature









June 20, 2016

Board of Selectmen
Town of Middleborough
10 Nickerson Ave
Middleborough MA 02346



Dear Selectmen,

The North Middleborough Fourth of July Parade Committee requests permission to hold the 84th annual Fourth of July Parade on **Monday, July 4, 2015.**

The parade will commence at 10:00AM from the Pratt Free School on the Titicut Green, march down Plymouth Street, crossing Rte 18, turning at Titicut Street and returning back up Plymouth Street to the Pratt Free School.

As usual, we are requesting permission to sell Parade Tags in order to aid in offsetting the ever-increasing costs of parade expenses.

The committee wishes to extend an invitation to the Selectmen to participate in the parade as well.

You may direct any questions to me: cell [508-548-1111](tel:508-548-1111) or email heatherholmes@nmbor.com, or Roy Holmes at [508-548-1111](tel:508-548-1111).

Thank you.

Heather Holmes
North Middleborough Parade Committee Chair
5 Clay Street
No. Middleborough MA 02346

Jacqueline Shanley

From: Tara Pirraglia
Sent: Monday, June 20, 2016 12:05 PM
To: Jacqueline Shanley
Cc: Robert G. Nunes; Christopher Peck; Judy MacDonald; Steven Dooney
Subject: FW: Utility Billing Conversion Project
Attachments: Town of Middleborough, MA_-_ Middleborough, MA- Utility Billing Annual Maintenance and Services 6_16_2016.pdf; SoftRight Contract.pdf

Importance: High

Good morning Jackie,
How are you? I hope all is well. Attached please find the Accela Utility Billing Annual Maintenance and Services addendum to the original SoftRight Contract reviewed by Attorney Dan Murray and signed by the Board of Selectmen in June of 2015. Accela acquired SoftRight in 2015, which is why the company's name has changed. Could you please place this on the Board of Selectmen's Agenda for Monday, June 27th? We would like to have the Board of Selectmen vote to have the contract signed by the Chairman, contingent upon Town Counsel's Review. Please note, I am scheduled out of the office on Monday, June 27th and I am unable to attend the Board's Meeting. The new Utility Billing application is projected to be in place prior to the start of Real Estate tax billing for the purposes of uploading the Utility Liens to the new Accela/SoftRight Tax Collection application implemented last year. If you have any questions or concerns, please do not hesitate to contact me.

Thank you.

Tara Pirraglia,
I.T. Director
tpirraglia@middleborough.com

From: Tara Pirraglia
Sent: Monday, June 20, 2016 11:36 AM
To: Attorney Dan Murray
Cc: Robert G. Nunes
Subject: Utility Billing Conversion Project
Importance: High

Good morning,
How are you? Attached please find the Accela (SoftRight) Annual Maintenance and Service Agreement for the Utility Billing conversion project, Article 15, voted at the April 25th Town Meeting. The software portion of the Utility Billing Contract is scheduled to be billed under State Bid Contract #ITS58 and is not included in this document's description under Products and Services. This is an addendum to the Contract signed by the Board of Selectmen in June 2015, please find the executed SoftRight Contract.pdf file attached, for the Tax Collection/Assessing and Treasury software applications. Please note, on page 5 of this document, the second sentence:

"Client is agreeing to purchase these applications under the umbrella of the original master agreement and the associated addenda in addition to any terms described in this agreement to be executed between Client and Vendor and to the prices contained herein."

Please review and advise at your earliest convenience. If you have any questions or concerns, please do not hesitate to contact me.

Thank you.
Tara Pirraglia,
I.T. Director
tpirraglia@middleborough.com

Town of Middleborough, MA

Middleborough, MA- Utility Billing Services

June 21, 2016

Dennis Kane
+1 9783991710
dkane@accela.com

Products and Services

Service Items

Product Code	Product Name	Description	Est. Hours	Rate	Total
SV80CONT03TM001	Services Tier 3 Data Conversion	Professional Services Tier 3 Finance & Administration Data Conversion	75 Hrs	\$145.00	\$10,875.00
SV80F&AT03TM001	Services Tier 3 Finance & Admin	Professional Services Tier 3 Finance & Administration product implementation	52 Hrs	\$125.00	\$6,500.00

Grand Total: USD\$17,375.00

Additional Information

Definitions

Masters: static information and data, based on a single individual or entity. An example of a Master file is Customer, Employee or Vendor contact information.
History: Information that is updated or added on a regular basis that is tied to a Master File. An example of History includes Checks, Billings or Receipts.

Client Requirements

Client must perform all data extraction from their legacy system and populate Vendor's then current Standard Templates, unless Data Extraction Services have been contracted and purchased. Standard Templates and field listings are available for review by client upon request.

Client must validate the accuracy of data. Data in legacy system which is incorrect or does not balance will need to be altered by Client, or incorrect results will be carried through to new system.

Client must provide data according to the schedule mutually agreed upon with Project Manager, or project may incur changes to schedule or additional fees. Client must provide field descriptions and/or definitions for data that is being extracted from the legacy system.

Vendor Requirements

Vendor will provide the software base application for Finance & Administration modules. The base for the application includes System Setup, General Ledger Shell, Cash Receipts Shell, and Clearing House. The Finance & Administration base is included in all purchases.

Vendor will evaluate data provided from client to ensure that all required fields have been populated, that the formats provided meet the necessary criteria, and the limitations of field ranges.

Vendor will provide consulting services to assist client in analyzing whether data inputs meet criteria specified, and assist in testing to validate inputs are converted correctly to the Vendor System.

Vendor will provide a secure method for electronic data transmission.

Vendor will ensure that all data provided in finalized templates are converted correctly into the corresponding fields or tables within the applications.

Once Client has offered final approval of data sets, Vendor will provide three (3) data conversions into the Live UB System and one (1) data conversion into the Live system for all other Applicable as specified on table above.

Acceptance Period

Upon completion of the implementation of each Licensed Software Product purchased by the Client as set forth in the appropriate Order Form or Statement of Work, Client will have 30 calendar days to validate that the Products are performing in accordance with this Addendum, the Master Agreement, and any related Addenda. Each Application will be considered accepted by the Client if and when any one of the following has occurred:

- (a) Client provides vendor written affirmation that the Application is performing within the terms of this Addendum, the Master Agreement and any related Addenda;
- (b) 30 days has passed since the implementation ("Go-Live") of the Application without written notice of non-acceptance;
- (c) Client is using the Licensed Software Product at issue for its intended purpose; or
- (d) One calendar year has passed since the Effective Date. Client agrees to grant Vendor access to any system where Licensed Software Products are installed to audit Client's use of the Licensed Software Products and compliance with this Addendum.

Core Modules Statement of Work

The Core Modules Statement of Work shall mean the statement of work that outlines the work necessary to implement the core functionality of the client requested modules.

Acceptance of Core Modules of Statement of work shall be deemed complete for billing purposes unless Client has provided written notice of non-acceptance within 15 days of receipt of the Core Modules Statement of Work.

Limitations of Conversion Services

Unless otherwise specified and agreed to, Vendor will not consult on or assist in the removal of data from Client legacy system.

Vendor cannot convert data from legacy system which is not available in a corresponding field.

Vendor cannot convert data into fields which exceed the maximum database field limitations.

The services listed above do not include consulting or data manipulation for the purpose of supplying the Client with information the Client didn't previously have access to.

Data requested to be converted after agreed to live conversion will be considered out of scope, and will require a change order, and be subject to additional fees.



All current templates and field listings are available on the website, and included herein by reference.

Terms	
Contract Term	12 Months
Special Terms	
<p>This Order Form shows applications Client has purchased and the amount charged for each, the cost for implementation services, and the accompanying current maintenance costs. By signing the Order Form, Client is agreeing to purchase these applications under the umbrella of the original master agreement and the associated addenda in addition to any terms described in this agreement to be executed between Client and Vendor and to the prices contained herein. Pricing is based on standard contract. Deviations from standard contract terms may result in modified prices. Order Form assumes all products to be implemented under the scope of a single project. Client caused project delays or requests to implement modules separately may require a change order and additional services fees. Training and Business Process Study (BPS) Estimates do not include travel time or travel expenses. **Investment will vary based on number of users, servers and GB being backed up. Electronic Signatures and Copies of Documents: The parties agree that this Agreement and any other documents memorializing agreements between the parties may be executed and/or delivered by electronic means, including, without limitation, electronic signatures, images of signatures, or copies of original signatures or documents, and may be delivered by electronic mail, facsimile transmission, or other electronic or non-electronic means. All documents executed and/or delivered by electronic means shall have the same force and effect as an original, signed document, for all intents and purposes, including, without limitation, all applications of statutes of frauds, the best evidence rule, and any similar rules, statutes, regulations, or other principles of law. The party receiving a document signed and/or delivered by electronic means may rely on and use such electronic document to the same scope and extent as if it were the original, hard copy document duly executed by the other party.</p>	

Accounting Payable Contact Information			
First Name:		Last Name:	
Title:			
Email Address:			
Phone Number:			

Signature Section			
Vendor	Accela, Inc.	Client	Town of Middleborough, MA
Signed By		Signed By	
Date		Date	
Title		Title	
Name (Print)		Name (Print)	

Additional Signatures (Optional)			
Client	Town of Middleborough, MA	Client	Town of Middleborough, MA
Signed By		Signed By	
Name (Print)		Name (Print)	
Title		Title	
Date		Date	

SOFTWARE & SERVICES AGREEMENT

**SoftRight, LLC
234 Littleton Road
Westford, MA 01886
Phone: 888.394.0900
Fax: 978.692.3301**

&

**Town of Middleborough
10 Nickerson Avenue
Middleborough, MA 02346**

SOFTWARE LICENSE AGREEMENT

1. Licensing of Software:

Middleborough shall purchase a license to use SoftRight's Software.

2. Commencement Date and Delivery:

The terms and conditions of this agreement hereunder shall commence on the date specified above with delivery and installation of the Software defined hereunder as a mutually agreed upon date which follows Middleborough's appropriation of monies for said Software.

3. Term:

The term of this contract shall be for three (3) years from the Commencement Date. Middleborough is granted use of the software license for as long as they pay for the software and services as described in Exhibit A.

4. Termination:

Middleborough may terminate this agreement for any reason upon 60 days advance written notice given to SoftRight and thereupon this Agreement will terminate effective on the sixtieth (60th) day after service of such written notice (the "Effective Termination Date"). Payment shall be timely and fully made for all services rendered, and for which payment is outstanding, through the Effective Termination Date subject to the terms and conditions of this Agreement.

SoftRight may terminate this Agreement immediately in the event Middleborough fails, after ninety (90) day's advance written notice, to pay any outstanding and overdue invoice hereunder, or Middleborough is in breach of or default under any provision of this Agreement and has not cured such breach or default within ninety (90) days after written notice from SoftRight specifying such breach or default. Upon termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination.

5. Description of Software:

SoftRight shall provide the Software set forth in Exhibit A via the Massachusetts State Blanket Contract #ITS42 held by SHI, Inc. All implementation services and subsequent annual support payments will be made directly to SoftRight.

6. Payment:

Payment process:

- Upon execution of this agreement, SHI will be notified by SoftRight of the purchase of the software applications specified in Exhibit A.
- July 1, 2015 Middleborough will issue a written purchase order to SHI for the software in the amount of \$91,155.00 which includes the software plus the 3% markup estimated at \$2,655.00.
- Upon delivery of the software, SHI will invoice Middleborough for \$91,155.00.
- SHI will then pay SoftRight

The Software fees (listed as License Fee on Exhibit A) are fees due under this Agreement. In the event this Agreement is terminated or expires for any reason, SoftRight may charge the Software Application fees upon any later contract or agreement with Middleborough. The Software Application fees are non-refundable.

7. Limitation of Liability:

SoftRight's warranties described herein are in lieu of all other warranties, expressed or implied, and including but not limited to, any implied warranty of fitness for a particular purpose. In no event, whether based in contract, tort (including negligence) or otherwise, shall SoftRight be liable for; (1) punitive, exemplary or aggravated damages, (2) damages for lost revenue or profits, failure to realize expected savings, or loss of use or lack of availability of Middleborough's resources, including without limitation, its computer facilities and any stored data, or (3) incidental, indirect, special or consequential damages under any circumstances whatsoever. SoftRight shall not be liable for any claim or demand against Middleborough by any third party. Middleborough's remedies under this Agreement are limited to those remedies set forth in this Agreement and applicable Massachusetts law.

8. Warranty:

SoftRight warrants that the software provided hereunder functions in accordance with SoftRight's written representations to Middleborough and that said software is fit for the purpose for which it's provided. If any failure or defect in the Software occurs, SoftRight will repair or replace the failed or defective software as long as a current services agreement is in place, subject to the terms and conditions of the services agreement. SoftRight warrants that it has all rights necessary to license this software and agrees to indemnify, defend and hold Middleborough harmless against any claim by a third party alleging copyright, patent, trademark, trade secret or license violations as a result of Middleborough's use of the software. No other warranties, expressed or implied are given hereunder, including any reasonable counsel fees incurred by Middleborough.

9. Rights Granted:

Subject to the terms and conditions of this Agreement SoftRight hereby grants to Middleborough, and Middleborough hereby accepts from SoftRight a non-transferable and non-exclusive license to install and use the Software listed in Exhibit A including any Modifications or Enhancements to the Software made during the term of this Agreement.

Middleborough agrees that the rights granted to it hereunder do not extend to or include any enhancements to the Software not provided for under this Agreement.

10. Non-Disclosure of Software:

A. Grant of License. In consideration of this Agreement, SoftRight grants to Middleborough a non-exclusive right to use a copy of the Software specified in Section 5 (or Exhibit A) above for the term of this Agreement.

B. Ownership of Software. At all times, SoftRight retains title and ownership of the software regardless of the form or media in or on which the original or copies may exist. This Agreement is a license to use the software only. It is not a sale of the original or any copy thereof.

C. Copy Restrictions. Middleborough may not reproduce the software, or any portion thereof, in any manner without SoftRight's express, prior, written authorization given on each occasion. Unauthorized copying of the Software or of the written materials accompanying the Software is expressly prohibited. Middleborough may make copies of the Software solely for backup purposes.

D. Use Restrictions. Middleborough may not distribute copies of the Software or accompanying written or electronic material to others. Middleborough may not modify, adapt or reverse engineer the Software.

E. Transfer Restrictions. The Software is licensed only to Middleborough and may not be transferred to any third party without the prior written consent of SoftRight. In no event may Middleborough transfer or assign the Software on a temporary or permanent basis.

11. Proprietary Information:

A. Middleborough's Right to Data. Middleborough shall own all right, title and interest in and to all of Middleborough's data and records created by Middleborough using the Software and stored by the System. Upon request at any time, SoftRight must provide Middleborough an extract of all data in a

usable electronic format as well as the corresponding record layouts or data dictionaries. SoftRight will invoice Middleborough at a rate of \$125 per hour for the effort required to produce and deliver the data in electronic format.

B. Restrictions. Except as specifically permitted in this Agreement, Middleborough shall not directly or indirectly; (1) reverse engineer or otherwise try to discover any source code or underlying ideas or algorithms of the Software (except and only to the extent that these restrictions are expressly prohibited by applicable statutory law), (2) encumber, sublicense, transfer, distribute or use the Software for the benefit of any third party (e.g., service bureau arrangement), (3) copy, create derivative works of or otherwise modify any Software, or (4) permit any third party to do so.

SoftRight reserves all right, under its own control and at its own expense, to prosecute and maintain any of its own patents, trademarks, service marks or other registrations reasonably required to protect ownership of the Software, and to prosecute any third party infringement of the proprietary rights to the Software, or to defend the proprietary rights to the Software in any declaratory judgment action brought by a third party which alleges invalidity, unenforceability, or non-infringement of the proprietary rights to the Software.

