

MINUTES

For approval at the 5-10-10 meeting

Chairwoman opened meeting at 7:02 PM by inviting those in attendance to join in the Pledge of Allegiance.

ANNOUNCEMENTS

Chairwoman announced the sudden passing of recently retired Wastewater Superintendent Joseph Ciaglo, asked everyone to join in a moment of silence, and offered the Board's deepest condolences to his family.

Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve 4/21/10 meeting minutes with correction to be made on page 4 as requested by Selectman Spataro.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 4/26/10 meeting minutes with corrections to be made on pages 5 & 6 as requested by Selectman Spataro.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve 4/26/10 Executive Session meeting minutes.

NEW BUSINESS

Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted unanimously to approve Betterment Agreement for 125 Miller Street, Daniel & Jeanne Gillen.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to authorize Chairwoman to sign Paranormal Investigation Release form.

Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve and sign Inter-municipal Communicable Disease Agreement with Town of Raynham as presented.

Upon motion by Selectwoman Duphily and seconded by Selectman Spataro, Board voted unanimously to approve and sign Land Exchange P&S Agreement re South Middleborough.

Town Manager gave background re replacing present Southeastern Mass Purchasing Group Healthcare plan with the MIIA for Options Healthcare Plan. He recommends we contract with new plan and the Town will continue to bargain with the employees. Upon motion by Selectman Spataro and seconded by Selectman McKinnon, with discussion, Board voted unanimously to authorize the Town Manager to enter a contract to have MIIA provide, effective July 1, 2010, the MIIA Options Plans as replacements for the current versions of the HMO's and PPO health insurance plans offered to

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

employees and retirees, provided that the Town will continue to meet any collective bargaining obligations that it has to address any changes in the plans.

Town Manager explained that it is a tiered network, a Blue Cross product. Primary care physicians and hospitals are set up as tiers. The co-pays will differ depending where you go. There is an element of savings, but may also be an expense in co-pays depending on where you go. It gives employees incentive to choose higher or lower cost.

J. Lopes asked what the savings are. Town Manager responded, One million two in savings to the Town. J. Lopes asked what if all the unions don't agree. Town Manager responded that the Town has to have everyone go into the program because the Town can only offer one plan. J. Lopes responded, assuming they all go along with it. Town Manager explained that it's all part of the bargaining process. Ms. Lopes asked if it means that we can't enter into it if everyone doesn't agree. Town Manager responded again that it is all part of the bargaining process and that the Town will continue to bargain and meet its bargaining obligations.

Allin Frawley asked if anyone has talked with the Town retirees as a group. Town Manager responded that he has spoken with Gene Turney and that everything being offered to Town employees is also being offered to the retirees.

Postpone Town Meeting

Chairwoman explained that the Town will have a better idea of what the State is doing and postponing Town Meeting will also allow more time to work on numbers.

Town Manager added that the Selectmen also have the municipal relief bill letter in their packets tonight. He is hopeful that we will get some relief and be able to modify our appropriation. Postponing Town Meeting gives us a chance to argue the point.

Upon motion by Selectwoman Duphily and seconded by Selectman McKinnon, Board voted unanimously to postpone Town Meeting until 6/7/10.

Town Moderator W. Perkins addressed Board. Moderator explained that we will open Town Meeting on 5/17/10 and take vote to postpone until 6/7/10.

HEARINGS, MEETINGS & LICENSES

Water Superintendent Joseph M. Silva addressed Board to discuss Articles 19 & 20

Chairwoman read aloud Article 19. Town Manager gave brief overview relative to these articles. Joseph Silva presented further detail as may be found on the attached memorandum addressed to the Board of Selectmen and dated 5/3/10.

Chairwoman read aloud Article 20. Joe Silva explained the article followed by question and answer period.

SPECIAL TOWN MEETING

Article 1. Chairwoman read aloud. In response to question, Town Manager answered that it has nothing to do with next year's health insurance.

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

Article 2. Chairwoman read aloud. In response to question, Town Manager explained that numbers had been presented by Joe Ciaglo prior to his retirement...

Article 3. Chairwoman read aloud. Town Manager explained article.

Article 4. Chairwoman read aloud re Stabilization Fund. Town Manager gave explanation re unpaid bills.

Article 5. Chairwoman read aloud re Wastewater Enterprise Unreserved/Retained Earnings.

Article 6. Chairwoman read aloud re Enterprise Fund for the Rubbish/Trash Collection. B. Giovanoni noted that, as citizens, we used to put a halt on this. He thanked Board for putting this on as an article to be voted on.

Article 7. Chairwoman read aloud. Selectman Spataro informed Board that he was asked by a resident today if this is new. Town Manager explained that it is new to the Town and explained that it is a tag-on to the existing tax. The funds received by the Town from this will go into the General Fund. Selectman McKinnon is opposed to this article as he expressed concern that we are taxing people too much in the State. He thinks the timing is bad and that it will hurt businesses. Selectman Spataro asked the Town Manager if he was able to touch base with the restaurant owners in Town as he had indicated he would. Town Manager explained that he had only been in touch with one and that this business owner didn't think this would be a negative effect on his business. Town Manager will reach out to more businesses. Chairwoman asked if other Towns done this. Town Manager responded that Lakeville and Taunton have. Selectman Rullo noted that he is in favor of the article as it will bring in revenue to the Town and not only from residents, but also from outside visitors. Selectman McKinnon suggested that we may have to start discussing pay rates in Town and maybe have pay freezes. Maybe it's time to talk about cuts in salaries, not people.

Article 1. Hearing reports.

Article 2. Budget – not being discussed tonight.

Article 3. Tax rate for FY2011. MG&E Commission member M. Solimini addressed Bard and noted electricity usage is down.

Article 4. Water Pollution Abatement Trust Loan Repayment Account – Chairwoman explained article.

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

Article 5. Chairwoman read aloud. Town Manager explained error he made re Recycling reduction amount. It will be \$5,000.

Selectwoman asked for explanation of Parks program and Herring Fishery Program. Town Manager and Chairwoman explained that the money in these programs pay for salaries and anything that needs to be done at the Herring Run. Selectwoman Duphily asked why they didn't just make repairs to the Herring Run. Town Manager will check, but suspects that there is not a lot of money in that account.

Chairwoman noted that we talked about getting more recycling bins. Town Manager will make sure money is accounted for that purpose.

Selectman McKinnon asked if this money would come out of the trash account. Town Manager explained that it wouldn't. It reverts into the general fund and all you can do is close it out.

Article 6. Selectman McKinnon read aloud. Town Manager explained that this is an article we have every year, but he doesn't anticipate it will be needed this year.

Article 7. Selectman McKinnon read aloud. Town Manager explained how this will be funded. Town Manager is asking for approximately \$100,000 transfer.

In response to question by Selectman Rullo, Town Manager answered that all current medical co-pay reimbursements will end this year.

Article 8. Selectman McKinnon read aloud. Chairwoman noted that Articles 8, 9, and 10 are all Charter Review Committee Articles.

Article 9. Selectman Spataro read aloud.

Article 10. Selectman Spataro read aloud.

Jim Thomas addressed Board to say that he has a problem with Town Treasurer/Collector wording. He questioned what the definition is of a suitably qualified person. He suggested that the change in the charter should specify what the qualifications are. Lincoln Andrews addressed the Board to state that this was the exact contention of the Charter Review Committee. It felt that an experienced person should be hired with the appropriate qualifications by the Board of Selectmen through the Town Manager.

Article 11. Charter Review Committee – Selectman Spataro read aloud. Chairwoman explained article.

Article 12. Disposal of Refuse, garbage and other Solid Waste – Chairwoman read aloud. Town Manager explained article. He doesn't think that this article will be needed at Town Meeting. Task Force will be meeting on Wednesday night and make recommendation next week.

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

ARTICLE 13. Chairwoman read aloud. She and Town Manager explained article.

ARTICLE 14. Chairwoman read aloud re Rock Village School. Jane Lopes asked if the Board has any idea of how it will dispose of it. Town Manager answered that it would be disposed of through an RFP process. Chairwoman indicated that the Board would discuss with the Historical Commission.

