

# **NEW BUSINESS**

**6/8/15**

JOSEPH F. FREITAS JR  
95 VAUGHAN STREET  
MIDDLEBOROUGH, MA  
02346

30 MAY 2015

TOWN MANAGER ROBERT NUNES  
TOWN HALL  
MIDDLEBOROUGH, MA. 02346

RE: ZONING BOARD OF APPEALS MEMBERSHIP

DEAR SIR,

PLEASE BE ADVISED THAT I AM WILLING TO SERVE ON THE ZONING BOARD OF APPEALS FOR ANOTHER 5 YEAR TERM. TAMMY MENDEI TOLD ME THURSDAY NIGHT THAT YOU WANTED A LETTER OF INTEREST FROM ME BY THE 27<sup>TH</sup> OF MAY I HAD TO ATTEND A FAMILY MEMBERS FUNERAL IN FRIDAY. I LOOK FORWARD TO MEETING YOU SOMETIME IN THE NEAR FUTURE.

SINCERELY YOURS

Joseph F. Freitas Jr.

**Darrin DeGrazia**  
**33 Rocky Gutter Street**  
**Middleborough, MA 02346**

May 19, 2015

Mr. Robert Nunes  
Middleborough Town Manager  
10 Nickerson Avenue  
Middleborough, MA 02346

Re: Reappointment to Zoning Board of Appeals

Dear Mr. Nunes,

I am submitting this letter to request reappointment to the Middleborough Zoning Board of Appeals with a term to end June 30, 2020. I have served on the Zoning Board of Appeals since 2005, and continue have a long-term dedication to the Town.

Please let me know if you need any additional information.

Sincerely,



Darrin DeGrazia

NICHOLAS GUARDA  
5103 OAK POINT DRIVE  
MIDDLEBORO, MA. 02346  
tag79@comcast.net

May 31, 2015

Town of Middleboro  
Board of Selectmen  
10 Nickerson Ave  
Middleboro, Ma. 02346

Subject: Cable Committee Appointment

Sirs:

I am submitting this as a Letter Of Interest for a appointment to the Middleboro Community Cable Access Media (MCCAM) Committee.

I am a thirteen year resident of Middleboro and currently a volunteer with MCCAM.

Prior to moving the Middleboro I was a resident of Milton, Ma. where I was a volunteer with the Milton Cable Access Media were I also served on its Board of Directors as a member, President, and Secretary.

With my past experience and enjoyment of volunteering with this type of media, I feel I would be a good fit to serve on the Committee.

Sincerely

A handwritten signature in cursive script that reads "Nicholas Guarda". The signature is written in dark ink and is positioned above the printed name.

Nicholas Guarda

## Jacqueline Shanley

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**From:** Tara Pirraglia  
**Sent:** Monday, June 01, 2015 3:05 PM  
**To:** Jacqueline Shanley  
**Cc:** Robert G. Nunes  
**Subject:** SoftRight Contract

**Importance:** High

Hi Jackie,

How are you? I hope all is well. I spoke with Attorney Dan Murray earlier today regarding the status of the revised SoftRight contract. He advised that he felt confident his final review of the contract documents would be completed by mid-week. Please schedule the Board of Selectmen to authorize Chairman Frawley to sign the SoftRight contract at their regularly scheduled meeting on Monday, June 8<sup>th</sup>. The monies for the SoftRight contract were authorized at the April 27, 2015 Special Town Meeting. If you have any questions or concerns, please do not hesitate to contact me.

Thank you.

*Tara Pirraglia,  
I.T. Administrator  
Information Technology  
Town of Middleborough  
10 Nickerson Avenue  
Middleborough, MA 02346  
[itadmin@middleborough.com](mailto:itadmin@middleborough.com)  
(508) 946-2435*

## Jacqueline Shanley

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**From:** Tara Pirraglia  
**Sent:** Tuesday, June 02, 2015 2:27 PM  
**To:** Robert G. Nunes  
**Cc:** Caroline R. LaCroix; Jacqueline Shanley  
**Subject:** FW: SoftRight  
**Attachments:** Middleborough Contract 2.docx; Middleborough Exhibit A.pdf; Tax Affidavit.pdf

Hi Bob,

How are you? Per his email below, Attorney Dan Murray has reviewed the revised SoftRight contract attached and he is satisfied. The contract is scheduled for signature at the June 8<sup>th</sup> Selectmen's meeting. If you have any questions or concerns, please do not hesitate to contact me.

Thank you.