Middleborough shall assist SoftRight as reasonably requested in taking any such action as allowed to protect SoftRight's proprietary rights in and to the Software. Any requests for assistance shall be approved by Town Counsel in the case of the Town of Middleborough and dependent on the nature of the assistance may require some mutually agreeable and reasonable compensation for its time in rendering assistance.

C. No Implied License. Except for the limited rights and license expressly granted hereunder, no other license or right is granted, no other use is permitted and SoftRight (or its licensors and vendors, as the case may be) shall retain all right, title and interest in and to the Software and in-licensed code (including all intellectual property rights therein). Middleborough agrees not to take any action inconsistent with such ownership.

D. Markings. Middleborough shall not obscure, alter or remove any patent or other proprietary or legal notice affixed to or contained on or in any Software. (including without limitation, any on-screen notice).

E. Permitted Source Code Modification. Middleborough may modify the Software Source Code solely for the purpose of generating customized reports and/or exports related to the financial, human resource or revenue status of Middleborough. SoftRight assumes no liability for any undesired outcome caused by Middleborough as a result of any Source Code Modifications. Further, any other changes, additions, deletions, modifications, compilations or duplications for any other reason, or for no reason at all, to all Forms, Classes, Programs, Utilities, Images or Source Code are expressly prohibited without the written consent of SoftRight.

12. Confidentiality:

A. Definition. The term "Confidential Information" means all trade secrets, know-how, the Software and other financial, business or technical information disclosed by or for a party in relation to this Agreement, but not including any information the receiving party can demonstrate is; (1) rightfully furnished to it without restriction by a third party without breach of any obligation to the disclosing party, (2) generally available to the public without breach of this Agreement, or (3) independently developed by it without reliance on such information.

B. Confidentiality. Except for the specific rights granted by this Agreement, neither party shall use or disclose any of the other's Confidential Information without its written consent, and use reasonable care to protect the other's Confidential Information. Each party shall be responsible for any breach of confidentiality by its employees and contractors. Promptly after any termination of this Agreement (or at the disclosing party's request at any other time), the receiving party shall return all of the other's tangible Confidential Information, permanently erase all Confidential Information from any storage media and destroy all information, records and materials developed therefrom.

13. User Authorization:

SoftRight requires the authorizing body or officer within Middleborough to designate in writing those users who are authorized to request Professional Services and/or modifications (as defined below) for SoftRight's applications, and incur the service fees on behalf of Middleborough under this Agreement (the "Authorized Users"). The Authorized Users are required to be listed by the authorizing body or officer within Middleborough on the Fee Authorization form. The Fee Authorization form may be amended in writing only by the signatory on behalf of Middleborough hereto. Middleborough shall notify SoftRight in writing in the event an Authorized User is no longer so authorized to act on behalf of Middleborough hereunder, and until such time, SoftRight may reasonably rely upon any request for Professional Services made by persons listed on the Fee Authorization form, as may be amended. To ensure a smooth transition, SoftRight requires each newly Authorized User(s) to have a minimum of eight (8) hours of product training, at the cost of Middleborough.

PROFESSIONAL SERVICES AGREEMENT

1. Scope of Agreement:

SoftRight shall furnish the Professional Services as described in this Agreement. Middleborough shall pay to SoftRight the fees for Professional Services set forth in this Agreement. Professional Services are defined hereunder as professional services, implementation services, consulting services or any other services performed by SoftRight which included but are not limited to data conversion, data verification, training and project management as outlined in Exhibit A or requested by Middleborough as an addendum to Exhibit A.

2. Commencement Date and Delivery:

The terms and conditions of this agreement hereunder shall commence on the date specified above.

3. Term:

The term of this contract shall be for three (3) years from the Commencement Date. Middleborough is granted use of the software license for as long as they pay the annual support fees described in Exhibit A.

4. Termination:

Middleborough may terminate this agreement for any reason upon 60 days advance written notice given to SoftRight and thereupon this Agreement will terminate effective on the sixtieth (60th) day after service of such written notice (the "Effective Termination Date"). Payment shall be timely and fully made for all services rendered, and for which payment is outstanding, through the Effective Termination Date subject to the terms and conditions of this Agreement.

SoftRight may terminate this Agreement immediately in the event Middleborough fails, after thirty (30) day's advance written notice, to pay any outstanding and overdue invoice hereunder, or Middleborough is in breach of or default under any provision of this Agreement and has not cured such breach or default within thirty (30) days after written notice from SoftRight specifying such breach or default. Upon termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination.

5. Description of Services:

During the term hereof, Middleborough shall pay SoftRight the fees and rates outlined in Exhibit A for Professional Services (or Implementation Services) as defined in Section 1 of this Agreement. SoftRight shall provide the Professional Services (or Implementation Services) set forth in Exhibit A and defined in Section 1 of this Agreement.

6. Fees & Payment:

Notwithstanding specific fees to the contrary set forth in Exhibit A, all Professional Services will be billed at \$125 per hour and travel will be billed at \$75 per hour.

A. Acceptance. Upon completion of each service day or group of days, SoftRight will record the time spent and attach the work detail upon invoicing. Reasons for non-acceptance of the work detail must be documented in writing, if possible, and sent by email return receipt requested or first class mail to SoftRight at the address listed on the cover page of this agreement.

B. Payment. Payment terms for accepted work orders are due within 30 days of receipt of invoice or in accordance with standard municipal practice for serviced performed and accepted. Time is of the essence as to Middleborough payments hereunder.

7. Additional Professional Services:

Professional Services utilized in excess of those set forth in Exhibit A and additional related Professional Services not set forth in Exhibit A shall be billed according to the terms included in section 6. Professional services in excess of those set forth in Exhibit A shall be supplied only upon the express written approval and authorization of Middleborough.

8. Limitation of Liability:

SoftRight's warranties described herein are in lieu of all other warranties, expressed or implied, and including but not limited to, any implied warranty of fitness for a particular purpose. In no event, whether based in contract, tort (including negligence) or otherwise, shall SoftRight be liable for; (1) punitive, exemplary or aggravated damages, (2) damages for lost revenue or profits, failure to realize expected savings, or loss of use or lack of availability of Middleborough's resources, including without limitation, its computer facilities and any stored data, or (3) incidental, indirect, special or consequential damages under any circumstances whatsoever. SoftRight shall not be liable for any claim or demand against Middleborough by any third party. Middleborough's remedies under this Agreement are limited to those remedies set forth in this Agreement.

ANNUAL SUPPORT AGREEMENT

1. Scope of Agreement:

SoftRight shall furnish the Annual Support services as described in this Agreement and Middleborough shall pay to SoftRight the fees for Annual Support services set forth in this Agreement. A definition of Annual Support is defined in section 5 below.

2. Commencement Date and Delivery:

The terms and conditions of this agreement hereunder shall commence on the date specified above.

3. Term:

The term of this contract shall be for three (3) years from the Commencement Date. Middleborough is granted use of the software license for as long as they pay the annual support fees described in Exhibit A.

4. Termination:

Middleborough may terminate this agreement for any reason upon 60 days advance written notice given to SoftRight and thereupon this Agreement will terminate effective on the sixtieth (60th) day after service of such written notice (the "Effective Termination Date"). Payment shall be timely and fully made for all services rendered, and for which payment is outstanding, through the Effective Termination Date subject to the terms and conditions of this Agreement.

SoftRight may terminate this Agreement immediately in the event Middleborough fails, after thirty (30) day's advance written notice, to pay any outstanding and overdue invoice hereunder, or Middleborough is in breach of or default under any provision of this Agreement and has not cured such breach or default within thirty (30) days after written notice from SoftRight specifying such breach or default. Upon termination of this Agreement for any reason, nothing herein shall be construed to release either party from any obligation that matured prior to the effective date of such termination.

5. Description of Annual Support:

During the term hereof, Middleborough shall pay SoftRight the fees and rates outlined in Exhibit A for Annual Support (recurring fee) in two semiannual payments. SoftRight shall provide Annual Support as defined hereunder.

SoftRight shall maintain the functionality of the Software on a timely basis with modifications, enhancements and software customizations (as these terms are hereinafter defined) deemed necessary by SoftRight for the Software to accomplish its stated purpose. SoftRight will install all updates as part of the annual support agreement at no additional charge. If the update needs to be done after hours, the update will be applied at no additional charge. If Middleborough notifies SoftRight that it suspects an error in program logic, SoftRight shall perform a review to confirm the existence of such an error. If SoftRight confirms the existence of such an error, SoftRight shall correct the error as part of its obligations hereunder. However, if SoftRight confirms that no such error exists and that the Software is functioning properly for its stated purpose hereunder, Middleborough shall pay SoftRight for its Professional Services in performing said review at the hourly rates specified in Exhibit A.

Annual Software Support is defined as:

1. State and Federal mandated product modifications
2. Toll-free telephone support 9:00 am - 5:00 pm Monday-Friday (Eastern Time), excluding holidays
3. Software program enhancements
4. Mutually agreed upon software customizations
5. Comprehensive training materials and user manuals
6. Annual user conferences
7. Annual customer interviews
8. Limited remote support

SoftRight Holiday Schedule (subject to change):

SoftRight's office is closed for certain holidays each year. Therefore, software support will not be available when the following holidays are observed:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day (2)
- Christmas Day (2)

For the purposes of this Agreement, the following terms shall be defined as follows:

A. Modifications shall mean improvements in the Software made by SoftRight subsequent to the effective date of this Agreement; (1) which improves the efficiency of the basic program function but does not change or create new functions, (2) which are made necessary by a change in law or regulations in order for the Software to accomplish its basic purpose, (3) which corrects errors in the Software necessary for the proper functioning or integration of the Software.

B. Enhancements shall mean a change in the basic program function of the Software or the addition of one or more new functions.

C. Software Customizations shall mean customized changes to the Software which has been deemed as part of the annual Software support agreement as specified below

6. Payment:

Annual Support will be billed at the beginning of each fiscal year on July 1st throughout the duration of this agreement as specified in Exhibit A. Payment of all Annual Support fees shall be made within thirty (30) days of the date of invoice for services performed. SoftRight reserves the right to suspend Annual Support as defined in Section 5 if Middleborough fails to pay undisputed Annual Support fees within sixty (60) calendar days of the invoice due date. SoftRight will reinstate Annual Support upon Middleborough's payment of the overdue Annual Support fee.

7. Remote Connectivity:

Middleborough hereby agrees to establish a functioning remote support link between SoftRight and Middleborough for the purpose of remote connectivity to Middleborough's users. The remote support link will be provided by a mutually agreed upon remote support link third party vendor. SoftRight understands and agrees that all data in its program is the property of Middleborough and shall be treated as confidential and any third party vendor afforded access to Middleborough's users shall confirm in writing that this information/data is proprietary and shall not be copied, distributed or otherwise be provided to any third person or entity prior to accessing Middleborough's users.

8. Limitation of Liability:

SoftRight's warranties described herein are in lieu of all other warranties, expressed or implied, and including but not limited to, any implied warranty of fitness for a particular purpose. In no event, whether based in contract, tort (including negligence) or otherwise, shall SoftRight be liable for; (1) punitive, exemplary or aggravated damages, (2) damages for lost revenue or profits, failure to realize expected savings, or loss of use or lack of availability of Middleborough's resources, including without limitation, its computer facilities and any stored data, or (3) incidental, indirect, special or consequential damages under any circumstances whatsoever. SoftRight shall not be liable for any claim or demand against Middleborough by any third party unless caused by the acts or conduct of SoftRight, its agents, servants, employees or representatives. Middleborough's remedies under this Agreement are limited to those remedies set forth in this Agreement.

9. Warranty:

SoftRight warrants that the software provided hereunder functions in accordance with SoftRight's written representations to Middleborough and that said software is fit for the purpose for which it's provided. If any failure or defect in the Software occurs, SoftRight will repair or replace the failed or defective software

subject to the limitations on Software support contained in section 5 hereof. No other warranties, expressed or implied are given hereunder.

10. Service Level Agreement:

If the server availability within a given month is less than 99%, SoftRight will issue a credit to Client in accordance with the following schedule, with the credit being calculated on the basis of the monthly service charge for the affected services:

99% - 100% availability	=	0%
90% - 98.9% availability	=	10%
80% - 89.9% availability	=	30%
79.9% or below availability	=	50%

Middleborough will not receive any credits under this Agreement in connection with any failure or deficiency of server availability caused by or associated with:

- a. Circumstances beyond SoftRight's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, virus attacks or hackers, failure of third party software (including, without limitation, ecommerce software, payment gateways, chat, supplies, or free scripts) or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of this Agreement;
- b. Failure of access circuits to the server, unless such failure is caused solely by SoftRight;
- c. Scheduled maintenance and emergency maintenance and upgrades;
- d. Domain Name Server ("DNS") issues outside the direct control of SoftRight;
- e. Issues with FTP, POP, or SMTP access;
- f. Client's acts or omissions (or acts or omissions of others engaged or authorized by Client), negligence, or willful misconduct;
- g. E-mail or webmail delivery and transmission;
- h. DNS propagation;
- i. Outages elsewhere on the Internet that hinders access to Client's account. SoftRight is not responsible for browser or DNS caching that may make Client's site appear inaccessible when others can still access it. SoftRight is only responsible for those components considered under the exclusive control of SoftRight.

GENERAL TERMS & CONDITIONS

1. Risk of Loss and Damage:

Middleborough assumes all risks of loss from fire or casualty, theft and/or the fault, negligence or intentional acts or conduct of persons other than that of the agents, representatives, and/or employees of SoftRight.

2. Force Majeure:

A party shall not be considered in default due to any failure in performance of this Agreement in accordance with its terms, should such failure arise out of a cause beyond its reasonable control, including acts of nature, and without its fault or negligence, and provided such failure is caused solely by events of force majeure, and provided that such party has diligently acted to perform as the circumstances permit. Notwithstanding, time shall remain of the essence as to the party's obligations hereunder.

3. Surrender:

SoftRight will grant inquiry and reporting functionality to Middleborough should Middleborough elect to retain the use of the Software upon the expiration or termination of this agreement. An annual Software support fee for inquiry and reporting functionality shall be assessed equal to ½ of the annual support fee in effect upon expiration or termination of this agreement. Should Middleborough elect to decline inquiry and reporting functionality upon the expiration or termination of this Agreement, Middleborough shall immediately surrender the Software, including any and all copies or reproductions thereof, and all documentation to SoftRight in good order and condition. All financial data converted for Middleborough or entered by Middleborough related to the intended use of the Software under the terms and conditions of this Agreement shall remain the property of Middleborough.

4. Severability and Survival:

If any provision of this Agreement or any part thereof shall be held invalid or illegal, the remainder of this Agreement, or the remainder of such provision, shall remain in full force and effect.

5. Assignment:

SoftRight retains full right, title and interest in and to the Software, including any and all Enhancements and/or Modifications thereto, and including the unconditional right to transfer its ownership of the Software, and/or to transfer or assign all of its rights and obligations under this Agreement.

6. Waiver:

Failure by a party to this Agreement to assert its rights under this Agreement shall not be deemed a waiver of any future rights under this Agreement.

7. Governing Law:

This Agreement shall be construed in accordance with, and governed by and enforced under the laws of the Commonwealth of Massachusetts.

8. Entire Agreement:

This Agreement represents the entire understanding of the parties hereto and supersedes all other agreements; oral or written, prior to, or contemporaneous with, express or implied, between the parties hereto with respect to the subject matter hereof.

9. Arbitration:

This agreement and any disputes arising out of or in connection with this agreement will be decided in accordance with the rules of the American Arbitration Association. Any arbitration shall be held in a location mutually agreed upon by both parties. If a location cannot be agreed upon, it will be held in the American Arbitration Association office in Boston, Massachusetts. The arbitrator may award attorney's fees and costs as part of any judgment. The award of the arbitrator shall be binding. It may be entered as a judgment in a court of competent jurisdiction.

10. Limitations of Actions:

No action at law, in equity or for arbitration regarding this Agreement may be brought more than one (1) calendar year after the date upon which the acts complained of shall have occurred.