Jim Thomas questioned if this property belongs to the Town. Town Manager will look into. Chairwoman read back-up material date 2008 from Town Counsel that answered question posed by Mr. Thomas. Chairwoman said we will double check with Town Counsel and have answer for Town Meeting.

ARTICLE 15. Chairwoman read aloud. Selectman McKinnon asked if all taxes have been paid. Town Manager explained that all taxes have been paid.

ARTICLE 16. Summer Street Bridge – Chairwoman read aloud. Town Manager explained article. Selectman McKinnon asked how current storm affected this area. Town Manager noted that the water was very high. L. Andrews offered that he doesn't believe the owner is still Pocius. Chairwoman indicated we would look into.

ARTICLE 24. CPA – Chairwoman read aloud. L. Andrews is against a CPA Tax at this time. If it comes to fruition, he would like to see it more even handed than it is now. He asked Board to ask Town Counsel if adding “to include mobile homes” would be possible. Chairwoman indicated that they will check with Town Counsel and ask if an amendment would be allowed on Town Meeting floor.

E. Beaulieu addressed Board to explain CPA. Selectwoman Duphily offered that she does not support the article as it is a taxation of only the middle of the Town.

Selectwoman Brunelle also offered that she can't support this article at this time.

E. Beaulieu continued to explain what CPA is all about.

Brian Giovanoni addressed Board to express his opposition to this article at this time due to the difficult economy and the financial burdens on families at present.

Darren Lunn Addressed Board to point towards the benefits of CPA, noting specifically, huge savings for the Town.

Dianne Bassett addressed Board to say that she can't afford any increase in taxes.

E. Beaulieu addressed the Board to note that anyone who is struggling and in danger of losing their home, would not be affected by CPA because they would meet the exemptions.

ARTICLE 17. Chairwoman read aloud. Town Manager explained article.

ARTICLE 18. Chairwoman read aloud and explained article.

ARTICLE 21. Chairwoman read aloud and explained article. Selectwoman Duphily offered that she thinks this is a good article and may help eliminate some of the problems

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

abutters are having with earth removal projects. Selectman Rullo is in favor of this article.

ARTICLE 22. Chairwoman read aloud. Selectwoman Duphily does not support this article and thinks that we should give Article 21 a chance first as a better solution. Selectman Rullo agrees. Selectman McKinnon offered that, as someone who has lived near an earth removal project, he likes the idea of having a limit on the number of years a permit holder can have its permit. Selectman Spataro does not support this article. Chairwoman explained that by having what we have in place currently, the Board maintains some oversight and control to make sure the permit holders are abiding by the regulations. Jane Lopes mentioned the requirement of a performance bond as being a reasonable idea and that in the past, the mistake was that the bond was triggered when the project began instead of when the permit was issued. Board agreed to get clarification from Town Counsel relative to performance bond questions. Allin Frawley addressed Board and suggested that if we do not have the proper bylaws in place, then we should get them, but a performance bond isn't going to guarantee that these projects get completed any sooner.

ARTICLE 23. Chairwoman read aloud re St. Lukes and explained article.

ARTICLE 25. Chairwoman read aloud. E. Beaulieu explained that the intent of this article is hoped to be the beginning a grass-roots movement. Selectwoman Duphily offered that she thinks the voters in Town should be able to vote for whomever they want to serve as Selectman or any other office. Selectman Rullo agrees. E. Beaulieu explained that this isn't pointed at any elected official, but hopefully a beginning that will reach Beacon Hill. Selectman Spataro feels this will limit the choices available to the voters to choose from. Selectman McKinnon agrees with the idea, but thinks there may be a better way to achieve what this article is intended to accomplish. Town Meeting cannot change the Town Charter. It can authorize the Board of Selectmen to do something.

ARTICLE 26. Chairwoman read aloud. Town Manager explained that this article is moot because there are steps that must be taken prior to voting the acceptance of a road/street as Town-owned. The petitioner, B. Denise, is aware.

SPECIAL TOWN MEETING ARTICLES - Board Recommendations

Article #:

- 1 Upon motion by Selectwoman Duphily and seconded by Selectman Rullo, Board voted unanimously to support this article.
- 2 Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support this article.
- 3 Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to support this article.

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

- 4 Upon motion by Selectwoman Dughily and seconded by Selectman Rullo, Board voted unanimously to accept this article.
- 5 Upon motion by Selectwoman Dughily and seconded by Selectman Spataro, Board voted unanimously to accept this article.
- 6 Upon motion by Selectwoman Dughily and seconded by Selectman Spataro, Board voted unanimously to accept this article.
- 7 Upon motion by Selectman Rullo and seconded by Selectman Spataro, Board voted to accept article. Four in favor. S. McKinnon opposed.

ANNUAL TOWN MEETING ARTICLES - Board Recommendations

Article #

- 3 Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support the article.
- 4 Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support this article.
- 5 Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to support as amended on recycling program to \$5,000.
- 6 HOLD
- 7 Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted to support this article. Chairwoman Brunelle abstained.
- 8 Upon motion by Selectwoman Dughily and seconded by Selectman Rullo, Board voted unanimously to support this article.
- 9 Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to support this article.
- 10 Upon motion by Selectwoman Dughily and seconded by selectman McKinnon, Board voted unanimously to support this article.
- 11 Upon motion by Selectman Spataro and seconded by Selectman McKinnon, Board voted unanimously to approve this article.
- 12 HOLD
- 13 Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve this article.
- 14 HOLD
- 15 Upon motion by Selectman Rullo and seconded by Selectman Spataro, Board voted unanimously to approve this article.
- 16 Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve, with verification of owner's name and with confirmation by Town Counsel that it won't change the article substantially.
- 17 HOLD
- 18 Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve this article.
- 19 Upon motion by Selectman McKinnon and seconded by Selectman Spataro, Board voted unanimously to approve this article.
- 20 HOLD

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

- 21 Upon motion by Selectwoman Dughily and seconded by Selectman McKinnon, Board voted unanimously to approve this article.
- 22 Upon motion by Selectwoman Dughily and seconded by Selectman Spataro, Board voted unanimously not to support this article.
- 23 Upon motion by Selectman Spataro and seconded by Selectman Rullo, Board voted to approve this article. M. Dughily opposed.
- 24 Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted to approve this article. Two in favor. Three opposed. Motion does not carry.
- 25 Upon motion by Selectwoman Dughily and seconded by Selectman Spataro, Board voted unanimously not to support this article.
- 26 Upon motion by Selectman McKinnon and seconded by Selectman Rullo, Board voted unanimously not to support this article.

TOWN MANAGER'S REPORT

FEMA email received today stating that the registration deadline for people to apply for federal reimbursement is 5/28/10. They urge people to apply at www.disasterassistance.gov or call 800 621-FEMA.

The Town did have auction last week and sold all three properties. The Town received \$52k for Miller Street property, \$32k for property on Rochester line, and \$102K for the Plympton St. property.

Upon motion by Selectman Dughily and seconded by Selectman McKinnon, Board voted unanimously to authorize the sale of property located on Miller Street, Map Sheet 087-3383, formerly owned by Elizabeth Davis & John Sullivan for non-payment of taxes.

Town Manager clarified that the Town hired Attorney Mather as a professional auctioneer to conduct the auction of these properties.

CORRESPONDENCE

#8 Taunton River Watershed Alliance - Canoe Race/Paddling Season. Selectman McKinnon recommended the public check out their website because they offer many activities.

Selectman Rullo noted that he and Selectman McKinnon had attended the recent C.O.A. Volunteer Appreciation Dinner and acknowledged that without these volunteers, the C.O.A. could not run. Selectman Rullo noted that Elizabeth Libby Young had received a Presidential Award for having had volunteered 5,000 hours. Selectman McKinnon also noted that, in total, the volunteers had donated 12,000 hours last year.

