

MONTAGUE SELECTBOARD MEETING

VIA ZOOM

Monday, June 26, 2023

AGENDA

Join Zoom Meeting <https://us02web.zoom.us/j/82135743987>

Meeting ID: 821 3574 3987 Dial into meeting: +1 646 558 8656

Topics may start earlier than specified, unless there is a hearing scheduled

Meeting Being Taped

Votes May Be Taken

- 1. 6:30 PM** Selectboard Chair opens the meeting, including announcing that the meeting is being recorded and roll call taken
- 2. 6:30** Approve Selectboard Minutes from June 12, 2023
- 3. 6:31** Public Comment Period: Individuals will be limited to two (2) minutes each and the Selectboard will strictly adhere to time allotted for public comment
- 4. 6:33** Evelyn Wulfschle, Hole Pie, Inc.
 - Change of Doing Business As from Pie Hole to Harvey's, 166 Avenue A, Turners Falls MA
- 5. 6:40** Brick and Feather, Lawrence George
 - Application to Place Sign, Object Other Display or Exhibition/Vigil on Public Property
- 6. 6:45** Shane O'Halloran, Dairy Farmers of America
 - Use of Public Property to film "B" roll for a commercial for the Dairy Farmers of America, Intersection of Avenue A and Third Street, various parking locations, Wednesday June 28, 2023, from 1:00PM-5:00PM
- 7. 6:55** Maureen Pollock, Town Planner
 - Execute FY24 Community Planning Grant Agreement- Former Farren Care Center Property residential market assessment- \$35,000
- 8. 7:05** Personnel Board
 - Appoint Debra A. Bourbeau as the Town Clerk's Consultant, Non-Union, Grade G Step 10, 10 hours per week, effective July 1, 2023
 - Appoint Kathern Pierce Town Clerk, Non-Union, Grade G Step 5, 35 hours per week, effective 7/1/2023
 - Appoint Tina Sulda as Assistant Town Clerk, NAGE, Grade D Step 5, 35 hours per week, effective July 17, 2023
 - Appoint Bruce Farr, Custodian for DPW, UE Grade A Step 10, 40 hours per week, effective July 17, 2023
 - Appoint Jakob Murray-Lavin, Summer Grounds Help for DPW, Non-Union, 40 hours per week effective June 27, 2023
 - Appoint Scott Dodd, Truck Driver/Laborer for DPW, UE Grade C Step 1, 40 hours per week, effective July 5, 2023
 - Appoint Will Peredina, Operator/Laborer for CWF, UE Grade B Step 2, 40 hours per week, effective July 5, 2023
 - Appoint Fallon Paxton as Library Assistant, NAGE, Grade A Step 2, 6 hours per week effective July 1, 2023
 - Appoint Danielle Whiteman as Substitute Library Assistant, Non-Union, working hours as needed effective July 1, 2023
 - Appoint Samuel Guerin to Planning Board for a 3-year term, effective 6/27/2023 for term ending 6/30/2026
 - Authorize Town Credit Card for Kathern Pierce, \$5,000
 - To Approve Annual Appointments as set forth in the attached list

Montague Selectboard Meeting

June 26, 2023

Page 2

9. 7:25

Walter Ramsey, Assistant Town Administrator

- 38 Avenue A Demolition Bid:
 - Review scope of work and bid results
 - Issue notice of award to Associated Building Wreckers, Inc for the 38 Avenue A Structure Demolition Project for a lump sum amount of \$24,970 to be funded by a town capital article appropriation. Authorize chairman to execute the contract.
- Clean Water Facility Screw Pump Replacement Project: USDA Rural Development grant and loan award announcement. Authorize chair to execute agreement documents.
- First Street Housing Project (Map 4 Lot 31)
 - Project updates
 - Execute Purchase and Sale Agreement with Pioneer Valley Habitat for Humanity First Street Parcel (Map 4 Lot 31)
 - Authorize "Local Action Unit" certification application to Executive Office of Housing and Livable Communities

10. 7:40

Town Administrator Business

- Rescind Unused Community Development Discretionary Account Balances
 - Outdoor Library Facility (\$16.01)
 - Digital Economy Plan (\$3,000)
- Consider FRCOG Request for Shared Consultant to Support FERC License Impact Assessment and Testimony Related to Erosion Control (\$2,500) in the Turners Falls Impoundment
 - Consider Allocation of \$2,500 of Community Development Unallocated Funds to Support Procurement of a Shared Erosion Control Consultant
- Contract for CSO Flow Monitoring, Reporting and Notification with ADS Environmental Services
- Execute MOU with Franklin County Solid Waste Management District (FCSWMD) regarding Hauling and Disposal of Bulky Waste and Hauling and Disposal of Scrap Metal and Appliances
- Topics not anticipated within the 48 hour posting

11. 7:55

Executive Sessions:

- Executive session in accordance with G. L. c.30A, §21(a)(6) to consider the purchase, exchange, lease or value of real estate, Kearsarge
- Executive Session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to collective bargaining or litigation, as appropriate, Kearsarge; votes may be taken
- Executive Session under G.L. c.30A, §21(a)(6) to consider the purchase, exchange, lease or value of real estate, GMTA Garage, 382 Deerfield Street, Greenfield
- Executive Session in accordance with G.L. c. 30A, s. 21(a)(2) to conduct negotiations with Town Administrator, Steven Ellis; votes may be taken

OTHER:

Next Meeting: Selectboard, Monday July 10, 2023, at 6:00 PM, 1 Avenue A, Turners Falls and via ZOOM

Board Name	
1 YEAR APPOINTMENTS	TERM EXPIRATION
ADA COORDINATOR	
Steven Ellis	6/30/2024
AIRPORT MANAGER	
Bryan Camden	6/30/2024
ALTERNATE BUILDING INSPECTOR	
David Jensen	6/30/2024
ASSESSOR - DIRECTOR	
Karen Tonelli	6/30/2024
AUCTION PERMIT AGENT	
Wendy Bogusz	6/30/2024
Kathern Pierce	6/30/2024
BATTLEFIELD GRANT ADVISORY COMMITTEE	
David Brule	6/30/2024
Kit Carpenter	6/30/2024
Joe Graveline	6/30/2024
Rich Holshuh	6/30/2024
Roger Longtoe Sheehan	6/30/2024
John Nove	6/30/2024
Elizabeth Santana Kiser	6/30/2024
Bettina Washington	6/30/2024
Tim Blagg	6/30/2024
Mark Andrews	6/30/2024
CABLE ADVISORY COMMITTEE	
Jason Burbank	6/30/2024
Richard Kuklewicz	6/30/2024
CEMETERY COMMISSION	
Annabel Levine	6/30/2024
Judith Lorei	6/30/2024
Mary Kay Mattiace	6/30/2024
Jamie Fuller	6/30/2024
Jo-Anne Prescott	6/30/2024
CONSERVATION COMMISSION - ASSOCIATE MEMBER	
Albert Averill	6/30/2024
CONSTABLE	
Wendy Bogusz	6/30/2024
Christopher Williams	6/30/2024

1 YEAR APPOINTMENTS CONTINUED	TERM EXPIRATION
COUNCIL ON AGING DIRECTOR	
Roberta Potter	6/30/2024
COUNCIL ON AGING	
Debra Bourbeau	6/30/2024
Barbara Kuklewicz	6/30/2024
Elsie Gilman	6/30/2024
Mary Hildreth	6/30/2024
Linda Ackerman	6/30/2024
DPW SUPERINTENDENT	
Tom Bergeron	6/30/2024
EMERGENCY MANAGER	
John Zellmann	6/30/2024
ENERGY COMMITTEE	
Jason Burbank	6/30/2024
Ariel Elan	6/30/2024
Pamela Hanold	6/30/2024
Sarah (Sally) Pick	6/30/2024
Bob Reuter	6/30/2024
Tim Van Egmond	6/30/2024
F. C. SOLID WASTE MANAGEMENT DISTRICT 2	
Christopher Boutwell, Sr.	6/30/2024
FOREST WARDEN	
Richard Sawin, Jr.	6/30/2024
FOREST WARDEN - DEPUTY	
Kyle Cogswell	6/30/2024
FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS	
Steven Ellis	6/30/2024
Richard Kuklewicz	6/30/2024
FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS - PLANNING REP	
Elizabeth Irving	6/30/2024
FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS - SELECTBOARD REP	
Maureen Pollock	6/30/2024
FRTA ADVISORY BOARD	
Richard Kuklewicz	6/30/2024
Jeffrey Singleton	6/30/2024

1 YEAR APPOINTMENTS CONTINUED	TERM EXPIRATION
MASS IN MOTION	
Eileen Down	6/30/2024
Caitlin Kelley	6/30/2024
Eileen Mariani	6/30/2024
Ryan Paxton	6/30/2024
Maureen Pollock	6/30/2024
Roberta Potter	6/30/2024
Roy Rosenblatt	6/30/2024
PARKS & RECREATION DIRECTOR	
Jonathan Dobosz	6/30/2024
REGIONAL EMERGENCY PLANNING COMMITTEE (REPC)	
John Zellmann	6/30/2024
SOLAR PLANNING COMMITTEE	
Greg Garrison	6/30/2024
Pamela F. Hanold	6/30/2024
Sarah (Sally) Pick	6/30/2024
Bob Rueter	6/30/2024
TAX TITLE CUSTODIAN	
Eileen Seymour	6/30/2024
TOWN COUNSEL	
KP Law, PC	6/30/2024
TREE ADVISORY COMMITTEE	
William Codington	6/30/2024
David Detmold	6/30/2024
Charles Walker Korby	6/30/2024
Annabel Levine	6/30/2024
Tom Sullivan	6/30/2024
Jeffrey Warren -Pukis	6/30/2024
Eli Smith	6/30/2024
Angela Wheeler	6/30/2024
VETERAN'S BURIAL AGENT	
Christopher Demars	6/30/2024
VETERAN'S DIRECTOR	
Christopher Demars	6/30/2024
VETERAN'S GRAVES OFFICER	
John T. Murphy	6/30/2024

1 YEAR APPOINTMENTS CONTINUED	TERM EXPIRATION
WELLS TRUST	
Ron Sicard	6/30/2024
WIRING INSPECTOR	
Wayne Shaw	6/30/2024
ZONING BOARD OF APPEALS - ALTERNATE	
Robert Obear	6/30/2024
3 YEAR APPOINTMENTS	
AIRPORT COMMISSION	
Gary Collins	6/30/2026
Maxwell John Pellerin	6/30/2026
CONSERVATION COMMISSION	
Mark Fairbrother	6/30/2026
Donna Francis	6/30/2026
Margaux Reckard	6/30/2026
ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION	
Linda Ackerman	6/30/2026
Ella Ingraham	6/30/2026
Kimberly Williams	6/30/2026
PLANNING BOARD	
Robert Obear	6/30/2026
TOWN ACCOUNTANT	
Carolyn Olsen	6/30/2026
5 YEAR APPOINTMENT	
ZONING BOARD OF APPEALS	
William J. Doyle IV	6/30/2028



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

4

☐ For Reconsideration

LICENSING AUTHORITY CERTIFICATION

MONTAGUE

City/Town

06862-RS-0736

ABCC License Number

TRANSACTION TYPE (Please check all relevant transactions):

The license applicant petitions the Licensing Authorities to approve the following transactions:

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | <input type="checkbox"/> Other <input type="text"/> | <input checked="" type="checkbox"/> Change of DBA | |

APPLICANT INFORMATION

Name of Licensee	<input type="text" value="Hole Pie, Inc."/>	DBA	<input type="text" value="Harvey's"/>
Street Address	<input type="text" value="166 Avenue A"/>		Zip Code <input type="text" value="01376"/>
Manager	<input type="text" value="Evelyn Wulfkuhle"/>		Granted under Special Legislation? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<input type="text" value="\$12 Restaurant"/>	<input type="text" value="Annual"/>	<input type="text" value="All Alcoholic Beverages"/>	If Yes, Chapter <input type="text"/>
<small>Type (i.e. restaurant, package store)</small>	<small>Class (Annual or Seasonal)</small>	<small>Category (i.e. Wines and Malts / All Alcohol)</small>	of the Acts of (year) <input type="text"/>

DESCRIPTION OF PREMISES Complete description of the licensed premises

The premises is located at 166 Avenue A, Turners Falls, MA consisting of a one story building with 3 rooms, 2 entrances and 4 exits (1,760 sq. ft) outdoor patio (1,200 sq ft) with a basement for storage (1,760 sq. ft) for a total of 4,720 sq. feet

LOCAL LICENSING AUTHORITY INFORMATION

Application filed with the LLA:	Date	<input type="text" value="6/15/2023"/>	Time	<input type="text" value="3:00 PM"/>	
Advertised	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Date Published	<input type="text"/>	Publication	<input type="text"/>
Abutters Notified:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Date of Notice	<input type="text"/>		
Date APPROVED by LLA	<input type="text"/>	Decision of the LLA	<input type="text"/>		
Additional remarks or conditions (E.g. Days and hours)	<input type="text"/>				
For Transfers ONLY:					
Seller License Number:	<input type="text"/>	Seller Name:	<input type="text"/>		

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM

APPLICATION FOR AMENDMENT-Change of Business Entity Information

DO NOT MAKE PAYMENT OR COMPLETE THIS FORM FOR CHANGE OF DBA AMENDMENT

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL
LICENSING AUTHORITY.**

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE
PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)	06862-RS-0736				
ENTITY/ LICENSEE NAME	HØPIE, INC.				
ADDRESS	166 Avenue A				
CITY/TOWN	Turners Falls (Montague)	STATE	MA	ZIP CODE	01376

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other | <input checked="" type="checkbox"/> Change of DBA |

**THE LOCAL LICENSING AUTHORITY MUST MAIL THIS
TRANSMITTAL FORM ALONG WITH
COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:**

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR AMENDMENT-Change of Business Entity Information

☐ **Change of Corporate Name**

☒ **Change of DBA**

- Payment Receipt (Req. for Chg of Corp Name only)
- Monetary Transmittal Form
- DOR Certificate of Good Standing (Req. for Chg of Corp Name only)
- DUA Certificate of Compliance (Req. for Chg of Corp Name only)
- Change of Corporate Name/DBA Application
- Vote of the Entity
- Business Structure Documents
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☐ **Change of Corporate Structure**

- Payment Receipt
- Monetary Transmittal Form
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Corporate Structure Application
- Vote of the Entity
- Business Structure Documents
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

1. BUSINESS ENTITY INFORMATION

Entity Name	Municipality	ABCC License Number
Hole Pie, Inc.	Montague	06862-RS-0736

Please provide a narrative overview of the transaction(s) being applied for.

To change the DBA for the location to "Harvey's."

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name	Title	Email	Phone
George L. Goodridge	Attorney	goodridge@cccglaw.com	413-774-4331

2. CHANGES TO BUSINESS ENTITY INFORMATION

2a. Change of Corporate Name

Last-Approved Corporate Name:

Requested New Corporate Name:

2b. Change of DBA

Last-Approved DBA:

Requested New DBA:

2c. Change of Corporate Structure

LLC, Corporation, Sole Proprietor, etc

Last-Approved Corporate Structure

Requested New Corporate Structure

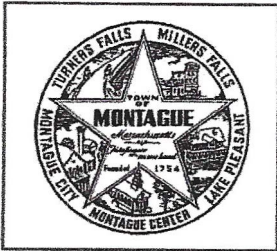
Signature:

Date:

6-1-23

Title:

President



Board of Selectman

Town of Montague

1 Avenue A, Turners Falls, MA 01376

(413)863-3200 xt. 108/107 FAX: (413)863-3231

APPLICATION TO PLACE SIGN, OBJECT, OTHER DISPLAY OR EXHIBITION/VIGIL ON PUBLIC PROPERTY

All information must be complete. This form must be returned to the Board of Selectman within a minimum of 7 days prior to the request date.

Name of Applicant: Lawrence George

Organization: Brick 3 Feather Brewery

Contact Name: Lawrence

Contact Phone: 617-913-2612 Email: brickandfeatherbrewery@gmail.com

Contact Address: 78 11th St, Turners Falls

Name of legally responsible person: Lawrence George

Location: Corner of 11th street and Avenue A

Content of sign, type of object, display:

Fresh Beer!

Brewery Taproom OPEN

Description of sign, object, display (size and materials):

Wooden A-frame (sandwich board style) sign

Start Date: 6/29/2023 End Date: N/A

*The sign, object or display must indicate the party responsible

Police Chief _____ Date _____

Fire Chief _____ Date _____

Board of Selectman _____ Date _____

Building Inspector _____ Date _____

Comments/Conditions: _____

ULINE

1-800-295-5510

Search

GO

Products

Uline Products

Quick Order

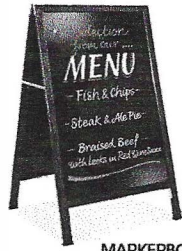
Catalog Request

Special Offers

About Us

Careers

Home > All Products > Store Operations > Retail Signs > A-Frame Signs



MARKERBOARD



CHALKBOARD

A-FRAME SIGNS

WOOD FRAMES

Promote lunch specials, daily entertainment and special events.

2-sided boards with attractive wood frames and self-leveling feet.

Markerboard - Glossy melamine surface erases cleanly. Use with Dry Erase or Chalk Ink® Markers only. Sold separately.

Chalkboard - Inform customers of events and promotions. Use with Chalkboard Chalk. Sold separately.

A-FRAME SIGNS

MODEL NO.	DESCRIPTION	FRAME	SIZE W x H	WRITABLE AREA	WT. (LBS.)	PRICE EACH		ADD TO CART	
						1	3+		
H-5104	White Markerboard	Oak	24 x 42"	21 x 34"	18	\$160	\$150	1	ADD
H-5003	White Markerboard	Cherry	24 x 42"	21 x 34"	20	175	165	1	ADD
H-5105	Chalkboard	Cherry	24 x 42"	21 x 34"	19	175	165	1	ADD



Board of Selectmen Town of Montague

1 Avenue A (413) 863-3200 xt. 108
Turners Falls, MA 01376 FAX: (413) 863-3231

REGISTRATION FOR ASSEMBLY, PUBLIC DEMONSTRATION, OR USE OF PUBLIC PROPERTY (Not for Peskeompskut Park or Montague Center Common)

All information must be complete. This form must be returned to the Board of Selectmen within a minimum of 10 days prior to the assembly.

Name of applicant: Shane O'Halloran

Address of applicant: 7 Eisenhower Dr Burlington MA 01803

Phone # of applicant: 339-225-5310

Name of organization: Dairy Farmers of America

Name of legally responsible person: Shane O'Halloran

Location of assembly: Intersection of Avenue A and 3rd St

Date of assembly: 06/28/2023

Time of assembly: Begin: 1:00PM End: 5:00PM

Number of expected participants: 30

If a procession/parade:

Route: _____

Number of people expected to participate: _____

Number of vehicles expected to participate: _____

Subject of demonstration: We would like to film "B" roll for a commercial for the Dairy Farmers of America. We'd like to showcase Turner Falls downtown area near Shea Theatre. We plan to be safe and would like to have a detail present to ensure safety of our crew and pedestrians. We do not plan to close any roads.

Attach a copy of your insurance policy or liability binder indicating a minimum policy of \$1 Million Individual/\$2 Million Group.

*****Signatures:

Police Chief: [Signature] Date: 6-22-23

Comments/Conditions: Two detail officers from 1pm - 5pm

Board of Selectmen, Chairman: _____ Date: _____

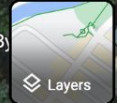
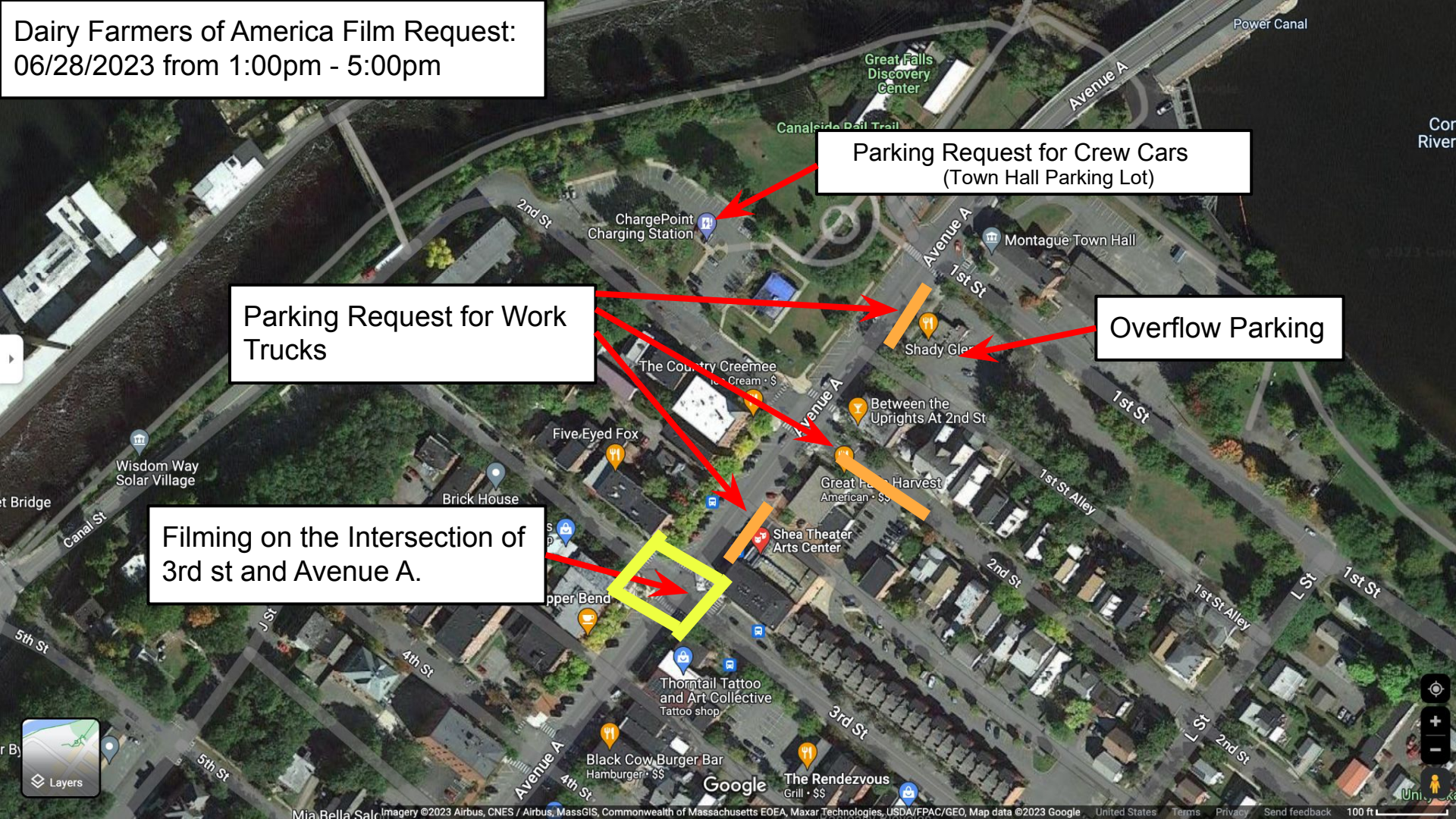
Dairy Farmers of America Film Request:
06/28/2023 from 1:00pm - 5:00pm

Parking Request for Crew Cars
(Town Hall Parking Lot)

Parking Request for Work
Trucks

Overflow Parking

Filming on the Intersection of
3rd st and Avenue A.



COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



7

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

CONTRACTOR LEGAL NAME: Town of Montague (and d/b/a):	COMMONWEALTH DEPARTMENT NAME: Executive Office for Administration and Finance MMARS Department Code: ANF
Legal Address: (W-9, W-4, T&C): One Avenue A, Turners Falls 01376	Business Mailing Address:
Contract Manager: Maureen Pollock	Billing Address (if different):
E-Mail: planner@montague-ma.gov	Contract Manager: Jennifer McAllister
Phone: (413) 863-3200 Fax:	E-Mail: mcallisterj@dor.state.ma.us
Contractor Vendor Code: VC6000191893	Phone: (617) 626-3838 Fax:
Vendor Code Address ID (e.g. "AD001"): AD001. (Note: The Address Id Must be set up for EFT payments.)	MMARS Doc ID(s):
RFR/Procurement or Other ID Number:	

<p style="text-align: center;"><u>X</u> NEW CONTRACT</p> PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)	<p style="text-align: center;"><u> </u> CONTRACT AMENDMENT</p> Enter Current Contract End Date <u>Prior</u> to Amendment: _____, 20____. Enter Amendment Amount: \$ _____ (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)
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The following [COMMONWEALTH TERMS AND CONDITIONS](#) (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract.
☒ Commonwealth Terms and Conditions ☐ Commonwealth Terms and Conditions For Human and Social Services

COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00.
☐ [Rate Contract](#) (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.)
☒ [Maximum Obligation Contract](#) Enter Total Maximum Obligation for total duration of this Contract (or *new* Total if Contract is being amended). **\$35,000.**

PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through [EFT](#) 45 days from invoice receipt. Contractors requesting **accelerated** payments must identify a PPD as follows: Payment issued within 10 days ___ % PPD; Payment issued within 15 days ___ % PPD; Payment issued within 20 days ___ % PPD; Payment issued within 30 days ___ % PPD. If PPD percentages are left blank, identify reason: ☒ agree to standard 45 day cycle ___ statutory/legal or Ready Payments ([G.L. c. 29, § 23A](#)); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See [Prompt Pay Discounts Policy](#).)

BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) Community Compact Grant: This award is being made to the Town of Montague for the costs associated with: Residential Market Feasibility Assessment.

ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations:

☒ 1. may be incurred as of the [Effective Date](#) (latest signature date below) and **no** obligations have been incurred **prior** to the [Effective Date](#).
☐ 2. may be incurred as of _____, 20____, a date **LATER** than the [Effective Date](#) below and **no** obligations have been incurred **prior** to the [Effective Date](#).
☐ 3. were incurred as of _____, 20____, a date **PRIOR** to the [Effective Date](#) below, and the parties agree that payments for any obligations incurred prior to the [Effective Date](#) are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.

CONTRACT END DATE: Contract performance shall terminate as of **June 30, 2025** with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.

CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the "**Effective Date**" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached [Contractor Certifications](#) (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable [Commonwealth Terms and Conditions](#), this Standard Contract Form including the [Instructions and Contractor Certifications](#), the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#), incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: _____ Print Title: _____	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Sean Cronin</u> Print Title: <u>DOR Senior Deputy Commissioner for Local Services</u>
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COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

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

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

Contractor Legal Address: Enter the Legal Address of the Contractor as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) **and** the applicable [Commonwealth Terms and Conditions](#), which must match the legal address on the 10991 table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

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

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

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

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

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

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

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

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

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

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

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

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

NEW CONTRACTS (left side of Form):

Complete this section **ONLY** if this Contract is brand new. (Complete the **CONTRACT AMENDMENT** section for any material changes to an existing or an expired Contract,

and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

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

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

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

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

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

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

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

CONTRACT AMENDMENT (Right Side of Form)

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

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

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

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

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

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

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

COMMONWEALTH TERMS AND CONDITIONS

Identify which [Commonwealth Terms and Conditions](#) the Contractor has executed and is

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



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

COMPENSATION

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

PAYMENTS AND PROMPT PAY DISCOUNTS

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

BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

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

ANTICIPATED START DATE

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

CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. **If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here.** A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation

document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to [G.L. c.4, § 9](#).

CERTIFICATIONS AND EXECUTION

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

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

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

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

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

CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

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

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

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

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

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

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

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under [950 C.M.R. 32.00](#).

Debarment. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, [Executive Order 147](#); [G.L. c. 29, s. 29F](#); [G.L. c. 30, § 39R](#); [G.L. c. 149, § 27C](#); [G.L. c. 149, § 44C](#); [G.L. c. 149, § 148B](#) and [G.L. c. 152, s. 25C](#).

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

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

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

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

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

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

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

Protection of Personal Data and Information. The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during

performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).

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

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

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

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

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

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

Northern Ireland Certification. Pursuant to [G.L. c. 7 s. 22C](#) for state agencies, state authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

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

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

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

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

EXECUTIVE ORDERS

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

[Executive Order 481](#). [Prohibiting the Use of Undocumented Workers on State Contracts.](#)

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

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

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

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

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

GRANT AGREEMENT

This Grant Agreement (“Agreement”) is made by and between the Commonwealth of Massachusetts, acting by and through the Department of Revenue Senior Deputy Commissioner for Local Services on behalf of the Secretary of the Executive Office for Administration and Finance (EOAF) and the Town of Montague [“Grantee”] acting through its Selectboard Chair.

PRELIMINARY STATEMENT

The Grantee desires to obtain funding from EOAF in the amount not to exceed \$35,000 authorized by the FY23 Community Compact Grant Program [“Program”] to the Town of Montague for the costs associated with: Residential Market Feasibility Assessment [“Project”].

EOAF agrees to make the funds [“EOAF Grant”] available to the Grantee for the Project, subject to the terms and conditions set forth in this Agreement and in compliance with all applicable state laws and regulations governing the disbursement and expenditure of state funds.

The Grantee shall exercise complete management and oversight responsibility of the Project and agrees that the Commonwealth’s provision of state funding under this Agreement shall not in any way be construed as assuming responsibility or liability for the completed Project by the Commonwealth.

SECTION 1. PROJECT SCOPE

The scope of the Project to be funded under the EOAF Grant to the of is for the costs associated with: Residential Market Feasibility Assessment. Montague will Develop a housing market feasibility study for 7-acre parcel. Project will serve as a complementary component to Town’s separate project that explores uses & zoning implications for parcel.

*****All project SCOPEs must provide a deliverable document suitable for public consumption on the Mass.gov website, in addition to other relevant project documentation, that may contain sensitive content.**

SECTION 2. DISBURSEMENT OF EOAF GRANT

2.1 Disbursement of the EOAF Grant under this Agreement shall be made pursuant to Chapter 126 of the Acts of 2022, Section 2B Item 1599-0026; and any other information EOAF may require.

The full amount of the grant award, or **\$35,000** will be disbursed to the Grantee within 45 days of execution of the grant contract.

Grantee report must be received by EOAF no later than June 30, 2025.

2.2 It is understood and agreed that the grant provided under this Agreement shall be used solely to pay for expenses associated with the Project. Expenses relating to project administration and management shall be assumed by the Grantee, including without limitation: **(i)** salaries and wages of Grantee staff; **(ii)** legal fees; **(iii)** travel, meal and entertainment expenses; **(iv)** overhead and supplies; **(v)** project costs incurred prior to the execution and subsequent to termination of this Agreement; and **(vi)** costs of any other service or activity not related to the Project.

2.3 The Grantee shall keep detailed records of all activities associated with the Project, including without limitation all disbursements made pursuant to this Agreement. EOAF shall have the right to examine all records kept by the Grantee related to the Project.

2.4 The Grantee shall be responsible for any cost overruns that occur during implementation of the Project.

2.5 The grant funds must be spent by no later than June 30, 2025. Grantee will forfeit any remaining award unused after June 30, 2025. The Executive Office for Administration and Finance shall give due consideration to any extenuating circumstances presented in writing by the applicant and may waive this restriction at its discretion.

SECTION 3. REPORTING

3.1 Once the Project is completed, the Grantee shall furnish to EOAF, in addition to a report certifying project completion, the following documentation: **(i)** copies of all permits and approvals issued in connection with the Project, unless this information was previously supplied; **(ii)** any outstanding vendors' invoices, certified payment vouchers, cancelled checks or other documentation verifying actual expenditures in connection with the Project; **(iii)** documentation evidencing commitment of funds to the Project from sources other than EOAF, including documentation associated with the issuance of bonds or notes to finance the cost of the Project; **(iv)** a certificate of occupancy of the Project or portions of the Project as applicable by law; and **(v)** a statement from the Grantee certifying to the best of his or her knowledge that the Project was undertaken in conformance with all applicable laws, rules and regulations.

SECTION 4. COMPLIANCE WITH ALL APPLICABLE LAWS/REGULATIONS

4.1 The Grantee and its consultants and contractors shall comply with any and all federal, state and local laws, rules and regulations, orders or requirements that apply to the Project, including but not limited to: **(i)** Executive Order 478 relating to nondiscrimination, diversity, equal opportunity and affirmative action in hiring and employment practices; **(ii)** the State Prevailing Wage Law (MGL. Ch.149, Sections 26 to 27H); Title VI of the Civil Rights Acts of 1964, as amended; **(iii)** Environmental Impact Requirements (MGL. Ch.30, Sections 61 to 62I); and **(iv)** Historic Preservation Requirements (MGL. Ch.9, Sections 26 to 28) and applicable regulations.

4.2 This Agreement shall in no way relieve the Grantee from the full force and application of any laws, rules, regulations and orders or requirements.

SECTION 5. INTEREST OF MEMBERS OR EMPLOYEES OF THE GRANTEE

5.1 No officer, servant, agent, or employee of the Grantee has participated or will participate in any decision relating to the development and implementation of the Project that affects directly or indirectly his/her personal interest or the interest of any corporation, partnership or proprietorship with which her/she is directly or indirectly affiliated. Furthermore, no officer, servant, agent or employee of the Grantee shall have any interest directly or indirectly in any contract in connection with the Project or shall in any way violate M.G.L. Chapter 268A.

SECTION 6. AMENDMENTS

6.1 No amendment to this Agreement or any significant modification of the scope of the Project funded under this Agreement shall be made by the Grantee without the prior written approval of EOAF.

SECTION 7. SEVERABILITY OF PROVISIONS

7.1 If any provision of this Agreement is held invalid by any court of competent jurisdiction, the remaining provisions shall not be affected thereby, and all other parts of the Agreement shall remain in full force and effect.

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COMMONWEALTH OF MASSACHUSETTS
CONTRACTOR AUTHORIZED SIGNATORY LISTING

Issued May

2004



CONTRACTOR LEGAL NAME :

CONTRACTOR VENDOR/CUSTOMER CODE:

INSTRUCTIONS: Any Contractor (other than a sole-proprietor or an individual contractor) must provide a listing of individuals who are authorized as legal representatives of the Contractor who can sign contracts and other legally binding documents related to the contract on the Contractor's behalf. In addition to this listing, any state department may require additional proof of authority to sign contracts on behalf of the Contractor, or proof of authenticity of signature (a notarized signature that the Department can use to verify that the signature and date that appear on the Contract or other legal document was actually made by the Contractor's authorized signatory, and not by a representative, designee or other individual.)

NOTICE: *Acceptance of any payment under a Contract or Grant shall operate as a waiver of any defense by the Contractor challenging the existence of a valid Contract due to an alleged lack of actual authority to execute the document by the signatory.*

For privacy purposes **DO NOT ATTACH** any documentation containing personal information, such as bank account numbers, social security numbers, driver's licenses, home addresses, social security cards or any other personally identifiable information that you do not want released as part of a public record. The Commonwealth reserves the right to publish the names and titles of authorized signatories of contractors.

AUTHORIZED SIGNATORY NAME	TITLE

I certify that I am the President, Chief Executive Officer, Chief Fiscal Officer, Corporate Clerk or Legal Counsel for the Contractor and as an authorized officer of the Contractor I certify that the names of the individuals identified on this listing are current as of the date of execution below and that these individuals are authorized to sign contracts and other legally binding documents related to contracts with the Commonwealth of Massachusetts on behalf of the Contractor. I understand and agree that the Contractor has a duty to ensure that this listing is immediately updated and communicated to any state department with which the Contractor does business whenever the authorized signatories above retire, are otherwise terminated from the Contractor's employ, have their responsibilities changed resulting in their no longer being authorized to sign contracts with the Commonwealth or whenever new signatories are designated.

Signature

Date:

Title:

Telephone:

Fax:

Email:

[Listing can not be accepted without all of this information completed.]

A copy of this listing must be attached to the "record copy" of a contract filed with the department.

**COMMONWEALTH OF MASSACHUSETTS
CONTRACTOR AUTHORIZED SIGNATORY LISTING**

Issued May
2004



CONTRACTOR LEGAL NAME :
CONTRACTOR VENDOR/CUSTOMER CODE:

PROOF OF AUTHENTICATION OF SIGNATURE

**This page is optional and is available for a department to authenticate contract signatures.
It is recommended that Departments obtain authentication of signature for the signatory
who submits the Contractor Authorized Listing.**

This Section MUST be completed by the Contractor Authorized Signatory in presence of notary.

Signatory's full legal name (print or type):

Title:

X _____
Signature as it will appear on contract or other document (**Complete only in presence of notary**):

AUTHENTICATED BY NOTARY OR CORPORATE CLERK (PICK ONLY ONE) AS FOLLOWS:

I, _____(NOTARY) as a notary public certify that I witnessed
the signature of the aforementioned signatory above and I verified the individual's identity on this date:

_____, 20 ____.

My commission expires on:

AFFIX NOTARY SEAL

I, _____(CORPORATE CLERK) certify that I witnessed the
signature of the aforementioned signatory above, that I verified the individual's identity and confirm the individual's
authority as an authorized signatory for the Contractor on this date:

_____, 20 ____.

AFFIX CORPORATE SEAL



COMMONWEALTH TERMS AND CONDITIONS

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. ***Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.*** Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the effective start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. C. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. C. 7A, §3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Vouchers - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence.

Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. C. 106, §9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be



COMMONWEALTH TERMS AND CONDITIONS

considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment.

The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains

conflicting language or has the affect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____
(signature)

Print Name:

Title:

Date:

(Check One): ☐ Organization ☐ Individual

Full Legal Organization or Individual Name:

Doing Business As: Name (If Different):

Tax Identification Number:

Address:

Telephone: FAX:

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the: **Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.

Town of Montague Personnel Status Change Notice

Authorized Signature: _____ Employee # 3571

General Information:

Full name of employee: Debra A. Bourbeau Department: Town Clerk's Office
 Title: Town Clerk's Consultant Effective date of change: July 1, 2023

New Hire:

Permanent: Y X N If temporary, estimated length of service: 1 Fiscal Year
 Hours per Week: 10 Union: _____
 Pay: Grade G Step 10 Wage Rate: \$44.16 (annual/ hourly)
 Board Authorizing: Selectboard Date of Meeting: June 26, 2023

Grade/Step/COLA Change:

Union: _____
 Old Pay: Grade _____ Step _____ Wage Rate: _____ (annual/hourly)
 New Pay: Grade _____ Step _____ Wage Rate: _____ (annual/ hourly)
 Notes:

Termination of Employment:

Resignation: _____ Retirement: _____ Involuntary Termination: _____

Other:

_____ Unpaid Leave of Absence Termination Date: _____
 _____ Unpaid Sick Leave Termination Date: _____
 _____ Other/Specify: _____ Termination Date: _____

Copies to:

_____ Employee _____ Department _____ Board of Selectmen
 _____ Treasurer _____ Accountant _____ Retirement Board
 _____ Town Clerk

Town of Montague

Personnel Status Change Notice

Rate Changes

Authorized Signature: _____

Employee # 1287**General Information:**Full name of employee: Kathern PierceDepartment: Town ClerkTitle: Town ClerkEffective date of change: 7-1-23**Grade/Step/COLA Change:**Union: — USE NAGEOld Pay: Grade G Step 5Wage Rate: 70.683 (hourly/annual)Wage Rate: 1359.29 weekly

Weekly Incentive: _____ (Police Only)

New Pay: Grade G Step 5Wage Rate: 72.450 (hourly/annual)Wage Rate: 1393.27 weekly

Weekly Incentive: _____ (Police Only)

Wage Rate: 1393.23 1st week if different

Wage Rate: _____ last week if different

Stipends

For: _____

Wage Rate: _____ (annual)

Weekly Amount: _____

Wage Rate: _____ 1st week if different

Wage Rate: _____ last week if different

For: _____

Wage Rate: _____ (annual)

Weekly Amount: _____

Wage Rate: _____ 1st week if different

Wage Rate: _____ last week if different

Notes:

Copies to:

____ Employee

____ Department

____ Selectboard

____ Treasurer

____ Accountant

____ Retirement Board

Town of Montague

Personnel Status Change Notice

Authorized Signature: _____ Employee # 1587

General Information:

Full name of employee: Tina Sulda Department: Town Clerk
 Title: Assistant Town Clerk Effective date of change: July 17, 2023

New Hire:

Permanent: X Y N If temporary, estimated length of service: _____
 Hours per Week: 35 Union: NAGE
 Pay: Grade D Step 5 Wage Rate: \$24.96 (~~annual~~ / hourly)
 Board Authorizing: Selectboard Date of Meeting: June 26, 2023

Grade/Step/COLA Change:

Union: _____
 Old Pay: Grade _____ Step _____ Wage Rate: _____ (annual/hourly)
 New Pay: Grade _____ Step _____ Wage Rate: _____ (annual/ hourly)
 Notes: _____

Termination of Employment:

Resignation: _____ Retirement: _____ Involuntary Termination: _____

Other:

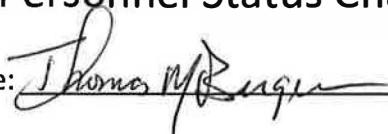
_____ Unpaid Leave of Absence Termination Date: _____
 _____ Unpaid Sick Leave Termination Date: _____
 _____ Other/Specify: _____ Termination Date: _____

Copies to:

_____ Employee _____ Department _____ Board of Selectmen
 _____ Treasurer _____ Accountant _____ Retirement Board
 _____ Town Clerk

Town of Montague Personnel Status Change Notice

Authorized Signature: _____



Employee # _____

General Information:Full name of employee: Bruce Farr Department: DPWTitle: Custodian Effective date of change: 07/17/2023**New Hire:**Permanent: X Y N If temporary, estimated length of service: _____Hours per Week: 40 Union: _____Pay: Grade A Step 10 Wage Rate: \$20.12 (annual/ hourly)Board Authorizing: _____ Date of Meeting: 6/26/2023**Grade/Step/COLA Change:**

Union: _____

Old Pay: Grade _____ Step _____ Wage Rate: _____ (annual/hourly)

New Pay: Grade _____ Step _____ Wage Rate: _____ (annual/ hourly)

Notes: _____

Termination of Employment:

Resignation: _____ Layoff: _____ Involuntary Termination: _____

Other:

_____ Unpaid Leave of Absence Termination Date: _____

_____ Unpaid Sick Leave Termination Date: _____

_____ Other/Specify: _____ Termination Date: _____

Copies to:

_____ Employee

_____ Department

_____ Board of Selectmen

_____ Treasurer

_____ Accountant

_____ Retirement Board

Town of Montague

Personnel Status Change Notice

Authorized Signature: _____



Employee # _____

General Information:Full name of employee: Jakob Murray-Lavin Department: DPWTitle: Summer Help-Grounds Effective date of change: 06/27/2023**New Hire:**Permanent: Y X N If temporary, estimated length of service: 8/31/2023Hours per Week: 40 Union: _____Pay: Grade _____ Step _____ Wage Rate: \$15.00 (annual/ hourly)Board Authorizing: _____ Date of Meeting: 6/26/2023**Grade/Step/COLA Change:**

Union: _____

Old Pay: Grade _____ Step _____ Wage Rate: _____ (annual/hourly)

New Pay: Grade _____ Step _____ Wage Rate: _____ (annual/ hourly)

Notes: _____

Termination of Employment:Resignation: _____ Layoff: _____ Involuntary Termination: XX (end of term)**Other:**

_____ Unpaid Leave of Absence Termination Date: _____

_____ Unpaid Sick Leave Termination Date: _____

_____ Other/Specify: _____ Termination Date: _____

Copies to:

_____ Employee

_____ Department

_____ Board of Selectmen

_____ Treasurer

_____ Accountant

_____ Retirement Board

Town of Montague

Personnel Status Change Notice

Authorized Signature: 

Employee # _____

General Information:Full name of employee: Scott Dodd Department: DPWTitle: Truck Driver/Laborer Effective date of change: 07/05/2023**New Hire:**Permanent: X Y N If temporary, estimated length of service: _____Hours per Week: 40 Union: _____Pay: Grade C Step 1 Wage Rate: \$20.84 (annual/ hourly)Board Authorizing: _____ Date of Meeting: 6/26/2023**Grade/Step/COLA Change:**

Union: _____

Old Pay: Grade _____ Step _____ Wage Rate: _____ (annual/hourly)

New Pay: Grade _____ Step _____ Wage Rate: _____ (annual/ hourly)

Notes: _____

Termination of Employment:

Resignation: _____ Layoff: _____ Involuntary Termination: _____

Other:

_____ Unpaid Leave of Absence

Termination Date: _____

_____ Unpaid Sick Leave

Termination Date: _____

_____ Other/Specify: _____

Termination Date: _____

Copies to:

_____ Employee

_____ Department

_____ Board of Selectmen

_____ Treasurer

_____ Accountant

_____ Retirement Board

Town of Montague Personnel Status Change Notice New Hires

Employee # _____

Board Authorizing **Appointment**: _____ Meeting Date: 6-26-23

Authorized Signature: _____

Board Authorizing **Wages**: _____ Meeting Date: 6-26-23

Authorized Signature: _____

General Information:

Full name of employee: Will Peredina Department: CWF

Title: Operator/Laborer Effective date of hire: 7-5-23

New Hire:

Permanent: X Y N If temporary, estimated length of service: _____

Hours per Week: 40 _____ Union: UE _____

Wages:

Union: UE _____

Wages: Grade B Step 2 Wage Rate: 19.36 (annual/ hourly)

Notes: See resume

Copies to:

_____ Employee	_____ Department	_____ Board of Selectmen
_____ Treasurer	_____ Accountant	_____ Retirement Board
_____ Town Clerk		

Town of Montague

Personnel Status Change Notice

New Hires

Employee # _____

Board Authorizing **Appointment**: _____ Meeting Date: _____

Authorized Signature: _____

Board Authorizing **Wages**: _____ Meeting Date: _____

Authorized Signature: _____

General Information:Full name of employee: Fallon Paxton Department: LibrariesTitle: Library Assistant Effective date of hire: 7/1/2023**New Hire:**Permanent: Y If temporary, estimated length of service: _____Hours per Week: 6 Union: NAGE**Wages:**Union: NAGEWages: Grade A Step 2 Wage Rate: \$16.75 (annual/ hourly)

Notes:

Copies to:

_____ Employee	_____ Department	_____ Board of Selectmen
_____ Treasurer	_____ Accountant	_____ Retirement Board
_____ Town Clerk		

Town of Montague

Personnel Status Change Notice

New Hires

Employee # _____

Board Authorizing **Appointment**: _____ Meeting Date: _____

Authorized Signature: _____

Board Authorizing **Wages**: _____ Meeting Date: _____

Authorized Signature: _____

General Information:

Full name of employee: Danielle Whiteman
 _____ Title: Substitute Library Assistant

Department: Libraries
 Effective date of hire: 7/1/2022

New Hire:Permanent: Y If temporary, estimated length of service: _____

Hours per Week: N/A Union: N/A _____

Wages:Union: N/AWages: Grade _____ Step _____ Wage Rate: 15.00 (annual/ **hourly**)**Notes:**

Danielle will fill in for other staff as needed, but not have regular hours

Copies to:

_____ Employee

_____ Treasurer

_____ Town Clerk

_____ Department

_____ Accountant

_____ Board of Selectmen

_____ Retirement Board

Name: Guerin, Samuel**MONTAGUE APPOINTED OFFICIAL**NAME: Samuel GuerinDATE: 6/26/2023COMMITTEE: Planning BoardTERM: 3 year termTERM EXPIRATION: 6/30/2026

SELECTMEN, TOWN OF MONTAGUE

TERM STARTS: 06/27/23

Samuel Guerin personally appeared and made oath that he/she would faithfully and impartially perform his/her duty as a member of the Planning Board according to the foregoing appointment.

Received _____ and entered in the records of the Town of Montague.

MONTAGUE TOWN CLERK

This is to acknowledge that I have received a copy of Chapter 30A, Sections 18 - 25, of the General Laws, the Open Meeting law.

APPOINTED OFFICIAL

***If you choose to resign from your appointed position during your term, you must notify the Town Clerk in writing before such action takes effect.



Town of Montague
OFFICE OF THE TREASURER/COLLECTOR
1 Avenue A
Turners Falls, MA 01376
(413)863-3200 Fax(413)863-3224
treasurer@montague-ma.gov

June 26, 2023

To: Selectboard

From: Eileen Seymour – Treasurer 

Re: Employee Credit Card Request

Please accept this as a formal request for the following employee of the Town of Montague to be issued a credit card with the requested limit:

Kathern Pierce - \$5,000.00

Thank you.