*Tara Pirraglia,  
I.T. Administrator  
Information Technology  
Town of Middleborough  
10 Nickerson Avenue  
Middleborough, MA 02346  
[itadmin@middleborough.com](mailto:itadmin@middleborough.com)  
(508) 946-2435*

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**From:** [decas.murray.decas@verizon.net](mailto:decas.murray.decas@verizon.net) [mailto:[decas.murray.decas@verizon.net](mailto:decas.murray.decas@verizon.net)]  
**Sent:** Tuesday, June 02, 2015 11:12 AM  
**To:** Tara Pirraglia  
**Subject:** SoftRight

June 2, 2015  
Tara Pirraglia, IT Administrator (*via email*)

RE: SoftRight agreement

Dear Tara:

I reviewed the revised draft of the referenced agreement in the light of my comments to the Town Manger dated 5/12/15. I am satisfied with the form of the revised agreement.

Very truly yours,

Daniel F. Murray  
Town Counsel  
DFM/s  
15-103-4

**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 AND SERVICES AGREEMENT**

This Agreement is made on \_\_\_\_\_ by and between SoftRight, LLC, a Massachusetts limited liability company having a principal place of business at 234 Littleton Road, Unit 1B, Westford, MA 01886 (Hereinafter "SoftRight") and the Town of Middleborough, having its principal offices located at 10 Nickerson Avenue, Middleborough MA 02346 (Hereinafter "Middleborough").

WITNESSETH:

**WHEREAS**, SoftRight is the inventor and exclusive owner of a municipal software applications technology and the intellectual property rights, including design know-how, and any enhancements and/or modifications thereto (collectively, the "Software"), and is in the business of providing the Software, related Professional Services and related Annual Support Services (collectively "Services") to Massachusetts municipalities and/or school systems,

**WHEREAS**, Middleborough is a Massachusetts municipality wishing to engage SoftRight to provide said Software and Services to Middleborough, and,

**WHEREAS**, both SoftRight and Middleborough have a vested interest in the successful installation, delivery and provision of the Software and Services,

**NOW THEREFORE**, in consideration of the promises and mutual covenants and conditions contained herein, the parties agree as follows:

- SoftRight shall furnish the Software and related Services as described in this Agreement in a timely fashion and Middleborough shall pay to SoftRight the fees for the Software and Services set forth in this Agreement.
- This agreement consists of this cover page and the following Sections and Exhibits:

- Software License Agreement
- Professional Services Agreement
- Annual Support Agreement
- General Terms & Conditions
- Fee Authorization
- Security Authorization
- Support Authorization
- Exhibit A: Pricing

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement, or has caused this Agreement to be duly executed on its behalf, on the date first indicated above.

SoftRight, LLC

Town of Middleborough

\_\_\_\_\_  
Kevin Adolph, CEO

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name:

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

## **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 (60<sup>th</sup>) 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 (60<sup>th</sup>) 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 (60<sup>th</sup>) 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**

I, \_\_\_\_\_, 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:

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Treasury:

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System Configuration:

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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

\_\_\_\_\_  
Date

**SECURITY AUTHORIZATION**

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:

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Treasury:

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System Configuration:

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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

\_\_\_\_\_  
Date

**SUPPORT AUTHORIZATION**

I, \_\_\_\_\_, 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:

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Treasury:

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System Configuration:

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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.

\_\_\_\_\_

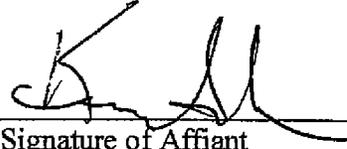
Middleborough, MA Authorizing Officer

\_\_\_\_\_

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.

A handwritten signature in black ink, appearing to read "Kevin Adourah", written over a horizontal line.

Signature of Affiant

The name "Kevin Adourah" printed in a standard font, positioned above a horizontal line.

Print Name of Affiant



# SOFTRIGHT

CLOUD SOFTWARE FOR MUNICIPALITIES

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

|                                    | ONE TIME FEE | YEAR 1             | YEAR 2             | YEAR 3             | YEAR 4             |
|------------------------------------|--------------|--------------------|--------------------|--------------------|--------------------|
| 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)     | \$106,630.00 |                    |                    |                    |                    |
| 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         |
| <b>Total</b>                       |              | <b>\$21,640.00</b> | <b>\$22,482.16</b> | <b>\$23,361.38</b> | <b>\$24,279.28</b> |

- 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.