**Middleborough Board of Selectmen
Meeting Minutes**

May 3, 2010

OTHER

Selectwoman Duphily informed the audience that if anyone living in Middleborough did not get a packet re Census in Town, we fall under New Bedford office. If you haven't received a Census form, or know of someone who needs one, please call 774-206-0020.

S. McKinnon noted that he was unable to attend the SRPEDD meeting last week as he was at the C.O.A. Volunteer Recognition dinner. In his absence from this meeting, SRPEDD representatives appointed him to the Executive Board. He did attend the Plymouth County Advisory Board meeting where they voted on the budget. There was a lot of discussion about doing away with Plymouth County as an entity. The problem with that is that it would cost the Town of Middleborough millions of dollars.

Brian Giovanoni thanked the public for coming out to the Middleborough Friend's C.O.A. Pancake breakfast, Cirelli's for donating food, and the Middleborough Friend's who volunteered their time.

Upon motion by Selectman McKinnon and seconded by Selectwoman Duphily, Board voted to adjourn meeting at 10:30 PM.

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN



WARRANT FOR SPECIAL TOWN MEETING

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School, on Monday, May 17, 2010 at 7:00 P.M.**, to act on the following articles:

ARTICLE 1. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2010, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, the Wastewater Enterprise Unreserved/Retained Earnings account or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2010, or act anything thereon.

ARTICLE 3. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, the Water Enterprise Development account, the Water Unreserved/Retained Earnings Account, or other available source, to supplement and/or adjust departmental budgets for Fiscal Year 2010, or act anything thereon.

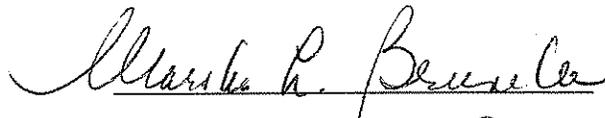
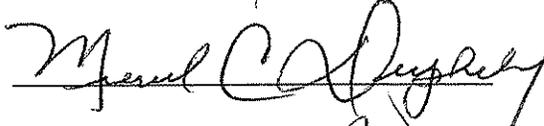
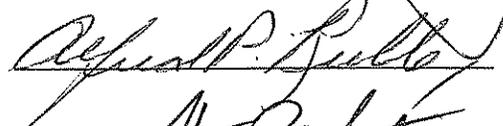
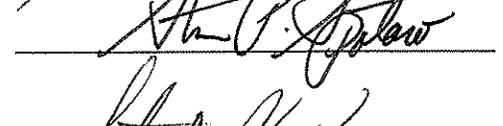
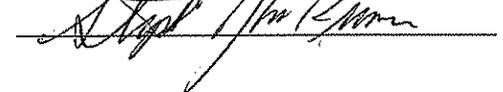
ARTICLE 4. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, or other available source for unpaid bills from prior years, or act anything thereon.

ARTICLE 5. To see if the Town will vote to raise and appropriate and/or transfer a sum of money of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account, the Wastewater Enterprise Unreserved/Retained Earnings account, or other available source to fund sick leave buy-backs or act anything thereon.

ARTICLE 6. To see if the Town will vote to accept the provisions of General Laws, Chapter 44, Section 53F ½ and establish an Enterprise Fund for the Rubbish/Trash Collection, Removal and Disposal Division of the Department of Public Works in accordance with said Section 53F ½ for Fiscal Year 2011 and subsequent years, or act anything thereon.

ARTICLE 7. To see if the Town will vote to accept G.L. c. 64L, s. 2(a) and to impose a local sales tax upon the sale of restaurant meals originating within the Town by a vendor at the rate of 0.75 percent of the gross receipts of the vendor from the sale of restaurant meals, or act anything thereon.

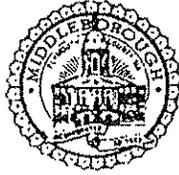
Given, under our hands at Middleborough, this 21st day of April, 2010.

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the **29th day of April, 2010**, that date being more than fourteen days before the time specified for said meeting.


BRUCE GATES
Police Chief



ANNUAL MEETING WARRANT

Middleborough, Massachusetts

To Bruce Gates, Police Chief or any of the
Police Officers of the Town of Middleborough

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn all the inhabitants of said Town, qualified to vote in Town affairs, to meet in the **Auditorium of the Middleborough High School, on Monday, May 17, 2010, at 7:30 P.M.**, to act on the following articles:

ARTICLE 1. To hear the report of any committee or officer of the Town, to appoint any committee, or act anything thereon.

ARTICLE 2. To see if the Town will vote to raise and appropriate a sum of money by taxation or from available funds in the treasury to defray expenses of the Town for the fiscal year beginning on July 1, 2010, relating to all or any of its officers, boards or departments and for purposes authorized by law, to vote to fix the salary and compensation of all elected officers, or act anything thereon.

ARTICLE 3. To see if the Town will vote to transfer from the income from the sales of gas and electricity for the purpose of fixing the tax rate a sum of money to the Assessors for the purpose of fixing the tax rate for Fiscal Year 2011, or act anything thereon.

ARTICLE 4. To see if the Town will vote to transfer \$66, 736 from the receipts reserved for the Water Pollution Abatement Trust Loan Repayment Account in order to meet the Town's obligation for payment of the Water Pollution Trust Loan, or act anything thereon.

ARTICLE 5. To see if the Town will vote pursuant to Section 53E ½ of Chapter 44 of the General Laws, as amended, to authorize and/or reauthorize establishment of one or more revolving funds for the purpose of funding certain activities and operations of certain departments and programs of the Town during Fiscal Year 2011, or act anything thereon.

Municipal Fire Alarm System	Not to exceed \$15,000.00
Hazardous Materials Incident Training & Materials	Not to exceed \$50,000.00
Recycling Program	Not to exceed \$100,000.00
Herring Fishery Program	Not to exceed \$100,000.00
Composting Bin Program	Not to exceed \$2,500.00
Recreation and Sports Program	Not to exceed \$100,000.00
Zoning Map, Bylaws and Subdivision Rules & Regulations	Not to exceed \$2,500.00

ARTICLE 6. To see if the Town will vote to raise and appropriate and/or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source to fund one or more collective bargaining agreements, or act anything thereon.

ARTICLE 7. To see if the Town will vote to raise and appropriate and /or transfer a sum of money from taxation, free cash, another specific available fund, the Stabilization Fund, an existing appropriation or account or other available source for the purpose of reimbursing Town employees and retired Town employees and other persons enrolled in the Town's health insurance plans for some of the increases in health insurance HMO and PPO deductibles and co-payments paid by said employees and retirees and other persons during Fiscal Year 2011 and in excess of the amounts of such deductibles and co-payments applicable during Fiscal Year 2010, and to pay any related costs, or act anything thereon.

ARTICLE 8. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by striking out in its entirety Section 9 pertaining to the Town Treasurer and Collector of Taxes and inserting in place thereof the following:

SECTION NINE: The Selectmen shall appoint a suitable qualified person to the office of Town Treasurer and Collector of Taxes. The existing elective office of Town Treasurer and Collector of Taxes shall be continued until the person appointed to the office of Town Treasurer and Collector of Taxes shall have qualified, at which time the elective office of Town Treasurer and Collector of Taxes shall terminate. The Selectmen shall appoint the person who is serving in the elective office of Town Treasurer and Collector of Taxes as the initial appointee as Town Treasurer and Collector of Taxes who shall receive not less than the compensation and benefits to which the elected Town Treasurer and Collector of Taxes was entitled unless modified by an employment contract which may be established. The Town Treasurer and Collector of Taxes shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon town treasurers and town collectors of taxes. The Selectmen by majority vote after notice and hearing may remove the Town Treasurer and Collector of Taxes from office for cause. The Selectmen shall forthwith appoint a suitable qualified person to fill any vacancy in the office of Town Treasurer and Collector of Taxes resulting from death, resignation, retirement, removal or other cause. The Selectmen shall determine the compensation of the Town Treasurer and Collector of Taxes and may establish an employment contract with the Town Treasurer and Collector of Taxes for a period of time to provide for salary, fringe benefits and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of duties of office, liability insurance, vacation and leave, or act anything thereon.