11. Notice:

Unless otherwise specified herein, any notice required or contemplated by this Agreement shall be valid if delivered by First Class Mail or Overnight Courier as follows unless notified in writing of a change of address:

If to SoftRight:

Kevin Adolph

SoftRight, LLC

234 Littleton Road, Unit 1B

Westford, MA 01886

If to Middleborough:

Town of Middleborough

10 Nickerson Avenue

Middleborough, MA 02346

FEE AUTHORIZATION

Allin Frawley, Chairman
I, Board of Selectmen, as the Authorizing Officer of Middleborough hereby designate the following staff as those able to request changes to SoftRight's applications which incur a monetary cost to Middleborough.

Collections:

Tara Pirraglia, IT Administrator
Judy MacDonald, Treasurer/Collector

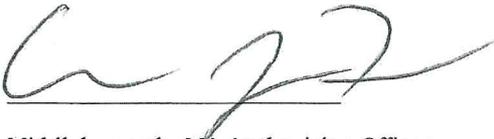
Treasury:

Tara Pirraglia, IT Administrator
Judy MacDonald, Treasurer/Collector

System Configuration:

Tara Pirraglia, IT Administrator

By signing this document I acknowledge that I have been made aware the Middleborough staff listed above may only be amended in writing by the Authorizing Officer on behalf of Middleborough hereto.



Middleborough, MA Authorizing Officer

June 8, 2015

Date

SECURITY AUTHORIZATION

Allin Frawley, Chairman
Board of Selectmen
I, _____, as the Authorizing Officer of Middleborough hereby designate the following staff as those able to request user privilege and/or system configuration changes to SoftRight's applications.

Collections:

Tara Pirraglia, IT Administrator

Judy MacDonald, Treasurer/Collector

Treasury:

Tara Pirraglia, IT Administrator

Judy MacDonald, Treasurer/Collector

System Configuration:

Tara Pirraglia, IT Administrator

By signing this document I acknowledge that I have been made aware the Middleborough staff listed above may only be amended in writing by the Authorizing Officer on behalf of Middleborough hereto.



Middleborough, MA Authorizing Officer

June 8, 2015

Date

SUPPORT AUTHORIZATION

Allin Frawley, Chairman
I, Board of Selectmen, as the Authorizing Officer of Middleborough hereby designate the following staff as those able to request telephone and/or remote support for SoftRight's applications.

Collections:

Tara Pirraglia, IT Administrator

Judy MacDonald, Treasurer/Collector

Treasury:

Tara Pirraglia, IT Administrator

Judy MacDonald, Treasurer/Collector

System Configuration:

Tara Pirraglia, IT Administrator

By signing this document I acknowledge that I have been made aware the Middleborough staff listed above may only be amended in writing by the Authorizing Officer on behalf of Middleborough hereto.



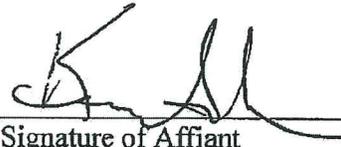
Middleborough, MA Authorizing Officer

June 8, 2015

Date

TAX COMPLIANCE AFFIDAVIT

The undersigned pursuant to Massachusetts General Laws, Chapter 62C, Section 49A hereby certifies under penalties of perjury that *SoftRight, LLC* has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.



Signature of Affiant

Kevin Adolph

Print Name of Affiant



SoftRight's applications are available under the Massachusetts
State Bid List (Contract #ITS42)

*** There is a 3% markup (software pricing only) for using ITS42

EXHIBIT A: TOWN OF MIDDLEBOROUGH

<u>Software Applications & Annual Support</u>	<u>Investment</u>	<u>Annual Support</u>
<u>Tax Collection Software Module</u>	\$24,900.00	\$6,225.00
Real Estate & Personal Property		
Inquiry & Maintenance		
Transaction Packet Maintenance (Desktop Payments)		
Assessor Data Bridge		
Additional Modules		
Motor Vehicle Excise	\$3,000.00	\$600.00
Collector's Tax Title	\$3,500.00	\$700.00
Abatement Certificates	\$2,000.00	\$400.00
Municipal Lien Certificates	\$2,100.00	\$420.00
Miscellaneous Receipts	\$3,100.00	\$620.00
Boating & Marine	\$2,500.00	\$500.00
General Billing	\$4,000.00	\$1,000.00
(17) Cash Drawer (Includes 1 Drawer, 1 Receipt Printer, 1 Scanner)	\$28,000.00	\$5,600.00
Betterments	\$3,000.00	\$600.00
<u>Total Tax Collection</u>	<u>\$76,100.00</u>	<u>\$16,665.00</u>
 <u>Treasury Management Software Module</u>	 \$9,900.00	 \$2,475.00
Treasury Receipts		
Cash Book		
Electronic Bank Reconciliation		
Treasurer's Tax Title		
<u>Total Treasury Management</u>	<u>\$9,900.00</u>	<u>\$2,475.00</u>
 <u>Total: Software Applications & Annual Support</u>	 <u>\$86,000.00</u>	 <u>\$19,140.00</u>
 <u>Implementation Services</u>	 <u>Collections</u>	 <u>Treasury</u>
Turnkey Implementation Services	\$2,200.00	\$1,000.00
Project Discovery & Scope (at client site)		
Application Set-up & Configuration (at SoftRight)		
Application Verification (at SoftRight)		
Application Customization (at SoftRight)		
Data Conversion	\$4,000.00	\$1,000.00
From Current Vendor to SoftRight		
Conversion amounts are for a live application		
On-site Training & Configuration Services	\$8,550.00	\$1,300.00
Product Installation		
Application Testing		
Application Verification		
Tax Collection: 60 hours on-site, 14 hours travel		
Treasury: 8 hours on-site, 4 hours travel		
<u>Total: Implementation Services</u>	<u>\$14,750.00</u>	<u>\$3,300.00</u>



SOFTRIGHT

CLOUD SOFTWARE FOR MUNICIPALITIES

OPTION 1: CAPITAL INVESTMENT HOSTED SOLUTION MUNICIPAL SOFTWARE SOLUTION: PRICING SUMMARY

	<u>ONE TIME FEE</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>YEAR 3</u>	<u>YEAR 4</u>
Software Modules (one-time fee)	\$86,000.00				
Implementation Services (one-time)	\$18,050.00				
ITS42 3% markup (one-time fee)	\$2,580.00				
Installed Total (one-time fee)	<u>\$106,630.00</u>				
Annual Support (recurring fee)		\$19,140.00	\$19,982.16	\$20,861.38	\$21,779.28
Annual Hosting Fee (recurring fee)		\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
Total		<u>\$21,640.00</u>	<u>\$22,482.16</u>	<u>\$23,361.38</u>	<u>\$24,279.28</u>

Note1: Annual support for Year 1 will be billed on July 1, 2015

Note2: Annual support for each additional year will be billed on July 1st thereafter.

Note3: Additional training, data conversion, consulting and all other services are billed at \$125 per hour.

Note4: Data conversion and training services are estimated. Client will be billed for services rendered.

Note5: Travel time is billed at \$75 per hour.

Note6: Pricing proposal allows for unlimited user licenses for one server.



7 Clayton Road Middleboro, MA 02346

Invoice

Date	Invoice #
6/21/2016	11077

Bill To
Town of Middleborough ATTN: Town Manager's Office Bob Nunes 10 Nickerson Avenue Middleborough, MA 02346

Job Location
Oliver Estates 445 Plymouth Street Middleborough, MA 02346

For any billing questions please call 508-947-0225

Terms	Due Date
	6/21/2016

Serviced	Description	Qty	Rate	Amount
6/18/2016	Landscape Mow Service		150.00	150.00
6/18/2016	Additional Landscape Services		540.00	540.00

<p>All account balances not paid within terms are subject to a finance charge of 1.5% (18% annually).</p> <p style="text-align: center; color: green; font-weight: bold;">Thank you for your business!!</p>	Subtotal	\$690.00
	Sales Tax	\$0.00
	Total	\$690.00
	Payments/Credits	\$0.00
	Balance Due	\$690.00



7 Clayton Road Middleboro, MA 02346

Invoice

Date	Invoice #
6/24/2016	11091

Bill To
Town of Middleborough ATTN: Town Manager's Office Bob Nunes 10 Nickerson Avenue Middleborough, MA 02346

Job Location
Oliver Estates 445 Plymouth Street Middleborough, MA 02346

For any billing questions please call 508-947-0225

Terms	Due Date
	6/24/2016

Serviced	Description	Qty	Rate	Amount
6/24/2016	Landscape Mow Service		150.00	150.00
6/24/2016	Additional Landscape Services		540.00	540.00

All account balances not paid within terms are subject to a finance charge of 1.5% (18% annually).

Subtotal	\$690.00
Sales Tax	\$0.00
Total	\$690.00
Payments/Credits	\$0.00
Balance Due	\$690.00

Thank you for your business!!



7 Clayton Road Middleboro, MA 02346

Invoice

Date	Invoice #
6/1/2016	10950

Bill To
Town of Middleboro ATTN: Town Manager's Office Bob Nunes 10 Nickerson Street Middleboro, MA 02346

Job Location
Town of Middleboro Oliver Estates 445 Plymouth Street Middleboro, MA 02346

For any billing questions please call 508-947-0225

Terms	Due Date
	6/1/2016

Serviced	Description	Qty	Rate	Amount
5/27/2016	Landscape Mow Service		150.00	150.00

All account balances not paid within terms are subject to a finance charge of 1.5% (18% annually).

Subtotal	\$150.00
Sales Tax	\$0.00
Total	\$150.00
Payments/Credits	\$0.00
Balance Due	\$150.00

Thank you for your business!!

Jacqueline Shanley

From: Jane Kudcey
Sent: Wednesday, June 22, 2016 11:47 AM
To: Jacqueline Shanley
Cc: Robert G. Nunes
Subject: Grant signature requested for BOS meeting
Attachments: Contract Middleborough AGO Healty Jobs Grant.docx

Hi Jackie,

Would you please put the following on the agenda for the next BOS meeting:

The OECD is requesting that the Board accept the Summer Youth Jobs grant of \$5,313 from the Attorney General's Office and to authorize the Chair to sign the Standard Contract Form.

I am attaching the contract form, Diane will need to sign on the bottom left.

Let me know if you have any questions,

Thanks,

Jane

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the [Executive Office for Administration and Finance \(ANF\)](#), the [Office of the Comptroller \(CTR\)](#) and the [Operational Services Division \(OSD\)](#) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: Town of Middleborough (and d/b/a):	COMMONWEALTH DEPARTMENT NAME: Office of the Attorney General MMARS Department Code: AGO
Legal Address: (W-9, W-4,T&C):	Business Mailing Address: One Ashburton Place, 20 th Floor, Boston, MA 02108
Contract Manager:	Billing Address (if different):
E-Mail:	Contract Manager: Allyson Trenteseaux
Phone: _____ Fax: _____	E-Mail: Allyson.Trenteseaux@state.ma.us
Contractor Vendor Code:	Phone: 617-963-2077 Fax: 617-963-2440
Vendor Code Address ID (e.g. "AD001"): AD ____ (Note: The Address Id Must be set up for EFT payments.)	MMARS Doc ID(s): _____ RFR/Procurement or Other ID Number: _____
<input checked="" type="checkbox"/> NEW CONTRACT PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)	<input type="checkbox"/> CONTRACT AMENDMENT Enter Current Contract End Date <i>Prior</i> to Amendment: _____, 20 ____. Enter Amendment Amount: \$ _____. (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services	
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or <i>new</i> Total if Contract is being amended). \$5,313.00	
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___ % PPD; Payment issued within 15 days ___ % PPD; Payment issued within 20 days ___ % PPD; Payment issued within 30 days ___ % PPD. If PPD percentages are left blank, identify reason: ___ agree to standard 45 day cycle ___ statutory/legal or Ready Payments (G.L. c. 29, § 23A); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy .)	
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) The Summer Youth Jobs grant program benefits youth from low socio-economic status (SES) communities by providing opportunities for employment, health, and wellness. The scope of services (attachment A) is incorporated by reference.	
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: ___ 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date . ___ 2. may be incurred as of _____, 20____, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date . <input checked="" type="checkbox"/> 3. were incurred as of July 5, 2016 , a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.	
CONTRACT END DATE: Contract performance shall terminate as of September 15, 2016 , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.	
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the " Effective Date " of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions , this Standard Contract Form including the Instructions and Contractor Certifications , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.	
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: _____ Print Title: _____	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: Anne Wong Print Title: Deputy Budget Director

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

CONTRACTOR LEGAL NAME (AND D/B/A): Enter the **Full Legal Name** of the Contractor's business as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#). If Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

Contractor Legal Address: Enter the Legal Address of the Contractor as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#), which must match the legal address on the 1099I table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

Contractor Contract Manager: Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on [COMMBUYS](#), the name of the Contract Manager must be included in the Contract on COMMBUYS.

Contractor E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

Contractor Vendor Code: The Department must enter the [MMARS Vendor Code](#) assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned. The Department is responsible under the [Vendor File and W-9s Policy](#) for verifying with authorized signatories of the Contractor, as part of contract execution, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the state accounting system.

Vendor Code Address ID: (e.g., "AD001") The Department must enter the MMARS Vendor Code Address Id identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the [Bill Paying](#) and [Vendor File and W-9](#) policies.

COMMONWEALTH DEPARTMENT NAME: Enter the full Department name with the authority to obligate funds encumbered for the Contract.

Commonwealth MMARS Alpha Department Code: Enter the [three \(3\) letter MMARS Code](#) assigned to this Commonwealth Department in the state accounting system.

Department Business Mailing Address: Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

Department Billing Address: Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

Department Contract Manager: Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

Department E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

MMARS Document ID(s): Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

RFR/Procurement or Other ID Number or Name: Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract, and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

PROCUREMENT OR EXCEPTION TYPE: Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See [State Finance Law and General Requirements](#), [Acquisition Policy and Fixed Assets](#), the [Commodities and Services Policy](#) and the [Procurement Information Center \(Department Contract Guidance\)](#) for details.

Statewide Contract (OSD or an OSD-designated Department). Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

Collective Purchase approved by OSD. Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

Department Contract Procurement. Check this option for a Department procurement including state grants and federal sub-grants under [815 CMR 2.00](#) and [State Grants and Federal Subgrants Policy](#). Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

Emergency Contract. Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

Contract Employee. Check this option when the Department requires the performance of an [Individual Contractor](#), and when the planned Contract performance with an Individual has been classified using the [Employment Status Form](#) (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) "See [Amendments, Suspensions, and Termination Policy](#)."

Enter Current Contract End Date: Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

Enter Amendment Amount: Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

AMENDMENT TYPE: Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. **Amendment to Scope or Budget.** Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#), incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

Interim Contracts. Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

Contract Employee. Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly posted.

COMMONWEALTH TERMS AND CONDITIONS

Identify which [Commonwealth Terms and Conditions](#) the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on the Vendor Customer File (VCUST). See [Vendor File and W-9s Policy](#).

COMPENSATION

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Identify if the Contract is a **Rate Contract** (with no stated Maximum Obligation) or a **Maximum Obligation Contract** (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as [available and encumbered](#) prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth [Bill Paying Policy](#) for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under [G.L. c. 29, s. 23A](#)). See [Prompt Pay Discounts Policy](#). PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments ([G.L. c. 29, § 23A](#)); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for all payments under a Contract. Initial grant or contract payments may be accelerated for the *first* invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the [Expenditure Classification Handbook](#)) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the [Effective Date](#) (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default [Effective Date](#) (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the [Settlement and Release Form](#) when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the [Effective Date](#) for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the [Effective Date](#) under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to [G.L. c.4, § 9](#).

CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. **If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here.** A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are

appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to [G.L. c.4, § 9](#).

CERTIFICATIONS AND EXECUTION

See [Department Head Signature Authorization Policy](#) and the [Contractor Authorized Signatory Listing](#) for policies on Contractor and Department signatures.