Approved by the Selectboard:

Richard Kuklewicz

Christopher Boutwell

Matthew Lord

Board Name	
1 YEAR APPOINTMENTS	TERM EXPIRATION
ADA COORDINATOR	
Steven Ellis	6/30/2024
AIRPORT MANAGER	
Bryan Camden	6/30/2024
ALTERNATE BUILDING INSPECTOR	
David Jensen	6/30/2024
ASSESSOR - DIRECTOR	
Karen Tonelli	6/30/2024
AUCTION PERMIT AGENT	
Wendy Bogusz	6/30/2024
Kathern Pierce	6/30/2024
BATTLEFIELD GRANT ADVISORY COMMITTEE	
David Brule	6/30/2024
Kit Carpenter	6/30/2024
Joe Graveline	6/30/2024
Rich Holshuh	6/30/2024
Roger Longtoe Sheehan	6/30/2024
John Nove	6/30/2024
Elizabeth Santana Kiser	6/30/2024
Bettina Washington	6/30/2024
Tim Blagg	6/30/2024
Mark Andrews	6/30/2024
CABLE ADVISORY COMMITTEE	
Jason Burbank	6/30/2024
Richard Kuklewicz	6/30/2024
CEMETERY COMMISSION	
Annabel Levine	6/30/2024
Judith Lorei	6/30/2024
Mary Kay Mattiace	6/30/2024
Jamie Fuller	6/30/2024
Jo-Anne Prescott	6/30/2024
CONSERVATION COMMISSION - ASSOCIATE MEMBER	
Albert Averill	6/30/2024
CONSTABLE	
Wendy Bogusz	6/30/2024
Christopher Williams	6/30/2024

1 YEAR APPOINTMENTS CONTINUED	TERM EXPIRATION
COUCIL ON AGING DIRECTOR	
Roberta Potter	6/30/2024
COUNCIL ON AGING	
Debra Bourbeau	6/30/2024
Barbara Kuklewicz	6/30/2024
Elsie Gilman	6/30/2024
Mary Hildreth	6/30/2024
Linda Ackerman	6/30/2024
DPW SUPERINTENDENT	
Tom Bergeron	6/30/2024
ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION	
Linda Ackerman	6/30/2024
Ella Ingraham	6/30/2024
Kimberly Williams	6/30/2024
EMERGENCY MANAGER	
John Zellmann	6/30/2024
ENERGY COMMITTEE	
Jason Burbank	6/30/2024
Ariel Elan	6/30/2024
Pamela Hanold	6/30/2024
Sarah (Sally) Pick	6/30/2024
Bob Reuter	6/30/2024
Tim Van Egmond	6/30/2024
F. C. SOLID WASTE MANAGEMENT DISTRICT 2	
Christopher Boutwell, Sr.	6/30/2024
FOREST WARDEN	
Richard Sawin, Jr.	6/30/2024
FOREST WARDEN - DEPUTY	
Kyle Cogswell	6/30/2024
FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS	
Steven Ellis	6/30/2024
Richard Kuklewicz	6/30/2024
FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS - PLANNING REP	
Elizabeth Irving	6/30/2024
FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS - SELECTBOARD REP	
Maureen Pollock	6/30/2024

1 YEAR APPOINTMENTS CONTINUED	TERM EXPIRATION
FRTA ADVISORY BOARD	
Richard Kuklewicz	6/30/2024
Jeffrey Singleton	6/30/2024
MASS IN MOTION	
Eileen Down	6/30/2024
Caitlin Kelley	6/30/2024
Eileen Mariani	6/30/2024
Ryan Paxton	6/30/2024
Maureen Pollock	6/30/2024
Roberta Potter	6/30/2024
Roy Rosenblatt	6/30/2024
PARKS & RECREATION DIRECTOR	
Jonathan Dobosz	6/30/2024
PLANNING BOARD	
Robert Obear	6/30/2024
REGIONAL EMERGENCY PLANNING COMMITTEE (REPC)	
John Zellmann	6/30/2024
SOLAR PLANNING COMMITTEE	
Greg Garrison	6/30/2024
Pamela F. Hanold	6/30/2024
Sarah (Sally) Pick	6/30/2024
Bob Rueter	6/30/2024
TAX TITLE CUSTODIAN	
Eileen Seymour	6/30/2024
TOWN COUNSEL	
KP Law, PC	6/30/2024
TREE ADVISORY COMMITTEE	
William Codington	6/30/2024
David Detmold	6/30/2024
Charles Walker Korby	6/30/2024
Annabel Levine	6/30/2024
Tom Sullivan	6/30/2024
Jeffrey Warren -Pukis	6/30/2024
Eli Smith	6/30/2024
Angela Wheeler	6/30/2024
VETERAN'S BURIAL AGENT	
Christopher Demars	6/30/2024

1 YEAR APPOINTMENTS CONTINUED	TERM EXPIRATION
VETERAN'S DIRECTOR	
Christopher Demars	6/30/2024
VETERAN'S GRAVES OFFICER	
John T. Murphy	6/30/2024
WELLS TRUST	
Ron Sicard	6/30/2024
WIRING INSPECTOR	
Wayne Shaw	6/30/2024
ZONING BOARD OF APPEALS - ALTERNATE	
Robert Obear	6/30/2024
3 YEAR APPOINTMENTS	
AIRPORT COMMISSION	
Gary Collins	6/30/2026
Maxwell John Pellerin	6/30/2026
CONSERVATION COMMISSION	
Mark Fairbrother	6/30/2026
Donna Francis	6/30/2026
Margaux Reckard	6/30/2026
ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION	
Linda Ackerman	6/30/2026
Ella Ingraham	6/30/2026
Kimberly Williams	6/30/2026
PLANNING BOARD	
Robert Obear	6/30/2026
TOWN ACCOUNTANT	
Carolyn Olsen	6/30/2026
5 YEAR APPOINTMENT	
ZONING BOARD OF APPEALS	
William J. Doyle IV	6/30/2028

Town of Montague
Request for Quotes
FY24-01 38 Avenue A Structure Demolition
38 Avenue A, Turners Falls, MA 01376



Issued May 31, 2023



Optional Bid Conference:

Tuesday, June 13, 2022 at 1pm,

Questions Due:

Wednesday June 14, 2022 at 2pm

Sealed Bids Due:

Tuesday June 20, 2023 at 2pm

Request for Quotes 38 Avenue A Demolition Town of Montague, MA

In accordance with M.G.L. Chapter 149, the Town of Montague will receive Sealed Bids until 2:00PM on Tuesday, June 20, 2022 for the demolition and removal of the 2,200 square foot structure and all appurtenances at 38 Avenue A. All bids must be submitted in printed hard copy and include all required forms.

Construction labor associated with this bid is subject to prevailing wage rates as per MGL Chapter 149, Section 26 - 27f inclusive. OSHA 10 safety training is also required.

The RFQ may be obtained at <https://www.montague-ma.gov/BIDS>. Registration is required to ensure interested contractors receive all updates relative to the project bid.

The contract will be awarded to the responsible contractor offering to perform the work to specifications for the lowest bid price. Contractors must respond to all RFQ requirements, explicit and implied, and demonstrate suitable experience and satisfactory references. The Town of Montague reserves the right to reject any or all bids as is determined to be in the best interests of the Town.

Key dates:

<u>Optional</u> Bid Conference:	Tuesday, June 13, 2022 at 1pm,
Questions Due:	Wednesday June 14, 2022 at 2pm
Sealed Bids Due:	Tuesday June 20, 2023 at 2pm

Bid must be delivered: 38 Avenue A Demolition Bid
C/O Wendy Bogusz, Selectboard Executive Assistant
One Avenue A, Turners Falls MA 01376

Project Contact: Walter Ramsey, Assistant Town Administrator
assistant.planner@montageue-ma.gov
413 863-3200x 126

The Town of Montague is an Equal Opportunity Employer and does not discriminate on the basis of age, gender, race, or disability. SOMWBA certified vendors are encouraged to apply.

SECTION A: PROJECT LOCATION AND OVERVIEW

The structure to be demolished at 38 Avenue A is a one-story 2,200 square foot building constructed from cinder blocks on a concrete slab. The structure has a flat, rubber membrane roof with a HVAC unit on the roof. The structure was built as a Cumberland Farms Convenience store in the 1980's. The building has been vacant since 2010 and is owned by the Montague Economic Development and Industrial Corporation. The goal of the project is to A) remove a blighted condition and B) prepare the site for productive re-use. In the interim, the property will serve as open space in downtown Turners Falls. All utilities have been shut off. All interior walls and fixtures and furnishings have been removed from the structure. An abatement of asbestos containing materials was completed in 2013.

SECTION B: PROJECT SPECIFICATIONS

It is the bidder's responsibility to independently verify all relevant existing conditions in the field prior to bidding on the work.

Permitting

- Contractor to file all required submittals to Massachusetts Department of Environmental Protection and a demolition permit with the Montague Building Inspector. Town demolition fees to be waived. The property is not subject the Montague Demolition Delay Bylaw.

Mobilization

- Provide, erect and maintain temporary barriers as required to protect non-construction related pedestrian and vehicular traffic using the adjacent portion of the site.
- The adjacent municipal parking lot may be used for worker parking and construction staging.
- As this is a public park, the removal of any shade trees from the site shall be limited to those essential for the demolition activity. Disturbance to the trees and their root systems must be minimized to the extent practical. If any trees are proposed to be removed by the contractor, prior approval from the town is required.

Utilities

- The water and sewer service has been shut off. Contractor is responsible to cap water and sewer laterals to a stub at the curb. Water and sewer lateral connect to mains on second street and will be marked in the field.
- Electricity to the structure has been disconnected. The electric meter for the adjacent parking lot is currently affixed to the structure. That meter is scheduled to be relocated off the premises by the town. The relocation of the active electric meter is not part of this contract.

Demolition

- Demolish, dismantle, remove and dispose of all building materials including but not limited to roof, windows, walls, ceilings, floors, structural slab, heating, plumbing and lighting units in accordance with all relevant federal, state and local laws and regulations.
- Demolish concrete walkways that surround the building as shown on the attached plan (approximately 215 linear feet)

Final Site Work

- Completely backfill the disturbed portions of the site with clean fill, rough grade and compact areas affected by demolition to maintain site grades and contours.
- loam and seed the disturbed area.

FY24-01 38 Avenue A Structure Demolition

RFQ RESULTS

6/20/2023 2:00PM

Staff Present: Walter Ramsey

Witness: Wendy Bogusz

Vendor	Bid Forms	Lump Sum Bid
Associated Bld. Wreckers	Yes	\$ 24,970
Apex Abatement & Demolition	Yes	\$ 49,000
Francesco Demolition	Yes	\$ 31,975
Hilltown Demolition	Yes	\$ 26,893
Campora Construction	Yes	\$ 54,460
Clayton D. Davenport Trucking	Yes	\$ 32,800

Bidder's Company Name

Bid Form

Request for Quotes

38 Avenue A Demolition

To the Town of Montague, Massachusetts, (hereinafter called the "Owner") acting through its Selectboard, duly authorized therefore, who act solely for said Town and without personal liability to themselves.

The undersigned Andrew Mirkin, President, as bidder, declares that the only persons or parties interested in this bid as principals are those named herein; that the bidder has carefully examined the Request for Quotes and the Specifications (and amendments thereto); and s/he bids and agrees, if this bid is accepted, that the bidder will furnish all materials and labor necessary for the completion of the Work as specified in the Proposal, in the manner and time therein prescribed and according to the requirements of Owner as herein set forth.

The Bidder agrees that the Owner will have ten (10) consecutive days from date of opening to accept the bid, except as described in the specifications, the unit(s) at the price, therein. The Bidder also understands that the Owner reserves the right to accept or reject any or all bids and to waive any informalities in the Bids if it is in the Owner's interest to do so. The Advertisement for Bidders, Information for Bidders, Specifications and Bid Form attached thereto, shall become a contract upon the receipt by the Bidder of written acceptance of this bid by the Owner.

The Bidder agrees that activities not expressly mentioned in these specifications for Lump Sum Work, but involved in carrying out their intent will be performed the same as though they were specifically mentioned, described, and delineated – including the provision of incidental equipment and supplies.

The Bidder certifies that all materials meet or exceed the requirements of the bid specifications and that they are licensed to perform the services in the Commonwealth of Massachusetts and that workmanship is warranted for at least one year.

The Bidder will take in full payment, therefore, the following price, to wit:

Total Lump Sum Bid Amount \$ 24,970.00

In words: Twenty four thousand nine hundred seventy dollars

Any Payment Bond required will be based on this lump sum bid amount.

Bid Form: 38 Avenue A Demolition, Page 2

Acknowledge you received any Addenda to the RFQ by initialing below:

#1 A.M. #2 _____ #3 _____

Authorized Signature 

Printed Name Andrew Mirkin

Title President

Company Name Associated Building Wreckers, Inc.

Company Address 352 Albany Street, Springfield, MA 01105

Phone (413) 732-3179

Email ABW_inc@comcast.net

Date 6/20/2023

IF ANY SUBCONTRACTORS ARE TO BE UTILIZED IN THE WORK. INCLUDE LICENSURE INFORMATION AND QUALIFICATIONS.



RE: Associated Building Wreckers- Reference Check

Sean Divoll <sdivoll@marlborough-ma.gov>

Wed 6/21/2023 6:43 AM

To: Assistant Town Administrator <Assistant.TownAdmin@montague-ma.gov>

Walter,

Please see my response below.

Good luck with your project.

Sean M. Divoll, P.E.

Commissioner

Department of Public Works

135 Neil Street

Marlborough, MA 01752

Office: 508-624-6910

sdivoll@marlborough-ma.gov

From: Assistant Town Administrator <Assistant.TownAdmin@montague-ma.gov>

Sent: Tuesday, June 20, 2023 3:17 PM

To: Sean Divoll <sdivoll@marlborough-ma.gov>

Subject: Associated Building Wreckers- Reference Check

You don't often get email from assistant.townadmin@montague-ma.gov. [Learn why this is important](#)

Hello Mr. Divoll,

Associated Building Wreckers are low bidders for a small demolition project in Montague. ABW listed you as a refence for some work they did for Marlborough in May 2023. I'd appreciate if you could share your experience with us.

Was ABW's performance satisfactorily completed? **Yes. The City had two acquired houses demolished in very close proximity to occupied abutting houses. Think: Old mill housing with say, 15 to 20-feet between buildings. Precision accuracy and super clean.**

Would you recommend ABW for a municipal project? **Yes. Absolutely.**

Is there anything else we should know about ABW? **The crew we had was very professional and very courteous. Clean and efficient.**

Feel free to call if that is easier. 413 863 3200x 126.

I appreciate your feedback.

Walter

Walter Ramsey, AICP | Montague Assistant Town Administrator | (413) 863-3200 x 126 | assistant.townadmin@montague-ma.gov

Form RD 1942-46
(Rev. 6-10)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

FORM APPROVED
OMB NO. 0575-0015
OMB NO. 0570-0062

LETTER OF INTENT TO MEET CONDITIONS

Date _____

TO: United States Department of Agriculture

(Name of USDA Agency)

(USDA Agency Office Address)

We have reviewed and understand the conditions set forth in your letter dated _____. It is our intent to meet all of them not later than _____.

(Name of Association)

BY _____

(Title)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015 and 0570-0062. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

06/13/2023

Town of Montague
Steve Ellis
1 Avenue A
Turners Fall, MA, 01851

SUBJECT: Letter of Conditions
Recipient Name: Montague, Town of
Project Name: FY23 Pumping Station Upgrade
CFDA NUMBER - 10.760 Water and Waste Disposal

Agency Loan:	\$ 1,616,000.00
Agency Grant:	\$ 860,000.00
Applicant:	\$ 24,000.00

Dear Steve Ellis,

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA Rural Development (RD), both of which are referred to throughout this letter as the Agency. Any changes in project cost, source of funds, scope of project, or any other significant changes in the project or applicant must be reported to and concurred with by the Agency by written amendment to this letter. This includes any significant changes in the Applicant's financial condition, operation, organizational structure, or executive leadership. Any changes made without Agency concurrence shall be cause for discontinuing processing of the application.

This letter does not constitute loan and/or grant approval, nor does it ensure that funds are or will be available for the project. The funding is being processed on the basis of a loan not to exceed \$1,616,000 and/or a grant not to exceed \$860,000. The loan and/or grant will be considered approved on the date Form RD 1940-1, "Request for Obligation of Funds" is signed by the Agency approval official.

The applicant will ensure projects are completed in a timely, efficient, and economical manner. You must meet all conditions set forth under Section III – Requirements Prior to Advertising for Bids within 1 year of this letter.

USDA Rural Development • Amherst State Office
195 Russell Street, Suite B7 • Hadley, MA, 01035
Voice (413) 923-3240 • Fax (855) 596-7673
TDD (413) 253-4590

USDA is an equal opportunity provider, employer and lender.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

If conditions of this letter are not met, the Agency reserves the right to withdraw funding.

If you agree to meet the conditions set forth in this letter and desire further consideration be given to your application, please complete and return the following forms within 10 days:

Form RD 1942-46, "Letter of Intent to Meet Conditions"

Form RD 1940-1, "Request for Obligation of Funds"

Any changes in project scope, cost, sources of funding, or any other material changes in the project or borrower must be reported to and reviewed by the Agency, with approval of revisions evidenced by written amendment to this letter.

Changes not expressly approved by RD in writing shall be cause for discontinuing processing of the application and/or present risk to award, release of funds awarded or to the terms or approval of this award.

NOTE: The construction contract must be bid within six months of the date of this letter. Agency reserves the right to discontinue the processing of your application and/or to release (de-obligate) funds awarded if bid extends beyond six months without written Agency consent.

All parties may access information and regulations referenced in this letter at our website located at: [Water and Environmental Programs | Rural Development \(usda.gov\)](https://www.usda.gov/water-and-environmental-programs/rural-development)

TABLE OF CONTENTS

SECTION A. – Prior TO RD APPRVAL

1. Requirements

SECTION B. - PROJECT DETAILS

2. Project Description
3. Project Funding
4. Project Budget
5. Project Timeline
6. Changes in Project Scope, Cost and/or Funding

SECTION C. - LOAN AND GRANT TERMS

7. Loan Payments
8. Security
9. Required Reserves
10. Disbursement of Agency Funds

SECTION D. - REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS

11. Suspension and Debarment Screening
12. Environmental Requirements
13. Engineering Services
14. Contract Documents, Final Plans, and Specifications
15. Build America, Buy America (BABAA) Requirements
16. Project Construction Requirements
17. Procurement
18. Legal Services
19. Property Rights
20. System Policies, Procedures, Contracts, and Agreements
21. Closing Instructions
22. System Users
23. Construction Account
24. Interim Financing
25. Proposed Operating Budget
26. Permits
27. Risk and Resiliency Assessment/Emergency Response Plan (RRA/ERP)
28. Bid Authorization

SECTION E. - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

29. Disbursements of Agency Funds
30. Bid Tabulation
31. Suspension and Debarment Screening
32. Contract Review

- 33. Final Rights of Way
- 34. Insurance and Bonding Requirements
- 35. Initial Civil Rights Compliance Review

SECTION F. - Requirements Prior to Loan Closing

- 36. Interim Financing
- 37. Electronic Payments
- 38. Other Requirements

SECTION G REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION

- 39. Construction Completion Timeframe
- 40. Resident Inspector
- 41. Pre-Construction Conference
- 42. Agency Inspections
- 43. Change Orders
- 44. Payments
- 45. Monthly Project Budget Report
- 46. Use of Multiple Source Funds
- 47. Use of Remaining Funds
- 48. Technical, Managerial and Financial Capacity
- 49. Reporting Requirements Related to Expenditure of Funds

SECTION H. - SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

- 50. Prepayment and Extra Payments
- 51. Annual Financial Reporting/ Audit Requirements
- 52. Annual Budget and Projected Cash Flow
- 53. Graduation
- 54. Security/Operational Inspections
- 55. System for Award Management
- 56. Risk and Resiliency Assessment/Emergency Response Plan (RRA/ERP)
- 57. Insurance
- 58. Statutory and National Policy Requirements
- 59. Compliance Reviews and Data Collection

SECTION I. - REMEDIES FOR NON-COMPLIANCE

Acronyms

Forms and Bulletins

Monthly Project Budget Report

SECTION A. – PRIOR TO RD APPROVAL

1. Requirements – To Agency Obligation of funds:

This letter does not constitute loan and/or grant approval, nor does it ensure that funds are or will be available for the project. Except for Resolution, execution of certain forms noted below is required prior to Agency obligation of funds. NOTE: All forms noted in this Letter of Conditions are listed collectively under the “**WEP Loan & Grant listing of FORMS and BULLETINS.**”

The officers and other appropriate municipal officials should review this letter carefully and execute the following forms prior to Agency obligation of funds:

- a. **Authorizing Resolution.** The execution of these and all documents required by USDA Rural Development must be authorized by appropriate resolutions of the borrower’s governing body, evidenced by documentation previously submitted to Agency.
- b. **Request for Obligation of Funds.** (Form RD 1940-1)
- c. **Letter of Intent to Meet Conditions** (Form RD 1942-46)
- d. **Equal Opportunity Agreement** (Form RD 400-1)
- e. **Assurance Agreement** (Form RD 400-4)
- f. **Grant Agreement** (RUS Bulletin 1780-12)

The loan will be considered approved on the date Form RD 1940-1, “Request for Obligation of Funds,” is signed by the approving official, after which the Agency will process the obligation of funds, to the extent available.

Copies of this letter should be provided for review and use by your Fiscal Agent (for Public Body) engineer, attorney, bond counsel (for Public Body) and accountant (for Not for Profit). The Agency will provide electronic copies at the request of the borrower, to be submitted via email with cc to all related parties. All parties may access information and regulations referenced in this letter at our website located at www.rd.usda.gov.

SECTION B - PROJECT DETAILS

2. Project Description – Funds will be used for the proposed project which includes replacing the existing screw pumps. The new screw pumps will offer a 25% energy savings and provide much needed system reliability. The project will also include various improvements at the pump station building including window replacement, exterior brick repair, concrete rehabilitation, HVAC and plumbing replacements, electrical and lighting upgrades, and instrumentation and control replacements.

Facilities will be designed and constructed in accordance with sound engineering practices and must meet the requirements of Federal, State, and local agencies. The proposed facility design must be based on the Preliminary Engineering Report (PER), prepared by Wright-Pierce dated March 2023, as concurred with by the Agency.

3. Project Funding – The Agency is offering the following funding for your project:

Agency Loan -	\$ 1,616,000.00
Agency Grant -	\$ 860,000.00

This offer is based upon the following additional funding being obtained.

Applicant Contribution - \$ \$ 24,000.00

TOTAL PROJECT COST - \$ 2,500,000.00

Any changes in funding sources following obligation of Agency funds must be reported to the processing official. Prior to loan closing, any increase in non-Agency funding will be applied first as a reduction to Agency grant funds, up to the total amount of the grant, and then as a reduction to Agency loan funds.

The applicant must certify that they have exhausted all other funding avenues and have no pending funding considerations from any other sources. Further, the applicant must certify that they do not intend to apply anywhere else for funding for this project. If, after obligation of Agency funds, other funding becomes available, the Agency reserves the right to deobligate all funding for this project and to re-underwrite. This may result in the offering of a different funding package to for this project.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and other funding sources. This evidence should include a copy of the commitment letter. Agency funds will not be used to pre-finance funds committed to the project from other sources.

4. Project Budget – Funding from all sources has been budgeted for the estimated expenditures as follows:

<u>Project Costs:</u>	<u>Total Budgeted:</u>
Development	2,030,000
Contingency	142,000
Engineering Fees	243,000
Admin, Legal, Materials Testing	61,000
Interim Interest	24,000
TOTAL	2,500,000

Project feasibility and funding will be reassessed if there is a significant change in project costs after bids are received. Obligated loan and/or grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to Agency grant funds first. If actual project costs exceed the project cost estimates, an additional contribution by the Owner may be necessary. An “Amended Letter of Conditions” will be issued for any changes to the total project budget.

5. Project Timeline – To ensure that the project proceeds in a timely manner, key processing milestones have been established in accordance with the PER or other Agency approved documentation. **Projects should be completed, and Agency funds fully disbursed within three years of obligation.** By agreeing to the terms herein, you agree to comply with the milestones identified below. If, for any reason, one or more of the milestones cannot be met, you must notify the Agency in writing at least 30 days prior to the referenced date. Should your final completion date become more than three years after obligation the written request will follow the procedures outlined in Section VI of this letter, including the submission of not less than 90 days prior to the benchmark. The correspondence must contain a valid explanation as to why the milestone cannot be met and include a proposed revised project completion schedule. If the Agency agrees to the modification, a written confirmation will be issued. The Agency reserves the right to de-obligate loan and/or grant funds, or take other appropriate action, if the established or amended deadlines are not met.

Construction Timeline:

Item	Start Date	End Date
Submit Funding Application	February 2023	March 2023
Conduct Public Outreach and Project Approval	Ongoing	March 2023
Preliminary Design	May 2023	July 2023
90% Design / Final Design	July 2023	October 2023
Bid and Award	November 2023	January 2024
Construction	February 2024	December 2024
Startup / Closeout	October 2024	December 2024

6. Changes in Project Scope, Cost and/or Funding

Agency funding is offered based on the amounts stated above. ***The following requirements should be carefully reviewed in connection with acceptance of loan/grant requirements prior to obligation:***

- a. **Use of Agency Funds.** Use of Agency funds for any reason other than those noted herein are not permitted without advance written approval of Agency. All changes to scope or use of funds, including Change Orders, require advance Agency written approval.
- b. **Timing Requirements.** Project completion shall not extend beyond three years from Agency obligation of funds. Any adverse change in cost or credit associated with delay may result in change to Agency funding.
- c. **Changes in Funding.** Any changes in funding sources following obligation of Agency funds must be reported to the Agency. If actual project costs exceed the project cost estimates, contribution by the borrower from funds on hand must be escrowed or deposited into construction account prior to issuance of Agency Notice to Proceed.

- d. Evidence of Borrower Contribution. Prior to advertisement for construction bid, evidence of borrower contribution and Agency approval of other funding source is required, if applicable.
- e. Impact of Increase to non-Agency Funding Sources. Prior to loan closing, any increase in non-Agency funding source/s will be applied first as a reduction to Agency grant funds, up to the total amount of the grant, and then as a reduction to Agency loan funds.
- f. Interim Financing. Interim financing is required to finance construction; Agency review and approval of Interim Loan Agreement and or Financial Advisory Agreement is required prior to onset of construction. Costs associated with Interim financing are not eligible expenses for which Agency funds may be used; the borrower is responsible for construction interest costs incurred. All draws on Interim Loan to be funded by Agency funds must be determined eligible in amount and purpose, determined by submission of Monthly Project Budget Reports (further noted below) as required by the Agency.
- g. Bids under cost. Obligated Agency funds not needed to complete the project as proposed and awarded will be de-obligated prior to construction by reduction of award amount plus standard contingency of no more than 12%. Reduction of funds shall be applied to grant award, if any, prior to reduction of loan.
- h. Change orders. Change orders submitted to the Agency after substantial completion shall not be approved by the Agency.
- i. Remaining funds after completion. After providing for all authorized costs and Agency determination of project substantial completion, any remaining USDA funds (grant prior to loan funds) will be de-obligated by the Agency.

SECTION C – Loan and Grant Terms

7. Loan Payments

Interest Rate - The interest rate will be the lower of the rate in effect at the time of loan approval (Agency obligation of funds) or the time of loan closing unless you request otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount. The payment due date will be established as the day that the loan closes.

- a. Your loan will be scheduled for repayment over a period of **40 years**. Payments will be equal annual amortized installments; installments beginning one year after closing date. For planning purposes, use the following rates and amortization factors to calculate annual loan payments:

Rate	Amortization Factor	Payment
2.25%	38.18	\$61,699.00 – Aprox.

**NOTE: The precise payment amount will be based on the interest rate at which the loan is closed and may be different than the one above.*

The payment due date will be established as the day that the loan closes. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided.

- b. **Authorization Agreement for Preauthorized Payments** (Form RD 3550-28),
Electronic preauthorized debit (PAD) will facilitate loan repayment to the Agency via electronic debit from your account on the day your payment is due. *Please ensure that sufficient funds are budgeted and/or transferred prior to Agency loan repayment and concurrent electronic withdrawal of funds. Additional interest will be charged for delayed payments of any kind, including those stemming from the absence of sufficient funds in the designated account on the day payment is due.*

8. Security

The Agency must review and concur in a draft of all security instruments prior to advertising for bids. The Loan Resolution must be duly adopted and executed prior to loan closing or the start of construction, whichever occurs first.