ARTICLE 9. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by amending subsections (A) and (B) to Section 17 of the Town Charter as follows

- (A) The Board of Selectmen shall annually appoint and determine the compensation of an Attorney at Law or law firm to act as Town Counsel.
- (B) The Board of Selectmen shall have the authority to prosecute, defend, and compromise all litigation to which the town is a party, and to appoint and determine the compensation of special counsel to assist the Town Counsel whenever in their judgment it may be necessary, or act anything thereon.

ARTICLE 10. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to amend the Town Charter adopted pursuant to Chapter 592 of the Acts of 1920, as amended, by adding the following subsections to Section 19 of the Town Charter to add specified powers and duties of the Town Manager:

(K) To prepare and submit an annual operating budget to the Selectmen. The proposed budget shall include, but not be limited to a listing of the funds requested by all boards, committees, officers, and departments of the town; shall be balanced and show both proposed expenditures and anticipated revenues. The Board of Selectmen, after reviewing the proposed budget and making changes it deems appropriate, shall submit its recommended budget to the Finance Committee on or before the twentieth day of January of each year for review and recommendation to town meeting.

(L) To prepare annually a five year financial forecast of town revenue, expenditures and general finance condition of the town. The forecast shall be submitted to the Selectmen who shall make it available to the public.

(M) To be responsible on behalf of the Selectmen for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of agreements made by the School Committee and the Municipal Light Board. The Town Manager in carrying out duties hereunder may engage labor counsel as he deems necessary and as approved by the Selectmen.

Notwithstanding the foregoing, the Selectmen shall retain the sole authority to approve and execute all collective bargaining agreements negotiated by the Town Manager on the Board's behalf, or act anything thereon.

ARTICLE 11. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact special legislation to provide that any agreement for a term of more than two (2) years made by the Town with any other governmental unit under the provisions of Section 4A of Chapter 40 of the General Laws respecting the sale by the Town of Middleborough of water or wastewater treatment services shall be subject to authorization by the Town Meeting, or act anything thereon.

ARTICLE 12. To see if the Town will vote to authorize the Board of Selectmen to enter into an agreement for disposal by the Town of refuse, garbage and other solid waste on such terms and conditions as the Board may determine, or act anything thereon.

ARTICLE 13. To see if the Town will vote to transfer to the Board of Selectmen the care, custody, management and control of two parcels of land shown as Lots 1 and 2 on a plan of land dated February 10, 2002, drawn by Outback Engineering and recorded in the Plymouth County Registry of Deeds as Plan No. 250 of 2002 and also shown on the Assessors' Map described below, for the purpose of sale of the parcels, and to authorize the Board of Selectmen to sell and convey the parcels on such terms and conditions as the Board of Selectmen may determine, or act anything thereon.

	<u>Map #</u>	<u>Parcel #</u>	<u>Location</u>	<u>Land Area</u>
1.	48	3832	West Grove Street	5.62 acres
2.	48	3042	West Grove Street	28.30 acres

ARTICLE 14. To see if the Town will vote to transfer the care, custody, management and control of the Rock Village School property at 63 Miller Street shown as Lot 923 on Assessors Map 87 to the Board of Selectmen for the purpose of sale of the property, and to authorize the Board of Selectmen to sell the property on such terms and conditions as the Board determines, or act anything thereon.

ARTICLE 15. To see if the Town will vote to transfer to the Board of Selectmen the care, custody, management and control of a parcel of land on Lake Shore Drive at Navaho Lake Shores shown as Lot 5856 on Assessors Map 35, also shown as Lot 36 on a plan of Whispering Pines dated April 1952, for the purpose of sale or conveyance of the parcel, and to authorize the Board of Selectmen to sell and/or convey the parcel to Frances Stanizzi or other person(s) on such terms and conditions as the Board of Selectmen determines including conveyance for nominal consideration, or act anything thereon.

ARTICLE 16. To see if the Town will vote to authorize the Board of Selectmen to acquire easements in two parcels of land by gift, purchase or eminent domain in connection with the project to rehabilitate the Summer Street Bridge over the Taunton River, such parcels being shown on a plan entitled "Preliminary Right of Way Plans for Summer Street Bridge – Bridgewater/Middleborough" dated October 9, 2009 revised December 22, 2009 prepared by Jacobs Engineering Group as follows:

Parcel #	Property Owner	Area
E-1	Brooks	270 square feet
E-2	Pocius	498 square feet

, or act anything thereon.

ARTICLE 17. to see if the Town will vote to authorize the Board of Selectmen to acquire easements in parcels of land by gift, purchase or eminent domain in connection with the project to mitigate pollution to the Nemasket River, or act anything thereon.

ARTICLE 18. To see if the Town will transfer the management and control of a parcel of land on Wareham Street (Route 28) shown as Lot 4356 on Assessors Map 110 to the Middleborough Gas & Electric Department Light Board for purposes of the Gas & Electric Department Light Board for purposes of the Gas & Electric including without limitation leasing all or a part of the parcel to a third party, and to authorize the Light Board to lease all or part of the property to Algonquin Gas Transmission, LLC or other party on such terms and conditions which may be approved by the Light Board, or act anything thereon.

ARTICLE 19. To see if the Town will vote to include acquisition of a Supervisory Control and Data Acquisition (SCADA) system, a mixing system for the Barden Hill storage tank, a dome for the East Grove Street well, and pump station modifications, to the water system improvements project voted under Article 12 of the warrant for the September 23, 2003 Special Town Meeting, or act anything thereon.

ARTICLE 20. To see if the Town will vote to appropriate the sum of \$6,000,000 for the purpose of improving the water system; and further to authorize the Town through the Treasurer, with the approval of the Board of Selectmen, to borrow said \$6,000,000.00, or any portion thereof, and issue bonds or notes therefore under Section 8(4) of Chapter 44 of the General Laws or any other enabling authority, or Chapter 29C of the General Laws; and further to authorize the Treasurer with the approval of the Board of Selectmen, to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C, or any other fund established in connection with the Safe Water Drinking Act, and in connection therewith to enter into a loan agreement and/or security agreement with the Trust, or any other such pertinent fund administrator, and otherwise to contract with the Trust and/or the Department of Environmental Protection with respect to such loan and with respect to any federal or state aid available for the project, or for the financing thereof, or for reimbursement of costs incurred in connection therewith' and further to authorize the Board of Selectmen to enter into a project

regulatory agreement with the Department of Environmental Protection, to extend all funds available for the project, and to take any other action ordered to the purposes of carrying out the project, or act anything thereon.

ARTICLE 21. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth to enact legislation to allow the Board to impose reasonable fees for the employment of outside consultants under the provisions of General Laws Chapter 44, Section 53G in connection with its review of earth removal permit applications under the Town's Earth Removal By-law, or act anything thereon.

ARTICLE 22. To see if the Town will vote to amend its Earth Removal By-law by deleting the first four sentences of the first paragraph of Section 5 and replacing them with the following:

Section 5

An earth removal permit may be issued for a period of up to three (3) years. If a project is not completed during the initial permit period, a permit may be extended up to one (1) year beyond the initial permit period, provided, however, that no permit may be extended unless an application therefore is filed no later than three (3) months before expiration of the initial permit period. If an earth removal project is not completed during the initial permit period and any permit extension period, a new permit to complete the project shall be required, provided, however, that a new permit to complete a project may not be issued until three (3) years have elapsed after expiration of the initial permit period and any permit extension period. Any project which is the subject of an earth removal permit or extension permit and which permit is in effect on January 1, 2010 shall not be subject to a three (3) year delay after expiration before issuance of a new permit to complete the project as set forth in the previous sentence. An applicant for a new permit to complete a project shall comply with all requirements of the by-law and regulations in effect when the application for a new permit is filed, or act anything thereon.

ARTICLE 23. To see if the Town will vote to support continued discussions regarding the potential acquisition, by the Town, of the former St. Luke's Hospital property at Center Street and Oak Street for a police station or other municipal use, or act anything thereon.