The Board of Selectmen of the Town of Middleborough at its meeting on \_\_\_\_\_, 2015 voted to award a contract for paper supplies to W.B. Mason Co. Inc. as detailed below for a twelve month period commencing July 1, 2015. This award is conditioned upon the receipt of the appropriate documents specified in the above IFB. The SERSG Regional Administrator will collect these documents on behalf of the Board of Selectmen and present them to the Board for final approval and signature.

| TYPE OF PAPER  | Bid Price | Estimated Quantity | Estimated Value   |
|--|-----------|--------------------|-------------------|
| <b>COMPUTER PAPER -92 BRIGHTNESS</b>                                   |           |                    |                   |
| 5 20 lb. White, 8 1/2" x 11" (Carton- 5000 sheets) with 3-hole punches | \$ 31.30  | 50                 | <b>\$1,565.00</b> |
| <b>96 BRIGHTNESS</b>   |           |                    |                   |
| 12 20 lb. White, 8 1/2" x 11" (Carton-5000 sheets)                     | \$ 32.30  | 150                | <b>\$4,845.00</b> |
| 13 24 lb. White, 8 1/2" x 14" (Carton 5000 sheets)                     | \$ 39.80  | 30                 | <b>\$1,194.00</b> |
| <b>TOTAL ESTIMATED CONTRACT VALUE</b>                                  |           |                    | <b>\$7,604.00</b> |

Signature(s)

\_\_\_\_\_  
Chair, Board of Selectmen

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Board of Selectmen of the Town of Middleborough voted at its meeting held on \_\_\_\_\_, 2015 to award a contract to W.B. Mason Co., Inc., Brockton, MA for Office Supplies for a two-year period commencing on July 1, 2015. W. B. Mason submitted a responsive bid with the largest discount (61.17%) off the prices of office supplies and 36.17% off ink and toner cartridges contained in the 2015 United Stationer's Supply Catalog (subject to specific exclusions) in response to the SERSG cooperative Invitation for Bids for Office Supplies for Fiscal Years 2016 and 2017. This award is conditioned upon receipt of the appropriate documents specified in the above IFB. The SERSG Regional Administrator will collect these documents and present them for final approval and signature.

**Signature(s)**

\_\_\_\_\_  
Chair, Board of Selectmen

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



JUDY M. MacDONALD  
TREASURER AND COLLECTOR

**Town of Middleborough**  
**Office of the Treasurer and Collector**

20 Centre Street, 3<sup>rd</sup> Floor  
Middleborough, MA 02346-2270  
email: jmcndld@middleborough.com

TELEPHONE  
(508) 946-2420  
(508) 946-2421

FAX  
(508) 947-5447

Date: June 3, 2015  
To: Board of Selectmen  
From: Judy M. MacDonald, Treasurer/Collector  
Borrowing: \$347,000: School Remodeling/Computer Software  
Dated: June 25, 2015  
Due: October 9, 2015 Interest at maturity

Results of telephone bids, Wednesday, June 3, 2015

| <u>Bank</u>                | <u>Bid Amount</u> | <u>Interest</u> |
|----------------------------|-------------------|-----------------|
| UniBank for Savings        | \$347,000.00      | .50%            |
| Eastern Bank               | \$347,000.00      | .55%            |
| Century Bank               | \$347,000.00      | .55%            |
| Cape Cod Five Cent Savings | \$347,000.00      | .60%            |

Bid awarded, subject to Selectmen's approval to:

|                     |              |      |
|---------------------|--------------|------|
| UniBank for Savings | \$347,000.00 | .50% |
|---------------------|--------------|------|

Estimated Interest \$501.23



JUDY M. MacDONALD  
TREASURER AND COLLECTOR

**Town of Middleborough**  
Office of the Treasurer and Collector  
20 Centre Street, 3<sup>rd</sup> Floor  
Middleborough, MA 02346-2270  
email: jmcndld@middleborough.com

TELEPHONE  
(508) 946-2420  
(508) 946-2421

FAX  
(508) 947-5447

Date: June 3, 2015  
To: Board of Selectmen  
From: Judy M. MacDonald, Treasurer/Collector  
Borrowing \$98,000.00 Parking Lot Paving  
Dated: June 25, 2015  
Due: October 9, 2015 Interest at maturity

Results of telephone bids, Wednesday, June 3, 2015:

| <u>Bank</u>                | <u>Bid Amount</u> | <u>Interest</u> |
|----------------------------|-------------------|-----------------|
| Cape Cod Five Cent Savings | \$98,000.00       | .85%            |
| UniBank for Savings        | \$98,000.00       | .90%            |
| Century Bank               | \$98,000.00       | 1.00%           |
| Eastern Bank               | \$98,000.00       | 1.25%           |

Bid awarded, subject to Selectmen's approval to:

Cape Cod Five Cent Savings Bank \$98,000.00 .85%

Estimated Interest: \$240.65