The loan will be secured by a General Obligation bond, previously approved by the Town. Agency shall have priority lien on General Obligation, all dedicated revenues and any reserves required by the Agency. The Bond will be fully registered as to both principal and interest in the name of the United States of America, Acting through the Rural Utilities Service, United States Department of Agriculture.

Any subsequent loan or additional debt is subject to Agency approval, and if approved may be on parity with other debt or subordinated to existing debt. The Bond or Security instrument must specify that, in the event of default, each lender will be affected on a proportionate basis. An Inter- Creditor Agreement is required between the Agency and the Parity Lender prior, and a draft concurred with by the Agency prior to closing on subsequent loan.

The Bond or Security instrument and any ordinance or resolution relating thereto must not contain any provision in conflict with the Agency Loan Resolution, applicable regulations, or its authorizing law. There must be no defeasance or refinancing clause in conflict with the graduation requirements of 7 U.S.C. 1983.

Additional security requirements are contained in [RUS Bulletin 1780-12, “Water and Waste System Grant Agreement,” and RUS Bulletin 1780-27, “Loan Resolution (Public Bodies).”] A

draft of all security instruments, including draft bond resolution, must be reviewed and concurred in by the Agency prior to advertising for bids. The bond resolution and Loan Resolution must be duly adopted and executed prior to loan closing. The Grant Agreement must be fully executed prior to the first disbursement of grant funds. The grantee understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 2 CFR part 200 in effect at this time and as may be subsequently modified. The grantee understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation the project.

The funding source for the debt will be tax based repayment as authorized through passage of Article 17, voted at the Town of Hatfield's Annual Town Meeting held on the 10th of May 2022. Further, authorized by the passage of Proposition 2 1/2, so called, debt exclusion Ballot Question 1 (pursuant to MA General Laws Chapter 59, sec. 21C(k)), which occurred during the Town's Special Election held on the 17th of May 2022.

The Town will transfer funds annually from the General fund into the Enterprise fund, as needed, to pay proposed debt for the subject project in accordance with the above referenced 2 ½ debt exclusion vote. Property taxes shall be raised in an amount to appropriate cover subject project debt as required under MGL Chapter 59 Sec 23.

9. Required Reserves

Reserves are critical to fund unanticipated emergency maintenance and repairs, renewal and replacement, and to assist with debt service should the need arise. All reserves, whether Agency imposed or otherwise, must be properly budgeted to ensure the financial viability and sustainability of any operation.

The following reserves are required as a condition of this loan:

- a. Short-Lived Asset Reserve – Borrower must establish a short-lived asset reserve fund. You must deposit at least \$68,100 into the short-lived asset reserve fund annually, beginning FY25/year of project completion and for the life of the loan to pay for repairs and/or replacement of major system assets. It is your responsibility to assess your facility's short-lived asset needs on a regular basis and adjust the amount deposited to meet those needs.

10. Disbursement of Agency Funds

Any borrower contribution will be the first funds expended, followed by other non-Agency funding sources before Agency loan funds. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior to start of construction or loan closing, whichever occurs first.

In any event, Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. The Grant Agreement must not be closed, and funds must not be disbursed prior to loan funds except as specified in RUS Instruction 1780.45(d). In the unlikely

event the Agency mistakenly disburses funds, the funds will be remitted back to the Agency electronically.

Disbursement of funds from Interim lender is subject to Agency review and approval of Monthly Project Budget Report (see Appendix C), as are all change orders and modification of plans or project for any reason. Please allow 30-day turn time although the typical response or approval may take far less.

Agency funds will be disbursed into the borrower's depository account through electronic transfer system. SF 3881, "ACH Vendor/Miscellaneous Payment Enrollment Form," which must be completed and submitted to the Agency prior to advertising for bids Agency: commencement of construction.

SECTION D – REQUIREMENTS PRIOR TO ADVERTISING FOR BIDS-

The Bond Counsel transcripts of proceedings must show that your organization is a duly incorporated public body and has continued legal existence. Your organization must have the authority to own, construct, operate, and maintain the proposed facility, as well as for borrowing money, pledging security, and raising revenues.

11. Suspension and Debarment Screening – You will be asked to provide information on the principals of your organization. Agency staff must conduct screening for suspension and debarment of the entity, as well as its principals through the Do Not Pay Portal.

Principal –

- i. An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- ii. A consultant or other person, whether or not employed by the participant or paid with federal funds, who –
 1. Is in a position to handle federal funds;
 2. Is in a position to influence or control the use of those funds; or,
 3. Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction. (2 CFR §180.995)

12. Environmental Requirements

- a. Environmental/Scope of Work. The project scope of work as documented in the Preliminary Engineering Report (PER) has been approved by the Agency. The project as proposed has also already been evaluated to be consistent with the National Environmental Policy Act. Other Federal, State, Tribal, and local environmental laws, regulations and or permits may apply or be required.

At the conclusion of the proposals environmental review process, specific action(s) were determined necessary to avoid or minimize adverse environmental impacts. As outlies in the Environmental Report dated April 20, 2023, the following action is required for successful completion of the project and must be adhered to during project design and construction. Failure to adhere to the required mitigation

measures may jeopardize Agency funding.

- b. Environmental/Changes to the Scope of Work. A modification to the scope of work after obligation may be allowed with prior Agency approval. Any proposed modifications must be documented in a revised or supplement to the PER. In addition, a modification to the scope of work may also require a revision to the environmental documentation, including the re-initiation of Section 106, Section 7, and other required documentation. Construction on the modifications to the scope of work cannot commence until the revised PER and ER have been approved by the Agency.
- c. This project has applied the Nationwide Programmatic Agreement Among the U.S. Department of Agriculture Rural Development Programs, National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation for Sequencing Section 106 (NPA). This agreement allows the Agency to obligate funds prior to the completion of Section 106 of the National Historic Preservation Act. The Agreement stipulates, among other things, that the Section 106 process must be complete prior to the awarding of funds and prior to construction. Rural Development is in receipt of your signed NPA Awareness Certification form. In the Awareness Certification, you have acknowledged your awareness of these and other requirements and have agreed that you must complete the Section 106 process before the environmental review component of your application can be finalized and before construction. These historic preservation requirements must be met prior to final approval and prior to taking any action that would have an adverse effect on historic properties or hinder completion of the consultation process required under Section 106 of the National Historic Preservation Act (NHPA). Do not initiate any type of ground disturbing activity, enter into construction contracts, initiate construction, rehabilitation, or purchase land or equipment prior to receiving notification from the Agency that these requirements have been met. Taking any of these actions prior to completion of the required reviews could result in loss of program funds.

13. Engineering Services – You have been required to complete an Agreement for Engineering Services, which should consist of the Engineers Joint Contract Documents Committee (EJCDC) documents as indicated in RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance,” or other approved form of agreement. The Agency will provide concurrence prior to advertising for bids and must approve any modifications to this agreement.

14. Contract Documents, Final Plans, and Specifications- All development will be completed by contract in accordance with applicable provisions of RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, (copy available upon request), and in compliance with all statutory requirements. You are responsible to share this with your engineer before pre-design.

- a. The plans and specifications and all proposals required by law must be approved by Massachusetts DEP standards.

- b. In preparing final design and providing service to the planned project area, you and your engineer will comply with all zoning and planning requirements of the appropriate governing bodies where service is to be provided.
- c. The Agency will need to concur in the plans and specifications prior to advertising for bids. The Agency may require an updated cost estimate if a significant amount of time has elapsed between the original project cost estimate and advertising for bids.
- d. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.
- e. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.

15. Build America, Buy America (BABAA) Requirements- Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- a. all iron and steel permanently installed in the project are produced in the United States-- this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. all manufactured products permanently installed in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. all construction materials permanently installed are manufactured in the United States— this means that all manufacturing processes for the construction material occurred in the United States.

The BABAA requirement applies to the entirety of an infrastructure project even if only a portion of the project is funded by Federal funds.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

- a. applying the domestic content procurement preference would be inconsistent with the public interest;
- b. the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- c. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

Definitions

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:

- non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Owners are ultimately responsible for compliance with the evidence standards as outlined in the Build America Buy America (BABAA) appendix to this Letter. Owners are required to maintain records as specified in their loan or grant agreement, but in all cases, they should maintain records for a minimum of three years after the final expenditure report. Minimum records include certifications from manufacturers, the architect/engineer, and the prime contractor. Supporting documentation includes purchasing records and notes and photos taken by the Resident Project Representative (RPR). Further guidance regarding certifications will be provided by the Agency.

16. Project Construction Requirements

The Borrower and their Engineer/Architect shall develop plans and specifications for construction that must be sufficiently descriptive and legally binding in order to accomplish the work as economically and expeditiously as possible. In addition to the technical sections, the specification must contain Agency “boilerplate” sections. These sections include specific Agency required language with respect to bidding, basis of award (low bidder), bonding, contractor requirements, payments, change orders, construction signage, etc.

- a. **Standards.** This Agency has adopted the use of standard Engineers Joint Contract Documents Committee (EJCDC) contract documents, 2013 edition. These documents, when coordinated with edits listed in RUS Bulletin 1780-26 (standard edits) and RUS Bulletin 1780-35 (AIS edits) and other RD documents form a complete set of “boilerplate” documents. The use of these documents is mandatory.
- b. **Base Bid and Bid Alternates.** In an effort to meet the established project budget, it is recommended to arrange the contract documents with a base bid along with additive bid alternates, provided the work covered by the alternates has been included in the original scope of work documented in the PER and ER. Alternates, if used, must be selected at time of award to fully utilize the available funding. Conversely, if funding is limited, the project still may be awarded with just the base bid. The sequencing and selection of alternatives is already specified in the “boilerplate” language. The use of deductive bid alternatives is not recommended and should not be used.
- c. **Submission for Review/Approval.** Prior to bidding, a set of plans and specifications must be submitted to the Agency for review and approval. Signed certifications must accompany the plans and specifications in accordance with RUS Bulletins 1780-26 and 1780-35. Once all conditions have been met, Agency will authorize you to proceed with advertising for bids. Such advertisement must be in accordance with applicable State statutes.
- d. **Changes to Plans and Specifications During Bidding.** All changes to the plans and specifications made during the bidding are considered “addenda” and must be submitted to the Agency for review/approval.

17. Procurement

The method of procurement shall be by the competitive sealed bid process with award based on the lowest, responsible bidder. Other forms of procurement are highly discouraged and may cause undue delay in project consideration.

- b. **Open and Free Competition.** All procurement transactions shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition.
- c. **Contracts.** All projects must be accomplished by way of **one construction contract**. If multiple contracts are necessary, prior Agency consent must be obtained.
- d. **Bid Opening.** You shall notify Agency date and time of bid opening, as an Agency representative may elect to attend.

18. Legal Services –A legal services agreement is required with your attorney and bond counsel, if applicable, for any legal work needed in connection with this project. The agreement should stipulate an hourly rate for the work, with a “not to exceed” amount for the services, including reimbursable expenses. RUS Bulletin 1780-7, “Legal Services Agreement,” or similar format may be used. The Agency will provide concurrence prior to advertising for bids. Any changes to the fees or services spelled out in the original agreement are subject to review and approval by Agency and must be reflected in an amendment to the agreement. RD MA Form RD 1942-1, (Attorney’s Opinion) and RD MA Form 1942-3, Attorney’s Certificate as to No-Litigation must be executed. Anything above and beyond what the Agency deems reasonable is the responsibility of the borrower

19. Property Rights - Prior to advertising for bids, you and your legal counsel must furnish satisfactory evidence that you have adequate continuous and valid control over the lands and rights-of-way needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Such control over the lands and rights will be evidenced by the following:

- a. **Right-of-Way Map** – Your engineer will provide a map clearly showing the location of all lands and rights-of-way needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. **Form RD 442-20, “Right-of-Way Easement”** – This form, or similar format, may be used to obtain any necessary easements for the proposed project.
- c. **Form RD 442-21, “Right-of-Way Certificate”** – You will provide a certification on this form that all right-of-way requirements have been obtained for the proposed project.
- d. **Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way”** – Your attorney will provide a certification and legal opinion on this form addressing rights-of-way, easements, and title.
- e. **RD MA Form 1942-2, Certificate as to Title to Project Site** must be executed.
- f. **RD MA 1942-1, Contact Sign-Off**

g. RD MA 1942-3, Attorney Certification of No Litigation

The approving official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility. Any such waivers must be provided by the approving official in writing prior to closing or the start of construction, whichever occurs first.

You are responsible for the acquisition of all property rights necessary for the project and for determining that prices paid are reasonable and fair. The Agency may require an appraisal by an independent appraiser or Agency employee in order to validate the price to be paid.

20. System Policies, Procedures, Contracts, and Agreements – The facility must be operated on a sound business plan which involves adopting policies, procedures, and/or ordinances outlining the conditions of service and use of the proposed system. Mandatory connection policies should be used where enforceable. The policies, procedures, and/or ordinances must contain an effective collection policy for accounts not paid in full within a specified number of days after the date of billing. They should include appropriate late fees, specified timeframes for disconnection of service, and reconnection fees. A draft of these policies, procedures, and/or ordinances must be submitted for Agency review and concurrence, along with the documents below, before closing instructions may be issued unless otherwise stated.

- a. Conflict of Interest Policy** – Prior to obligation of funds, you must certify in writing that your organization has in place up-to-date written standards of conduct covering conflict of interest. The standards of conduct must include disciplinary actions in the event of a violation by officers, employees, or agents of the borrower. The standards identified herein apply to any parent, affiliate or subsidiary organization of the borrower that is not a state or local government, or Indian Tribe. Policies and accompanying documents shall be furnished to Rural Development upon request.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

- #c. Sewer User Agreement** – Projects not involving mandatory connection require users to execute a Sewer Users Agreement. The draft agreement must receive Agency

concurrence prior to advertising for bids. RUS Bulletin 1780-9, “Water Users Agreement,” or similar format may be used.

#d. Contracts for Other Services/Lease Agreement – Drafts of any contracts or other forms of agreements for other services, including audit, management, operation, and maintenance, or lease agreements covering real property essential to the successful operation of the facility, must be submitted to the Agency for review and concurrence prior to advertising for bids.

#e. Parity/Intercreditor Agreement – Projects with parity liens must have in place a written agreement between the parity lenders. The draft agreement must receive Agency concurrence prior to advertising for bids.

#f. Other agreements with governments or other entities regarding joint operation of facilities, granting authority to Agency borrower for providing service within another entity’s service area, etc. The draft agreement must receive Agency approval prior to advertising for bids.

Fully executed copies of any policies, procedures, ordinances, contracts, or agreements above must be submitted prior to loan closing, with the exception of the conflict of interest policy, which must be in place prior to obligation of funds.

21. Closing Instructions – The Agency will prepare closing instructions as soon as the requirements of the previous paragraphs are complete, as well as a draft of the security instrument(s). Both your bond and legal counsel must comply with these instructions when closing the Agency loan/grant.

22. System Users – This letter of conditions is based upon your indication at application that there will be at least 2,188 residential users, 11 non-residential users, and 0 bulk / wholesale users on the existing system when construction is completed.

Before the Agency can agree to the project being advertised for construction bids, you must certify that the number of users indicated at application are currently using the system or signed up to use the system once it is operational.

If the actual number of existing and/or proposed users that have signed up for service is less than the number indicated at the time of application, you must provide the Agency with a written plan on how you will obtain the necessary revenue to adequately cash flow the expected operation, maintenance, debt service, and reserve requirements of the proposed project (e.g., increase user rates, sign up an adequate number of other users, reduce project scope, etc.). Similar action is required if there is cause to modify the anticipated flows or volumes presented following approval.

- a. **Positive Program to Encourage Connections** – You must provide a positive program to encourage connection by all users as soon as service is available. The program will be reviewed by the Agency prior to advertising for bids. A guide for developing your positive program is available from the Agency.
- b. **Water/Sewer User Agreements** – Users will be required to execute a Water/Sewer Users Agreement prior to advertising for construction bids. The amount of cash

contributions required will be set by you and concurred with by the Agency.

Contributions should be an amount high enough to indicate sincere interest on the part of the potential user, but not so high as to preclude service to low-income families, and must have a deadline for the contribution to be used or forfeited. RUS Bulletin 1780-9, "Water Users Agreement," or similar agreement may be used.

- c. **Service Declination Statement** – Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a "Service Declination Statement."

23. Construction Account – A separate construction account is not required for project funds. The recipient must be able to separately identify, report and account for all Federal funds, including the receipt, obligation and expenditure of funds, in accordance with 2 CFR 200.305. These funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the construction account at any one time. Your financial institution can provide additional guidance on collateral pledge requirements.

24. Interim Financing – The Agency's policy is to utilize interim financing for all loans exceeding \$500,000. Prepayment penalties on interim financing are not allowed. Borrowers are required to seek interim financing initially from private or cooperative lenders if funds can be borrowed at reasonable interest rates on an interim basis from those sources for the construction period. The fact that a commercial lender's rates are higher than current Agency interest rates does not necessarily mean that the commercial rate is not reasonable.

- a. Interim financing will be used to preclude the necessity for multiple advances of Agency loan funds. You must provide the Agency with a copy of the interim loan financing agreement for review and concurrence prior to advertising for bids.
 - I. Borrower is required to seek proposals from at least 2 separate financial advisors/interim lenders evidencing estimated costs of interim borrowing. The borrower must select proposal with the lowest estimated cost. This provision can be waived at the discretions of the reviewing Agency Official.
- b. Grant funds from the Agency will be disbursed to the borrower by multiple advances through electronic transfer of funds after interim financing is paid by Agency loan funds are expended.

Interim lender shall not make disbursements without Agency written approval of Monthly Budget Project Report (MPBR) to ensure eligibility and adherence to Agency requirements.

25. Proposed Operating Budget – You must establish and/or maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance (O and M), debt service, and reserves. Prior to advertising for bids, you must submit a proposed annual operating budget to the Agency, as well as your proposed rate schedule. The operating budget should be based on a typical year cash flow after completion of the construction phase and should be signed by the appropriate official of your organization. Form RD 442-7, "Operating Budget," or similar format may be utilized for this purpose. It is expected that O and

M expenses will change over each successive year and user rates will need to be adjusted on a regular basis.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system. This assistance is available free to your organization. If you are interested, please contact our office for information.

26. Permits –The owner or responsible party will be required to obtain all applicable permits for the project, prior to advertising for bids. The consulting engineer must submit written evidence that all applicable permits required prior to construction have been obtained with submission to the Agency of the final plans, specifications, and bid documents.

27. Risk and Resilience Assessment/Emergency Response Plan (RRA/ERP) –The Agency requires all financed water and wastewater systems to have a RRA/ERP in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operation, and a certification that an RRA is complete must be submitted within one year of the start of operation. Borrowers with existing systems must provide a certification that an RRA/ERP has been completed prior to advertising for bids. Technical assistance is available in preparing these documents at no cost to you.

Before funds are drawn, you should have in place a cybersecurity plan, a supply chain plan, and a plan to comply with cybersecurity requirements of the National Institute of Science and Technology and the Cybersecurity and Infrastructure Security Administration. These items should be addressed in the RRA/ERP.

The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. The documents should be reviewed and updated every five years at a minimum.

28. Bid Authorization - Once all the conditions outlined in Section III of this letter have been met, the Agency will authorize you to advertise the project for construction bids. Such advertisement must be in accordance with applicable State statutes.

For new systems, see Section V of this letter of conditions. For VA/ERP requirements throughout the life of the loan, see Section VII. Technical assistance at no cost is available in preparing these documents.

SECTION E - REQUIREMENTS PRIOR TO START OF CONSTRUCTION

29. Disbursement of Agency Funds - Agency funds will be disbursed electronically into the construction account as they are needed. SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form,” must be completed and submitted to the Agency prior to commencement of construction.

The order of disbursement is as follows: 1) Applicant contribution, 2) other funding sources, 3) interim financing or Agency loan funds, and 4) Agency grant funds. Interim financing or Agency loan funds will be expended after all other funding sources unless a written agreement is reached with all other funding sources on how funds are to be disbursed prior the first disbursement. Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. Agency Grant funds must not be disbursed prior to loan funds except as authorized in 7 CFR 1780.45(d).

Grant funds are to be deposited in an interest-bearing account (exception provided below) in accordance with 2 CFR Part 200 and interest in excess of \$500 per year remitted to the Agency. The funds should be disbursed by the recipient immediately upon receipt, and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing accounts, unless:

- The recipient receives less than \$120,000 in Federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- A foreign government or banking system prohibits or precludes interest-bearing accounts.

30. Bid Tabulation – Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer's evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of Section III of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- a. **Cost Overruns** – If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds. Cost overruns exceeding 20 percent of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
- b. **Excess Funds** - If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and Letter of Conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

31. Suspension and Debarment Screening – In accordance with 2 CFR Part 180, Subpart C, as a condition of the transaction and the responsibilities to persons at the next lower tier with whom you enter into transactions, you must conduct screening for suspension and debarment of lower tier recipients (e.g., vendors, contractors, etc.).

32. Contract Review – Your attorney will certify that the executed contract documents, including performance and payment bonds, if required, are adequate and that the persons executing these documents have been properly authorized to do so in accordance with 7 CFR 1780.61(b).

Once your attorney has certified that they are acceptable, the contract documents will be submitted to the Agency for concurrence. Construction cannot commence until the Agency has concurred in the construction contracts.

33. Final Rights of Way – Your attorney or title company must furnish a separate final title opinion or Title Insurance Policy on all real property related to the facility, now owned and to be acquired for this project, as of the day of loan closing or start of construction, whichever occurs first. Form RD 1927-10, “Final Title Opinion” may be used.

If any of the right-of-way forms listed previously in this letter contain exceptions that do not adversely affect the suitability, successful operation, security value, or transferability of the facility, the approving official must provide a written waiver prior to the issuance of the Notice to Proceed.

34. Insurance and Bonding Requirements - Prior to the start of construction or loan closing, whichever occurs first, you must acquire and submit to the Agency proof of the types of insurance and bond coverage for the borrower shown below. The use of deductibles may be allowed, providing you have the financial resources to cover potential claims requiring payment of the deductible. The Agency strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of the Agency to assure that adequate insurance and fidelity bond coverage is maintained.

- a. **General Liability Insurance** – Include vehicular coverage.
- b. **Workers’ Compensation** – In accordance with appropriate State laws.
- c. **Guaranty or Fidelity Insurance**—Coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through “blanket” coverage providing protection for all appropriate employees. Each position is to be insured in an amount equal to the maximum amount of funds expected to be under the control of that position at any one time. The minimum coverage allowed will be an amount equal to the total annual debt service payment on the Agency loans. The coverage may be increased during construction based on the anticipated monthly advances.
- d. **National Flood Insurance** - If the project involves acquisition or construction in a designated special flood area, the community in which the acquisition or construction is situated must be currently participating in the national flood insurance program.

Additionally, if the project involves acquisition or constriction in designated special flood or mudslide prone areas, a flood insurance policy must be in place at the time of loan closing.

- e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured, and subsurface lift stations except for the value of electrical and pumping equipment. The Agency will be listed as mortgagee on the policy when the Agency has a lien on the property. Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

The Agency is to be listed as “Other Insured” so as to receive notifications on all insurance, regardless of security. Insurance types described above are required to be continued throughout the life of the loan. See Section VII.

35. Initial Civil Rights Compliance Review – The Agency will conduct an initial civil rights compliance review of the borrower prior to loan closing or start of construction, whichever occurs first, in accordance with 7 CFR 1901, Subpart E. You are expected to comply with the completion of the review, including the furnishing of any documents, records, or other applicable material.

SECTION F – REQUIREMENTS PRIOR TO CLOSING

36. Interim Financing.

- a. Interim Financing Agreement must be reviewed and approved by the Agency 30 days prior to issuance of Agency Notice to Proceed. Proposed interim financing terms/Financial Advisory Agreement (if applicable) must be reviewed and approved by the Agency prior to the issuance of Agency Notice to Proceed. Please allow 30 days for review.
- b. Loan closing will occur near the end of construction when interim funds are about to be completely disbursed. Documents detailed above from Sections II and III regarding security, electronic payments (Form 3550-28), and system policies, procedures, contracts, and agreements must be adopted and/or executed and submitted to the Agency prior to loan closing.

37. Electronic Payments – Payments will be made through an electronic preauthorized debit system. You will be required to complete Form RD 3550-28, “Authorization Agreement for Preauthorized Payments,” for all new and existing indebtedness to the Agency prior to loan closing.

38. Other Requirements – All requirements contained in the Agency’s closing instructions, as well as any requirements of your bond counsel and/or attorney, must be met prior to loan closing.

- a. **System for Award Management.** You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Renewal can be completed online at: <http://sam.gov>. This registration must be

renewed and revalidated every 12 months for as long as there is an active loan, grant, or guaranteed loan with the Agency.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the “Help” section at <http://sam.gov>).

- b. **Litigation.** You are required to notify the Agency within 30 days of receiving notification of being involved in any type of litigation prior to loan closing or start of construction, whichever occurs first. Additional documentation regarding the situation and litigation may be requested by the Agency.
- c. **Certified Operator.** Evidence must be provided that your system has or will have a certified operator, as defined by applicable State or Federal requirements, available prior to the system becoming operational, or that a suitable supervisory agreement with a certified operator is in effect.