ARTICLE 24. To see if the Town will accept Sections 3 to 7, inclusive, of Chapter 44B of the General Laws, otherwise known as the Massachusetts Community Preservation Act, by approving a surcharge on real property for the purposes permitting by said Act, including the acquisition, creation and preservation of open space, the acquisition and preservation of historic resources, the acquisition, creation and preservation of land for recreational use, the creation, preservation and support of community housing, and the rehabilitation and restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided under said Act; to levy a 1% surcharge of the annual real estate tax against real property, to accept a \$100,000 exemption from the surcharge, as well as the exemption of property owned and occupied by a person who would qualify for low income housing or low or moderate income senior housing in the town, as permitted under Section 3(e) of said Act; or to take any other action relative thereto.

By Petition

ARTICLE 25. To see if the town meeting will vote to enact the following addition to the Town Charter:

To see if the Town meeting will vote to enact the following addition to the Town Charter:

TERM LIMITS

Beginning with the 2011 Annual Town Election, no elected Town Official shall serve more than 2 consecutive terms of office at any one time. Additionally, any Town Official who has served 2 consecutive terms, shall not be able to run for the same Board or position until his or her successor has served at least one full term.

By Petition

ARTICLE 26. To place on the town meeting warrant and article to accept Gibbs Road as a street in Middleboro.

By Petition

Given, under our hands at Middleborough, this 21st day of April, 2010.

Marsha L. Brunelle

Meredith C. Dughey

August P. Burtch

Alan P. Spataro

Steph J. Perkins

BOARD OF SELECTMEN

Pursuant to the instructions contained in the above warrant, I have notified and warned all inhabitants of said Town of Middleborough, qualified to vote as expressed in said warrant, to meet at the time and place for the purpose specified by causing an attested copy of the same to be published in the Middleboro Gazette on the 29th day of April, 2010, that date being more than seven days before the time specified for said meeting.

Bruce Gates
BRUCE GATES
Police Chief



Town of Middleboro
Water Division - Department of Public Works
48 Wareham Street, Middleboro, Massachusetts
508-946-2482
Fax 508-946-2484



May 3, 2010

To: Board of Selectmen
Marsha Brunelle, Chairwoman

From: Joseph M. Silva
Water Superintendent

Re: Article 19 & 20 – 2010 Town Meeting Warrant

Explanation of Article 19:

SCADA System

By acquiring the Supervisory Control and Data Acquisition System, also known as the SCADA System, the Town will meet its D E P mandated requirements. What the SCADA system does is to bring the water facilities into compliance with D E P chemical control safety requirements. The following is a scope of work that needs to be done by June 30, 2010 for the Town to comply with D E P's revised Drinking Water Guidelines titled, Chemical Application.

1. New receptacles for pumps to plug into at the pump stations
2. All service outlets will include one hour timers
3. All well stations will have chemical analyzers for p.h and chlorine control. If the chemical feed pump over pumps these chemicals, the pump will shut down automatically.
4. Pump operation must be proportional to the flow. If the flow increases the chemical feed pumps will increase, if the flow decreases the chemical feed pumps will decrease automatically.
5. The total treated flow leaving the pump station must be recorded. There will be new recorders.
6. There will be 2 new generators at 2 separate sites within the distribution system. The sites have yet to be determined.
7. There will be SCADA upgrades to the water towers so as to relay to the operators the water levels in the towers.

These are just some of the highlights of what the SCADA system will entail.

Attached is a proposal from Stantec Consulting Services Inc., as requested by the Town, with a very detailed breakdown of the scope of work that needs to be done to comply with D E P requirements.

Barden Hill Storage Tank Mixing System

The Barden Hill water storage tank is a 5.5 million gallon tank. The tank was constructed in 1971. The current way this tank operates is the last water pumped into the storage tank is the first water out of the tank. The water flowing into the tank comes from the filling pipe at the base of the tank. The concern is that the water in the upper levels of the tank is probably old water with a minimum chlorine residual. The water tends to stagnate at the upper levels due to the lack of circulation. The purpose of the circulation system is to improve inflow/outflow conditions, water turn over and mixing to minimize stagnation, thereby benefitting water quality.

Dome for the East Grove Street Well

Currently at the East Grove Street pump station the Towns hand dug well is housed by an older wooden structured building. There is a concern that because of the age of this wooden structure that there could be outside infiltration of rain water that could enter into this water source and could lead to a degradation of the water quality. A fiberglass type dome enclosure around this water supply would eliminate any concern regarding this matter.

Explanation of Article 20:

This would be a low interest loan from the Massachusetts Water Pollution Abatement Trust for the purpose of constructing a new water filtration plant that would remove the iron and manganese groundwater minerals that are found in the Towns well water supply that causes periodic discoloration in the tap water, staining of laundry whites, and also staining of porcelain bathroom fixtures.

The water treatment plant would improve the water quality for the Town residents.



Stantec Consulting Services Inc.
5 LAN Drive Suite 300
Westford MA 01886-3538
Tel: (978) 692-1913
Fax: (978) 692-4578

Stantec

December 16, 2009
File: Middleborough, MA

Paul Anderson
Water Superintendent
48 Wareham Street
Middleborough, MA 02346

Reference: Water System SCADA Update – Proposal for Engineering Services

Dear Mr. Anderson

Stantec is pleased to present this proposal to provide engineering services to design modifications to the Town's water facilities to bring them into compliance with the DEP chemical control safety requirements, to update the capabilities of the existing SCADA system for the water facilities and to provide general electrical upgrades.

With regard to the chemical control safety requirement, MA DEP revised Drinking Water Guidelines Chapter 6 - *Chemical Application*, in April 2009.

Amongst other items, this revision to the guidelines included a section entitled "*Chemical Safety Control Strategy for Critical Chemical Feed Systems*". These guidelines list specific requirements for chemical feed pump interlocks that need to be satisfied in order to allow operation of the chemical feed pumping systems. These revisions were made in an effort to help avoid chemical overfeeds and need to be incorporated into all chemical feed systems by June 30, 2010. The new requirements include the following:

Chemical Pump Requirements

1. Twist lock receptacle for pumps to plug in to.
2. Pilot light to indicate power at pump outlet, and outlets to be labeled.
3. Service outlet includes 1 hour timer, and required signage on usage.
4. Hardwire requires hand-off-auto switch, with a 1 hour timer in hand mode.
5. Alarm Shutdown – Pump may only be restarted at Station

Interlocks required for chemical pump run

1. Flow of water
2. Well Pump Running
3. Chemical analyzer (pH or chlorine) – if out of range shuts down pump
4. Thermal flow switch (if not flow metered)

Other items

1. Pump operation must be proportional to flow or flow paced.
2. Total treated flow must be recorded.
3. Alarms with alarm dialer for out of range pH, chlorine, color, etc.
4. Signage

Daytank

1. High level alarm stops transfer pump.

December 16, 2009

Paul Anderson

Page 2 of 5

Reference: Water System SCADA Update – Proposal for Engineering Services

Project Understanding

The Middleborough water department facilities include:

- East Grove Street WTF (slow sand filter treatment) and Chemical Building – Master Terminal Unit (MTU) at this location
- Cross Street Pump Station and Chemical Building
- Plympton Street Pump Station and Chemical Building
- East Main Street WTF and Chemical Building (new Treatment Plant proposed/designed)
- Tispaquin Street Pump Station and Chemical Building (new Treatment Plant proposed/designed)
- Miller Street Pump Station and Chemical Building
- Rockwell Pump Station and Chemical Building
- Spruce Street Pump Station and Chemical Building
- Barden Hill Road Standpipe
- Sachem Street Elevated Steel Water Storage Tank (replacement water storage tank in CIP)

The Middleborough Water Department's existing SCADA system is a telephone based pulse duration system. This project includes the design of SCADA equipment to allow remote monitoring and/or control of above mentioned facilities. Standby power is to be provided at two well sites – locations to be determined during the design phase.