Authorizing Signature for Contractor/Date: The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Contract Start Date](#)". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable.** Proof of Contractor signature authorization on a [Contractor Authorized Signatory Listing](#) may be required by the Department if not already on file.

Contractor Name /Title: The Contractor Authorized Signatory's name and title must appear legibly as it appears on the [Contractor Authorized Signatory Listing](#).

Authorizing Signature For Commonwealth/Date: The [Authorized Department Signatory](#) must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Start Date](#)". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See [Department Head Signature Authorization](#). The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an [approved Interdepartmental Service Agreement \(ISA\)](#). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

Department Name /Title: Enter the Authorized Signatory's name and title legibly.

CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

Commonwealth and Contractor Ownership Rights. The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

Qualifications. The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the [Secretary of State's website](#) as licensed to do business in Massachusetts, as required by law.

Business Ethics and Fraud, Waste and Abuse Prevention. The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

Collusion. The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

Public Records and Access The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under [Executive Order 195](#) and [G.L. c. 11, s.12](#) seven (7) years beginning on the first day after the final payment under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under [950 C.M.R. 32.00](#).

Debarment. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or

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regulation including, [Executive Order 147](#); [G.L. c. 29, s. 29F](#); [G.L. c. 30, § 39R](#); [G.L. c. 149, s. 27C](#); [G.L. c. 149, § 44C](#); [G.L. c. 149, § 148B](#) and [G.L. c. 152, s. 25C](#).

Applicable Laws. The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable [Massachusetts General Laws](#); the Official [Code of Massachusetts Regulations](#); [Code of Massachusetts Regulations](#) (unofficial); [801 CMR 21.00](#) (Procurement of Commodity and Service Procurements, Including Human and Social Services); [815 CMR 2.00](#) (Grants and Subsidies); [808 CMR 1.00](#) (Compliance, Reporting and Auditing for Human And Social Services); [AICPA Standards](#); confidentiality of Department records under [G.L. c. 66A](#); and the [Massachusetts Constitution Article XVIII](#) if applicable.

Invoices. The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth [Bill Paying Policy](#). Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15th for performance made and received (goods delivered, services completed) prior to June 30th, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15th or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

Payments Subject To Appropriation. Pursuant to [G.L. c. 29 § 26](#), [§ 27](#) and [§ 29](#), Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by [G.L. c. 29, § 9C](#). A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

Intercept. Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to [G.L. c. 7A, s. 3](#) and [815 CMR 9.00](#). Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

Tax Law Compliance. The Contractor certifies under the pains and penalties of perjury tax compliance with [Federal tax laws](#); [state tax laws](#) including but not limited to [G.L. c. 62C](#), [G.L. c. 62C, s. 49A](#); compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under [G.L. c. 62E](#), withholding and remitting [child support](#) including [G.L. c. 119A, s. 12](#); [TIR 05-11](#); [New Independent Contractor Provisions](#) and applicable [TIRs](#).

Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts. The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing **at least 45 days prior** to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is **any risk** to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

Federal Anti-Lobbying and Other Federal Requirements. If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including [31 USC 1352](#); [other federal requirements](#); [Executive Order 11246](#); [Air Pollution Act](#); [Federal Water Pollution Control Act](#) and [Federal Employment Laws](#).

Protection of Personal Data and Information. The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information

transmitted electronically or through a portable device be properly encrypted using (at a minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).

Corporate and Business Filings and Reports. The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the [Secretary of the Commonwealth](#), the [Office of the Attorney General](#) or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

Employer Requirements. Contractors that are employers certify compliance with applicable state and [federal employment laws](#) or regulations, including but not limited to [G.L. c. 5, s. 1](#) (Prevailing Wages for Printing and Distribution of Public Documents); [G.L. c. 7, s. 22](#) (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); [minimum wages and prevailing wage programs and payments](#); [unemployment insurance](#) and contributions; [workers' compensation and insurance](#), [child labor laws](#), [AGO fair labor practices](#); [G.L. c. 149](#) (Labor and Industries); [G.L. c. 150A](#) (Labor Relations); [G.L. c. 151](#) and [455 CMR 2.00](#) (Minimum Fair Wages); [G.L. c. 151A](#) (Employment and Training); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); [G.L. c. 152](#) (Workers' Compensation); [G.L. c. 153](#) (Liability for Injuries); [29 USC c. 8](#) (Federal Fair Labor Standards); [29 USC c. 28](#) and the [Federal Family and Medical Leave Act](#).

Federal And State Laws And Regulations Prohibiting Discrimination including but not limited to the [Federal Equal Employment Opportunity \(EEO\) Laws](#) the [Americans with Disabilities Act](#); [42 U.S.C. Sec. 12,101, et seq.](#), the [Rehabilitation Act](#), [29 USC c. 16 s. 794](#); [29 USC c. 16 s. 701](#); [29 USC c. 14, 623](#); the [42 USC c. 45](#); (Federal Fair Housing Act); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); the Public Accommodations Law [G.L. c. 272, s. 92A](#); [G.L. c. 272, s. 98](#) and [98A](#), [Massachusetts Constitution Article CXIV](#) and [G.L. c. 93, s. 103](#); [47 USC c. 5, sc. II, Part II, s. 255](#) (Telecommunication Act; Chapter 149, [Section 105D](#), [G.L. c. 151C](#), [G.L. c. 272, Section 92A](#), [Section 98](#) and [Section 98A](#), and [G.L. c. 111, Section 199A](#), and [Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities](#), and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also [MCAD](#) and [MCAD links and Resources](#).

Small Business Purchasing Program (SBPP). A Contractor may be eligible to participate in the SBPP, created pursuant to [Executive Order 523](#), if qualified through the SBPP COMMBUYs subscription process at: [www.commbuys.com](#) and with acceptance of the terms of the SBPP participation agreement.

Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized). The [Information Technology Mandatory Specifications](#) and the [IT Acquisition Accessibility Contract Language](#) are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the [Expenditure Classification Handbook](#) or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term "other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

Northern Ireland Certification. Pursuant to [G.L. c. 7 s. 22C](#) for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the

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Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

Pandemic, Disaster or Emergency Performance. In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

Consultant Contractor Certifications (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to [G.L. Chapter 29, s. 29A](#)). Contractors must make required disclosures as part of the RFR Response or using the [Consultant Contractor Mandatory Submission Form](#).

Attorneys. Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to [G.L. c. 30, s. 65](#), and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

Subcontractor Performance. The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors. .

EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable [Executive Orders](#) (see also [Massachusetts Executive Orders](#)), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

Executive Order 481. Prohibiting the Use of Undocumented Workers on State Contracts. For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

Executive Order 130. Anti-Boycott. The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott (See [IRC § 999\(b\)\(3\)-\(4\)](#), and [IRS Audit Guidelines Boycotts](#)) or engages in conduct declared to be unlawful by [G.L. c. 151E, s. 2](#). A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor, or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

Executive Order 346. Hiring of State Employees By State Contractors Contractor certifies compliance with both the conflict of interest law [G.L. c. 268A specifically s. 5 \(f\)](#) and this order, and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

Executive Order 444. Disclosure of Family Relationships With Other State Employees. Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

Executive Order 504. Regarding the Security and Confidentiality of Personal Information. For all Contracts involving the Contractor's access to personal information, as defined in [G.L. c. 93H](#), and personal data, as defined in [G.L. c. 66A](#), owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts

Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth [Information Technology Division's Security Policies](#). Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "[Security Policies](#)" (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the [Commonwealth's Terms and Conditions](#), withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under [G.L. c. 214, § 3B](#) for violations under M.G.L. c. 66A. **Executive Orders 523, 524 and 526.** Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes [Executive Order 478](#)), [Executive Order 524](#) (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390), [Executive Order 523](#) (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

AMORY ENGINEERS, P.C.

WATER WORKS • WATER RESOURCES • CIVIL WORKS

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WWW.AMORYENGINEERS.COM

June 8, 2016

Mr. Joseph Silva, Superintendent
Water Department
48 Wareham Street
Middleborough, MA 02346

Subject: Mizaras WPS - Watermain Pipe

Dear Mr. Silva:

Sealed quotes for supply of watermain materials for the Mizaras WPS Watermain project were opened on May 26, 2016. Five quotes were received and are summarized on the enclosed Quote Tabulation. E.J. Prescott, Inc. of Brockton, MA, submitted the low quote for both alternatives (Alternative A (12-in. pipe) - \$70,972.00) and (Alternative B (8-in. pipe) - \$43,688.00). Two alternatives were requested to allow an economic evaluation of pipe size capital cost versus well pump power costs/water age/water quality considerations. As we discussed, the well development is nearing completion and based on results to date, the 8-in main will provide sufficient capacity, the increased pumping costs are offset by the materials capital cost savings, and water quality/water age are not impacted by the smaller pipe.

We are satisfied that E.J. Prescott, Inc. has the experience and capability to complete the contract. We therefore recommend award of watermain materials supply contract Alternative B to E.J. Prescott, Inc. We have enclosed the original Quotes of all the firms for your files. Please advise when the project has been awarded and we will prepare the contract to be executed.

Please call if you have any question.

Very truly yours,

AMORY ENGINEERS, P.C.

By:



Richard S. Johnson, P.E.

rsj:RSJ

enc.

Mr. Robert Nunes ✓
Mr. Christopher Peck

SUMMARY OF BIDS
Watermain Pipe- Mizaras WPS
Middleborough Water Department
Middleborough, MA
Bid Opening May 26, 2016

Bidder Name Address	Bid Alternate A	Bid Alternate B
1. E.J. Prescott, Inc. 159 Manley St. Brockton, MA 0230	\$70,972.00	\$43,688.00
2. Ferguson Waterworks 2 Whitman Rd. Canton, MA 02021	\$74,986.15	\$46,024.65
3. HD Supply Waterworks 125 Stergis Way Dedham, MA 02026	\$76,950.11	\$47,391.00
4. John Hoadley & Sons, Inc. 672 Union St. Rockland, MA 02370	\$77,427.00	\$47,565.00
5. F.W. Webb CO 160 Middlesex TPK Bedford, MA 01730	\$88,498.00	\$54,365.00

5/27/2016
 By: CJA
 Checked: RSJ

AMORY ENGINEERS, P.C.
 DUXBURY, MASSACHUSETTS

		Hoadley & Sons, Inc		F. W. Webb CO	
		Rockland, MA		Bedford, MA	
Item	Description	Price	Amount	Unit Price	Amount
BID ALTERNATE A					
1	Ductile Iron Water Main				
1a	12-in. Ductile Iron Watermain	29.00	\$ 72,500.00	\$ 32.35	\$ 80,875.00
1b	8-in. Ductile Iron Watermain	17.60	1,408.00	19.62	1,569.60
1c	6-in. Ductile Iron Watermain	12.50	250.00	13.87	277.40
2	Ductile Iron Watermain Fittings				
2a	12-in. x 8-in. DI Tee	50.00	720.00	620.00	1,240.00
2b	12-in. x 6-in. DI Anchor Tee	55.00	730.00	590.00	1,180.00
2c	12-in. 11-1/4 degree DI Bend	30.00	460.00	440.00	880.00
2d	12-in. 22-1/2 degree DI Bend	50.00	500.00	460.00	920.00
2e	12-in. 45 degree DI Bend	35.00	570.00	500.00	1,000.00
2f	12-in. DI Solid Sleeve	25.00	225.00	440.00	440.00
2g	8-in. DI Cap	64.00	64.00	116.00	116.00
	Bidder's Total		77,427.00		88,498.00
	Calculated Total		77,427.00		88,498.00
BID ALTERNATE B					
1	Ductile Iron Water Main				
1a	8-in. Ductile Iron Watermain	17.60	\$ 45,408.00	\$ 19.62	\$ 50,619.60
1b	6-in. Ductile Iron Watermain	12.50	250.00	13.87	277.40
2	Ductile Iron Watermain Fittings				
2a	8-in. x 8-in. DI Tee	12.00	424.00	376.00	752.00
2b	8-in. x 6-in. DI Anchor Tee	106.00	412.00	318.00	636.00
2c	8-in. 11-1/4 degree DI Bend	202.00	204.00	210.00	420.00
2d	8-in. 22-1/2 degree DI Bend	13.00	226.00	220.00	440.00
2e	8-in. 45 degree DI Bend	16.00	232.00	222.00	444.00
2f	8-in. DI Solid Sleeve	15.00	345.00	220.00	660.00
2g	8-in. DI Cap	64.00	64.00	116.00	116.00
	Bidder's Total		47,565.00		54,365.00
	Calculated Total		47,565.00		54,365.00

2016-2017 ANNUAL APPOINTMENTS
(Effective 7/1/16 through 6/30/17)

One Year Appointments

Fence Viewer

Robert Whalen

Tree Warden

Christopher Peck

Moth Superintendent

Christopher Peck

Animal Control Officer/Inspector

Kelly Jarabek

Alternate Animal Inspector

Derel Lee Twombly

Forest Fire Warden

Lance Benjamino

Alternate Wiring Inspector

John Hogan

Alternate Wiring Inspector

Michael Bell

Town Counsel

Daniel F. Murray

Veterans' Agent

Paul Provencher

AGREEMENT FOR PROJECT MANAGEMENT SERVICES

TOWN OF MIDDLEBOROUGH POLICE STATION PROJECT

The following provisions shall constitute an Agreement between the Awarding Authority, the Town of Middleborough, acting by and through its Board of Selectmen, hereinafter referred to as "Awarding Authority", with an address of: Town Manager, Middleborough Town Hall, 10 Nickerson Avenue, Middleborough, MA 02346 and Daedalus Projects, Inc with a usual place of business located 112 South Street, Boston, MA 02111 hereinafter referred to as "Project Manager", effective as of the day of June 27, 2016. In consideration of the mutual covenants of the contained herein, the parties agree as follows:

ARTICLE 1: SCOPE OF WORK

1.1. Generally.

1.1.1. The Project Manager shall initially perform the Scope of Services as described on Attachment A.

1.1.2. The Project Manager shall be the Awarding Authority's Owner's Project Manager as described in G.L.c. 149 Section 44A ½ -

1.1.3. In providing the Project Management Services, the Project Manager shall endeavor to maintain a harmonious and effective working relationship with the Project Designer and the Contractor.

ARTICLE 2: AWARDING AUTHORITY'S RESPONSIBILITIES

2.1. Unless otherwise provided by the Awarding Authority in writing, the following are hereby designated as the Awarding Authority's representative for this Project: the Police Station Building Committee.

2.2. The Awarding Authority intends to retain a professional design firm to design the Project (the "Designer") and one or more general contractors to construct the Project (the "Contractor").

2.3.3 The Project Manager shall not be responsible for the design or construction of the Project.

ARTICLE 3: TIME OF PERFORMANCE

3.1. The Project Manager shall perform the Design Phase of OPM Services in a prompt and expeditious manner, generally consistent with the schedule provided on _____

3.2. If the performance of services is delayed at any time in the commencement or progress of the Work, by an act or event beyond the Project Manager's ability to control, the Project Manager may submit a written request to the Awarding Authority for a reasonable extension of time to perform its services under this Agreement.

ARTICLE 4: COMPENSATION

4.1. The Awarding Authority shall pay the Project Manager a total not-to-exceed amount of \$291,500.

4.2. The Project Manager shall only be entitled to reimbursement for expenses if it obtains the prior written approval of the Awarding Authority before incurring such expenses.

4.3. If, through no fault of the Project Manager, the Awarding Authority requests the Project Manager to perform "Additional Services" to those described in this Agreement, the Project Manager shall first obtain the Awarding Authority's written approval of such Additional Services. If Additional Services are authorized, the Awarding Authority shall pay the Project Manager for those Additional Services based on the hourly rate of Project Director \$150.00, Project Manager \$140.00, and On Site representative \$98.00; unless another method of compensation is agreed upon by the parties in writing. Such rates shall include all salary, benefits, overhead and profit related to the Additional Services.