SECTION G – REQUIREMENTS DURING CONSTRUCTION AND POST CONSTRUCTION

39. Construction Completion Timeframe – Following the benchmarks established in Section I, Item 4, Project Timeline, all projects should be completed and Agency funds fully disbursed within three years of the date of obligation. If funds are not disbursed within three years of obligation and you have not already done so per Section I, Item 4, you must submit a written request for extension of time to the Agency with adequate justification of the circumstances, including any beyond your control. The request must be submitted at least 90 days prior to the end of the three-year timeframe and include a revised estimated date of completion. The Agency will typically only allow one extension. Subsequent requests for waivers beyond the initial extension or requests that exceed five years from the initial date of obligation will be submitted to the RUS, Water and Environmental Programs for consideration. The Agency retains the right to de-obligate any loan and/or grant monies, or take other appropriate action, related to unliquidated funds that exceed the timeframes above and are not under an active extension.

40. Resident Inspector(s) – Full-time inspection is required unless you request an exception. Such requests must be made in writing and the Agency must provide written concurrence. Inspection services are to be provided by the consulting engineer unless other arrangements are requested in writing and concurred with by the Agency. A resume of qualifications of any resident inspector(s) will be submitted to the owner and Agency for review and concurrence prior to the pre-construction conference. The resident inspector(s) must attend the preconstruction conference.

41. Preconstruction Conference – A preconstruction conference will be held prior to the issuance of the Notice to Proceed. The consulting engineer will review the planned development

with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

42. Agency Inspections - A preconstruction conference will be held prior to the issuance of the Notice to Proceed in which a representative from Rural Development will be present. The consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, other funders, and other interested parties, and will provide minutes of this meeting to the owner and Agency.

43. Change Orders – All change orders must be associated with the original scope of work as identified in the PER. Change orders for work outside the original scope of work and change orders that simply add scope of work for the sole purpose to expend excess funding will be denied.

- a. **Timing & Agency Concurrence.** Prior Agency concurrence is required for all Change Orders. Work associated with each change order must not commence until Agency review and concurrence is complete. Change orders submitted after the work is complete will not be considered. Borrower and their engineer shall plan accordingly and allow for five (5) business days for Agency review
- b. **Process.** Change Orders must be submitted using EJCDC C-941. The change order must include: (1) detailed description of the change, (2) comprehensive reason for the change and (3) a verification from the borrower of availability of funds. A “draft” change order may be submitted to the Agency in advance to expedite review and approval.

44. Payments – Prior Agency concurrence is required for all invoices and requests for payment before Agency funds will be released. Requests for payment related to a contract or service agreement will be signed by the owner, project engineer, and contractor or service provider prior to Agency concurrence. Invoices not related to a construction contract or service agreement will include the owner’s written concurrence.

45. Monthly Project Budget Report – In addition to the pay requisition listed above, a Monthly Project Budget Report (MPBR) must be completed and submitted monthly starting after obligation. All expenses related to the project and all funding sources are tracked on this report. All expenses listed on this report must be supported with associated documentation; unsupported expenses will not be allowed. Agency will provide the borrower a completed MPBR just after obligation based on expenses and funding at the time of application. The borrower must update this report monthly and submit for Agency review and approval. Agency approval must be obtained prior to disbursement from Interim Loan or other funds to ensure eligibility and conformance to Agency requirements. The first MPBR shall be submitted with the first pay requisition

46. Use of multiple source funds - Borrower contribution, followed by non-Agency sources of funds, Agency Loan funds and lastly Agency Grant funds

47. Use of Remaining Funds – As stated above, applicant contribution and connection or tap fees will be the first funds expended in the project. Funds remaining after all costs incident to the basic project have been paid or provided will be handled as follows:

- a. Funds remaining after the applicant contribution and connection fees may be considered in direct proportion to the amounts of funding obtained from each source. The use of Agency funding will be limited to eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work and the purpose of the loan and grant remains the same.
- b. Any reductions in the Agency funding will be first applied to the grant funds.
- c. Grant funds not expended for authorized purposes will be cancelled (de-obligated) within 30 days of final completion of project. Prior to actual cancellation, you, your attorney and engineer will be notified of the Agency's intent to cancel the remaining funds and given appropriate appeal rights.
- d. Under no circumstances is it appropriate to use remaining funds as contributions to a new project outside the scope of the funded project.
- e. Loan funds that are not needed will be applied as an extra payment on the Agency indebtedness unless other disposition is required by the bond ordinance, resolution, or State statute.
- e. (interim financing). Loan funds that are not needed will be cancelled (de-obligated) prior to loan closing.

48. Technical, Managerial and Financial Capacity - It is required that members of the Board of Directors, City Council members, trustees, commissioners and other governing members possess the necessary technical, managerial, and financial capacity skills to consistently comply with pertinent Federal and State laws and requirements. It is recommended members receive training within one year of appointment or election to the governing board, and a refresher training for all governing members on a routine basis. The content and amount of training should be tailored to the needs of the individual and the utility system. Technical assistance providers are available to provide this training for your organization, often at no cost. Contact the Agency for additional information.

49. Reporting Requirements Related to Expenditure of Funds -- An annual audit under 2 CFR 200 is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law and must be submitted within 9 months of your fiscal year end. Both the audit and accompanying management report must be submitted for review.

If an audit is required, you must enter into a written agreement with the auditor and submit a copy of that agreement to the Agency prior to the advertisement of construction bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the type of audit to be completed, the time frame in which the audit will be completed, and how irregularities will be reported.

SECTION H – SERVICING REQUIREMENTS DURING THE TERM OF THE LOAN

50. Prepayment and Extra Payments - Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

51. Annual Financial Reporting/Audit Requirements – You are required to submit an annual financial report at the end of each fiscal year. The annual report will be certified by the appropriate organization official, and will consist of financial information, a current rate schedule, and listing of board members with their terms. Financial statements must be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles (GAAP). The annual report will include separate reporting for each water and waste disposal facility, and itemized cash accounts by type (debt service, short-lived assets, etc.) under each facility. All records, books and supporting material are to be retained for three years after the issuance of the annual report. Technical assistance is available, at no cost, with preparing financial reports.

The type of financial information that must be submitted is specified below:

- a. **Audits** – An audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

See Section VI for additional information regarding audits.

- b. **Financial Statements** – If you expend less than \$750,000 in Federal financial assistance per fiscal year, you may submit financial statements in lieu of an audit which include, at a minimum, a balance sheet and an income and expense statement. You may use Form RD 442-2, “Statement of Budget, Income and Equity,” and 442-3, “Balance Sheet,” or similar format to provide the financial information. The financial statements must be signed by the appropriate borrower official and submitted within 60 days of your fiscal year end.
- c. **(if applicable) Quarterly Reports** – Quarterly Income and Expense Statements will be required until the processing office waives this requirement. You may use Form RD 442-

2, “Statement of Budget, Income and Equity,” or similar format to provide this information. The reports are to be signed by the appropriate borrower official and submitted within 30 days of each quarter’s end. The Agency will notify you in writing when quarterly reports are no longer required.

52. Annual Budget and Projected Cash Flow - Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected cash flow to this office. The budget must be signed by the appropriate borrower official. Form RD 442-2, “Statement of Budget, Income and Equity,” or similar format may be used.

Technical assistance is available at no cost to help you evaluate and complete a rate analysis on your system, as well as completing the annual budget.

53. Graduation - By accepting this loan, you are also agreeing to refinance (graduate) the unpaid loan balance in whole, or in part, upon request of the Government. If at any time the Agency determines you can obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms, you will be requested to refinance. Your ability to refinance will be assessed every other year for those loans that are five years old or older.

54. Security/Operational Inspections – The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

55. System for Award Management. You will be required to maintain a Unique Entity ID (UEI) and maintain an active registration in the System for Award Management (SAM) database. Further information can be found at paragraph 33 of this letter.

56. Risk and Resiliency Assessment/Emergency Response Plan (RRA/ERP) – The RRA/ERP is further outlined under Section III of this letter. You will be required to submit a certification to the servicing office every five years that the RRA/ERP is current and covers all sites related to the facility. The RRA/ERP documents themselves are not submitted to the Agency. The RRA/ERP must address potential impacts from natural disasters and other emergency events. It should include plans to address impacts of flash flooding in areas where severe drought or wildfires occur. Technical assistance is available in preparing these documents at no cost to you.

57. Insurance. – Insurance requirements are further outlined in Section IV of this letter. You will be required to maintain insurance on the facility and employees as previously described in this letter for the life of the loan.

58. Statutory and National Policy Requirements – As a recipient of Federal funding, you are required to comply with U.S. statutory and public policy requirements, including but not limited to:

- a. **Section 504 of the Rehabilitation Act of 1973** – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States

shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Agency financial assistance.

- b. **Civil Rights Act of 1964** – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and 7 CFR 1901, Subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by Paragraph 1901.202(e) of this Title.
- c. **The Americans with Disabilities Act (ADA) of 1990** – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications.
- d. **Age Discrimination Act of 1975** – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- e. **Limited English Proficiency (LEP) under Executive Order 13166** - LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, “Improving Access to Services by Persons with Limited English Proficiency” and further affirmed in the USDA Departmental Regulation 4330-005, “Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA.”
- f. **Controlled Substances Act** - Even though state law may allow some activities, as a recipient of Federal funding, you are subject to the Controlled Substances Act. Specific questions about the Controlled Substances Act should be directed to the Servicing Official who will contact the Office of General Counsel, as appropriate.

59. Compliance Reviews and Data Collection – Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during regular compliance reviews.

The Agency will conduct regular compliance reviews of the borrower and its operation in accordance with 7 CFR Part 1901, Subpart E, and 36 CFR 1191, Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines. Compliance reviews will typically be conducted in conjunction with the security inspections described in this letter.

If beneficiaries (users) are required to complete an application or screening for the use of the facility or service that you provide, you must request and collect data by race (American Indian or Alaska Native, Asian, Black or African American, White); ethnicity (Hispanic or Latino, Not Hispanic or Latino); and by sex. The Agency will utilize this data as part of the required compliance review.

SECTION I – REMEDIES FOR NON-COMPLIANCE

Non-compliance with the conditions in this letter or requirements of your security documents will be addressed under the provisions of Agency regulations, statutes, and other applicable policies.

We look forward to working with you to complete this project. If you have any questions, please contact Henry Nguyen at Henry.Nguyen2@usda.gov

Sincerely,

Henry Nguyen
Loan Specialist

cc: Jennifer Lerch, Community Programs Director
Joseph Delbove, Senior Loan Specialist

ACRONYMS:

ABA - Architectural Barriers Act
ACH – Automated Clearing House
AD – Agriculture Department ADA –
Age Discrimination Act
CFDA – Catalog of Federal Domestic Assistance
CFR – Code of Federal Regulations
CPAP – Commercial Programs Application Processing
DUNS – Dun and Bradstreet Data Universal Numbering System EJCDC –
Engineers Joint Contract Documents Committee
ERP – Emergency Response Plan
GAAP – Generally Accepted Accounting Principles
LEP – Limited English Proficiency
OC – Owner Construction
OPS – Owner-Performed Services O&M –
Operation and Maintenance PER –
Preliminary Engineering Report RD –
Rural Development
RUS – Rural Utilities Service
SAM – System for Award Management
SF – Standard Form
UCC – Uniform Commercial Code
USC – United States Code
USDA – United States Department of Agriculture RRA -Risk and Resiliency Assessment

FORMS and BULLETINS:

Form AD-3031 “Assurance Regarding Felony Convictions or Tax Delinquent Status for Corporate Applicants” – Item 30
Internal Revenue Service Form 1023, Appendix A, “Sample Conflict of Interest Policy” - Item 15
Form RD 440-22, “Promissory Note” – Item 6
Form RD 442-2, “Statement of Budget, Income and Equity” – Items 45 and 46
Form RD 442-3, “Balance Sheet” – Item 45
Form RD 442-7, “Operating Budget” – Item 20
Form RD 442-20, “Right-of-Way Easement” – Item 14
Form RD 442-21, “Right-of-Way Certificate” – Item 14
Form RD 442-22, “Opinion of Counsel Relative to Rights-of-Way” – Item 14
Form RD 1927-9, “Preliminary Title Opinion” – Item 14
Form RD 1927-10, “Final Title Opinion” – Item 28
Form RD 1940-1, “Request for Obligation of Funds” – Pages 1 and 2
Form RD 1942-8, “Resolution of Members or Stockholders” – Item 6
Form RD 1942-46, “Letter of Intent to Meet Conditions” – Page 2
Form RD 3550-28, “Authorization Agreement for Preauthorized Payments” – Items 32 and 33
Form UCC-1, “Financing Statement” – Item 6
Form UCC-1Ad, “UCC Financing Statement Addendum” – Item 6
SF 3881, “ACH Vendor/Miscellaneous Payment Enrollment Form” – Item 24
RUS Bulletin 1780-7, “Legal Services Agreement” – Item 13
RUS Bulletin 1780-9, “Water Users Agreement” - Items 15 and 17
RUS Bulletin 1780-12, “Water and Waste System Grant Agreement” – Item 6
RUS Bulletin 1780-26, “Guidance for the Use of EJCDC Documents on Water and Waste Projects with RUS Financial Assistance” – Items 11 and 12
RUS Bulletin 1780-27, “Loan Resolution (Public Bodies)” – Item 6
RUS Bulletin 1780-28, “Loan Resolution Security Agreement” – Item 6

MONTHLY PROJECT BUDGET REPORT						
PROJECT:					Report # 1	
PERIOD COVERED:		FROM:	TO:	DATE SUBMITTED:		
OWNER SIGNATURE:					PHONE #:	
USDA/RD SIGNATURE:					DATE:	
	Original Budget	Revised Budget	Previously Paid	Current Period	Total Earned to Date	Balance to Finish
Administrative						
Interest						
Legal						
Eng/Arch Services:						
Design						
Const. Admin.						
Inspection						
Other						
Land & Rights						
Equipment						
Contract(s):						
#1 Thru Pay Req #						
#2 Thru Pay Req #						
#3 Thru Pay Req #						
#4 Thru Pay Req #						
#5 Thru Pay Req #						
Contingency						
Other (itemize):						
TOTAL						
% of Completion	#DIV/0!					
FUNDING SOURCES						
Applicant						
State						
Other						
Rural Development						
Initial Loan						
Initial Grant						
Subsequent Loan						
Subsequent Grant						
Subsequent Loan						
Subsequent Grant						
Subsequent Loan						
Subsequent Grant						
Subsequent Loan						
Subsequent Grant						
Total						
NOTES:						

Appendix B

Build America, Buy America Evidence Standards

Manufacturers

For each item to which BABAA applies (every item permanently installed on the project, except for aggregate and aggregate binding materials), a manufacturer's certification letter or other document demonstrating compliance is required. It must, at a minimum, identify the item being certified (short written description as well as part number, if applicable) and affirm that the item complies with BABAA. This document must be signed by an authorized company representative.

Architects and Engineers

Compliance with BABAA will be spelled out in agreements for services, construction contracts, and procurement contracts. Generally, the A/E contract should include, as a basic service, obtaining and maintaining all BABAA documentation (particularly manufacturers' certifications) during construction, which shall be transferred to the Owner upon completion of the project. The architect or engineer will need to certify to this action at the project's end.

Resident Project Representative / Resident Inspector

As part of their duties, Resident Project Representative/Resident Inspector should be instructed to verify items delivered to the site and installed are accompanied by documentation of compliance with BABAA. They should photograph items as appropriate. RPR/RI daily logs and photographs will become part of the construction record and can be used as supporting information during audits, providing evidence for items that are buried or otherwise inaccessible.

Contractors

Construction contract(s) must include a requirement to procure and install only items that comply with BABAA or are subject to an approved waiver. Contractors must provide manufacturers' certifications for all BABAA compliant items to the responsible party before a request for reimbursement to the Agency is made. At completion, the contractor will be required to certify that all items used on the contract complied with BABAA and that all manufacturers' certifications were provided.

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this “Agreement”) is entered into on this ____ day of June, 2023, by and between the **Town of Montague** (“Seller”), a Massachusetts municipal corporation, acting by and through its Selectboard, having an address of 1 Avenue A, Turners Falls, MA 01376, and **Pioneer Valley Habitat for Humanity, Inc.** (“Buyer”), a Massachusetts non-profit corporation, having an address of 140 Pine Street, P.O. Box 60642, Florence, MA 01062-0642.

1. Premises. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, a parcel of land containing 0.65 acres, more or less, with any and all improvements thereon, located on First Street, in Montague, Franklin County, shown on Assessors Map 04 as Lot 31, and being a portion of that land described in a deed recorded with the Franklin County Registry of Deeds (the “Registry”) in Book 1165, Page 584 (the “Premises”). Seller shall retain a portion of the Premises along First Street Alley, said portion shown on a sketch plan attached hereto as Exhibit C, attached hereto, for shared parking. Buyer shall be responsible for having a survey plan prepared showing the parking area, and obtaining endorsement of the Montague Planning Board for said plan.

2. Title. Said Premises are to be conveyed by a quitclaim deed running to Buyer, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

- (a) provisions of existing building and zoning laws;
- (b) such taxes for the then current year as are not due and payable on the date of the delivery of such deed, except as provided in Section 13;
- (c) any liens for municipal betterments assessed after the date of this Agreement; any betterments assessed before the date of this Agreement shall be paid by Seller in full;
- (d) easements, restrictions and/or reservations of record, if any, provided the same do not interfere with the use of the Premises for residential purposes; and
- (e) a Land Development Agreement, requiring the Premises to be used for affordable housing purposes in perpetuity and granting to Seller a right of entry, as set forth more particularly in Section 19 below.

3. Consideration. The total purchase price for the Premises is One Dollar (\$1.00).

4. Deed; Plan. Seller shall prepare the deed. If said deed refers to a plan necessary to be recorded therewith, Buyer shall deliver such plan acceptable to Seller and in form adequate for recording or registration.

5. Registered Land. In addition to the foregoing, if the title to said Premises is registered, said deed shall be in form sufficient to entitle Buyer to a certificate of title of said Premises, and Seller shall deliver with said deed all instruments, if any, necessary to enable Buyer to obtain such certificate of title.

6. Date of Closing. Such deed is to be delivered within one hundred eighty (180) days of the last signature date on this Agreement. It is agreed that time is of the essence of this Agreement.

7. Possession and Condition of Premises. Full possession of said Premises free of all tenants and occupants, is to be delivered at the time of the delivery of the deed, said Premises to be then: (a) in the same condition as they now are, reasonable use and wear thereof excepted, (b) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in Section 4 hereof. Buyer shall be entitled to inspect said Premises personally prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.

8. Extension to Perfect Title or Make Premises Conform. If Seller shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the provisions hereof, then this Agreement shall terminate and all obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto, unless Seller, in its sole and absolute discretion, elects to use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said Premises conform to the provisions hereof, as the case may be, in which event Seller shall give written notice thereof to Buyer at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty (30) calendar days. In no event, however, shall reasonable efforts require Seller to expend more than \$500.00, including attorneys' fees.

9. Failure to Perfect Title or Make Premises Conform. If at the expiration of the extended time Seller shall have failed so to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, then all obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

10. Buyer's Election to Accept Title. Buyer shall have the election, at either the original or any extended time for performance, to accept such title as Seller can deliver to the said Premises in their then condition and to pay therefore the purchase price, without deduction, in which case Seller shall convey such title.

11. Acceptance of Deed. The acceptance and recording of a deed by Buyer shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

12. Insurance. Until the delivery of the deed, Seller shall maintain insurance on the Premises as it presently has.

13. Liability of Trustee, Shareholder, Fiduciary. If Seller or Buyer executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither Seller or Buyer so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

14. Representations and Warranties. Buyer acknowledges that Buyer has not been influenced to enter into this transaction nor has it relied upon any warranties or representations not set forth or incorporated in this Agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either Seller or the Broker(s): NONE.

15. Brokers. Buyer and Seller each represent and warrant to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. Buyer and Seller agree to defend and indemnify the other against and hold the other harmless, to the extent permitted by law, from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other by any broker in connection with this transaction. The provisions of this Section shall survive the delivery of the deed.

16. Title to Premises. Notwithstanding anything herein contained, the Premises shall not be considered to be in compliance with the provisions of this Agreement with respect to title unless: (a) no building, structure or improvement of any kind, including driveways and utilities, belonging to any person or entity encroaches upon or under the Premises from other premises; (b) title to the Premises is insurable, for the benefit of Buyer, by a title insurance company acceptable to Buyer, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use; (c) the Premises shall abut a public way, duly laid out or accepted as such by the municipality in which the Premises are located or has the benefit of an easement leading to a public way; and (d) all buildings, structures and improvements shall be located completely within the boundary lines of said Premises and shall not encroach upon or under property of any other person or entity

17. Title Standards. Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable.

18. Affidavits, etc. Simultaneously with the delivery of the deed, Seller shall execute and deliver: (a) affidavits and indemnities under oath with respect to parties in possession and mechanic's liens to induce Buyer's title insurance company to issue lender's and owner's policies of title insurance without exception for those matters, and (b) such additional and further instruments and documents as may be consistent with this Agreement and customarily and reasonably required by Buyer's title insurance company to complete the transactions described in this Agreement. Buyer shall execute the disclosure form required under G.L. c.7C, §38.

19. Land Development Agreement. Seller shall convey the Premises to Buyer subject to the Land Development Agreement attached hereto as Exhibit A and incorporated herein (the "LDA"), which the parties shall execute at the closing and record immediately after the recording of the deed and prior to any mortgages. Said LDA shall govern the development of the Premises and require, among other things, the following mandatory terms:

- (a) *Construction Obligation:* Buyer shall, at its sole cost and expense, construct six (6) single-family residences (the “Affordable Units”) and a parking area on the Premises and shall convey all of the Affordable Units to Eligible Purchasers, as defined in and set forth in Section 19 (the “Project”). One of the Affordable Units shall be designed be a single story adaptable for full-time living for someone with mobility restrictions, such as a wheelchair;
- (b) *Construction Schedule:* Buyer shall commence construction of the Project no later than one hundred eighty (180) days after the closing and complete the same within thirty six (36) months thereafter, which period shall be extended for good cause for reasonable periods of time, at Seller’s discretion, not to be unreasonably withheld;
- (c) *Sale or Transfer of Premises:* Buyer shall not convey or transfer an Affordable Unit or any portion thereof to any person or entity other than to Eligible Purchasers, until the Affordable Unit has been substantially complete; and
- (d) *Right of Entry:* The Premises shall be conveyed subject to a condition subsequent, with the possibility of entry retained by Seller. Seller shall have the right to enter upon the Premises upon the occurrence of the following events: (i) Buyer fails to commence construction of the Project within ninety (90) days after the closing or fails to complete the same within the time set forth in section (b), (ii) Buyer fails to construct the number of Affordable Units required hereunder, (iii) Buyer transfers the Premises prior to substantial completion to persons other than to Eligible Purchasers, and/or (iv) Buyer uses the Premises for other than affordable housing purposes. Said right of entry shall also be included in the deed to the Premises, at Seller’s discretion.

20. Affordable Housing Restriction: The Premises shall be conveyed subject to an affordable housing restriction requiring the Premises to be used for affordable housing purposes in perpetuity, as set forth more particularly below.

- (a) *Affordability:* The initial conveyance of the Affordable Units shall be to eligible purchasers earning no more than 60% of the Area Median Income (“AMI”) that includes the Town of Montague, as defined by the United States Department of Housing and Urban Development (“HUD”), adjusted for household size. All subsequent conveyances shall be to purchasers earning no more than 80% of the AMI, adjusted for household size.
- (b) *Restriction:* At closing, Buyer, Seller and the Executive Office of Housing and Livable Communities (“EOHLC”) shall enter into a mutually satisfactory Regulatory Agreement (“Regulatory Agreement”) that shall run with and bind the Premises in perpetuity. In addition thereto, Seller shall, at the closing on each Affordable Unit, record a separate affordable housing restriction (“AHR”, together with the Regulatory Agreement, the “Restrictions”). The Restrictions shall be recorded prior to any mortgages or other liens on the Premises and/or an Affordable Unit, survive a

foreclosure or deed in lieu of foreclosure or similar action, meet the requirements of G.L. c. 184, §§31 and 32, and be in form and substance acceptable to Seller;

- (c) *SHI*: Buyer shall take all steps required to endeavor and cooperate with the Town to so that all of the Affordable Units are included in the Town's Subsidized Housing Inventory ("SHI"), including, without limitation, preparing and implementing an affirmative marketing program and lottery, and shall maintain said Affordable Units in the SHI for the term of the Restrictions in conjunction with the Town; and
- (d) *MSA*: Buyer may be required by Seller to engage the services of a monitoring agent acceptable to EOHLC to market the Affordable Units and conduct a lottery to find Eligible Purchasers.

21. Contingencies. The obligation of each party to close is subject to the satisfaction at or before the closing of all of the following conditions:

- (a) *Land Development Agreement*: Buyer and Seller shall execute the LDA attached hereto as Exhibit A;
- (b) *Restrictions*: Buyer and Seller shall execute the Restrictions in form and substance acceptable to the parties;
- (c) *Permits*: Buyer shall have obtained all permits, approvals, licenses and the like, with appeal periods having expired without any appeal being filed, or if filed, the final adjudication of such appeal pursuant to a final court order without further appeal (collectively, the "Permits") from all federal, state and local authorities necessary to construct the Affordable Units on the Premises. Buyer shall update Seller periodically, at Seller's request, of the status of its Permits; Seller has been advised that Buyer will need ninety days after the closing to obtain certain permits specific to this transaction. In the event Buyer can not obtain said permits after closing, Seller and Buyer agree to work towards a mutually acceptable resolution;
- (d) *Financing*: Buyer shall, prior or simultaneously with the closing on the Premises, close on funding in amounts sufficient, in Seller's reasonable judgment, to undertake and complete the Project. Buyer shall update Seller periodically, at Seller's request, of the status of its financing;
- (e) *Development Schedule*: Buyer shall use good faith efforts to obtain the Permits and the financing in accordance with the development schedule attached hereto as Exhibit B and incorporated herein, which the parties agree to update periodically;
- (f) *Compliance*: Compliance by Buyer and Seller with any other requirements of Massachusetts General or Special laws relative to the disposition of real property by Seller, and Buyer and Seller agree to diligently pursue full compliance with said laws; and

- (g) *Recording of Documents*: The parties shall record the LDA and the Regulatory Agreement at the closing and any and all other documents required to effectuate this conveyance.