The instruments are fairly modern and appear to be ready for connection to a PLC and a SCADA system conversion.

The chemical system is relay based. The existing panels are full with devices; there is not enough space for the required changes. A new PLC based panel at each facility would take care of the upgrades with flexibility for future changes.

We envision at each well site two PLC panels; one in the pump station for the well(s) and the second in the chemical building. Since the chemical buildings are almost identical the same panel layout could be used for each with the pump station panel more customized to site variations.

General information observed at Pump Stations/Treatment facilities:

- Controls are relay based using pulse duration signals for system monitoring over telephone lines
- Alarms are conveyed through a security system service to manned service centers (this has a cost associated with monitoring that could be eliminated/reduced with an upgrade)
- Electrical equipment is fairly old but is in good condition, appears to be serviced regularly.
- Backup is provided by engines with alternators for 120vac
- Chart recorders for flow
- Parco surge valves on pumps, no variable frequency drives
- Recommended upgrades

Reference: Water System SCADA Update – Proposal for Engineering Services

- New PLC based control panel tied to chemical building control panel
- Generators at specific sites for emergency situations
- Electrical service upgrades as part of larger rehab – specifically East Grove, replace medium (2200v) voltage 100hp pump motor and service to 480v.
- Additional instrumentation as needed

General information observed at system Chemical Buildings:

- Building layout is similar at most buildings
- Relay based control panel
- pH Analyzer in control panel
- Elevated KOH bulk tank to fill day tanks via motorized valves
- Station otherwise in good condition
- Recommended chemical upgrades to comply with newly revised MA DEP Guidelines
 - New control panel PLC based tied to SCADA
 - Level controls on day and bulk tanks
 - Twistlock plug & receptacles on chemical pumps
 - Chlorine analyzers where chemical is feed
 - Additional recorders

Scope of Services

Design and Bidding Phase

1. Prepare schematic level floor plans of pump stations, chemical buildings, water treatment facility, storage tanks and Water Office and prepare inventory of existing instrumentation and communication equipment as well as remote terminal units, master terminal units and computer workstation. Floor plans will be based on existing plans provided by the Town and updated based on our field visits.
2. Prepare a preliminary System Block Diagram and Functional Description of the SCADA system.
3. Meet with the Water Department staff to discuss project specifics. Determine what monitoring and control equipment should be provided for various facilities.
4. Prepare detailed design and specification bid documents, which identifies work to be performed. Submit specification and bid documents to Town for review.

Reference: Water System SCADA Update – Proposal for Engineering Services

5. Prepare final design construction cost estimate and workable construction schedule.
6. Prepare advertisement for bids for SCADA System construction contract.
7. Print twenty (20) sets of plans and specifications and distribute to bidders.
8. During contract bidding phase provide technical support and respond to questions regarding bid documents.
9. Attend bid opening, evaluate the contractor bid proposals and make recommendations to award.
10. Prepare Contract Documents for execution.

Construction Services Phase

1. Review and approve shop-drawing submittals from contractor.
2. Provide 100 hours of field inspection during equipment installation to monitor project progress and compliance with the contract documents.
3. Provide technical support during field testing of equipment.
4. Conduct a project preconstruction meeting and three project progress meetings (4 meetings total).
5. Review payment requests from contractor and make recommendations for payment.
6. Review and approve as-built drawings and provide operation and maintenance manual which includes drawings, equipment, specification, software, etc.

Engineering Fee

Design.....	\$58,000
Bidding.....	\$6,000
Contract Document Printing Expense Allowance.....	\$2,000
Construction Administration.....	\$48,000
Construction Observation (100 hours).....	\$13,500
Construction Phase Travel Expenses Allowance.....	\$3,500
<u>Total</u>	<u>\$131,000</u>

December 16, 2009
Paul Anderson
Page 5 of 5

Reference: **Water System SCADA Update – Proposal for Engineering Services**

Should you decide to proceed, please inform us and we will provide an Agreement for Execution.

We appreciate this opportunity to provide engineering services for the Middleborough Department of Public Works/Water Department and look forward to working with you on this project.

Sincerely,

STANTEC CONSULTING SERVICES INC.



Garry McCarthy, P.E.
Principal, Environmental Infrastructure
Tel: (978) 577-1408
Fax: (978) 692-4578
Garry.mccarthy@stantec.com



Stantec

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into effective March 18, 2010 (the "Agreement Date") by and between:

"CLIENT"

Name: TOWN OF MIDDLEBOROUGH DPW
Address: 48 Wareham Street, Middleborough, MA 02346
Phone: (589) 462-482 Fax: (000) 000-0000
Representative: Joseph Silva, Water Superintendent

"STANTEC"

Name: STANTEC CONSULTING SERVICES INC.
Address: 5 LAN Drive, Suite 300, Westford, MA 01886
Phone: (978) 692-1913 Fax: (978) 692-4578
Representative: George Allan, Principal

PROJECT NAME (the "PROJECT"):

Water System SCADA Update

DESCRIPTION OF WORK: STANTEC shall render the services described in Attachment "A" (hereinafter called the "SERVICES") in accordance with this AGREEMENT. STANTEC may, at its discretion and at any stage, engage subconsultants to perform all or any part of the SERVICES. The CLIENT and STANTEC by written amendment to this AGREEMENT may from time to time make changes to the SERVICES. All changed work shall be carried out under this AGREEMENT. The time for completion of the SERVICES shall be adjusted accordingly.

COMPENSATION: Charges for the SERVICES rendered will be made in accordance with the CONTRACT PRICE indicated in Attachment "A", or, if no CONTRACT PRICE is indicated, in accordance with STANTEC's Schedule of Fees and Disbursements in effect from time to time as the SERVICES are rendered.

Invoices shall be paid by the CLIENT in the currency of the jurisdiction in which the SERVICES are provided without deduction or setoff upon receipt. Failure to make any payment when due is a material breach of this Agreement and will entitle STANTEC, at its option, to suspend or terminate this Agreement and the provision of the SERVICES. ~~Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest.~~ 

REPRESENTATIVES: Each party shall designate in the space provided above a representative who is authorized to act on behalf of that party and receive notices under this AGREEMENT. Such representatives have complete authority to act on behalf of their principals in respect to all matters arising under this AGREEMENT.

NOTICES: All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party. All notices required by this AGREEMENT to be given by either party shall be deemed to be properly given and received within two (2) business days if made in writing to the other party by certified mail, telegram, email, facsimile or telex, addressed to the regular business address of such party as identified above.

CLIENT'S RESPONSIBILITIES: The CLIENT shall provide to STANTEC in writing, the CLIENT's total requirements in connection with the PROJECT, including the PROJECT budget and time constraints. The CLIENT shall make available to STANTEC all relevant information or data pertinent to the PROJECT which is required by STANTEC to perform the SERVICES. STANTEC shall be entitled to rely upon the accuracy and completeness of all information and data furnished by the CLIENT, including information and data originating with other consultants employed by the CLIENT whether such consultants are engaged at the request of STANTEC or otherwise. Where such information or data originates either with the CLIENT or its consultants then STANTEC shall not be responsible to the CLIENT for the consequences of any error or omission contained therein.

When required by STANTEC, the CLIENT shall engage specialist consultants directly to perform items of work necessary to enable STANTEC to carry out the SERVICES. Whether arranged by the CLIENT or STANTEC, these services shall be deemed to be provided under direct contracts to the CLIENT unless expressly provided otherwise.

The CLIENT shall give prompt consideration to all documentation related to the PROJECT prepared by STANTEC and whenever prompt action is necessary shall inform STANTEC of CLIENT's decisions in such reasonable time so as not to delay the schedule for providing the SERVICES.

When applicable, the CLIENT shall arrange and make provision for STANTEC's entry to the PROJECT site as well as other public and private property as necessary for STANTEC to perform the SERVICES. The CLIENT shall obtain any required approvals, licenses and permits from governmental or other authorities having jurisdiction over the PROJECT so as not to delay STANTEC in the performance of the SERVICES.