4.4. The Project Manager shall provide the Awarding Authority with an estimate of expected costs for any Additional Services requested and authorized by the Awarding Authority and the Project Manager shall provide such other information as the Awarding Authority may reasonably request, prior to undertaking such Additional Services.

4.5. Records of any reimbursable expenses or Additional Services provided under this Agreement and other cost information requested by the Awarding Authority relating to the services performed under this Agreement, shall be made available to the Awarding Authority upon reasonable request.

4.6. The Project Manager shall submit monthly to the Awarding Authority applications for payment for the services that have been performed on the Project, during the preceding monthly period.

4.7. Payment shall be made by the Awarding Authority to the Project Manager, within thirty (30) days after the application for payment is received by the Awarding Authority, for services performed in accordance with this Agreement.

ARTICLE 5: AGREEMENT DOCUMENTS

5.1. The following documents are incorporated by reference into this Agreement and those documents shall be considered part of the Agreement:

1. The Agreement.
2. Amendments to the Agreement.
3. Attachments to the Agreement.

In the event of conflicting provisions among the documents listed above, the conflicting provisions shall be interpreted in the manner most favorable to the Awarding Authority, provided that the Awarding Authority and the Project Manager shall endeavor to negotiate and resolve any conflicts that may arise.

ARTICLE 6: TERMINATION

6.1. The Awarding Authority may suspend or terminate this Agreement by providing the Project Manager with written notice of any of the following reasons:

1. Failure of the Project Manager to fulfill, in a timely and proper manner, its obligations under this Agreement.
2. Violation of any material provision of this Agreement by the Project Manager.
3. A determination by the Awarding Authority that the Project Manager has engaged in fraud, waste, mismanagement or misuse of funds, with regard to any funds or services provided under this Agreement.

6.2. The Awarding Authority may terminate this Agreement without cause and for its convenience, upon thirty (30) days prior written notice to the Project Manager.

6.3. If the Awarding Authority fails to make payment to the Project Manager of sums due and owing as provided in Article 4, the Project Manager may provide

written notice to the Awarding Authority of such failure, and if the Awarding Authority has not cured such failure within thirty days of receipt of such notice, the Project Manager may terminate this Agreement.

6.4. If the Awarding Authority fails to perform any of its material obligations other than as provided in Section 6.3, the Project Manager may provide written notice of such failure to the Awarding Authority, and if the Awarding Authority has not cured such failure within thirty (30) days after receipt of such notice, the Project Manager may terminate this Agreement.

6.5. In the event of a termination of this Agreement under paragraphs 6.2., 6.3., or 6.4., the Project Manager shall be compensated for all services satisfactorily performed prior to the effective date of such termination, subject to any claims of the Awarding Authority against the Project Manager. In no event shall the Project Manager have any claim for lost profits against the Awarding Authority, as a result of a termination of this Agreement.

ARTICLE 7: INDEMNIFICATION

7.1. The Project Manager agrees to indemnify, defend, and hold harmless the Awarding Authority, its departments, officials and employees from any claims, damages, causes of actions, losses, expenses, including attorneys' fees, to the extent such claims, damages, causes of action, losses, and expenses are based on or arise out of intentional or negligent acts or omissions of the Project Manager or its consultants or agents. The indemnification obligation of the Project Manager is in addition to, and not a limitation of, any other right or remedy otherwise available to the Awarding Authority under this Agreement and at law.

7.2. The Project Manager shall be solely responsible for all taxes or contributions imposed or required under the Social Security, Workers' Compensation, and Income Tax laws applicable to it with respect to its duties and obligations under the Agreement.

ARTICLE 8: AVAILABILITY OF FUNDS

8.1. The compensation provided to the Project Manager under this Agreement shall be subject to the availability and appropriation of funds by the Town of Middleborough.

ARTICLE 9: PERFORMANCE STANDARD-COMPLIANCE WITH LAW

9.1. The Project Manager shall provide all Project Management Services with reasonable diligence, and in a manner: (i) that is expeditious, and economical based on the provisions of this Agreement, and (ii) that demonstrates an understanding of the established schedule, budget and other Awarding Authority objectives for the Project.

9.2. The Project Manager represents that all Project Management Services will be performed in accordance with all applicable Federal, State, and local laws, ordinances, by-laws, codes and regulations and in accordance with sound project management practice.

9.3. The Project Manager agrees that, in performing the Project Management Services under this Agreement, it shall comply with the terms of all governmental approvals in connection with the performance of its Services under this Agreement.

9.4. Standard of Care-The Project Manager shall perform the services required under this Agreement in accordance with the degree of care and skill ordinarily exercised under similar circumstances by an Owner's Project Manager on a public construction project in Massachusetts.

ARTICLE 10: ASSIGNMENT

10.1. The Project Manager shall not make any assignment of this Agreement without the prior written approval of the Awarding Authority.

ARTICLE 11: AMENDMENTS

11.1. All amendments or any other changes to the provisions of this Agreement shall be made in writing, signed by the Awarding Authority and the Project Manager.

ARTICLE 12: INSURANCE

12.1. The Project Manager shall provide at its own expense and maintain during the term of this agreement insurance policies which cover the Project Manager's and its agents' activities connected to this Agreement, issued by responsible insurers satisfactory to the Awarding Authority and licensed to do business in the Commonwealth of Massachusetts. All insurers must have a rating of A- or better, as determined by A.M. Best Co.

12.2. The Project Manager shall provide the Awarding Authority with a Certificates of Insurance demonstrating that the Project Manager has obtained the following insurance coverage:

- (a) **Professional Liability:** \$1,000,000 per Claim
\$1,000,000 Policy Aggregate Limit

Coverage shall be maintained for a period of at least six (6) years after the date of final payment by the Awarding Authority to the Project Manager or the date of completion of the services provided hereunder, whichever is later.

- (b) **Commercial General Liability ("CGL")**
\$1,000,000 General Aggregate Limit per Project/Location
\$1,000,000 Each Occurrence

- (c) **Business Automobile Liability:**
\$1,000,000 Each Accident-Single Limit for all owned, hired and non-owned autos.

- (d) **Workers' Compensation/Employer's Liability:**
The Project Manager shall provide coverage for MA statutory Worker's Compensation.

12.3. The foregoing policies shall contain a provision that coverages afforded under the policies will not be cancelled, modified or not renewed until at least thirty (30) days prior written notice has been given to the Awarding Authority. Certificates of Insurance showing such coverages are in force shall be filed with the Awarding Authority prior to the execution of this Agreement and upon the renewal of any such coverage during the term of this Agreement. Certificates shall indicate effective dates and expiration dates of policies. All insurance policies required hereunder shall be written by companies satisfactory to the Awarding Authority and licensed to do business in the Commonwealth of Massachusetts and shall be in form satisfactory to the Awarding Authority.

ARTICLE 13: DOCUMENTS AND DELIVERABLES

13.1. All documents, plans, drawing, reports and data ("Documents") prepared by the Project Manager under this Agreement, all Documents received by the Project Manager in connection with this Agreement, and all Documents delivered to the Awarding Authority by the Project Manager under this Agreement, shall be the property of the Awarding Authority.

ARTICLE 14: NOTICE

14.1 All notices required to be given hereunder shall be in writing and delivered, or mailed first class, to the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone, email or facsimile, but shall be followed by notice in writing in the manner set forth above, as soon as practicable.

ARTICLE 15: DISPUTE RESOLUTION

15.1. All claims, disputes and other matters in question between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be subject to resolution by Plymouth County Superior Court, unless the parties agree in a separate writing to some other form of dispute resolution.

ARTICLE 16: STAFFING

16.1. It is understood that the unique abilities of the Project Manager have been a substantial inducement for the Awarding Authority to enter into this Agreement. Therefore, the Project Manager will perform the work itself and will not assign or subcontract the work to third parties without the prior written consent of the Awarding Authority.

16.2. The Project Manager's key employees assigned to the Project shall be experienced in projects similar in size, scope and complexity to the Project. Each such employee shall be appropriately licensed, certified and qualified by training and experience in their respective fields. The Awarding Authority may require replacement of any employee assigned to the Project by the Project Manager, if such employee fails to properly perform its work in accordance with the terms of this Agreement.

16.3. The Project Manager shall not assign to the Project any employees or replacement employees to the Project, if the Awarding Authority has reasonable objection to the qualifications of those employees.

16.4. The Owner may request the Project Manager to provide a representative at the Project site to be the Clerk of Works during construction. The Project Manager and the Awarding Authority shall agree to the hours that the Clerk of Works shall work on the Project during construction and the compensation for the Clerk of Works.

16.5. The Project Manager will at all times remain an independent contractor and is not, and agrees not to hold itself out to be an employee of the Awarding Authority.

ARTICLE 17: CERTIFICATIONS

17.1. The Project Manager certifies that:

1. It has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Agreement.
2. No consultant to the Project Manager has given, offered or agreed to give any gift, contribution or offer of employment to the Project Manager or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant of a contract by the Project Manager.
3. No person, corporation or other entity, other than a bona fide employee of the Project Manager, has been retained or hired by the Project Manager to solicit for or in any way assist the Project Manager in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to the Project Manager.
4. It has internal accounting controls as required by M.G.L.c. 30, §39R and that the Project Manager has filed and will continue to file an audited financial statement as required by M.G.L.c. 30, §39R (d), if and to the extent required by law.

ARTICLE 18: MISCELLANEOUS

18.1. This Agreement will be interpreted in accordance with the law of the Commonwealth of Massachusetts.

18.2. If any portion of this Agreement is held as a matter of law to be unenforceable, the remainder of this Agreement shall be enforceable.

18.3. This Agreement represents the entire and integrated agreement between the Awarding Authority and the Project Manager and supersedes all prior negotiations, representations or agreements, either written or oral.

18.4. The Project Manager may not assign any right or delegate any obligation hereunder without the Awarding Authority's prior written approval.

18.5. Each and every provision of law required to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then the Agreement shall be read as if such provision were included and correctly inserted.

18.6. No employee or official of the Awarding Authority shall assume any personal liability pursuant to this Agreement.

18.7. No employee or officer of the Project Manager shall assume any personal liability pursuant to this Agreement.

18.8. Pursuant to M.G.L.c. 62C, §49A, the undersigned signatory for the Project Manager certifies under the penalties of perjury that the Project Manager has complied with all laws of the Commonwealth of Massachusetts relating to the payment of taxes, reporting of employee and contractors, and withholding and remitting child support.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

Project Manager

Daedalus Projects, Inc.

112 South Street, Boston, MA 02111

Awarding Authority

Town of Middleborough

By its: Richard Marks

President

Title

By its: _____

Board of Selectmen

Provide Corporate Certificate authorizing the individual to sign the Agreement on behalf of the Corporation

ATTACHMENT "A"

TO

REQUEST FOR PROPOSALS

FOR

OPM SERVICES MIDDLEBOROUGH POLICE

STATION PROJECT **SCOPE OF SERVICES**

SCOPE OF SERVICES

The OPM's scope of work generally involves representing the Awarding Authority and shall act as the Awarding Authority's agent and consultant throughout this project as outlined in MGL Chapter 149, Section 44A 1/2. As such, the OPM shall be responsible for the total management of the Project as the Awarding Authority's representative and shall report to the Police Station Building Committee. The OPM's duties shall include, but not be limited to, providing advice and consultation with respect to design, value engineering, scope of work, cost estimating, general contractor and subcontractor prequalification, pursuant to MGL Chapter 149, Section 44D 1/2 or 44D 3/4 when applicable, scheduling, bidding, and construction; and the selection, negotiation with and oversight of a designer and a general contractor for the project, ensuring the preparation of time schedules which shall serve as control standards for monitoring performance of the building project, and assisting in project evaluation including, but not limited to, written evaluations of the performance of the design professional, contractors and subcontractors.

The OPM shall be responsible for overall project oversight, including all services associated with the project management of a first-class, publicly constructed facility in Massachusetts similar in size and scope to the Project and as described herein. Through observation, advice and consultation, the OPM will endeavor to protect the Town of Middleborough against defects, deficiencies in the work, cost additions/overruns and delays in the completion of the project.

The OPM shall not have responsibility for the design or the construction of the project. Such responsibilities shall remain with the Designer and the General Contractor ("Contractor").

The OPM shall provide the following services:

A. Entire Project

A1. Compliance with all Federal State, and Local Laws, Rules and Regulations:

Ensure the Project remains in full compliance with all applicable Federal, State and Local laws, rules and regulations, including: MGL Chapter 149, Sections 44A- 44M; and this Request for Qualifications (RFQ) for OPM Services.

A2. Consultation with Awarding Authority:

- a. Attend regular meetings with the Police Station Building Committee, the Designer, the contractor(s), consultants and engineers during the course of the Project to advise the Awarding Authority on budget, schedule, quality, scope, and all other proprietary issues.
- b. Serve as the Awarding Authority's representative in the oversight and administration of the design contract, negotiations with the designer if required, the coordination of the design team's activities, and in the provision of leadership with respect to the implementation of the design, bidding and construction phases by all parties. The OPM shall also serve as the Awarding Authority's representative in the oversight and administration of the construction contract, including maintaining certificates of insurance, bonds, and so forth from the contractor, designer, and others as necessary.
- c. Of significant importance to the success of the project is compliance with various Grant and gift requirements, and application for reimbursement from applicable grantors. The OPM shall be familiar with this process and ensure that the project meets all of the requirements to receive the maximum reimbursement and/or funding, as may be applicable, with supporting documentation.

A3. Cost Estimating and Cost Control Management:

a. The OPM shall provide cost control management services throughout the duration of the project, including design and construction phases, to control and contain the cost of the project within the limits of the total project cost budget as determined by the Awarding Authority, including lifecycle cost analysis.

b. The OPM shall also provide value management services, which includes value engineering and analysis of the building systems and design during all design and construction phases of the project. The goal is to reduce both the initial capital cost of the project, reduce long-term operational (life-cycle) costs, and yet maintain the Town of Middleborough desired level of quality, utility, function and performance of the facility. A Notice to Proceed to each successive design and construction phase of the project will not be issued by the Awarding Authority until the OPM analysis concludes that the project is within the total project and/or construction cost budget.

A4. Total Project Budget and Cash Flow Reports:

The OPM shall assist the Awarding Authority and Designer in the preparation of available Grant applications that may be able to reduce project costs. Review and update, on a monthly basis, the existing total project budget (including estimated construction costs and all "soft" costs anticipated to be associated with the project) during all phases of the work. Advise the Awarding Authority if it appears that the project budget will not be met and make recommendations for corrective action. Develop monthly cash flow reports and forecasts for the total project and advise the Awarding Authority of variances between actual, budgeted and projected project costs. Establish a format acceptable to the Awarding Authority for reporting budget and cash flow information.

A5. Project Invoices and Accounting Records:

The OPM shall review and take appropriate action upon all project-related invoices from the Designer and Contractor. Establish a procedure with the Awarding Authority for the processing of invoices. The OPM shall maintain accounting records on all project-related expenditures, including the Designer's requests for payment, contractor requisitions, furniture, furnishings, and equipment purchases, and the like.

Construction-related records shall also include construction base contract work performed under unit costs, change order work performed on the basis of actual costs of labor and materials, change order work performed under unit costs, compliance with prevailing wages, and compliance with all state and Town of Middleborough MBE/WBE requirements as applicable. All cost documentation and accounting records shall be maintained in a form suitable for submission as may be required, reimbursement, and audit.

A6. Master Project Schedule/Monthly Status Reports:

The OPM shall assist in the development of a Master Project Schedule, and shall advise the Awarding Authority on all schedule issues; monitor all aspects of the project's status and schedule, and advise the Awarding Authority, on a monthly basis at a minimum or more frequently as necessary, when actual or potential constraints to achieving the schedule and/or goals of the Awarding Authority have been created; and make recommendations for corrective action. Among other details, the project schedule shall include all milestones required to submit any required applications for project fund reimbursement and major decisions required by the Awarding Authority. The schedule shall also include the Awarding Authority's occupancy requirements with the appropriate allowance for procurement of technology, furniture and equipment.