In the event that Buyer is unable to obtain Permits for reasons beyond Buyer's reasonable control or if any necessary Permit is appealed by third parties, and Buyer informs Seller of the same in writing prior to the closing date, the parties agree to extend the closing to a date no later than sixty (60) days from the original scheduled closing date.

22. Notice. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party or the party's attorney or agent and shall be sent by registered or certified mail, return receipt requested, recognized express courier service such as Federal Express; confirmed facsimile transmission, and/or electronic mail addressed:

Seller: Town of Montague
1 Avenue A
Turners Falls, MA 01376
Telephone: (413) 863-3200

With a copy to: KP Law, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110
Telephone: (617) 556-0007
Attn: Katharine Lord Klein, Esq.

Buyer: Pioneer Valley Habitat for Humanity, Inc.
140 Pine Street
P.O. Box 60642
Florence, MA 01062-0642
Attention: Executive Director
Telephone: (413) 586-5430

With a copy to: Daniel F. Graves, Esq.
525 Bernardston Road
Greenfield, MA 01301
Telephone: (413) 773-8706

By such notice, either party may notify the other of a new address, in which case such new address shall be employed for all subsequent deliveries and mailings.

23. Inspections. Buyer and Buyer's agents shall have the right to enter the Premises, upon at least two (2) business days' prior written notice to Seller, at Buyer's own risk, for the purposes of making a visual inspection of the Premises, provided that Buyer shall have no right to conduct any subsurface or invasive inspections or investigations without the Town's prior written consent, which shall not be unreasonably withheld if Buyer's Phase 1 site assessment

report recommends a Phase 2 assessment, and shall promptly restore the Premises to their condition prior to any such disturbance and repair any damage caused to the Premises and/or improvements thereon by Buyer and/or Buyer's agents, employees, representatives, consultants, contractors and/or invitees (with Buyer, the "Buyer Parties"). Buyer agrees to conduct its investigations in compliance with all applicable laws and regulations, and with due respect for the privacy and safety of residents and abutters of the Premises, and consistent with any applicable noise or other bylaws of the Town of Montague. Seller shall have the right to accompany Buyer during any activities performed by or on behalf of Buyer on the Premises. Buyer shall release and hold Seller harmless against any claim by Buyer or any of the other Buyer Parties for any harm to them arising from said entry; defend, indemnify and hold harmless Seller from any claim, damages, liabilities, demands, and/or liabilities for injury, death and/or harm caused by or arising out of Buyer's exercise of its rights hereunder and/or entry onto the Premises, including without limitation, the use, release, discharge or threatened release of any Hazardous Waste (defined in Section 23) on the Premises. Buyer shall obtain comprehensive liability insurance in the minimum amount set forth herein to support the obligations of Buyer hereunder: General Liability: \$1,000,000.00/occurrence, \$2,000,000.00/aggregate; Bodily Injury Liability: \$1,000,000.00/occurrence, \$2,000,000.00/aggregate. Such insurance shall be issued by insurance companies licensed in Massachusetts and having a Best's rating of A- or better. Prior to entering the Premises, Buyer shall provide Seller with a copy of such insurance policy in each case indicating Seller is an additional insured on the policy and showing compliance with the foregoing provisions. In the event Buyer finds Hazardous Materials on the Premises in quantities that must be reported to the Department of Environmental Protection under the provisions of G.L. c. 21E or the regulations thereunder, and informs Seller of the same in writing prior to the closing date, this Agreement shall be null and void and without recourse to the parties except for those provisions stated herein to survive the termination. Nothing herein shall in any way require Seller to remediate any contamination on the Premises or make any repairs or improvements thereto. The provisions of this Section shall survive the termination of this Agreement and the delivery of the deed

24. Hazardous Materials. Buyer acknowledges that Buyer has not been influenced to enter into this transaction and that it has not relied upon any warranties or representations not set forth in this Agreement. Buyer represents and warrants that it or its agents have conducted a full inspection of the Premises, and based upon Buyer's investigation, Buyer is aware of the condition of the Premises and will accept the Premises "AS IS". Buyer acknowledges that Seller has no responsibility for hazardous waste, oil, hazardous material or hazardous substances, as those terms are defined by any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G.L. c. 21E, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. (herein collectively referred to as "Hazardous Waste") on, in, under or emitting from the Premises or for any other condition or defect on the Premises. The provisions of this paragraph shall survive the delivery of the deed.

25. Taking. Notwithstanding anything herein to the contrary, in the event of a taking of all or part of the Premises by eminent domain by an entity other than Seller, then at Buyer's

option, this Agreement may be terminated and, in such event, Buyer and Seller agree that all obligations under this Agreement and any other agreements between Buyer and Seller with respect to the Premises shall also be terminated and all damages paid for such taking shall be paid to Seller.

26. Cooperation. Seller agrees to use reasonable efforts to assist Buyer in obtaining any and all permits, licenses, easements and other authorizations required by any governmental authorities with respect to any construction or other work to be performed on the Premises, but Buyer acknowledges that Seller has no control over and cannot guarantee that permits required from municipal boards or officers within their statutory or regulatory authority will be granted or fees waived.

27. Assignment. Buyer shall not assign this Agreement or any of its rights hereunder without prior written consent of Seller, which may be withheld in Seller's sole and absolute discretion.

28. Closing. The deed and other documents required by this Agreement are to be delivered and the Purchase Price paid at the Date and Time of Closing and at the Place of Closing. Unless the Closing takes place at the appropriate Registry of Deeds, all documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the case of registered land.


29. Captions. The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

30. Extensions. Buyer and Seller hereby authorize their respective attorneys (as the case may be) to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the deed. Buyer and Seller shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge before the execution or other consent to such extensions, that either party has disclaimed the authority granted herein to bind them. For purposes of this Agreement, facsimile and scanned signatures shall be construed as original.

31. Errors. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties (or would have been included if not for any such error or omission) and notice thereof is given within sixty (60) days of the date of delivery of the deed to the party to be charged, then such party agrees to make payment to correct the error or omission. The provisions of this Section shall survive the closing and delivery of the deed.

32. Governing Law. This Agreement shall be governed exclusively by the provisions of the laws of the Commonwealth of Massachusetts and any disputes regarding this Agreement shall be brought in the courts of the county in which the Premises are located.

33. Construction of Agreement. This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both Seller and Buyer.

35.  Affidavit. Seller agrees to sign at the closing statements to the following effects, prepared by Buyer's attorney, to the best of the knowledge of the Assistant Town Administrator, with no duty of inquiry. for the benefit of the Buyer, Lender and/or the Title Insurance Company that:

- (a) there are no persons in possession of the premises;
- (b) no work has been done to the Premises which would entitle anyone to claim a mechanics lien on the premises;
- (c) no structures on or usage of the Premises encroach on abutting land, and no one has made such claim, and no abutters' structures or usage encroach upon the Premises; (d) Seller is not a foreign person subject to the withholding provisions of the Internal Revenue Code;
- (a.) (e) Each party remains liable for correcting adjustments made at the closing based on information for a period of ninety (90) days after the closing; and. (f) Each party agrees to sign additional documents at or after the closing as are reasonably required by Buyer's Lender or Lender's counsel and are acceptable in the reasonable judgment of the party's counsel.

[Signature Page Follows]

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

**Pioneer Valley Habitat
For Humanity, Inc.**

Town of Montague,
By its Selectboard

By: _____
Name: _____
Title: President

Richard Kuklewicz, Chair

Christopher Boutwell, Vice Chair

By: _____
Name: _____
Title: Treasurer

Matthew Lord, Clerk

869150/MTGU/0135

Exhibit A

Land Development Agreement

Exhibit B

Preliminary Development Schedule (Subject to change)

- May 2023 – Survey work
- June 2023 – Final environmental site investigations (report fall 2023)
- June 2023 – Prepare marketing plan and local action unit application for EOHLC
- July 2023 – Sign purchase and sale agreement, submit LAU application to EOHLC
- July – August 2023 – Schematic design work by architect
- September 2023 – Review schematic design
- October 2023 – Permit and pricing set created
- November – December 2023 – Apply for zoning permits
- January 2024 -- Closing on land with the town
- January and February 2024 – Subcontractor selection (site work, plumbing, electrical, etc.)
- March 2024 – Apply for building permits
- March to May 2024 – Preliminary site work completed and foundations
- June 2024 – First walls raised in phase 1 (3 homes)
- June 2025 – First walls raised in phase 2 (3 homes)
- October 2025 – Phase 1 construction completed
- November 2025 to March 2026 – Sale of Phase 1 units
- October 2026 – Phase 2 construction completed
- November 2026 to March 2027 – Sale of Phase 2 units

Exhibit C

Sketch Plan of Parking Area

Premises:
First Street
Montague, MA

LAND DEVELOPMENT AGREEMENT

This Land Development Agreement (this “Agreement”) is entered into on this _____ day of _____, 2023, by and between the **Town of Montague** (the “Town”), a Massachusetts municipal corporation, having an address of 1 Avenue A, Turners Falls, Massachusetts 01376, and **Pioneer Valley Habitat for Humanity, Inc.** (“Habitat”), a Massachusetts non-profit corporation, having an address of 140 Pine Street, P.O. Box 60642, Florence, Massachusetts 01062-0642.

Whereas, on or about January 25, 2023, the Town issued a request for proposals (the “RFP”), seeking to convey a parcel of land located on First Street in the Town of Montague, Franklin County, containing 0.65 acres, more or less, shown on Assessors Map 04 as Lot 31, and being a portion of that land described in an instrument recorded with the Franklin County Registry of Deeds (the “Registry”) in Book 1165, Page 584 (the “Land”) to a proposer for the development of affordable housing thereon;

Whereas, Habitat submitted a proposal (the “Proposal”) to the RFP, agreeing to construct a housing development consisting of six (6) housing units (the “Units”) on the Land (together with such other improvements now or hereafter constructed on the Land, the “Property”) and the sale of all the Units to eligible purchasers (as more particularly set forth herein, the “Project”), and was chosen as the successful proposer;

Whereas, pursuant to G.L. c.40B, Sec. 20-23 (the “Act”) and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April, 1989, regulations have been promulgated at 760 CMR 45.00 et, seq. (the “Regulations”), which established the Local Initiative Program (“LIP”);

Whereas, the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities (“EOHLC”) pursuant to Chapter 23B of the General Laws, administers the LIP on behalf of the Commonwealth;

Whereas, Habitat received approval for the creation of six (6) building lots and a parking area from the Montague Planning Board within the Smart Growth Overlay District (the “Permits”);

Whereas, the Town conveyed the Land to Habitat by a deed recorded with the Registry of even date herewith in Book _____, Page _____, for nominal consideration of One Dollar (\$1.00);

Whereas, the Property is subject to a Regulatory Agreement entered into by Habitat, the Town, and EOHLIC recorded with the Registry herewith in Book _____, Page _____ and incorporated herein by reference (the “Regulatory Agreement”), pursuant to which all the Units are to be conveyed to Eligible Purchasers (as defined herein and in the Regulatory Agreement);

Whereas, in consideration for the Town conveying the Land to Habitat for nominal consideration, Habitat hereby agrees to develop the Land and to undertake, at its sole cost and expense, all the work that is required to be done under this Agreement to construct, develop and complete the Project; and

Whereas, the Town and Habitat intend to set forth herein the terms and conditions that will govern the use and development of the Land and the Property.

Now Therefore, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

I. RIGHT OF ENTRY

Habitat acknowledges and accepts that the Land has been conveyed to Habitat subject to a Condition Subsequent, reserving to the Town a Right of Entry, which the Town may exercise if Habitat: (a) fails to commence construction of the Units within one hundred eighty (180) days from the date on which the deed from the Town to Habitat was recorded with the Registry (the “Date of Recording”), (b) fails to complete said construction within thirty (30) months from the Date of Recording, (c) fails to sell the Units to Eligible Purchasers within thirty-six (36) months from the Date of Recording, (d) conveys, sells or otherwise transfers the Property or any portion thereof to persons other than the Eligible Purchasers, or assigns its interest under this Agreement (as set forth more particularly in Section V(K)), or (e) uses the Property for other than affordable housing purposes. The Town may extend the time for performance under this condition if Habitat fails to perform its obligations hereunder within the time periods set forth above for reasons beyond Habitat’s reasonable control, provided that Habitat requests an extension in writing no later than thirty (30) days prior to the expiration of the applicable performance period and gives detailed reasons for the delay; in no event shall any extension exceed twenty-four (24) months from the applicable original performance date. For purposes of the dates above, it is agreed that commencing of construction shall mean a building permit for the construction shall

have issued, and the completion of construction shall mean a final certificate of occupancy has issued for the Project.

The Town shall provide sixty (60) days' written notice to Habitat of its intent to exercise its Right of Entry. If, at the end of such notice period, Habitat has not commenced construction, completed the construction, and/or sold the Units as required herein or cured the applicable default, in the Town's reasonable discretion, the Town may reenter the Property and retake all rights, title, interest and possession in and to the Property by executing and recording a certificate of entry with the Registry. Notwithstanding the provisions of anything herein to the contrary, upon recording said Right of Entry, title to the Property and any improvements thereon shall revert to and vest in the Town without any necessity for suit or without the necessity of a deed from Habitat to the Town. The Town shall reimburse Habitat for any improvements made by Habitat to the Property from the proceeds of the sale of the Units to Eligible Purchasers or from any other sale of the Property, less amounts required to release the Premises of any and all liens, subject to Town Meeting appropriation of funds for such purposes. Such Right of Entry to be in addition to any other rights or remedies the Town may have for a breach or default under this Agreement.

The Town's Right of Entry shall be deemed released and of no further force and effect upon the recording of the deed conveying the last Unit to an Eligible Purchaser, attaching to said deed an affordable housing Deed Rider and a Certificate of Compliance issued by the Town.

II. DEVELOPMENT AGREEMENT

Habitat agrees, for itself and its successors and assigns, and in consideration of the conveyance of the Land at the Purchase Price, which it acknowledges is less than the full and fair market value of the Land, to develop the Property and to undertake, at its sole cost and expense, all the work that is required to be done under this Agreement to construct, develop and complete the Project (hereinafter referred to as the "Work") as follows:

A. Construction Obligations

1. Construction of Units: Habitat shall, at its sole expense, prepare plans and specifications for the construction of the Units on the Property, showing the location, design, layout and size of the buildings, the Units, the landscaping, and all other improvements. The plans and specifications shall be submitted to the Town for the Town's approval (the "Approved Plans"). The Town shall not withhold approval unreasonably, and in the event of disapproval, the Town shall give Habitat an itemized statement of reasons for disapproval within forty-five (45) days after the plans and specifications are submitted to the Town. Habitat shall use reasonable efforts to cause such items to be appropriately revised and resubmit the same to the Town for approval pursuant to this Section, but shall not be required to make such changes if they render the Project uneconomic. If no response is received from the Town within said forty-five (45) days, the plans and specifications shall be deemed approved by the Town. Habitat shall construct the Units and perform the Work in accordance with the Approved Plans. Habitat

agrees not to make any material changes or revisions to the Work or the improvements as described in the RFP, the Proposal, and the Approved Plans during the course of construction without having obtained the Town's prior written approval, which approval shall not be unreasonably withheld.

2. Construction Schedule: Habitat shall commence construction of the Units within one hundred eighty (180) days from the Date of Recording and complete said construction and sell the Units to Eligible Purchasers within thirty-six (36) months from said Date of Recording, all in accordance with the terms of this Agreement. Failure to do so shall entitle the Town to exercise its Right of Entry. For purposes of this Section, Habitat shall be deemed to have completed construction of the Units upon obtaining a final Certificate of Occupancy for the Project. Habitat shall use good faith efforts to commence and complete the Project with due diligence.

3. Quality of Work: Habitat shall have obtained all the permits and approvals necessary to construct and operate the Project on the Property before undertaking any Work, and shall cause all the Work to be performed in a good and first-class workmanlike manner and employing materials of good quality and in accordance with the Approved Plans and all applicable laws, ordinances, codes and regulations.

4. Liens: Habitat shall not permit any mechanic's liens or similar liens to remain upon the Land or the Property for labor and materials furnished to Habitat in connection with work of any character performed by or at the direction of Habitat and shall cause any such lien to be released of record without cost to the Town pursuant to the terms of this Agreement, by satisfaction and discharge of such lien or release of such lien by bond.

5. Indemnification: Habitat shall comply with the requirements of all applicable laws, rules and regulations. Habitat shall defend, indemnify and hold the Town harmless from and against all cost, expense and/or liability arising out of or based upon any and all claims, accidents, injuries and damages related to the Work, the condition of the Land or Property, or any act or omission of Habitat, its contractors, licensees, agents, servants, employees, customers, invitees, guests or visitors, or anyone claiming by, through or under Habitat. This shall not be construed as a limitation of Habitat's liability under this Agreement or as otherwise provided by law.

The obligations of Habitat hereunder are referred to as Habitat's "Construction Obligations."

B. Financial Obligations

1. Construction Loan: Habitat shall be responsible for obtaining all the financing necessary to finance the construction and completion of the Project. Any construction or other loan ("Construction Loan") that is secured by a mortgage on the Land or the Property ("Construction Mortgage") shall be subordinate and subject to this Agreement, and shall be

recorded after this Agreement. Habitat shall perform all of Habitat's obligations under the Construction Loan, including Habitat's covenants to make payments when due. Habitat shall cause the holder of the Construction Mortgage (the "Lender") to give at least sixty (60) days prior written notice to the Town, by registered mail, of the Lender's intention to foreclose upon the Construction Mortgage or to accept a conveyance of the Property in lieu of foreclosure, in which event the Town shall have the right, but not the obligation, to cure whatever default(s) have entitled the Lender to issue the foreclosure notice, subject to appropriation. Habitat shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Land or Property, which may attain a priority over the Construction Mortgage.

2. Affordable Housing: Habitat agrees that the Units shall be subject to an affordable housing Deed Rider as set forth more particularly in the Regulatory Agreement.

3. Initial Sales Price: Habitat shall sell the Units for no more than the initial sale price set forth in the Regulatory Agreement.

4. Marketing: Habitat agrees to market the Units as provided in the Regulatory Agreement.

C. **Use of Property**

1. Use and Maintenance: For so long as Habitat owns the Property, Habitat shall use the Land to develop affordable housing for use by income-eligible persons and shall maintain the Units and other improvements thereon, if any, in good order, condition and repair.

2. Insurance: Habitat agrees to maintain the following insurance:

(a) *Property Insurance*: Habitat shall continuously maintain in full force, for the term of this Agreement, a policy of comprehensive casualty and property damage insurance, insuring the Property and all improvements thereto, in an amount equal to at least one hundred percent (100%) of the replacement costs thereof, under which, until the completion of the Work, the Town shall be named as additional insured and under which the insurer agrees to defend, indemnify and hold the Town harmless from and against all cost, expense and/or liability arising out of or based upon any and all claims, accidents, injuries and damages related to the Work, the condition of the Land or Property, or any act or omission of Habitat, its contractors, licensees, agents, servants, employees, customers, invitees, guests or visitors, or anyone claiming by, through or under Habitat, or failure to comply with the provisions of this Agreement or with applicable laws in connection with the exercise of the rights and obligations of Habitat hereunder, in the broadest form of such coverage from time to time available in Massachusetts. Habitat shall submit to the Town, on or before conveyance of the Land from the Town to Habitat and no less often than annually thereafter, and at any other time upon the request of the Town, evidence of such continuous insurance coverage satisfactory to the Town;

(b) *Liability Insurance:* Habitat shall carry comprehensive public liability insurance in the minimum amount of \$1,000,000.00/occurrence, \$3,000,000.00/aggregate with property damage liability insurance in limits of \$1,000,000.00/occurrence, \$3,000,000.00/aggregate;

(c) *Builder's Risk:* During the period of any construction or structural alteration of the Property or the construction of the Units, Habitat shall also keep in full force and effect, at its sole cost and expense, "Builder's All Risk" insurance against loss or damage on a completed value non-reporting basis from such hazards and in such amounts as the Town may reasonably require.

(d) *Insurance Carried by Contractors:* During the period of any construction or structural alteration of the Property or the construction of the Units, Habitat shall also require the general contractor for the Work to maintain (i) for the benefit of Habitat and the Town, as additional insureds, commercial general liability insurance, including products and completed operations coverage, against any claims for personal injury, death and property damage occurring upon, in or about the premises and on, in and about the adjoining sidewalks and passageways during the construction of the work for at least One Million \$1,000,000.00 Dollars per occurrence and, Two Million (\$2,000,000.00) Dollars in General Aggregate; (ii) worker's compensation in amounts required by state statute; (iii) employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000.00); and (iv) automobile liability insurance, including the ownership, maintenance and operation of any automotive equipment, owned, hired or non-owned, in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit.

(e) *Evidence of Insurance:* All policies shall name the Town as an additional insured and shall be so written that the Town shall be notified of cancellation or restrictive amendment at least thirty (30) days prior to the effective date of such cancellation or amendment. Habitat shall submit to the Town certificates of insurance for all the policies required to be maintained by Habitat hereunder, which certificates shall show at least the coverage and limits of liability specified herein the and the expiration date;

(f) *Acceptable Insurers:* All insurance required hereunder shall be underwritten with an insurance company or companies with an AM Best Rating of A-1 or better, licensed to write such insurance in the Commonwealth of Massachusetts and reasonably acceptable to the Town; and

(g) *Termination:* All responsibility of Habitat under this Section shall terminate upon the construction and conveyance of the Units to Eligible Purchasers in accordance with the terms of the Regulatory Agreement.

3. Obligation to Restore: In the event that any damage or destruction of the Property or any part thereof occurs as a result of fire or other casualty during the term of this Agreement, Habitat shall be responsible for the restoration of the Property to the extent of its insurance proceeds, provided, however, that if such damage or destruction is caused as a result of the gross

negligence or willful act or omission of Habitat, or of any of its employees or agents, Habitat shall be responsible for the full restoration of the damaged or destroyed Property regardless of the cost thereof or the available insurance proceeds, until such time as Habitat has completed construction and sold to Eligible Purchasers the Units damaged or destroyed by fire or other casualty.

III. AFFORDABLE HOUSING PROVISIONS

A. Initial Unit Sale Price; Affordable Housing Restriction: The Property shall be used for affordable housing purposes in perpetuity. Upon completion of the construction of the Unit and the issuance of a final Certificate of Occupancy, Habitat shall convey the Units to homebuyers earning no more than 60% of the Area Median Income (“AMI”) that includes the Town of Montague, as defined by the United States Department of Housing and Urban Development (“HUD”), adjusted for household size (the “Eligible Purchasers”) as set forth more particularly in the Regulatory Agreement. The deed to each Eligible Purchaser shall include a Deed Rider substantially similar in form and content to the document attached to the Regulatory Agreement, ensuring that each Unit shall thereafter be conveyed to homeowners earning no more than 80% of the AMI, adjusted for household size, will stay affordable in perpetuity and count toward the Town’s Subsidized Housing Inventory. The resale restrictions contained in the Deed Riders that encumbers the Units pursuant to the requirements of this Agreement are affordable housing restrictions, as that term is defined in G.L. c. 184, §31 and as that term is used in G.L. c. 184, §§26, 31, 32 and 33, and shall also be an “other restriction” held by a governmental body, as that term is used in G.L. c. 184, §26, such that the restrictions contained therein shall be enforceable for its full term and not be limited in duration by any contrary rule or operation of law, and in any event shall be enforceable for at least ninety-nine (99) years. Such resale restrictions shall be for the benefit of the Town and EOHLC. The Town and EOHLC shall be deemed to be holders of the affordable housing restriction created by the Resale Restrictions in said Deed Rider.

B. Shared Parking Lot: Habitat shall construct a _____ parking lot on the land retained by the Town, as shown on a plan entitled “_____,” dated _____, prepared by _____, recorded herewith, within _____ (____) months from the Date of Recording.

C. Marketing Plan: Habitat shall market the Property and shall conduct a buyer selection process for the Property in accordance with an affirmative fair marketing plan approved by EOHLC and the Town.

D. Certificate of Compliance, Acceptance of Restriction: Upon the sale of each Unit by Habitat in accordance with this Agreement and the Regulatory Agreement, there shall be recorded with each Unit deed, at Habitat’s expense, a Certificate of Compliance issued by the Town indicating compliance with the provisions of this Agreement, such Certificate not to be unreasonably withheld.

E. No Discrimination: Neither Habitat or the Town shall discriminate on the basis of race, creed, color, sex, age (except as permitted by law in senior housing communities), handicap, marital status, national origin, or any other basis prohibited by law in the selection of buyers for the Property; and Habitat shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project. Notwithstanding the forgoing, persons who have a financial interest in the offered home and their families shall not be eligible based on said financial interest criteria. Current Pioneer Valley Habitat for Humanity staff and members of the board of directors are not eligible to apply. Habitat volunteers, former staff, and temporary staff (such as interns) employed for less than 4 months are eligible to apply for a home.

The obligations of Habitat hereunder are referred to as Habitat's "Affordable Housing Obligations."