STANTEC'S RESPONSIBILITIES: STANTEC shall furnish the necessary qualified personnel to provide the SERVICES. STANTEC represents that it has access to the experience and capability necessary to and agrees to perform the SERVICES with



Stantec

the reasonable skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the SERVICES at the time when and the location in which the SERVICES were performed. This undertaking does not imply or guarantee a perfect PROJECT and in the event of failure or partial failure of the product of the SERVICES, STANTEC will be liable only for its failure to exercise diligence, reasonable care and professional skill. This standard of care is the sole and exclusive standard of care that will be applied to measure STANTEC's performance. There are no other representations or warranties expressed or implied made by STANTEC. In particular, but not by way of limitation, no implied warranty of merchantability or fitness for a particular purpose shall apply to the SERVICES provided by STANTEC nor shall STANTEC warrant or guarantee economic, market or financial conditions, proforma projections, schedules for public agency approvals, or other factors beyond STANTEC's reasonable control. STANTEC does not warrant the SERVICES to any third party and the CLIENT shall indemnify and hold harmless STANTEC from any demands, claims, suits or actions of third parties arising out of STANTEC's performance of the SERVICES.

In performing the SERVICES under this AGREEMENT, STANTEC shall operate as and have the status of an independent contractor and shall not act as, or be an employee of the CLIENT.

The SERVICES performed by STANTEC shall be subject to the inspection and the review of the CLIENT at all times but such inspection and review shall not relieve STANTEC from its responsibility for the proper performance of the SERVICES.

TERMINATION: Either party may terminate this AGREEMENT without cause upon thirty (30) days' notice in writing. If either party breaches this AGREEMENT, the non-defaulting party may terminate this AGREEMENT after giving seven (7) days' notice to remedy the breach. On termination of this AGREEMENT, the CLIENT shall forthwith pay STANTEC for the SERVICES performed to the date of termination. Non-payment by the CLIENT of STANTEC's invoices within 30 days of STANTEC rendering same is agreed to constitute a material breach of this AGREEMENT and, upon written notice as prescribed above, the duties, obligations and responsibilities of STANTEC are terminated.

SUSPENSION OF SERVICES: If the project is suspended for more than thirty (30) calendar days in the aggregate, STANTEC shall be compensated for services performed and charges incurred prior to receipt of notice to suspend and, upon resumption, an equitable adjustment in fees to accommodate the resulting demobilization and remobilization costs. In addition, there shall be an equitable adjustment in the project schedule based on the delay caused by the suspension. If the PROJECT is suspended for more than ninety (90) days, STANTEC may, at its option, terminate this agreement upon giving notice in writing to the CLIENT.

ENVIRONMENTAL: Except as specifically described in this AGREEMENT, STANTEC's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater.

BUILDING CODES, BYLAWS AND OTHER PUBLIC REGULATIONS: STANTEC shall, to the best of its ability, interpret building codes, by-laws and other public regulations as they apply to the PROJECT and as they are published at the time SERVICES commence. Furthermore, STANTEC shall observe and comply with all applicable laws, ordinances, codes and regulations of government agencies, including federal, state, provincial, municipal and local governing bodies having jurisdiction over the conduct of the SERVICES ("LAWS"). However, it is expressly acknowledged and agreed by the CLIENT that as the PROJECT progresses such building codes, by-laws, other public regulations and LAWS may change or the interpretation of any public authority may differ from the interpretation of STANTEC, through no fault of STANTEC, and any extra costs necessary to conform to such changes or interpretations during or after execution of the SERVICES will be paid by the CLIENT.

STANTEC shall continue to provide equal employment opportunity to all qualified persons and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

COST AND SCHEDULE OF CONSTRUCTION WORK: In providing opinions of probable cost and project schedule, it is recognized that neither the CLIENT nor STANTEC has control over the costs of labor, equipment or materials, or over the Contractor's methods of determining prices or time. The opinions of probable cost or project duration are based on STANTEC's reasonable professional judgment and experience and do not constitute a warranty, express or implied, that the Contractors' bids, project schedules, or the negotiated price of the Work or schedule will not vary from the CLIENT's budget or schedule or from any opinion of probable cost or project schedule prepared by STANTEC. Exact costs and times will be determined only when bids have been received for the PROJECT and when the construction work has been performed and payments finalized.

ADMINISTRATION OF CONSTRUCTION CONTRACTS: When applicable, STANTEC shall provide field services during the construction of the PROJECT only to the extent that such SERVICES are included and defined in this AGREEMENT. The performance of the construction contract is not STANTEC's responsibility nor are STANTEC's field services rendered for the construction contractor's benefit.

It is understood and agreed by the CLIENT and STANTEC that only work which has been seen during an examination by STANTEC can be said to have been appraised and comments on the balance of any construction work are assumptions only.

When field services are provided by STANTEC, the authority for general administration of the PROJECT shall reside with STANTEC only to the extent defined in this AGREEMENT. In such case, STANTEC shall coordinate the activities of other consultants employed by the CLIENT, only to the extent that STANTEC is empowered to do so by such other consultants' contracts with the CLIENT.

STANTEC shall not be responsible for any contractor's failure to carry out the work in accordance with the contract documents nor for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any

**Stantec**

of the work in connection with the PROJECT. When field services are provided, no acceptance by STANTEC of the work or services of a construction contractor or other consultants, whether express or implied, shall relieve such construction contractor or other consultants from their responsibilities to the CLIENT for the proper performance of such work or services and further, STANTEC shall not be responsible to the CLIENT or to the construction contractor or to the other consultants for the means, methods, techniques, sequences, procedures and use of equipment of any nature whatsoever, whether reviewed by STANTEC or not, which are employed by the construction contractor or the other consultants in executing, designing, or administering any phases of the PROJECT, or for placing into operation any plant or equipment or for safety precautions and programs incidental thereto.

When field services are provided, STANTEC will not be designated as the party responsible for the compliance by others on the construction work site with the purposes or requirements of applicable environmental, occupational health and safety, or similar legislation. The CLIENT shall designate a responsible party, other than STANTEC, for the coordination and performance of environmental, occupational health and safety activities on the construction work site as required by applicable legislation and associated regulations. Neither the professional activities of STANTEC, nor the presence of STANTEC or its employees and subconsultants at a construction site, shall relieve the CLIENT, Contractors or any other entity of their obligations, duties and responsibilities with respect to jobsite safety. Subject only to applicable legislation, STANTEC has no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any environmental, health or safety activities or precautions.

JOBSITE SAFETY: Neither the professional activities of STANTEC, nor the presence of STANTEC or its employees and subconsultants at a construction site, shall relieve the CLIENT and any other entity of their obligations, duties and responsibilities with respect to job site safety. Subject only to applicable legislation, STANTEC and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

LIMITATION OF LIABILITY: The CLIENT releases STANTEC from any liability and agrees to defend, indemnify and hold STANTEC harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney's fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the SERVICES, excepting liability arising from the negligence or willful misconduct of STANTEC.

It is further agreed that the total amount of all claims the CLIENT may have against STANTEC under this AGREEMENT or arising from the performance or non-performance of the SERVICES under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees paid to STANTEC for the SERVICES or \$500,000. No claim may be brought against STANTEC in contract or tort more than two (2) years after the cause of action arose. As the CLIENT's sole and exclusive remedy under this AGREEMENT any claim, demand or suit shall be directed and/or asserted only against STANTEC and not against any of STANTEC's employees, officers or directors.

STANTEC's liability with respect to any claims arising out of this AGREEMENT shall be absolutely limited to direct damages arising out of the SERVICES and STANTEC shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the CLIENT, including but not limited to claims for loss of use, loss of profits and loss of markets.