A7. Communications. Documentation. and Public Meetings:

The OPM shall maintain all project related communications, collect all project related documentation, and establish and maintain a document control system. The OPM shall establish procedures for reviews, approvals, changes, submittals, RFI's, and a project change log among others. The OPM shall also serve as the Awarding Authority's representative at all project meetings; and shall attend and make presentations as may be required regarding the project at public meetings and forums.

B. Design and Construction Procurement Phases

B1. Designer Selection and Negotiations:

a. The OPM shall report to the Town of Middleborough Police Station Building Committee, and shall provide advice and consultation to the Police Station Building Committee to assure that the Town of Middleborough receives the highest quality design services for the project, including advice and consultation in the drafting of the Designer Request for Qualifications, Scope of Work and contract documents. This includes compliance with all Town of Middleborough Selection Procedures; compliance with MGL Chapter 7, Sections 38A 1/2 thru 38M regarding the Designer selection process, including the selection of the best qualified Designer for the project, negotiating a fee for design services, and contract negotiations with the successful Designer; and compliance with MGL Chapter 7C, Section 6 regarding an affirmative marketing program for state-assisted local projects and the Town of Middleborough's Minority or Women Business Enterprise Participation requirements, if applicable.

b. The OPM shall establish procedures for the evaluation of the Designer and shall prepare the Designer's final evaluation for submission to DCAM, after Awarding Authority approval, at the conclusion of the project.

B2. Additional Pre-Design and Design Requirements:

The OPM shall provide advice and consultation to the Awarding Authority and Designer on the preliminary design work that has been performed, including coordination of participation of all stakeholders, other interested parties, and the general public; shall assist in the establishment of ensuing design criteria and the development of the project scope; shall assist with alternative site selection if required; and shall examine alternative solutions.

B3. Design Documents and Cost Estimate Review (also see Section A3):

Review the accuracy and completeness of the design and bid documents and cost estimates as soon as they are prepared by the Designer, the Designer's consultants, and the cost estimator. Promptly notify the Designer, cost estimator, and Awarding Authority of any problems or omissions. Provide materials, labor and help to identify and resolve coordination conflicts in the construction documents. Review construction factors relating to costs and the goals of the Awarding Authority including, but not limited to: alternative designs or materials, , geotechnical studies and soil analysis, life cycle costs, green design concepts, green technology, site use and design issues, value engineering, project phasing, accessibility compliance and possible economies of scale opportunities.

B4. Local Officials, Utilities, and Maintenance:

Ensure that the Designer coordinates with, reviews with, and incorporates appropriate input from local officials (i.e. Town Manager, inspectional services, police department, utilities, etc.) as appropriate for the facility systems, safety, operation, and maintenance.

B5. Value Engineering (also see Section A3):

Manage and conduct the value engineering process to assure that design aspects, construction materials and methods specified are the most appropriate and cost effective for their application. Identify for the Awarding Authority's consideration any changes in design which reduce the cost of construction while satisfying the Awarding Authority's requirements. Analyze schedule implications of alternative building and mechanical systems and other design element changes as may be proposed during the design phase. If at any point in the design process, projected cost estimates exceed construction or project cost *limits*, recommend to the Awarding Authority appropriate reductions/changes in scope to remain within budget.

B6. Construction Planning:

Identify long-lead items, including Awarding Authority provided items, and make appropriate recommendations to the Awarding Authority and the Designer for inclusion of such items of material or equipment in the Designer's specifications. Make recommendations to the Awarding Authority and the Designer to expedite procurement of long-lead items in order to ensure delivery by the required dates. Incorporate detailed procurement data into the project schedule updated monthly.

B7. Bonds and Insurance Certificates (also see Section A2.b.):

The OPM shall receive certificates of insurance and, where applicable, bonds from all parties required to provide them, such as the Designer, the Contractor, their various consultants and subcontractors, and vendors, and forward them to the Awarding Authority. The OPM shall develop and maintain a bonding and insurance log identifying all parties required to provide bonds or insurance and noting certificates received, coverage expiration dates, and renewal status. Copies of such log shall be provided to the Awarding Authority on a regular basis.

B8. Constructability Review / Review of Contract Documents:

Review the project drawings and specifications. Promptly notify the Designer, and the Awarding Authority of any design problems or omissions identified in the drawings and specifications. Help to identify and resolve coordination conflicts in the construction documents.

B9. Special Services:

The OPM shall be responsible, with the Awarding Authority's approval, for selecting, retaining and coordinating the professional or other services of special consultants, contractors, and testing laboratories required for the Project and or provided by the Designer or Contractor.

B10. Permits, Licenses, and Approvals:

Working with the Designer and others, the OPM shall maintain, and monitor the master list of permits, licenses and approvals required for the Project and shall update it as necessary through project completion identifying each permit, the party responsible for obtaining it, and status. This will include, but may not be limited to:

- a. Town of Middleborough Planning Board (Site Plan Review)

- b. Town of Middleborough Conservation Commission
- c. Town of Middleborough Board of Appeals
- d. Town of Middleborough Building Commissioner
- e. Town of Middleborough Fire Department
- f. MEPA Review as may be required per 31 CMR11.00

B11. Meetings:

The OPM shall attend regular meetings with the Police Station Building Committee to review the project and take minutes at these meetings. Attendance is also required at all pre-bid and preconstruction meetings.

B12. Public Forums and Presentations:

At the Awarding Authority's request, the OPM shall prepare for and attend administrative and/or public meetings to provide project information and inform public forums of details about the project.

B13. Construction Mitigation Plan:

The OPM shall develop, in consultation with the Awarding Authority and interested citizens, a detailed program to monitor and mitigate the impacts of project construction on nearby residents, businesses, abutters and the neighborhood. Safety is paramount.

B14. Construction Procurement (Bidding) Phase:

- a. Assist the Awarding Authority in the development of procurement strategy. Review all bid and contract documents. Assist the Designer and Awarding Authority with the General Contractor and Sub-Contractor bid process as required by MGL Chapter 149, Sections 44A- 44M; the certification of General Contractors and Subcontractors as required by MGL Chapter 149, Section 44D; and the pre-qualification of general bidders and filed sub-bid contractors as required by MGL Chapter 149, Sections 44D 1/2 and 44D3/4. The timeliness of the presented review should allow for an appropriate time frame for the procurement process.
- b. Coordinate a pre-bid conference with the Designer. Provide a review of each addendum for the Awarding Authority prior to the receipt of all bids. In conjunction with the Designer and Procurement Officer, evaluate the qualifications of the apparent low bidders, evaluate the bids for completeness, full responsiveness and make recommendations to the Awarding Authority for the award of the contracts or rejection of the bids.
- c. Review all construction bids for the purpose of advising the Awarding Authority as to whether the bids are based upon the payment of the prevailing wage rates established for the project by the Massachusetts Department of Labor and Workforce Development, and federal wage rates as established by the Davis-Bacon Act if applicable; compliance with State and Town of Middleborough MBE/WBE requirements; and in conformity with public building construction requirements. d. Assist the Awarding Authority and the Designer with bid protests, re-bidding and/or renegotiating contracts. Assist the Awarding Authority and the Designer with a pre-award conference with the successful bidder and with preparing construction contracts.

C. Construction Phase

C1. Clerk of the Works:

Subject to the Awarding Authority's approval, develop a job description for and retain, supervise and manage a Clerk of the Works for daily construction monitoring of all the anticipated construction. Said job description shall be consistent with the best interests of, and be approved by, the Awarding Authority. Tasks shall include keeping a daily log containing a record of weather, the contractor's work on the site, number of workers, safety status on the Project, equipment in use, work accomplished, contractor materials stored, problems encountered, verbal instructions and interpretations given to contractors, as well as scheduling and coordinating all required testing and other similar relevant tasks. The Clerk of the Works shall also monitor the storage and protection of Awarding Authority purchased materials, furniture and equipment.

C2. Job Meetings:

The OPM shall attend all construction job progress meetings with the Designer, the Contractor, the Clerk of the Works, and for other persons, as necessary or appropriate, at reasonable times and places to discuss procedures, progress, problems, scheduling, and the like. At all such meetings, the OPM shall act as a representative of the Awarding Authority. The OPM shall work with the Designer to set up a schedule for such meetings. Meeting minutes shall be prepared by the Designer and reviewed by the OPM on the Awarding Authority's behalf. The OPM shall identify any significant issues of work quality, contract performance, scheduling and work progress raised at the job meetings in a monthly (or as appropriate) progress report to the Awarding Authority. The OPM shall present, at the next job meeting, any significant issues not included in the minutes of the previous meeting.

C3. Applications for Payment:

a. In coordination with the Designer and Clerk of the Works, the OPM shall review the contractor's draft application for payment, or "pencil requisition", together with any supporting data requested by the Awarding Authority or submitted by the Contractor. The OPM shall provide written comments thereon to the Designer and Awarding Authority, with recommendations as to the amounts due. The OPM shall also review and comment on vendor requisitions, including those of testing companies, utility companies and equipment or furnishing providers. The OPM shall request through the Designer that the Contractor provide the appropriate subcontractor lien waivers as the Project progresses.

b. In coordination with the Designer and Clerk of the Works, the OPM shall review all contractor and sub-contractor payrolls for compliance with all federal and state prevailing wage rates, and state and Town of Middleborough MBE/WBE requirements, as applicable.

C4. Performance Monitoring:

The OPM with the assistance of the Clerk of the Works shall monitor and observe the performance of the work and quality assurance program, and shall make recommendations to the Awarding Authority and the Designer with respect to rejection of work which, in the OPM's opinion, does not conform to the Contract Documents. The OPM shall endeavor to obtain satisfactory performance from the General Contractor, and shall recommend a course of action to the Awarding Authority when requirements of a contract or the Awarding Authority's construction mitigation plan are not being fulfilled. Particular attention shall be paid to work compensated by means of unit prices (ledge removal, if any, trenching, and the like), time and material activities, and so forth.

CS. Changes in the Work:

The OPM shall prepare and maintain a master project change log, incorporating all change directives, change orders, change requests, and change proposals, noting who initiated same and status, and recording estimated cost and final cost. The OPM shall review all change orders and shall, when requested by the Awarding Authority, identify sufficient funds and negotiate on behalf of the Awarding Authority with all parties involved. It is a goal of the Town of Middleborough to keep the number of changes to a minimum.

All Change Orders must be in writing and approved by the Awarding Authority. The OPM shall distribute updated copies of the master project change log to the Awarding Authority, the Designer and the Contractor on a monthly basis.

C6. Claims:

The OPM shall assist the Designer in the review, evaluation, resolution and documentation of claims including but not limited to claims for additional time, claims for additional cost, claims for concealed or unknown conditions, and claims for errors or omissions in the plans and specifications, and demands for direct payments. The OPM shall provide all support and assistance necessary in any claims related matters or litigation.

C7. Submittals and RFI's:

In collaboration with the Designer, the OPM shall establish, implement and advise the Contractor of procedures for expediting, processing and obtaining the Designer's approval of shop drawings, product data, and submittal logs for identification of scheduling issues and provide comments thereon to the Designer. The OPM shall make recommendations to the Awarding Authority and the Designer with respect to the use of substitutions and monitor status of submittals through the general contractor's submittal logs.

C8. Construction Schedule:

During construction the OPM shall review the construction schedule furnished by the Designer, Consultants, and the General Contractor. The OPM shall obtain and promptly review monthly updates of the general status of schedule milestones, schedule slippage, recommended site "walk-throughs", and other noteworthy information. If an update indicates that the previously approved project construction schedule might not be met, the OPM shall bring such issues to the attention of the Awarding Authority immediately and recommend corrective action.

C9. Special Services:

The OPM shall be responsible, with the Awarding Authority's approval, for selecting, retaining and coordinating the professional or other services of special consultants, contractors, and testing laboratories required for the Project and not provided by the Designer or General Contractor; and shall assist the Awarding Authority with the selection and procurement of furniture, fixtures and equipment (FF&E).

D. Project Closeout and Move-In Phase

D1. Coordination of Awarding Authority's Purchases of Materials and Equipment, and Moving and Relocation Activities: The

OPM shall coordinate, schedule and monitor the delivery, storage, protection, final placement or installation and security of purchased materials, systems and equipment (FF&E) that are a part of the Project until such items are

incorporated into the Project, or accepted for beneficial use by the Awarding Authority. The OPM shall maintain complete records related to such items including specifications, vendor contracts and purchase orders.

The OPM shall coordinate the relocation and moving activities for the relocation and moving of furniture, furnishings, equipment and supplies around the upgraded facility. The OPM shall supervise the procurement of moving services and shall cooperate and assist the Awarding Authority and facility personnel in the planning and execution of such relocation and moving activities.

D2. Other Construction-Related Records:

The OPM shall maintain a file for the building project throughout the duration of the project. The file shall include all project contracts, drawings, specifications, addenda, change orders and other documentation of construction, including copies of approved shop drawings, product data, samples, warranties, guarantees, certification manuals, valve charts, photographic documentation, and similar required submittals. All documents shall be organized in good order and marked to record changes and selections made during construction. The OPM shall make all such records available to the Designer and upon completion of the Project shall deliver one complete set to the Awarding Authority in an inventoried, organized format approved by the Awarding Authority, suitable for immediate use.

D3. Testing and Start-Up:

The OPM shall observe the contractor's final testing, flushing, commissioning and start-up of utilities, operational systems and equipment.

D4. Training:

The OPM shall coordinate instructional visits and training of Town staff by equipment representatives.

D5. Substantial Completion:

When the Designer considers the contractor's work or a designated portion thereof substantially complete, the OPM shall jointly with the Contractor prepare for the Designer a list of incomplete or unsatisfactory items and a schedule for their completion. The OPM shall assist the Designer in conducting inspections to determine whether the work or designated portion thereof is substantially complete, and preparing any resultant punch list as well as help where possible to expedite the completion of the work in accordance with project schedule.

D6. Final Completion:

Following the Designer's Issuance of a Certificate of Substantial Completion for the work or designated portion thereof, the OPM shall coordinate the correction and completion of the remaining work for inspection by the Designer. The OPM shall evaluate the completion of the work and make recommendations to the Designer in conducting final inspections. The OPM shall make recommendation to the Awarding Authority with respect to release of any funds retained from the General Contractor and Designer.

E. Post Construction Phase

E1. Evaluations:

Within 45 days after completion of the building project, the OPM shall prepare evaluations of the Designer, Contractor and Sub-Contractors for Awarding Authority review and approval, and submittal to DCAM. The evaluations will be completed using DCAM standard evaluation forms, and the information contained therein shall be certified by the OPM that it represents a true and accurate analysis of their performance record on this project. For Designer evaluations see MGL Chapter 7, Section 48; for Contractor evaluation see MGL Chapter 149, Section 44D (7); and for Sub-Contractor evaluation see MGL Chapter 149, Section 44D (16).

E2. Special Services:

The OPM shall provide services as necessary to monitor and assist in any required project audit; shall develop and monitor all warranty period assessments and work until turned over to the Awarding Authority and/or Police Department personnel; shall assist the Awarding Authority with any commissioning requirements, ceremonies and logistics if required; and shall conduct a commissioning post-occupancy evaluation for the Awarding Authority.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/22/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poole Professional Ltd. 107 Audubon Rd. #2, Ste. 305 Wakefield, MA 01880 Christopher A. Poole	CONTACT NAME:	
	PHONE (A/C, No, Ext): 781-245-5400	FAX (A/C, No): 781-245-5463
INSURED Daedalus Projects, Inc. 112 South Street, 5th Floor Boston, MA 02111	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Travelers Indemnity Co of CT	25682
	INSURER B : Charter Oak Fire Ins. Co.	25615
	INSURER C : Travelers Indemnity Co.	25658
	INSURER D : Travelers Indemnity Co America	25666
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			6807508L000	01/10/2016	01/10/2017	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BA7507L678	01/10/2016	01/10/2017	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
							\$	
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE			CUP8163Y397	01/10/2016	01/10/2017	EACH OCCURRENCE	\$ 5,000,000
							AGGREGATE	\$ 5,000,000
								\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N <input checked="" type="checkbox"/> N / A			UB5836Y228	05/01/2016	05/01/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
A	Business Owners Policy			6807508L000	01/10/2016	01/10/2017	Valuable Papers	100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER MIDDLEL14 Town of Middleborough 10 Nickerson Ave Middleborough, MA 02346	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

Agreement Between Owner and Architect

AGREEMENT:

made as of the Twenty-seventh day of June in the year Two Thousand and Sixteen.