IV. DEFAULT

If, prior to the expiration of this Agreement,

A. Habitat shall have failed observe or perform any of Habitat's covenants, agreements, or obligations set forth in this Agreement within thirty (30) days following receipt of written notice from the Town specifying such failure (or if such failure or violation cannot be cured within said thirty (30)-day period, to commence to cure the same within said period and diligently to proceed thereafter to complete such curing, but in no event later than sixty days (60) from the date of the Town's notice);

B. Habitat shall have failed, after all applicable cure periods, to observe or perform any of the Developer's covenants, agreements, or obligations under the Construction Mortgage;

C. Habitat shall have sold, assigned, exchanged, mortgaged or otherwise transferred the Property or any portion thereof (other than the Construction Mortgage to secure the Construction Loan and the sale of the Units to Eligible Purchasers) or transferred its interests under this Agreement without the Town's prior written consent prior to the completion of the Project (as set forth more particularly in Section V(K);

D. There shall have issued any execution or attachment against Habitat or any of Habitat's property pursuant to which the Property shall be taken or occupied or attempted to be taken or occupied, provided Habitat is first provided an opportunity to cure the same within sixty (60) days unless extended by agreement of the parties; or

E. Habitat shall have filed a voluntary petition, or there shall have been filed against Habitat an involuntary petition, in bankruptcy or insolvency or adjudication of bankruptcy or insolvency of Habitat, or the filing by Habitat of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act, or any other present or future applicable

federal, state, or other statute or law, or the assignment by Habitat for the benefit of creditors, or appointment of a trustee, receiver, or liquidator of all or any part of the assets of Habitat, and within one hundred twenty (120) days after the commencement of any such proceeding against Habitat, such proceeding shall not have been dismissed, or if, within one hundred twenty (120) days after the appointment of any trustee, receiver, or liquidator of Habitat or of all or any part of Habitat's property, without the consent or acquiescence of Habitat, such appointment shall not have been vacated or otherwise discharged;

the Town shall have the right (i) to exercise its Right of Entry, if applicable, and/or (ii) to exercise any and all rights and remedies available to it, under law or in equity, including actions and proceedings to compel specific performance and money damages.

V. GENERAL PROVISIONS

A. Access: Habitat shall permit the Town or its agents to enter the Property, including, without limitation, the Units, at any reasonable time, from time to time, to inspect the Property and to ensure compliance with the provisions of this Agreement, provided, however, that the Town provides Habitat at least forty-eight (48) hours' prior notice thereof, except in the event of emergency, in which case notice shall be given as soon as practicable.

C. Compliance with Laws: Habitat shall carry out the Project in compliance with all applicable federal, state and local laws, codes, ordinances, rules and regulations and with all necessary permits.

D. Development Costs: Habitat shall be solely liable for all costs incurred in construction of all the Work required under this Agreement to develop the Project on the Land in compliance with all laws, ordinances, rules, regulations and codes applicable to the permitted use, and in including the Units in EOHLC's Subsidized Housing Inventory. The Town assumes no responsibility or obligation whatsoever for the development of the Property by Habitat, and Habitat hereby agrees to indemnify and hold the Town harmless from any loss or damage arising from the development of the Property.

E. Cooperation: The Town agrees to use reasonable efforts to assist Habitat in obtaining any and all permits, licenses, easements and other authorizations required by any governmental authorities with respect to any construction or other work to be performed on the Land or Property, but Habitat acknowledges that the Town has no control over and cannot guarantee that permits required from municipal boards or officers within their statutory or regulatory authority will be granted or fees will be waived.

F. Indemnification: Habitat agrees to defend, indemnify, and hold the Town harmless from and against any and all liabilities, losses, costs, expenses (including reasonable attorneys' fees), causes of action, suits, claims, damages, demands, judgments or expenses from any and all claims, actions, or suits of any nature whatsoever that may be imposed upon, incurred by, or asserted against the Town by reason of this Agreement, except to the extent that the same

is caused by the negligence or willful misconduct of the Town or its employees or agents. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses, and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

G. Environmental: Habitat shall comply with all state and federal environmental laws and shall defend, indemnify, and hold the Town harmless from and against any and all liabilities, losses, costs, expenses (including attorneys' fees), causes of action, suits, claims, damages, demands, judgments or expenses from any and all claims, actions, or suits of any nature whatsoever that may be imposed upon, incurred by, or asserted against the Town arising from any release or threat of release of any hazardous materials which are placed, released or disposed on, in or under all or any portion of the Property on or after the date of this Agreement.

H. Costs of Enforcement: In the event that the Town successfully takes enforcement or other legal proceedings to enforce this Agreement or to otherwise redress a breach of this Agreement by Habitat, in addition to any other remedies to which the Town may be entitled, Habitat shall pay to the Town forthwith any and all costs and expenses, including attorneys' fees, that are incurred in enforcing this Agreement or prosecuting any such proceedings.

I. Obligations and Rights and Remedies Cumulative and Separable: The respective rights and remedies of the Town and Habitat, whether provided by this Agreement, or by law, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times of any other such rights or remedies.

J. Notices: Any and all notices required herein shall be in writing and shall be deemed properly given upon the earlier of: (1) two business days after deposit with the United States Postal Service, if sent by registered or certified mail, return receipt requested, postage prepaid; (ii) one business day after deposit with an express courier service such as Federal Express; or (iii) actual receipt. All such notices will be delivered to the address specified above or such other address as the respective parties may designate in writing:

K. Waiver: The failure on the part of Habitat or the Town, as the case may be, to complain in any one or more cases of any action or non-action on the part of the other party, or to insist in any one or more cases upon the performance of any of the provisions, covenants, agreements or conditions of this Agreement or to exercise any option contained herewith, no matter how long the same may continue, shall never be deemed or construed to be a waiver by such party of any of its rights hereunder, or a relinquishment for the future of any such provision, covenant, agreement, condition or option. Further it is covenanted and agreed that no waiver at any time of any of the provisions hereof by Habitat or the Town shall be construed as a waiver of any of the other provisions hereof, and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

L. Restrictions on Transfers and Junior Encumbrances: Until the Project has been completed in accordance with this Agreement, Habitat shall not sell, assign, exchange, mortgage

or otherwise transfer the Property or any portion thereof, other than the Construction Mortgage to secure the Construction Loan and the sale of the Units to Eligible Purchasers, or transfer its interests under this Agreement without the Town's prior written consent, which shall not be withheld unreasonably for any financing necessary to construct the Project. Any sale, assignment or other transfer of the Property or any portion thereof, whether before or after the completion of the Project, shall be subject to the terms of this Agreement, and the buyer, assignee or transferee shall assume Habitat's obligations under this Agreement in writing as if it were the original developer hereunder. Any attempted assignment or other transfer made contrary to this Section shall be void.

M. Limitation on Liability: Notwithstanding anything in this Agreement to the contrary, neither party shall be liable to the other for consequential, incidental, or punitive damages.

N. Time of Essence: Time shall be of the essence hereof.

O. No Partnership: Nothing contained under this Agreement shall be construed to create a partnership or joint venture between the Town and Habitat or to make the Town an associate in any way of Habitat in the conduct of Habitat's business, nor shall the Town be liable for any debts incurred by Habitat in the conduct of Habitat's business.

P. No Brokers: Each warrants and represents to the other that it has had no dealings or negotiations with any broker or agent in connection with this Agreement. Each agrees to pay, and shall hold the other harmless and indemnified from and against any and all costs, expenses (including without limitation counsel fees) or liability for any compensation, commissions and charges claimed by any broker or agent resulting from any such dealings by the indemnifying party with respect to this Agreement or the negotiation therefor.

Q. Headings and Captions for Convenience Only: The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

R. Term of Agreement: This Agreement and the restrictions and covenants contained herein shall be enforceable by the Town in perpetuity or for the longest period permitted by law, which in any event shall be for at least ninety-nine (99) years. Notwithstanding the foregoing, this Agreement shall terminate upon the sale of all of the Units to Eligible Purchasers and the recording of Deed Riders with the deeds to the Units and Certificate(s) of Compliance signed by the Town.

S. Binding: The terms of this Agreement shall be binding on the parties, and their respective successors, heirs and assigns. All covenants, agreements, terms and conditions of this Agreement shall be construed as covenants running with the land.

T. Entire Agreement of Parties; No Oral Agreement: There are no oral agreements between the parties hereto affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and undertakings, if any, between the parties hereto with respect to the subject matter hereof, and none thereof shall be used to interpret or construe this Agreement.

U. Governing Law: This Agreement shall be governed exclusively by the provisions of the laws of the Commonwealth of Massachusetts.

V. Recording: Upon execution, Habitat shall immediately cause this Agreement and any amendments hereto to be recorded or filed with the Registry, and Habitat shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, Habitat shall immediately transmit to the Town evidence of such recording or filing including the date and instrument number, book and page, or registration number of this Agreement. The Agreement shall be recorded prior to the recording of any mortgages.

[Signature Page Follows]

WITNESS the above execution hereof under seal as of the day and year first above written.

**Pioneer Valley Habitat
For Humanity, Inc.**

**Town of Montague,
By Its Selectboard**

By: _____
Name:
Title: President

Richard Kuklewicz, Chair

Christopher Boutwell, Vice Chair

By: _____
Name:
Title: Treasurer

Matthew Lord, Clerk

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, member of the Town of Montague Selectboard, as aforesaid, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged to me that he/she/they signed the foregoing instrument on behalf of said Town of Montague.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

On this _____ day of _____, 2023, before me, the undersigned Notary Public, personally appeared _____, President of Pioneer Valley Habitat for Humanity, Inc., who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

On this _____ day of _____, 2023, before me, the undersigned Notary Public, personally appeared _____, Treasurer of Pioneer Valley Habitat for Humanity, Inc., who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

869151/MTGU/0135

LOCAL INITIATIVE PROGRAM

**REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
OWNERSHIP PROJECT**

This Regulatory Agreement and Declaration of Restrictive Covenants (the “Agreement”) is made this ____ day of _____ 20__ by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development (“DHCD”), pursuant to G.L. c. 23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Montague (“the Municipality”), and Pioneer Valley Habitat for Humanity, Inc, a Massachusetts non-profit corporation, having an address at 140 Pine Street, PO Box 60642, Florence, MA 01062, and its successors and assigns (“Project Sponsor”).

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the “Act”) and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the “Regulations”) which establish the Local Initiative Program (“LIP”);

WHEREAS, the Project Sponsor intends to construct a housing development known as Great Falls First Street Habitat Project at a 0.65-acre site on First Street in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the “Project”);

WHEREAS, such Project is to consist of a total number of six detached dwellings (the “Units”) and six of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the “Low and Moderate Income Units”);

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor have made application to DHCD to certify that the units in the Project are Local Action Units (as that term is defined in the *Comprehensive Permit Guidelines* (the “Guidelines”)) published by DHCD with the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has given and will give technical and other assistance to the Project;

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

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality (the “Plans and Specifications”)

<u> </u>	of the Low and Moderate Income Units shall be one bedroom units;
<u> 1 </u>	of the Low and Moderate Income Units shall be two bedroom units;
<u> 5 </u>	of the Low and Moderate Income Units shall be three bedroom units; and,
<u> </u>	of the Low and Moderate Income Units shall be four bedroom units.

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

one bedroom units	-	700 square feet
two bedroom units	-	800 square feet
three bedroom units	-	1100 square feet
four bedroom units	-	1400 square feet

The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for persons with disabilities. the Project must also comply with all applicable local codes, ordinances and by-laws.

Each Low and Moderate Income Unit will be sold for no more than the price set forth in Exhibit B attached hereto and made a part hereof to an Eligible Purchaser. An Eligible Purchaser is a Family (i) whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U. S. Department of Housing and Urban Development and (ii) whose assets do not exceed the limits specified in the Guidelines. A “Family” shall mean two or more persons who will live regularly in the Low or Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The “Area” is defined as the Greater Springfield MSA / Franklin County.

2. Upon the occurrence of one of the events described in 760 CMR 56.03(2), the Project will be included in the Subsidized Housing Inventory as that term is described in 760 CMR 56.01. Only Low and Moderate Income Units will be counted as SHI Eligible Housing as that term is described in 760 CMR 56.01 for the purposes of the Act.

3. (a) At the time of sale of each Low and Moderate Income Unit by the Project Sponsor, the Project Sponsor shall execute and shall as a condition of the sale cause the purchaser of the Low and Moderate Income Unit to execute an Affordable Housing Deed Rider in the form of Exhibit C attached hereto and made a part hereof (the “Deed Rider”). Such Deed Rider shall be attached to and made a part of the deed from the Project Sponsor to the Unit Purchaser. Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low and Moderate Income Unit to offer the Low and Moderate Income Unit to the Municipality and to DHCD at a discounted purchase price more particularly described therein. The Municipality and DHCD shall have the option upon terms more particularly described in the Deed Rider to either purchase the Low and Moderate Income Unit or to find an Eligible Purchaser. The Deed Rider shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made a part of the deed from the Unit Purchaser

to the Eligible Purchaser, so that the affordability of the Low and Moderate Income unit will be preserved each time that subsequent resales of the Low and Moderate Income unit occur. (The various requirements and restrictions regarding resale of a Low and Moderate Income Unit contained in the Deed Rider are hereinafter referred to as the ("Resale Restrictions"). If upon the initial resale or any subsequent resale of a Low and Moderate Income Unit, the Municipality and DHCD are unable to find an Eligible Purchaser for the Low and Moderate Income Unit, and the Municipality and DHCD each elect not to exercise its right to purchase the Low and Moderate Income Unit, then the then current owner of the Low and Moderate Income Unit shall have the right to sell the Low and Moderate Income Unit to any person, regardless of his income (an "Ineligible Purchaser") at the Maximum Resale Price and subject to all rights and restrictions contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

(b) For each sale of a Low and Moderate Income Unit, DHCD must approve the terms of the Eligible Purchaser's mortgage financing as evidenced by DHCD's issuance of the Resale Price Certificate described in the Deed Rider.

(c) The Municipality agrees that in the event that it purchases a Low and Moderate Income Unit pursuant to its right to do so contained in the Deed Rider then in effect with respect to such Low and Moderate Income Unit, that the Municipality shall within six (6) months of its acceptance of a deed of such Low and Moderate Income Unit, either (i) sell the Low and Moderate Income Unit to an Eligible Purchaser at the same price for which it purchased the Low and Moderate Income Unit plus any expenses incurred by the Municipality during its period of ownership, such expenses to be approved by DHCD, subject to a Deed Rider satisfactory in form and substance to DHCD and the recording of an Eligible Purchaser Certificate satisfactory in form and substance to DHCD, the method for selecting such Eligible Purchaser to be approved by DHCD or (ii) rent the Low and Moderate Income Unit to a person who meets the income guidelines of the LIP Program, upon terms and conditions satisfactory to DHCD and otherwise in conformity with the requirements of the LIP Program. If the Municipality fails to sell or rent the Low and Moderate income unit as provided herein within said six (6) month period, or if at any time after the initial rental of the Low and Moderate Income Unit by the Municipality as provided herein the Low and Moderate Income Unit becomes vacant and remains vacant for more than ninety (90) days, then such Low and Moderate Income Unit shall cease to be counted as SHI Eligible Housing, and shall no longer be included in the Subsidized Housing Inventory.

(d) Each Low and Moderate Income Unit will remain SHI Eligible Housing and continue to be included in the Subsidized Housing Inventory for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor is in default hereunder; (2) the Project and Low and Moderate Income Unit each continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) either (i) a Deed Rider binding the then current owner of the Low and Moderate Income Unit to comply with the Resale Restrictions is in full force and effect and the then current owner of the Low and Moderate Income Unit is either in compliance with the terms of the Deed Rider, or the Municipality is in the process of taking such steps as may be required by DHCD to enforce the then current owner's compliance with the terms of the Deed Rider or (ii) the Low and Moderate Income Unit is owned by the Municipality and the Municipality is in

compliance with the terms and conditions of the last preceding paragraph, or (iii) the Low and Moderate Income Unit is owned by DHCD.

4. This section intentionally blank.

5. (a) Prior to marketing or otherwise making available for sale any of the Units, the Project Sponsor must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the buyer selection process for the Low and Moderate Income Units and must set forth a plan for affirmative fair marketing of Low and Moderate Income Units and effective outreach to protected groups underrepresented in the municipality, including provisions for a lottery, consistent with the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines, provided that any local preference shall apply only to the initial unit sales by the Project Sponsor. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the buyer selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of *NAACP, Boston Chapter v. Kemp*. **If the Project is located in the Boston-Cambridge-Quincy, MA-NH MSA, the Project Sponsor must list all Low and Moderate Income Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center); other requirements for listing of units are specified in the Guidelines.** All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor.

(b) The Project Sponsor may use in-house staff to draft and/or implement the Marketing Plan, provided that such staff meets the qualifications described in the Guidelines. The Project Sponsor may contract for such services provided that any such contractor must be experienced and qualified under the standards set forth in the Guidelines. A failure to comply with the Marketing Plan by the Project Sponsor or by the Municipality shall be deemed to be a default of this Agreement. The Project Sponsor agrees to maintain for at least five years following the sale of the last Low and Moderate Income Unit, a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Project Sponsor or the Municipality. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the

approved Marketing Plan, that the Project Sponsor or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

6. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, religion, color, sex, sexual orientation, gender identity, familial status, age, disability, marital status, veteran or military status, national origin, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of buyers for the Units; and the Project Sponsor shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

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

(b) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that each of the Low and Moderate Income Units continues to be occupied by a person who was an Eligible Purchaser at the time of purchase; that any Low and Moderate Income Units which have been resold during the year have been resold in compliance with all of the terms and provisions of the Deed Rider then in effect with respect to each such Low and Moderate Income Unit, and in compliance with the Regulations and Guidelines and this Agreement; and that the Project and the Low and Moderate Income Units have otherwise been maintained in a manner consistent with the Regulations and Guidelines, this Agreement, and the Deed Rider then in effect with respect to each Low and Moderate Income Unit.

8. Upon execution, the Project Sponsor shall immediately cause this Agreement and any amendments hereto to be recorded/filed with the Registry, and the Project Sponsor shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Project Sponsor shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

9. The Project Sponsor hereby represents, covenants and warrants as follows:

(a) The Project Sponsor (i) is a Massachusetts non-profit corporation, duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Project Sponsor (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Project Sponsor is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Project Sponsor will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances, including mortgages referred in paragraph 10, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Project Sponsor, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially or adversely affect its financial condition.

10. (a) Except for sales of Low and Moderate Income Units to Eligible Purchasers and sales of other Units to unit owners in the ordinary course of business as permitted by the terms of this Agreement, the Project Sponsor will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a “Sale”) or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of DHCD and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Project Sponsor’s obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Project is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Project Sponsor within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or

- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Project Sponsor shall provide DHCD and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of the Project Sponsor; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in the Project Sponsor (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of the Project Sponsor's interest in the Project or any party of the Project.

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

Notwithstanding the above, DHCD's consent under this Section 10 shall not be required with respect to the grant by the Project Sponsor of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

The Project Sponsor hereby agrees that it shall provide copies of any and all written notices received by the Project Sponsor from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

11. Until such time as decisions regarding repair of damage due to fire or other casualty, or restoration after taking by eminent domain, shall be made by a condominium association or trust not controlled by the Project Sponsor, (or if the Project consists of detached dwellings, by homebuyers) Project Sponsor agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Project Sponsor will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement, subject to the approval of the Project's lenders, which lenders have been approved by DHCD and the Municipality.

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

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

DHCD: Department of Housing and Community Development
Attention: Local Initiative Program Director
100 Cambridge St., Suite 300
Boston, MA 02114

Municipality: Town of Montague
1 Avenue A
Turners Falls, MA 01376
Selectboard
Attention:

Project Sponsor: Pioneer Valley Habitat for Humanity, Inc.
Attention: Executive Director
PO Box 60642
Florence, MA 01062

14. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an "other restriction held by a governmental body" as set forth in Section 26 of G.L. c.184 and an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, the Project Sponsor and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and assigns. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement shall be perpetual, provided however, that DHCD shall have the right to withdraw from this Agreement, as provided in Section 16, if at any time hereafter there is no Low and Moderate Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions, and there is no Low and Moderate Income Unit at the Project which is owned by the Municipality or DHCD as provided in Section 4 hereof. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project. Each holder of the restriction hereunder shall have the right to enforce the terms of this Agreement with prior notice to but independent of the other.

(b) The Project Sponsor intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the

term of this Agreement, and are binding upon the Project Sponsor's successors in title, (ii) are not merely personal covenants of the Project Sponsor, and (iii) shall bind the Project Sponsor, its successors and assigns and inure to the benefit of DHCD and its successors and assigns for the term of the Agreement. Project Sponsor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(c) The Resale Restrictions contained in each of the Deed Riders which are to encumber each of the Low and Moderate Income Units at the Project pursuant to the requirements of this Agreement are an "other restriction held by a governmental body" as set forth in G.L. c.184, §26 and shall also constitute an affordable housing restriction as that term is defined in G.L. c. 184, §31 and as that term is used in G.L. c. 184, §§26, 31, 32, and 33. Such Resale Restrictions shall be for the benefit of both DHCD and the Municipality and both DHCD and the Municipality shall be deemed to be the holder of the affordable housing restriction created by the Resale Restrictions in each of the Deed Riders. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. To the extent that the Municipality is the holder of the Resale Restrictions to be contained in each of the Deed Riders, the Director of DHCD by the execution of this Agreement hereby approves such Resale Restrictions in each of the Deed Riders for the Low and Moderate Income Units of the Project as required by the provisions of G.L. c. 184, §32.

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

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

(b) Whether the Low and Moderate Income Units will continue to be included in the Subsidized Housing Inventory maintained by DHCD for purposes of the Act shall be determined solely by DHCD according to the rules and regulations then in effect. If DHCD elects to withdraw from this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16(a), then

the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such withdrawal no longer be deemed SHI Eligible Housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory. The foregoing sentence shall not apply to Low and Moderate Income Units that have been conveyed in compliance and remain in compliance with Section 3 of this Agreement. Notwithstanding the foregoing, this Agreement shall continue to be a binding and effective permanent affordable housing agreement under G.L. c. 184, §§31-33 between the Project Sponsor and the Municipality, and the covenants and restrictions herein shall continue to run with the Property in perpetuity. The Municipality shall have the same rights as DHCD hereunder, and any notices to be given to and/or approvals to be obtained from DHCD by the Project Sponsor shall be given to and obtained from the Municipality.

(c) In the event DHCD and/or the Municipality brings an action to enforce this Agreement and prevails in any such action, DHCD and the Municipality shall each be entitled to recover from the Project Sponsor all of DHCD's and/or the Municipality's reasonable costs of an action for such enforcement of this Agreement, including reasonable attorney's fees.

(e) The Project Sponsor hereby grants to DHCD, the Municipality, or its or their designee the right to enter upon the Property for the purpose of enforcing the terms of this Agreement or to prevent, remedy or abate any violation of this Agreement.

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

18. DHCD may delegate to the Municipality any of its oversight and enforcement responsibilities under this Agreement, with the agreement of the Municipality, by providing written notice of such delegation to the Project Sponsor and the Municipality.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

PROJECT SPONSOR

By: _____
Its:

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT

By: _____
Its:

MUNICIPALITY

By: _____
Its:

Attachments: Exhibit A - Legal Property Description
Exhibit B - Prices & Location of Low & Moderate Income Units
Exhibit C - Form of Deed Rider

Consent forms signed by any and all mortgagees whose mortgages are recorded prior to this Regulatory Agreement must be attached to this Regulatory Agreement.

© DHCD When used in the Local Initiative Program, this form may not be modified without the written approval of the Department of Housing and Community Development.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss.

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

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK, ss.

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

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF FRANKLIN, ss. _____, 20__

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

Notary Public

Print Name:

My Commission Expires:

**CONSENT AND SUBORDINATION OF MORTGAGE
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Mortgage dated _____ given by _____ to _____, recorded with the _____ Registry of Deeds at Book _____, Page _____ ("Mortgage").

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: _____
Its: _____

(If the Project has more than one mortgagee, add additional consent forms.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

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

Notary Public
Print Name:
My Commission Expires:

EXHIBIT A

Re:

(Project name)

(City/Town)

(Developer)

Property Description

EXHIBIT B

Re: Great Falls First Street Habitat Project
(Project name)
Montague, MA
(City/Town)
Pioneer Valley Habitat for Humanity, Inc.
(Developer)

Maximum Selling Prices, Initial Condominium Fees, and Percentage Interest Assigned to Low and Moderate Income Units

	<u>Maximum Sales Price</u>	<u>Condo Fee</u>	<u>% Interest</u>
One bedroom units	\$ _____	\$ _____	_____
Two bedroom units	\$200,000 _____	\$ _____	_____
Three bedroom units	\$200,000 _____	\$ _____	_____
Four bedroom units	\$ _____	\$ _____	_____

Location of Low and Moderate Income Units

The housing units which are Low and Moderate Income Units are those designated as lot/unit numbers _____ on:

- ☐ a plan of land entitled _____ recorded with the _____ Registry of Deeds in Book ____, Page ____.
- ☐ floor plans recorded with the Master Deed of the _____ recorded with the _____ Registry of Deeds in Book ____, Page ____.