INDEMNITY FOR MOLD CLAIMS: It is understood by the parties that existing or constructed buildings may contain mold substances that can present health hazards and result in bodily injury, property damage and/or necessary remedial measures. If, during performance of the SERVICES, STANTEC knowingly encounters any such substances, STANTEC shall notify the CLIENT and, without liability for consequential or any other damages, suspend performance of services until the CLIENT retains a qualified specialist to abate and/or remove the mold substances. The CLIENT agrees to release and waive all claims, including consequential damages, against STANTEC, its subconsultants and their officers, directors and employees arising from or in any way connected with the existence of mold on or about the project site whether during or after completion of the SERVICES. The CLIENT further agrees to indemnify and hold STANTEC harmless from and against all claims, costs, liabilities and damages, including reasonable attorneys' fees and costs, arising in any way from the existence of mold on the project site whether during or after completion of the SERVICES, except for those claims, liabilities, costs or damages caused by the sole gross negligence and/or knowing or willful misconduct of STANTEC. STANTEC and the CLIENT waive all rights against each other for mold damages to the extent that such damages sustained by either party are covered by insurance.

DOCUMENTS: All documents prepared by STANTEC or on behalf of STANTEC in connection with the PROJECT are instruments of service for the execution of the PROJECT. STANTEC retains the property and copyright in these documents, whether the PROJECT is executed or not. Payment to STANTEC of the compensation prescribed in this AGREEMENT shall be a condition precedent to the CLIENT's right to use documentation prepared by STANTEC. These documents may not be used for any other purpose without the prior written agreement of STANTEC. The CLIENT shall have a permanent non-exclusive, royalty-free license to use any concept, product or process which is patentable or capable of trademark, produced by or resulting from the SERVICES rendered by STANTEC in connection with the PROJECT, for the life of the PROJECT. The CLIENT shall not use, infringe upon or appropriate such concepts, products or processes without the express written agreement of STANTEC. In the event STANTEC's documents are subsequently reused or modified in any material respect without the prior consent of STANTEC, the CLIENT agrees to indemnify STANTEC from any claims advanced on account of said reuse or modification.

STANTEC cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format ("Electronic Files"). CLIENT shall release, indemnify and hold STANTEC, its officers, employees, consultants and agents harmless from any claims or damages arising from the use of Electronic Files. Electronic files will not contain stamps or seals, remain the property of



Stantec

STANTEC, are not to be used for any purpose other than that for which they were transmitted, and are not to be retransmitted to a third party without STANTEC's written consent.

FORCE MAJEURE: Any default in the performance of this AGREEMENT caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

GOVERNING LAW: This AGREEMENT shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the SERVICES are performed.

DISPUTE RESOLUTION: If requested in writing by either the CLIENT or STANTEC, the CLIENT and STANTEC shall attempt to resolve any dispute between them arising out of or in connection with this AGREEMENT by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, if mutually agreed, the dispute shall be referred to arbitration pursuant to laws of the jurisdiction in which the majority of the SERVICES are performed or elsewhere by mutual agreement.

ATTORNEYS FEES: In the event of a dispute hereunder, the prevailing party is entitled to recover from the other party all costs incurred by the prevailing party in enforcing this AGREEMENT and prosecuting the dispute, including reasonable attorney's and expert's fees, whether incurred through formal legal proceedings or otherwise.

ASSIGNMENT AND SUCCESSORS: Neither the CLIENT nor STANTEC shall, without the prior written consent of the other party, assign the benefit or in any way transfer the obligations of this AGREEMENT or any part hereof. This AGREEMENT shall inure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors, and assigns.

PROTECTION OF PRIVACY LAWS: STANTEC will comply with its statutory obligations respecting the collection, use, disclosure, access to, correction, protection, accuracy, retention and disposition of personal information that may be collected or created under this AGREEMENT. STANTEC will refer any request for access to or correction of personal information that is made under statute to the CLIENT and will comply with any directions from the CLIENT respecting the access request, or respecting correction and annotation of personal information. STANTEC will, at reasonable times and on reasonable notice, allow the CLIENT to enter its premises and inspect any personal information of the CLIENT's that is in the custody of STANTEC or any of STANTEC's policies or practices relevant to the management of personal information subject to this AGREEMENT.

ENTIRE AGREEMENT: This AGREEMENT constitutes the sole and entire agreement between the CLIENT and STANTEC relating to the PROJECT and supersedes all prior agreements between them, whether written or oral respecting the subject matter hereof and no other terms, conditions or warranties, whether express or implied, shall form a part hereof. This AGREEMENT may be amended only by written instrument signed by both the CLIENT and STANTEC. All attachments referred to in this AGREEMENT are incorporated herein by this reference; however, in the event of any conflict between attachments and the terms and conditions of this AGREEMENT, the terms and conditions of this AGREEMENT shall take precedence.

SEVERABILITY: If any term, condition or covenant of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this AGREEMENT shall be binding on the CLIENT and STANTEC.

THE PARTIES EXPRESSLY ACKNOWLEDGE THAT THIS AGREEMENT CONTAINS LIMITATION OF LIABILITY PROVISIONS RESTRICTING RIGHTS FOR THE RECOVERY OF DAMAGES.

The Parties, intending to be legally bound, have made, accepted and executed this AGREEMENT as of the Agreement Date noted above:

TOWN OF MIDDLEBOROUGH DPW

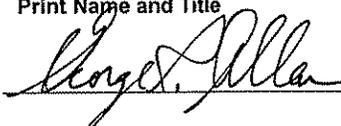
STANTEC CONSULTING SERVICES INC.

Print Name and Title

George Allan, Principal

Print Name and Title

Per: _____

Per:  _____



Stantec

PROFESSIONAL SERVICES AGREEMENT ATTACHMENT "A"

Attached to and forming part of the AGREEMENT

BETWEEN:

TOWN OF MIDDLEBOROUGH DPW
(hereinafter called the "CLIENT")

- and -

STANTEC CONSULTING SERVICES INC.
(hereinafter called "STANTEC")

EFFECTIVE: March 18, 2010

This Attachment details the SERVICES, CONTRACT TIME, CONTRACT PRICE, ADDITIONAL CONDITIONS and ADDITIONAL ATTACHMENTS forming part of the above described AGREEMENT.

SERVICES: STANTEC shall perform the following SERVICES:

See proposal letter dated December 16, 2009

(hereinafter called the "SERVICES")

CONTRACT TIME: Commencement Date: March 22, 2010

Estimated Completion Date: December 2010

CONTRACT PRICE: Subject to the terms below, CLIENT will compensate STANTEC as follows:

\$131,000

Where not stated as being included in the fees, project specific subconsultant, contractor, lab and other similar third party charges will be charged as invoiced to STANTEC with a ten percent (10%) markup.

Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

Where the SERVICES or services conditions change, STANTEC shall submit to the CLIENT in a timely manner, documentation of the revisions to Attachment "A" adjusting the Contract Services Time and Price as required.

Unless otherwise specified, charges for SERVICES are based on STANTEC'S hourly billing rate table ("Rate Table"). The Rate Table is subject to escalation from time to time.

**ADDITIONAL
CONDITIONS:**

The following additional conditions shall be read in conjunction with and constitute part of this AGREEMENT:

No additional conditions

**ADDITIONAL
ATTACHMENTS:**

The following additional attachments shall be read in conjunction with and constitute part of this AGREEMENT:

See proposal letter dated December 16, 2009



PROFESSIONAL SERVICES AGREEMENT
ATTACHMENT "A"

Stantec

**INSURANCE
REQUIREMENTS:**

Before any services are provided under this agreement, STANTEC shall procure, and maintain in effect during the term of this agreement, insurance coverage in amounts and on terms not less than set forth below.

General Liability: Commercial general liability insurance for personal and bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence and not less than \$2,000,000 in the aggregate.

Automobile Liability: Automobile liability insurance for bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence.

Professional Liability: Professional liability insurance for damages incurred by reason of any negligent act, error or omission committed or alleged to have been committed by STANTEC in the amount of \$1,000,000 per claim and in the aggregate.

Workers' Compensation: As prescribed by applicable law.

Certificates: Upon request, STANTEC shall provide certificates of insurance evidencing coverage required above. Each certificate shall provide that the coverage therein afforded shall not be cancelled except with thirty (30) days prior written notice to the CLIENT.