BETWEEN the Owner: The Town of Middleborough
Middleborough Town Hall
10 Nickerson Avenue
Middleborough, MA 02346

and the Architect: Kaestle Boos Associates, Inc.
325 Foxborough Blvd., Suite 100
Foxborough, MA 02035

For the following Project:

New Police Station Design and Construction Phase Services

The project consists of the design and construction of a one-story, approximately 15,000 square foot police station to be located on Wood St. based on the design developed as part of the Feasibility Study and Schematic Design level services.

The Owner and Architect agree as set forth below.

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

1.1 ARCHITECT'S SERVICES

1.1.1 The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Articles 2 and 3 of this Agreement and any other services included in Article 12.

1.1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the work. Time is of the essence of the Agreement. The schedule includes allowances for periods of time required for the Owner's review and approval of design submissions and for approval by public agencies having jurisdiction over permits for the Project. The Architect shall not be held responsible for any delay in review and approval by a public agency over which the Architect has no control. The time limits established in the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. In the event the Architect is unable to meet a target date, or a revised target date approved by the Owner, the Architect shall provide the Owner with a plan showing how it intends to recover the time lost, by the next target date.

1.1.3 The Architect shall exercise due care and diligence in the rendition of all services under this Agreement in accordance with the applicable professional standards in Massachusetts. The Architect's services shall be performed as expeditiously as is consistent with such standards. Whenever required by State law or regulations, design submissions shall be stamped by a registered professional Architect or Engineer.

ARTICLE 2

SCOPE OF ARCHITECT'S BASIC SERVICES

2.1 DEFINITION

2.1.1 The Architect's Basic Services consist of those described in Article 2 and other services specifically identified in Article 12 as part of Basic Services, and include services related to preparing applications for the various permits required for the project, attending hearings on the permits, attending regular public meetings with the Owner and its representatives, and the preparation of cost estimates at the different phases of the work as specified herein. The Architect's responsibility does not include applications for permitting related to the construction of the project, nor any other permitting which is traditionally completed by the General Contractor.

2.1.2 The Architect shall prepare an initial estimated cost estimate for the Project.

2.1.3 The initial estimated construction cost, as approved by the Owner, shall become the Fixed Limit of Construction Cost ("FLCC"). As the design develops, any proposed design revisions that are expected to cause a revision to the FLCC shall be brought to the Owner's attention for review and approval. The Architect shall work cooperatively with the Owner to maintain the overall project budget.

2.1.4 The Owner reserves the right to require the Architect to revise the design of the Project, to keep the estimated cost of construction within the FLCC, at no additional cost to the Owner. The Owner may approve a revised FLCC, as the design develops.

2.2 ~~SCHEMATIC DESIGN PHASE~~ Not Used (This Phase Completed Previously)

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.3.2 After 100% completion of Design Development, the Architect shall submit an estimate of construction costs on a quantity and unit cost basis for review and approval by the Owner, and shall advise the Owner of any adjustments to the previous estimates.

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of

Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2.4.2 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor. The Owner may prescribe the Form of General Conditions to be used on the Project.

2.4.3 The Architect shall submit the final construction cost estimate to the Owner for its review and approval, and shall advise the Owner of any adjustments to previous estimates.

2.4.4 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall prepare a listing of all agencies to its knowledge that must provide approvals for the project to proceed into construction and the Architect shall meet with those agencies to discuss the project and to develop a preliminary schedule for obtaining all necessary approvals in a timely manner.

2.5 BIDDING OR NEGOTIATION PHASE

2.5.1 After the Owner informs the Architect that sufficient funding has been authorized to allow the Project to proceed into construction, the Architect, following the Owner's approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the Owner in obtaining bids from trade contractors and other subcontractors and assist in preparing the Contract for Construction. The Owner reserves the right to prepare its own General Conditions for Construction.

2.5.2 If sufficient funding is not authorized to allow the Project to move into the Construction Phase, the design contract may be suspended or terminated by the Owner, as provided in Article 8 and the Architect shall be entitled to be compensated through the Construction Documents Phase, as provided in Article 11.2.2.

2.6 CONSTRUCTION PHASE--ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction services and terminates at the earlier of the issuance of the final Certificate for Payment or 60 days after the date of Substantial Completion of the final phase of Work contained in the Construction Contract, as such substantial completion date may be extended by an approved Change Order to the Contractor. Construction Phase services performed after such 60 day period may be compensable as Additional Services under the provisions of 10.4 and 11.5.1.

2.6.2 The Architect shall provide administration of the Contract for Construction, as set forth below.

2.6.3 Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect.

2.6.4 The Architect shall be a representative of and shall advise and consult with the Owner. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement, unless otherwise modified by further agreement between the parties.

2.6.5 The Architect shall visit the site at least once a week and at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and Architect in writing, to become generally familiar with the progress and quality of the Work completed and to generally determine if the Work is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work. The Architect shall be responsible for promptly reporting to Owner any failures or omissions of the Contractor and Subcontractor and any other person performing portions of the Work of which Architect becomes aware of in the course of performing this agreement. The Architect shall conduct weekly or bi-weekly job meetings and shall keep minutes of these job meetings and distribute those minutes.

2.6.6 The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

2.6.7 The Architect shall at all times have access to the Work.

2.6.8 Instructions to the Contractor shall ordinarily be forwarded through the Architect. Communications by and with the Architect's consultants shall be through the Architect. Notwithstanding the foregoing, the Owner may communicate directly with the Contractor at its sole discretion. The Architect and the Owner shall also communicate directly with the Owner's Project Manager throughout the Project.

2.6.9 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect shall review and certify the amounts due the Contractor.

2.6.10 The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Subparagraph 2.6.5 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work in conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.6.11 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for

implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work, in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

2.6.12 The Architect shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information contained in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval or disapproval of safety precautions or, unless otherwise explicitly stated in writing by the Architect, of construction means, methods techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

2.6.13 The Architect shall prepare Change Orders and Construction Change Directives, for the Owner's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work. The Architect shall review and provide the Owner with its recommendation as to any Change Order requested by the Contractor.

2.6.14 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion, shall receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor and shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

2.6.15 The Architect shall interpret and decide matters concerning performance of the Contractor under the requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

2.6.16 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings.

2.6.17 The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

2.6.18 The Architect shall render written decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.

2.6.19 The Architect's decisions on claims, disputes or other matters, including those in question between the Owner and Contractor, except for those relating to aesthetic effect as provided in Subparagraph 2.6.17, shall be submitted as recommendations to the Owner and either the Owner or the Contractor shall have the right to dispute those decisions, as provided in the Construction Contract Documents.

ARTICLE 3

ADDITIONAL SERVICES

3.1 GENERAL

3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Paragraph 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner in writing prior to commencing such services. If the Owner deems that such services described under Paragraph 3.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services, provided, however, that the Owner hereby agrees to authorize and confirm any Additional Services described below which the Architect is required to perform or provide pursuant to any law or regulation issued by a government authority having jurisdiction over the Project.

3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

3.2.1 If more extensive representation at the site than is described in Subparagraph 2.6.5 is required, the Architect shall, with the prior approval of the Owner, provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

3.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the Owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be agreed to by Owner and the Architect.

3.2.3 Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishings of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

3.2.4 Notwithstanding the provisions of paragraphs 3.2.1-3.2.3, the Owner may directly employ the services of a clerk of works and/or project manager, in which event the Architect shall cooperate fully with the Owner's clerk of works or project manager.

3.3 CONTINGENT ADDITIONAL SERVICES

3.3.1 Making revisions in Drawings, Specifications or other documents when such revisions are:

- 1 inconsistent with approvals or instructions previously given by the Owner, including revisions required by adjustments by the Owner in the scope, quality, or schedule of the Project or in the construction budget;
- 2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents;
- 3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

3.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, or the Owner's schedule, except for services provided under Subparagraph 5.2.5.

3.3.3 Preparing Drawings, Specifications and other documentation and supporting data, and providing other services in connection with Change Orders and Construction Change Directives initiated by the Owner which involve significant changes in the Project including, but not limited to, size, quality, complexity, or costs; unless such Change Orders and Construction Change Directives have resulted due to errors or omissions by the Architect, in which event the Architect shall not be entitled to payment of additional services.

3.3.4 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

3.3.5 Providing services made necessary by the default of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

3.3.6 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work, except for claims alleging deficiencies in the Contract Documents.

3.3.7 Providing services in connection with arbitration proceedings or legal proceedings, except where the Architect is party thereto.

3.3.8 Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of service required in connection with construction performed and equipment supplied by the Owner.

3.3.9 Providing services in connection with the work of separate consultants retained by the Owner.

3.4 OPTIONAL ADDITIONAL SERVICES

3.4.1 Providing planning surveys, site evaluations or comparative studies of prospective sites.

3.4.2 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

3.4.3 Providing services relative to future facilities, systems and equipment.

3.4.4 Providing services to investigate existing conditions or facilities which are not specifically named in this contract or to make measured drawings thereof, except to the extent such services are customarily required to prepare the construction contract.

3.4.5 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked- up prints, drawings and other data furnished by the Contractor to the Architect.

3.4.6 Providing services after the earlier to occur of issuance to the Owner of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work.

3.4.7 Providing services of consultants for other than those listed in paragraph 2.1.1 and 12.1 of this Agreement.

ARTICLE 4

OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide full information regarding requirements for the Project, including the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

4.2 The Owner shall establish and with the assistance of the Architect shall update an overall budget for the Project, including the estimated Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

4.3 If requested by the Architect, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement.

4.4 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

4.5 The Owner shall furnish available existing surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths..

4.6 The Owner may agree to furnish the services of special consultants when such services are reasonably required by the scope of the Project and are requested by the Architect.

4.7 The Owner shall furnish all legal, accounting, and insurance counseling services as may be necessary at any time for the Project, including such accounting services as the Owner may require to verify the Contractor's Applications for Payment and such legal services as the

Owner may require with regard to legal issues raised by the Contractor or to the applicability or legal interpretation of governmental laws and regulations.

4.8 The services, information, surveys and reports required by Paragraphs 4.5 through 4.7 shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof unless the Architect is aware of any deficiencies in such surveys or reports.

4.9 Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

ARTICLE 5

CONSTRUCTION COST

5.1 DEFINITION

5.1.1 The Construction Cost shall be the total estimated construction cost to the Owner of all elements of the Project designed or specified by the Architect.

5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding. The overall project budget shall include a reasonable allowance for changes in the Work during construction, provided such amount shall not be included in the FLCC.

5.1.3 Construction Cost does not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Article 4.

5.2 RESPONSIBILITY FOR CONSTRUCTION COST

5.2.1 Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

5.2.2 The initial FLCC for the project shall be established as provided in Article 2.1.2. The Architect shall be permitted to include reasonable contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the Scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit.

5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the 100% Construction Documents to the Owner, the Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in

the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

5.2.4 If a fixed limit of Construction Cost (adjusted as provided in Subparagraph 5.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall take one or a combination of the following actions:

1. give written approval of an increase in such fixed limit;
2. authorize rebidding or renegotiating of the Project within a reasonable time;
3. if the Project is abandoned, terminate in accordance with Paragraph 8.3; or
4. cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

5.2.5 If the Owner chooses to proceed under Clause 5.2.4.4, the Architect, without additional charge, shall modify the Contract Documents as necessary to comply with the FLCC. The modification of Contract Documents shall be the limit of the Architect's responsibility arising out of the failure to receive a bid within the FLCC.

ARTICLE 6

USE OF ARCHITECT'S DRAWINGS SPECIFICATIONS AND OTHER DOCUMENTS

6.1 Copies, including reproducible copies of drawings, specifications and other documents delivered to the Owner in tangible or electronic format shall, upon such delivery, become the property of the Owner, and the Owner shall have license to copy and use such documents in connection with the construction, reconstruction, repair, use and occupancy of the Project. If the Owner modifies such documents or uses them for purposes permitted hereunder without the participation of the Architect as provided in this Agreement, such modification or use shall be at the Owner's sole risk, and the Owner shall release the Architect and hold the Architect harmless from all liability in connection therewith. Architect may reuse details, specifications sections, and other individual design concepts which, do not reproduce the design of the Project in whole or in substantial part.

6.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

ARTICLE 7

Not used.

ARTICLE 8

TERMINATION, SUSPENSION OR ABANDONMENT

8.1 This Agreement may be terminated by either party upon not less than twenty days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement, through no fault of the party initiating the termination.

8.2 If the Project is suspended in writing by the Owner for more than 90 consecutive days, and such suspension is not due to the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitably adjusted to provide for expenses

incurred in the interruption and resumption of the Architect's services, and any fixed limit of Construction Cost established prior to such suspension shall be adjusted to reflect changes in the general level of prices in the construction industry during the period of such suspension, provided that such suspension is not due to the fault of the Architect.

8.3 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect, in the event that the Project is abandoned.

8.4 Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

8.5 If the Owner fails to make payment to the Architect when due, the Architect may, upon twenty days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

8.7 In the event of any termination under this Article 8, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the project. Such assistance shall include the delivery of all drawings and specifications completed to date, including electronic files of such documents. The Architect further agrees to cooperate and provide any information requested by the Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design of the Project by the Owner and such other architect as the Owner may desire; however, the Owner shall indemnify the Architect for claims arising out of any of those changes.

8.8 This Agreement may also be terminated by the Owner upon (20) days written notice, without regard to any fault or failure to perform by any party, and for the Owner's convenience. In the event of such termination, the Architect shall be paid compensation in the same manner as set out in Paragraph 8.6, and the Owner shall have no further liability for compensation, expense or fees to the Architect hereunder.

8.9 Any termination or suspension of this Agreement shall not impair the right of the Owner to recover damages occasioned by the fault of the Designer. Any suspension shall not limit the right of the Owner to terminate.

8.10 If following a termination for cause it is determined that the cause was not valid, the termination shall be deemed to have been made for the convenience of the Owner and compensation, if any, shall be as provided herein.

ARTICLE 9

MISCELLANEOUS PROVISIONS

9.1 Unless otherwise provided, this Agreement shall be governed by the law of the Commonwealth of Massachusetts.

9.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201, or in the General Conditions of the Contract for Construction, current as of the date of this Agreement.

9.3 The Owner and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages to the Project covered by any property insurance. The Owner and the Architect shall each require appropriate similar waivers from their contractors, consultants, and agents.

9.4 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

9.5 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

9.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

9.7 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project.

ARTICLE 10

PAYMENTS TO THE ARCHITECT

10.1 DIRECT PERSONNEL EXPENSE

10.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

10.2 REIMBURSABLE EXPENSES

10.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project, as identified in the following clauses.

10.2.1.1 Cost of out-of-state travel in connection with the Project, and fees paid for securing approval of authorities having jurisdiction over the Project. The Architect's ordinary postage, telephone, fax and E-mail costs shall not be reimbursable expenses.

10.2.1.2. The Architect shall furnish the Owner with three copies of the plans and specifications that have been prepared during each design phase identified in Article 2 and the Owner shall not be charged for those copies. The cost of printing Bid documents and postage related to making those Bid Documents available, shall be considered a reimbursable expense.