Community Development Discretionary Account Transfer Request

Allocation from CD Digital Economy Plan (225-5-184-5284)

Authorization to transfer \$16.01

from CD Digital Economy Plan (225-5-184-5284)

to CD Discretionary Unallocated (225-5-184-5200)

Request Date: June 26, 2023

Selectboard Chair

Balances before transfer

CD Outdoor Digital Economy Plan: \$3000.00

CD Discretionary Unallocated: \$35,759.50

Balances post transfer

CD Outdoor Digital Economy Plan: \$00.00

CD Discretionary Unallocated: \$38,759.50

Community Development Discretionary Account

Transfer Request

Allocation from CD Digital Economy Plan (225-5-184-5284)

Authorization to transfer \$3,000.00

from Digital Economy Plan (225-5-184-5284)

to CD Discretionary Unallocated (225-5-184-5200)

Request Date: June 26, 2023

Selectboard Chair

Balances before transfer

CD Digital Economy Plan: \$3,000.00

CD Discretionary Unallocated: \$35,759.50

Balances post transfer

CD Digital Economy Plan: \$00.00

CD Discretionary Unallocated: \$38,759.50

Community Development Discretionary Account

Transfer Request

Allocation from CD Discretionary Unallocated (225-5-184-5200)

Authorization to transfer \$2,500.00
from CD Discretionary Unallocated (225-5-184-5200)
to CD Erosion Research Consultant (225-5-184-5292)
Request Date: June 26, 2023

Selectboard Chair

Balances before transfer

CD Discretionary Unallocated: \$38,759.50
CD Erosion Research Consultant: \$00.00

Balances post transfer

CD Discretionary Unallocated: \$36,259.50
CD Erosion Research Consultant: \$2,500.00

REQUEST FOR STATEMENT OF QUALIFICATIONS & STATEMENT OF INTEREST

To Provide Expert Technical Review of Project Proponent FirstLight Power Resources' Erosion Causation Studies Prepared for the FERC Hydropower Relicensing and Massachusetts 401 Water Quality Certificate Processes for

FERC Project No. 1889 Turners Falls Dam

and

FERC Project No. 2485 Northfield Mountain Pumped Storage Project

Background:

The Connecticut River Conservancy (CRC) is a 501(c) 3 nonprofit organization and is one of the stakeholder organizations in the ongoing and concurrent relicensing process of five hydropower facilities along the Connecticut River. Great River Hydro owns three facilities in VT and NH: Wilder Dam (FERC Project No. P-1892), Bellows Falls Dam (P-1855), and Vernon Dam (P-1902). These three facilities are upstream of the two hydropower projects in Massachusetts owned by FirstLight Power Resources: Northfield Mountain Pumped Storage Project (P-2485) and Turners Falls Dam (P-1889). The work contemplated under this RFQ is primarily focused on the operations of the Northfield Mountain Pumped Storage Project. However, it is noted that operations of the three upstream projects impact the downstream 22-mile reach of the Connecticut River between the Vernon Dam in Vermont and the Turners Falls Dam in Massachusetts that serves as the lower reservoir for the pumped storage project. At the beginning of the relicensing process, FERC stated its intentions of looking at the 5 hydropower projects and river as one system. However, over the last 8 years, the process has become siloed and it is not clear how or if FERC and the three states involved will exercise their authority and issue 401 Water Quality Certificates in a coordinated way.

Gomez & Sullivan¹ is the lead consultant for FirstLight for the relicensing of the Northfield Mountain and Turners Falls Dam facilities. Erosion reconnaissance and causation studies have been conducted by a consortium of consultants, including Simons & Associates, New England Environmental, Gomez & Sullivan, and Cardno Entrix. In 2016, CRC contracted Princeton Hydro to conduct a peer review of Relicensing Study 3.1.2 Northfield Mountain / Turners Falls Operations Impact on Existing Erosion and Potential Bank Instability Study Report (referred to as the "Causation Study"). Princeton Hydro raised serious concerns about the methodology of the Causation Study. Two other peer reviews were requested by stakeholders and results added to our concerns about the Causation Study. Recently, stakeholders requested that MassDEP conduct a peer review of the Causation Study, and we are awaiting updates on this peer review process and findings. MassDEP recently indicated that the peer reviewers are being re-engaged to include analysis of FirstLight's 2022 Supplemental BSTEM Modeling Report and changes to the flow regime from their facilities. Per conversation with MassDEP, we do not anticipate this peer review becoming available before the beginning of the 401 WQC process.

Specific relicensing studies related to this work will be shared with the consultant via a Dropbox folder. For the purposes preparing a submission for this work, documents may also be accessed <https://www.northfield-relicensing.com/>. Click on Study Report No., and choose the study report numbers listed in the previous paragraph. Additionally, public data of river level fluctuations are available at a USGS gage near the Route 10

¹ Gomez and Sullivan Engineers, DPC. 41 Liberty Hill Road, PO Box 2179, Henniker, NH 03242

bridge in Northfield from July 2018 to the present. Data can be accessed online at <https://waterdata.usgs.gov/monitoring-location/01161280/#parameterCode=00065&period=P7D>.

Overview:

The scope of work for this project will be developed by the selected consultant and CRC. The purpose of this project is to prepare expert written and oral testimony, grounded in river science and peer reviewed literature, that supports stakeholders' position that hydropower operations alter river hydrology and morphology leading to shoreline instabilities. Specifically, the operation of the Turners Falls Dam and Northfield Mountain Pump Storage Project cause, or are a significant contributing factor to, bank instability and erosion along the Connecticut River in the Turners Falls Impoundment (TFI). The consultants' expert written and oral testimony will be used by stakeholders in the FERC relicensing and Massachusetts Clean Water Act 401 Water Quality Certification process ("401 WQC") process.

The effective dates of the scope of work for the project shall include Consultant's work between the Effective Date and issuance of the 401 WQC. This work will be done in consultation with Kevin Cassidy, Senior Staff Attorney at Earthrise Law Center ("Earthrise"), Kelsey Wentling, River Steward at CRC, and Andrea Donlon and Kimberly MacPhee at the Franklin Regional Council of Governments (FRCOG). The scope of work shall include Consultant's review of and consultation with CRC, FRCOG and Earthrise, of First Light's 401 Certification application. In addition, Consultant shall provide professional expertise and opinions to assist CRC and FRCOG in generating written and potentially verbal comments on First Light's 401 Certification application and on any draft 401 Certification issued by Massachusetts Department of Environmental Protection ("DEP"). This Scope of Work does not include an appeal of DEP's 401 WQC decision, although the Parties may enter into a new scope of work to cover future work on a potential appeal if needed.

Intended Scope of Work Tasks:

- Provide a general overview of scientific literature regarding the relationship between hydropower dams and river level fluctuations and erosion of shoreline, with a focus on the impact of pumped storage projects on erosion. If possible, this may include drawing comparisons between Northfield Mountain and similar projects in the northeast region, or areas with geology, climate, and/or watershed characteristics that are similar to that of the Connecticut River.
- Review the Princeton Hydro peer review of relicensing studies, as well as stakeholder memos regarding the reports, which will be made available to the consultant in a DropBox folder (key documents include a review from USGS and a modeler from USDA that were appended to comments submitted by NOAA National Marine Fisheries Service and FRCOG's U of Illinois peer review).
- Become familiar with FirstLight's studies: Study 3.1.1., the Full River Reconnaissance (along with appendices), Study 3.1.2 the Causation Study, Study 3.2.2 the Hydraulic Model, and Study 3.3.9 Appendix B (modeled velocities in the vicinity of the Northfield Mountain tailrace) in order to understand Princeton Hydro's peer review (and others) and identify areas of concern and provide professional opinions (and literature support, etc.) regarding problematic areas of FirstLight's studies or provide comments and arguments to demonstrate the need to avoid, minimize, and mitigate project effects.
- Review FirstLight's Bank Stability Toe Erosion Model (BSTEM) modeling inputs and outputs with a focus on analyzing the appropriateness of the data inputs to the model, particularly the toe of slope data and groundwater level data); critique of the use of the model to assign percentages of erosion

“causation” to various factors (e.g., FirstLight asserts almost all erosion is due to high flows); and the extrapolation of model results across 44 miles of shoreline. We have not found any peer reviewed literature that supports the use of BSTEM in the way FirstLight has used the model and interpreted the model results.

- Compile and analyze existing data on erosion rates in the TFI and examine how erosion may be exacerbated by operations at Northfield Mountain (we will provide relevant data sources and reports)
- Review Massachusetts Water Quality Standards and listed impairments in the TFI and the impact of erosion on achieving WQS in these river segments
- Provide written and verbal testimony with the above findings and assessment of primary factors driving erosion in the TFI

Qualifications:

- Demonstrated, technical expertise in the areas of river hydrology and geomorphology, river hydraulic modeling and shoreline erosion specifically related to hydropower operations
- Demonstrated knowledge of the current state of science related to erosion causation in rivers with multiple causal factors including hydropower
- Describe familiarity or technical expertise with riverine or hydraulic system modeling, such as HEC-RAS, BSTEM or other hydraulic modeling Ability to communicate technical information to both regulatory agencies and the public
- Strong written and oral communication skills
- Familiarity with Massachusetts water quality standards and the 401 Water Quality Certification process
- Ability and interest in working with a team of technical experts and advocates

Timeline:

In January 2023, FERC informed FirstLight that a final settlement agreement must be submitted by March 31st, 2023 and that FERC will delay the REA notices until May 31, 2023. Based on this information, we anticipate the following scope of work schedule. Please note this is a tentative schedule, which is subject to change depending on when FERC submits the REA notice:

- April 23, 2023: deadline to submit required materials to CRC.
- April 23 – May 1, 2023: review of submissions and invitations to interview.
- May 15, 2023: selection and contract finalization with consultant
- May 22 – July 2023: consultant to begin work reviewing studies, reports, data and other information provided by CRC
- June – September 2023: anticipated REA notice and preparation of 401 WQC testimony
- September – November: possible public comment window
 - MassDEP’s anticipated schedule for public participation in the 401 WQC can be found here: <https://www.mass.gov/info-details/401-wqc-for-the-firstlight-hydroelectric-re-licensing-project>

Required Submittals:

Statement of Interest

1. Letter of Interest (2 page maximum) asserting the consultant's interest in the project, the consultant's approach to performing the services (general scope of work, staff and timeline) and ability to meet the schedule outlined above. Provide a staff hourly rate schedule for the timeline; any joint venture arrangements shall be described and disclosed.
2. In the letter, the consultant must state their business status: Corporation, LLC, Partnership or Sole Proprietor and their qualifications. They must also include the name of the key contact person, their complete contact information including email address and physical address. Additionally, if the consultant plans to collaborate with other individuals or entities, please list those in this section as well.

Statement of Qualifications

1. Provide a brief narrative (2 page maximum) describing the consultant's qualifications to perform the work as outlined and an explanation of why they, the firm, or the team would be exceptional candidates. Please also include if the consultant is willing to work with a team of consultants on this project.
2. Provide relevant project descriptions for similar projects completed with regard to fluvial geomorphology and work with riverine systems with hydropower projects, including flow, operations, and erosion modeling. Provide examples of expert testimony and work with state water quality standards and the 401 Water Quality Certificate.
3. Provide a list of the staff who will be assigned to this work along with their resume(s) and their physical office location.
4. Provide a statement that no member of the team has a conflict of interest conducting a peer review on work done by FirstLight, Gomez & Sullivan, or Cardno (recently acquired by Stantec).

Compensation

A specific scope of work and budget will be negotiated with the selected consultant.

Deadline for submission and questions:

Questions may be directed to kwentling@ctriver.org or call 413- 834-9777. Submissions should be emailed as one PDF file to kwentling@ctriver.org NO LATER THAN April 23, 2023 at 5pm. Contract award is anticipated to be May 15, 2023.

**AGREEMENT FOR ENGINEERING SERVICES
BETWEEN
THE TOWN OF Montague, MASSACHUSETTS
AND
ADS ENVIRONMENTAL SERVICES**

THIS AGREEMENT made this **6th day of June, 2023** between ADS Environmental Services with a usual place of business at 340 The Bridge St., Suite 204, Huntsville AL, 35806, hereinafter called the "CONTRACTOR," and the Town of Montague, MA, acting by its Selectboard, with a usual place of business at Montague Town Hall, 1 Avenue A, Turners Falls MA 01376, hereinafter called the "TOWN".

The CONTRACTOR and the TOWN, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The CONTRACTOR shall perform the work set forth in the Scope of Services attached hereto as Exhibit A.

2. Contract Price

The TOWN shall pay the CONTRACTOR for engineering and related services rendered in the performance of this Agreement a lump sum of **\$22,122.00**, subject to any additions and deductions provided for herein at the hourly rates set forth in Exhibit A. The amount to be paid to the CONTRACTOR shall not exceed **\$22,122.00** without the prior written consent of the TOWN.

3. Commencement and Completion of Work

A. This Agreement shall commence on **July 1, 2023** and shall expire on **June 30, 2024**, unless terminated sooner in accordance with this Agreement.

B. Progress and Completion: CONTRACTOR shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently, and uninterruptedly at such a rate of progress as will insure completion in a timely manner.

4. Performance of the Work

The CONTRACTOR shall supervise and direct the Work, using his best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and construction management profession for projects similar to the Project in scope, difficulty and location.

A. Responsibility for the Work:

- (1) The CONTRACTOR shall be responsible to the TOWN for the acts and omissions of his employees, subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the CONTRACTOR. Consistent with the standard of care referenced above, the CONTRACTOR shall be responsible for the professional and technical accuracy for all work or services furnished by him or his consultants and subcontractors. The CONTRACTOR shall perform his work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary.
- (2) The CONTRACTOR shall not employ additional consultants, nor sublet, assign or transfer any part of his services or obligations under this Agreement without the prior approval and written consent of the TOWN. Such written consent shall not in any way relieve the CONTRACTOR from his responsibility for the professional and technical accuracy for the work or services furnished under this Agreement.
- (3) All consultants must be registered and licensed in their respective disciplines if registration and licensure are required under the applicable provisions of Massachusetts law.
- (4) The CONTRACTOR and all consultants and subcontractors shall conform their work and services to any guidelines, standards and regulations of any governmental authority applicable to the type of work or services covered by this Agreement.
- (5) The CONTRACTOR shall not be relieved from its obligations to perform the work in accordance with the requirements of this Agreement either by the activities or duties of the TOWN in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the CONTRACTOR.
- (6) Neither the TOWN's review, approval or acceptance of, nor payment for any of the work or services performed shall be construed to operate as a waiver of any rights under the Agreement or any cause of action arising out of the performance of the Agreement.

B. Deliverables, Ownership of Documents: One (1) reproducible copy of any and all drawings, plans, specifications, reports and other documents prepared by the CONTRACTOR shall become the property of the TOWN upon payment in full therefor to the CONTRACTOR. Ownership of stamped drawings and specifications shall not include the CONTRACTOR's certification or stamp. Any re-use of such documents without the CONTRACTOR's written verification of suitability for the specific purpose intended shall be without liability or legal

exposure to the CONTRACTOR or to the CONTRACTOR's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as an act in derogation of the CONTRACTOR's rights under this Agreement.

- C. Compliance With Laws: In the performance of the Work, the CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including those relating to workplace and employee safety.

5. Site Information Not Guaranteed; Contractor's Investigation

The TOWN shall furnish to the CONTRACTOR available surveys, data and documents relating to the area which is the subject of the Scope of Work. All such information, including that relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the TOWN. All such information is furnished only for the information and convenience of the CONTRACTOR and is not guaranteed. It is agreed and understood that the TOWN does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures will be the same as those indicated in the information furnished, and the CONTRACTOR must satisfy himself as to the correctness of such information. If, in the opinion of the CONTRACTOR, such information is inadequate, the CONTRACTOR may request the TOWN's approval to verify such information through the use of consultants or additional exploration. In no case shall the CONTRACTOR commence such work without the TOWN's prior written consent. Such work shall be compensated as agreed upon by TOWN and CONTRACTOR.

6. Payments to the Contractor

- A. Cost incurred on this project shall be billed monthly on an hourly basis as outlined in the attached Scope of Services. Payment shall be due 30 days after receipt of an invoice by the TOWN.
- B. If there is a material change in the scope of work, the TOWN and the CONTRACTOR shall mutually agree to an adjustment in the Contract Price.
- C. If the TOWN authorizes the CONTRACTOR to perform additional services, the CONTRACTOR shall be compensated in an amount mutually agreed upon, in advance, in writing. Except in the case of an emergency, the CONTRACTOR shall not perform any additional services until such compensation has been so established.

7. Reimbursement

Except as otherwise included in the Contract Price or otherwise provided for under this Agreement, the CONTRACTOR shall be reimbursed by the TOWN: (a) at 1.0 times the actual cost to the CONTRACTOR of consultants retained to obtain information pursuant to Article 5 hereof or otherwise. No such reimbursement shall be made unless the rates of compensation

have been approved, in advance, by the TOWN; (b) at 1.0 times the actual cost of additional or specially authorized expense items, as approved by the TOWN.

8. Final Payment, Effect

The acceptance of final payment by the CONTRACTOR shall constitute a waiver of all claims by the CONTRACTOR arising under the Agreement.

9. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

10. Indemnification

- A. General Liability: The CONTRACTOR shall indemnify and hold harmless the TOWN from and against any and all claims, damages, losses, and expenses, including attorney's fees, to the extent arising out of the performance of this Agreement but only to the extent the same relate to matters of general commercial liability, when such claims, damages, losses, and expenses are caused, in whole or in part, by the negligent or wrongful acts or omissions of the CONTRACTOR or his employees, agents, subcontractors or representatives.
- B. Professional Liability: The CONTRACTOR shall indemnify and hold harmless the TOWN from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of the performance of this Agreement but only to the extent the same relate to the professional competence of the CONTRACTOR's services, when such claims, damages, losses, and expenses are caused, in whole or in part, by the negligent acts, negligent errors or omissions of the CONTRACTOR or his employees, agents, subcontractors or representatives.

11. Insurance

- A. The CONTRACTOR shall at his own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts arising out of the performance of this Agreement in a minimum amount of \$1,000,000.00.
- B. The coverage shall be in force from the time of the agreement to the date when all construction work for the Project is completed and accepted by the TOWN. If, however, the policy is a claims made policy, it shall remain in force for a period of six (6) years after completion.

Since this insurance is normally written on a year-to-year basis, the CONTRACTOR shall notify the TOWN should coverage become unavailable.

- C. The CONTRACTOR shall, before commencing performance of this Agreement, provide by insurance for the payment of compensation and the furnishing of other

benefits in accordance with M.G.L. c.152, as amended, to all its employees and shall continue such insurance in full force and effect during the term of the Agreement.

- D. The CONTRACTOR shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this Agreement in the event of loss or destruction until the final fee payment is made or all data are turned over to the TOWN.
- E. The CONTRACTOR shall also maintain public liability insurance, including property damage, bodily injury or death, and personal injury and motor vehicle liability insurance against claims for damages because of bodily injury or death of any person or damage to property.
- F. Evidence of insurance coverage and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance, whether by the insurers or by the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the TOWN at least fifteen days prior to the intended effective date thereof, which date shall be expressed in said notice.
- G. Upon request of the CONTRACTOR, the TOWN reserves the right to modify any conditions of this Article.

12. Notice

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

13. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The TOWN shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the CONTRACTOR. In the event that the Agreement is terminated pursuant to this subparagraph, the CONTRACTOR shall be reimbursed in accordance with the Agreement for all work performed up to the termination date.

14. Miscellaneous

- A. Assignment: The CONTRACTOR shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the TOWN.

- B. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, the TOWN by its authorized representative who, however, incurs no personal liability by reason of the execution hereof or of anything herein contained, as of the day and year first above written.

TOWN OF MONTAGUE:

ADS Environmental Services

By: _____

By: Bobby G. Pickett Jr

Print Name: Richard Kuklewicz

Print Name: Bobby G. Pickett, Jr.

Title: Selectboard Chair

Title: Director of Finance

519856/KOPE/0003

EXHIBIT A



340 The Bridge Street, Suite 204
Huntsville, AL 35806
256-430-3366
www.adsenv.com

ADS Contact

Matthew Brown | Business Development Manager
51 Wentworth Ave, Suite 15 | Londonderry, NH 03053
MBrown3@idexcorp.com | 256.656.6385

Montague WPCF

4 Greenfield Rd,
Montague, MA 01351

Quote Reference: Montague.AMS.MA23

Date: 1/26/2023

Effective To: 6/30/2023

Description	Quantity	Unit Price	Ext. Price
Equipment O&M Visits Each service visit will include • 3 Triton+ • 1 ECHO • Rain Alert III	3	\$3,308.00	\$9,924.00
Monthly CSO Reporting Includes 4 outfalls. Report delivered by 10 th day of each month	12	\$504.00	\$6,048.00
Webhosting and Wireless Communication Telecommunication service and web access for • 3 Triton+ • 1 ECHO • Rain Alert III Covers: July 1, 2023 – June 30, 2024	5	\$480.00	\$2,400.00
CSO Public Notification Yearly Service Fee Lump Sum Invoiced Yearly Assume 0-100 Subscribers	1	\$3,750.00	\$3,750.00
Total:			\$22,122.00
Items may be taxable in accordance with local tax laws.			

Additional Subscribers	
Number of Total Email Subscribers	Total Revised Annual Subscription Fee
101 to 200 email subscribers	\$4,230 per year
201 to 300 email subscribers	\$4,710 per year
301+ email subscribers: Annual subscription fee shall increase by \$480 per 100 users	

NOTES:

- The above prices do not include any special, modified, or custom documentation or manuals that may be required. Standard ADS Environmental Services manuals, appropriate to the flow monitors delivered, are included with the equipment.
- Sale of the above equipment and software is subject to acceptance of ADS Environmental Services Equipment Sale Agreement. Activation of software requires users to execute ADS Environmental Services Software License Agreement.
- These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

Client Name:

ADS LLC

Signature

Signature

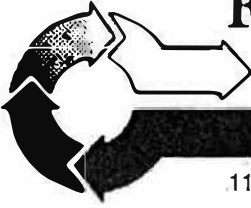
Printed Name/Title

Printed Name/Title

Date

Date

REDUCTION
RECYCLING
COMPOSTING
DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT
AND
THE TOWN OF MONTAGUE
REGARDING HAULING OF RECYCLABLES AND
HAULING AND DISPOSAL OF SOLID WASTE;
HAULING AND DISPOSAL OF BULKY WASTES; AND
HAULING AND DISPOSAL OF SCRAP METAL AND APPLIANCES

This Memorandum of Understanding (MOU), is executed this _____ day of _____, 2023, by and between the Franklin County Solid Waste Management District, hereinafter referred to as the "District", and the Town of Montague, municipal corporation of the Commonwealth of Massachusetts, hereinafter referred to as the "Town."

WITNESSETH THAT:

WHEREAS, the District issued an Invitation for Bids (IFB) for hauling services for recyclables and solid waste from District member municipalities, and
WHEREAS, the District negotiated contracts for hauling and disposal services based upon a review of the IFB responses, and
WHEREAS, the District is making these contracts available to member municipalities, and
WHEREAS, the Town selected the hauler to service member municipalities,

THEREFORE, the District and the Town now agree to the following terms and conditions regarding said contracts:

1. The District shall provide administration of the contract on behalf of the Town.
2. The District shall, on a monthly basis, receive all invoices from the Contractor for provided services. Specific town services are listed in Attachment A.
3. The District shall, within seven (7) days of receipt of said invoices, remit to the Town an invoice for the Town's share of the hauling and disposal costs incurred during the preceding month. The invoice shall be based upon the hauling and disposal costs as itemized in Attachment A. The District's invoice will include an administrative surcharge for each service.
4. The Town will remit payment to the District for all charges invoiced by the District within thirty (30) days of receipt of the District's invoice.

(over)

5. In the event that payment from the Town does not reach the District office within the prescribed 30 days, the District may add an additional 1.5% late fee to the outstanding balance after 60 days.
6. The Town shall contact the hauler directly to arrange for pickup of rolloff boxes. Requests for a pickup must be made no later than 48 hours prior to the desired pickup day.
7. The Town has the right to terminate this Agreement at any time, without cause. The District requires no fewer than sixty (60) days written notice prior to the Town terminating this Agreement. If less than sixty (60) days notice is given, the Town will be financially responsible for the District's lost administrative fees. For example, if a town provides written notice on March 1st to terminate on April 30th, there are no lost administrative fees. If a town provides written notice on March 1st to terminate on March 31st, the Town will be responsible to pay the District for lost administrative fees for one month. Lost administrative fees will be calculated using an average administrative fee based upon the previous three months' invoices.
8. Any questions concerning these hauling and disposal contracts shall be directed to the District Executive Director at 413-772-2438 or at fcswmd@crocker.com. If the Town experiences any problems with the hauler it must report them to the District. The District will pursue all remedies on behalf of the Town.
9. This MOU may be amended by written agreement of both parties.
10. This MOU shall remain in effect from July 1, 2023 to June 30, 2024.

IN WITNESS WHEREOF, THE TOWN OF MONTAGUE AND THE FRANKLIN COUNTY SOLID WASTE MANAGEMENT DISTRICT HAVE RESPECTIVELY CAUSED THIS MEMORANDUM OF UNDERSTANDING TO BE DULY SIGNED AND EXECUTED AS OF THE DATE AND YEAR FIRST WRITTEN ABOVE.

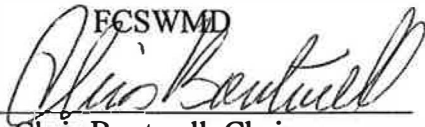
TOWN OF MONTAGUE

Selectboard Member

Selectboard Member

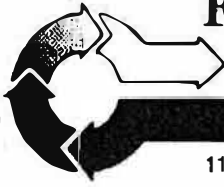
Selectboard Member

Date

FCSWMD

Chris Boutwell, Chair
052323

Date

REDUCTION
RECYCLING
COMPOSTING
DISPOSAL



Franklin County Solid Waste Management District

117 Main Street., 2nd Floor, Greenfield, MA 01301 • (413) 772-2438 • Fax: (413) 772-3786
www.franklincountywastedistrict.org • info@franklincountywastedistrict.org

ATTACHMENT A

FISCAL YEAR 2024 HAULING AND DISPOSAL PRICES

The pricing below excludes fuel adjustments.

Town	Recycling	Bulky Waste
Montague	Waste Management \$245 per haul \$370 per tandem haul (\$185 per box) \$50/month paper compactor rolloff	Waste Management \$235 per haul \$370 per tandem haul (\$185 per box) \$115 per ton \$50 per mattress for disposal \$30 per month per rolloff rental
ADMIN. FEE	\$500/year flat user fee \$4.50/ton	\$500/year flat user fee \$4.50/ton