10.2.1.3 Expense of renderings, models and mock-ups requested by the Owner shall be considered reimbursable expenses, except for one final rendering of the Project that will be provided to the Owner, at no additional cost, for purposes of presenting the Project to Town officials and the general public.

10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

10.3.1 The Architect shall be compensated as provided in 11.1.1. If Design Services are authorized beyond the Schematic Design Phase, the Architect and the Owner shall subsequently negotiate a Fee for Design Services for the phases of work after Schematic Design. .

10.3.2 Payments for Basic Services shall be made monthly and shall be in proportion to the percent of work completed on each design phase. The Architect's invoice submittal shall serve as certification that amounts reflected in the invoice for payment accurately reflect the amount of work which has been completed.

10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

10.4.1 Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

10.5 PAYMENTS WITHHELD

10.5.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work, other than those for which the Architect has been found to be liable.

10.6 ARCHITECT'S ACCOUNTING RECORDS

10.6.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 11

BASIS OF COMPENSATION

The Owner shall compensate the Architect as follows:

11.1 BASIC COMPENSATION

11.1.1 FOR BASIC SERVICES, as described in Article 2, and for any other services included in Article 12 as part of Basic Services, compensation shall be computed as a lump sum, not to exceed, as follows:

The Architect shall be compensated in the amount of \$640,000, for performing the Design and Construction Phase Services as described in this Agreement.

11.2 PROGRESS PAYMENTS

Where compensation is based on a stipulated sum for the extended design services covered by this Agreement, progress payments shall be made monthly so that Basic Compensation at the end of each phase shall equal the following portions of the total Basic Compensation payable:

Design Development Phase	30%
Construction Document Phase	40%
Bidding/Construction Phases	<u>30%</u>
Total Basic Compensation	100%

11.3 COMPENSATION FOR ADDITIONAL SERVICES

11.3.1 FOR PROJECT REPRESENTATION BEYOND THOSE PROVIDED UNDER BASIC SERVICES, as described in Paragraph 3.2, compensation shall be computed as follows:

See attached Rate Schedule Exhibit A.

11.3.2 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Articles 2 and 3, other than (1) Additional Project Representation, as described in Paragraph 3.2, and (2) services of consultants, compensation shall be computed as follows:

See attached Rate Schedule Exhibit A

11.3.3 FOR ADDITIONAL SERVICES OF CONSULTANTS, the Architect shall be compensated the amount invoiced to the Architect plus 10%.

11.4 REIMBURSABLE EXPENSES

11.4.1 FOR REIMBURSABLE EXPENSES, as described in Paragraph 10.2, and any other items included in Article 12 as Reimbursable Expenses, the amount invoiced by the Architect plus 10%.

11.5 ADDITIONAL PROVISIONS

11.5.1 IF THE CONSTRUCTION ADMINISTRATION SERVICES for the project have not been completed within 60 days after the substantial completion date for the final phase of the work established in the construction contract, as such date may be extended by approved change orders to the Contractor, through no fault of the Architect, the Architect's services beyond that 60 day period shall be compensated as provided in Paragraph 11.3.2 and 11.3.3.

ARTICLE 12

OTHER CONDITIONS OR SERVICES

12.1 The Architect's Basic Services consist of those described in paragraphs 2.1 through 2.6, and described as Basic Services in Exhibit A attached to this contract.

12.2 The Architect's key personnel assigned to the Project are: Michael McKeon; Principal in Charge, Todd Costa; Project Architect and others as described in KBA Qualifications package dated 4/15/2015.

12.3 The Architect agrees to indemnify, and hold harmless the Owner, its officers, employees, boards, commissions, committees, agents and representatives from and against all claims, causes of action, suits, damages and liability of any kind to the extent that they are the result of the willful misconduct or a negligent act or omission of the Architect, or the Architect's consultants, except as otherwise provided herein, including their officers, employees, agents and representatives, regarding the work to be performed under this Agreement.

12.4 The Architect shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work furnished by it or its consultants and subcontractors consistent with the standard of care set forth in Paragraph 1.1.2. The Architect shall staff its office with sufficient personnel to complete the services required under this Contract in a prompt and continuous manner, and shall meet the schedule and submittal dates established during the course of this Agreement to the extent it is within the Architect's control to do so.

12.5 Consistent with the standard of care set forth in paragraph 1.1.2, the Architect shall perform the work required under this Agreement in conformity with program requirements, all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders of the Commonwealth and its political subdivisions, and the Federal Government in effect at the time of the completion of the Construction Documents.

12.6 The Architect shall thoroughly acquaint its employees and consultants with all provisions of the General Laws governing public construction projects, including but not limited to M.G.L. c.149, c.30, and in particular, M.G.L. c.30, Section 39M, wherein the description of material specifications and proprietary items in construction bid documents is described.

12.7 Neither the Owner's review, approval or acceptance of, nor payment for any of the services furnished shall be construed to operate as a waiver of any rights under the Agreement or any cause of action arising out of the performance of the Agreement.

12.8.1 The Architect shall at its own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts arising out of the performance of this Agreement in a minimum amount of TWO MILLION DOLLARS (\$2,000,000) per Claim / Annual Aggregate. The coverage shall be in force from the time of the Agreement to the date when all construction work designed under the Contract is completed and accepted by the Owner. If, however, the policy is a claims made policy, it shall remain in force for a period of six (6) years after substantial completion. Since this insurance is normally written on a year-to-year basis, the Architect shall notify the Owner should coverage become unavailable through any insurance carrier. Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice

thereof is given by the party proposing cancellation to the other party and to the Owner at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice.

12.8.2 The Architect shall maintain Valuable Papers Insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the Work covered by this Agreement in event of loss or destruction regardless of where the papers are kept until the final fee payment is made and all data is turned over to the Owner as provided herein.

12.8.3 The Architect and all Consultants hired who will visit the Site or Project shall carry and maintain throughout the term of this Agreement the following insurance:

Comprehensive General Liability Insurance in the minimum amount of One Million Dollars (\$1,000,000), which shall include, but not be limited to public liability insurance, contractual liability insurance, personal injury liability insurance and property damage liability insurance. Said policy shall be written on an "occurrence basis".

Automobile Liability Insurance (\$1,000,000 Combined Single Limit) on Any Auto, Owned Autos, Scheduled Autos, Hired Autos, and Non-Owned Autos.

12.8.4 The Architect and its Consultants shall maintain during its performance of this Agreement insurance sufficient to discharge its obligations under all applicable Workers' compensation laws of the Commonwealth of Massachusetts.

12.8.5 Certificates and any and all renewals substantiating that the required insurance coverage(s) are in effect shall be submitted by the Architect to the Owner with this Agreement. Certificates shall indicate effective dates and dates of expiration of policies. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the Owner at least thirty (30) days prior to the intended effective date thereof, which date should be expressed in said notice.

12.8.6 The Architect's insurance shall also cover its Consultants unless the Consultant(s) provide certificates evidencing professional liability and other insurance required of the Architect under this Agreement in the limits specified herein and containing coverage and in form otherwise specified herein. The Architect shall be held responsible for compliance with and enforcement of insurance requirements as they apply to Consultants.

12.8.7 All insurance policies required hereunder shall be written by companies licensed or approved to do business in the Commonwealth of Massachusetts, shall carry a Best's rating acceptable to the Owner, and shall be in form satisfactory to the Owner.

12.8.8 The Architect's failure to provide and continue in force and effect any insurance required under this Agreement shall be deemed a material breach of this Agreement for which the Town, at its sole discretion, may terminate this Agreement immediately or on such other terms it sees fit.

12.9 The Basic Compensation denoted in Paragraph 11.1.1 assumes that the project will generally proceed on the following schedule: See Attachment B.

12.10 It is hereby stipulated and agreed that both parties had the opportunity to retain their

own legal counsel in the preparation of this contract and that both parties shall be deemed to have equally participated in its preparation.

PROVISIONS REQUIRED BY MASSACHUSETTS LAW

13.1 The Architect hereby certifies:

- (i) if an individual, the individual is a registered architect;
- (ii) if a partnership, a majority of all the partners are persons who are registered architects;
- (iii) if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are registered architects, landscape architects or engineers, and the person to have the project in his or her charge is a registered architect;
- (iv) if a joint venture, each joint venturer satisfies the requirements of M.G.L. c.7, §38A 1/2. (Statutory reference: M.G.L. c. 7, §38A 1/2).

13.2 The Architect hereby certifies that it has not given, offered or agreed to give any person, corporation Or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Agreement.(Statutory reference:M.G.L.c.7, §38H (e) (i)).

13.3 The Architect hereby certifies that no consultant to or subcontractor for the Architect has given, offered or agreed to give any gift, contribution or offer of employment to the Architect, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Architect. (Statutory reference: M.G.L. c.7, §38H (e) (ii)).

13.4 The Architect hereby certifies that no person, corporation or other entity, other than a bona fide full time employee of the Architect, has been retained or hired by the Architect to solicit for or in any way assist the Architect in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to the Architect. (Statutory reference: M.G.L. c.7, §38H (e) (iii)).

13.5 The Architect hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that the Architect filed and will continue to file an audited financial statement as required by subsection (d) of said thirty-nine R. (Statutory reference: M.G.L. c.7, §38H(e)(iv)).

13.6 The Architect shall maintain all books, records and accounts related to the Project in compliance with the following:

1. The Architect shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Architect.
2. Until the expiration of six years after final payment, the Owner, the Office of the Inspector General and the Commissioner of the Division of Capital Asset Management shall have the right to examine any books, documents, papers

or records of the Architect or of its consultants that directly pertain to, and involve transactions relating to, the Architect or its consultants.

3. The Architect shall describe any change in the method of maintaining records or recording transactions which materially affects any statements filed with the Owner, including the Architect's description the date of the change and reasons thereof, and shall accompany said description with a letter from the Architect's independent certified public accountant approving or otherwise commenting on the changes.
4. The Architect has filed a statement of management on internal accounting controls as set forth in paragraph (6) below prior to the execution of this Agreement.
5. The Architect has filed prior to the execution of this Agreement and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in subparagraph 13.6.8 below.
6. The Architect shall file with the Owner a statement of management as to whether the system of internal accounting controls of the Architect and its subsidiaries reasonably assures that:
 - (a) transactions are executed in accordance with management's general and specific authorization;
 - (b) transactions are recorded as necessary:
 1. to permit preparation of financial statements in conformity with generally accepted accounting principles, and
 2. to maintain accountability for assets;
 - (c) access to assets is permitted only in accordance with management's general or specific authorization; and
 - (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any difference.
7. The Architect shall also file annually with the Owner a statement prepared and signed by an independent certified public accountant, stating that such accountant has examined the statement of management on internal accounting controls, and expressing an opinion as to:
 - (a) whether the representations of management in response to this paragraph and paragraph 13.6.6(b) above are consistent with the result of management's evaluation of the system of internal accounting controls; and
 - (b) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the Architect's financial statements.

8. The Architect shall annually file with the Owner during the term of this Agreement a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by an accountant's report.
9. Records and statements required to be made, kept or filed in compliance with the provisions of this paragraph 13.6 shall not be public records and shall not be open to public inspection, except as provided in subparagraph 13.6.2. (Statutory reference: M.G.L. c.30, §39R)

13.7 The Architect and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the Architect in the preparation of bid documents, as reasonably determined by the Owner. (Statutory reference: M.G.L. c.7, §38HO)).

13.8 If this Agreement includes architectural services necessary for the preliminary design of a new building or for the modification or replacement of an energy system in an existing building, life- cycle cost estimates for the Project shall be obtained at an initial stage and as a regular part of the services to be performed under this Agreement (Statutory reference: M.G.L. c.149, §44M)).

13.9 The Architect hereby certifies under penalties of perjury that the Architect has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. (Statutory reference: M.G.L. c.62C, §49A).

This Agreement entered into as of the day and year first written above.

OWNER
Town of Middleborough

ARCHITECT
Kaestle Boos Associates, Inc.

by its Board of Selectmen

by its Vice President, Michael McKeon

Corporate Vote

If Architect is a corporation, provide a corporate vote demonstrating that the contract has been executed by a person authorized by the corporation to enter into contracts.

Exhibit A

Additional Services – KBA Hourly Rate Schedule

Schedule of Hourly Rates

Principal	\$200.00
Project Manager/Project Architect/ Design Architect	\$125.00 - \$165.00
Landscape Architect	\$100.00 - \$150.00
Interior Designer	\$100.00 - \$150.00
Structural Engineer	\$100.00 - \$150.00
Construction Administration	\$100.00 - \$150.00
Job Captain	\$100.00 - \$125.00
Intern Architect	\$75.00
CAD Operator/Draftsman	\$65.00
Public Relations/Graphic Design	\$125.00
Clerical	\$50.00

Jacqueline Shanley

From: Jane Kudcey
Sent: Wednesday, June 22, 2016 11:50 AM
To: Jacqueline Shanley
Subject: RE: Grant signature requested for BOS meeting

Thanks Jackie!

From: Jacqueline Shanley
Sent: Wednesday, June 22, 2016 11:48 AM
To: Jane Kudcey
Cc: Robert G. Nunes
Subject: RE: Grant signature requested for BOS meeting

Hi Jane,

I will include it.

Thank you.

Jackie

Jackie Shanley
Executive Assistant to Board of Selectmen
Town of Middleborough
10 Nickerson Ave.
Middleborough, MA 02346
508 946-2405 Tel.
508 946-0058 Fax
jshanley@middleborough.com

From: Jane Kudcey
Sent: Wednesday, June 22, 2016 11:47 AM
To: Jacqueline Shanley
Cc: Robert G. Nunes
Subject: Grant signature requested for BOS meeting

Hi Jackie,

Would you please put the following on the agenda for the next BOS meeting:

The OECD is requesting that the Board accept the Summer Youth Jobs grant of \$5,313 from the Attorney General's Office and to authorize the Chair to sign the Standard Contract Form.

I am attaching the contract form, Diane will need to sign on the bottom left.

Let me know if you have any questions,

Thanks,

Jane



May 31, 2016

Board of Selectmen
Town of Middleborough
Town Hall Building
10 Nickerson Avenue
Middleborough, MA 02346

**RE: *Earth Removal Permit Review
W.L. Byrne, Inc.
Chestnut Street – Middleborough, MA
ADE Project #2518.46***

Dear Board Members:

Enclosed, please find our invoice for Professional Services that were rendered on your behalf during our April 16, 2016 through May 15, 2016 billing period.

This invoice reflects completion of our initial review letter dated 5/13/16.

If you have any questions, please do not hesitate to call me at (508) 888-9282.

Sincerely,

ATLANTIC DESIGN ENGINEERS, INC.

Richard J. Tabaczynski, P.E.
Vice President

RJT/rp



DESIGN ENGINEERS, INC.

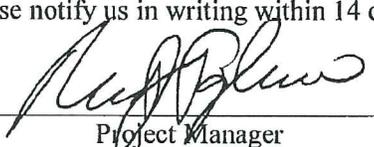


Invoice

For Services Through
4/16 - 5/15/16

Bill To:
Board of Selectmen Town of Middleborough 10 Nickerson Avenue Middleborough, MA 02346

Invoice Date:	5/31/2016
Invoice #:	16-0250
Project No.	02518.46

Description	Hours/Qty	Rate	Amount
Earth Removal Permit Review - W.L. Byrne, Inc. - Chestnut Street - Middleborough, MA			
PE Eng'g/Plan - Richard Tabaczynski	8	125.00	1,000.00
Sr. CAD Designer - Shawn Geis	0.5	90.00	45.00
Admin/Technical Support - Rebecca Peduzzi	1	60.00	60.00
24 X 36 B&W Prints	3	4.00	12.00
Total Reimbursable Expenses		0.00	12.00
<p>If you have a dispute with this invoice please notify us in writing within 14 days.</p> <p> Project Manager</p>			

Total	\$1,117.00
Payments/Credits	\$0.00
Balance Due	\$1,117.00

P.O. Box 1051
Sandwich, MA 02563
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