

**MONTAGUE SELECTBOARD MEETING**  
**Town Hall, 1 Avenue A, Turners Falls, MA 01376**  
**Monday, November 8, 2021**

**Join Zoom Meeting:** <https://us02web.zoom.us/j/84421374010>

**Meeting ID:** 844 2137 4010

**Password:** 095723

**Dial into meeting:** **+1 646 558 8656** or **+1 312 626 6799** or **+1 301 715 8592**

This meeting/hearing of the Selectboard will be held in-person at the location provided on this notice. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda should make plans for in-person vs. virtual attendance accordingly.

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 Minutes:
  - Selectboard Meeting October 25 and November 1, 2021 if available
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. 6:31        Personnel Board
  - Appoint Bob Rueter to Energy Committee until 6/30/2022
  - Cell Phone Stipend for Brandy Patch, \$5.77/week
5. 6:35        Use of Peskeompskut Park
  - Leah Plath, Four Rivers Charter Public School Dance Club, 5/2/21 – 5/21 dates and time as noted on application,
6. 6:45        Tom Bergeron, DPW Superintendent
  - Execute FY2022 Engineering Agreement Landfill Monitoring Services \$19,000
7. 6:55        Montague Board of Health
  - Review of Montague COVID Case Counts and Trends
  - Discuss any other needed response to COVID situation
8. 7:05        Six Town Regionalization Planning Board
  - Regionalization Stakeholder Meetings
9. 7:15        Janice Hamilton-Crawford, Eric Dana Trinity Health of New England
  - Farren Care Center Facility Update

**MONTAGUE SELECTBOARD MEETING**  
**Town Hall, 1 Avenue A, Turners Falls, MA 01376**  
**Monday, November 8, 2021**

10. 7:25      Walter Ramsey, Town Planner
- Planning Department Recommendation for FirstLight Municipal Grant Program: Interpretive Elements for the Peskeompskut Audio Walking Tour
  - Execute agreement with SVE Associates for design and engineering in support of replacement of culvert near 29 South Ferry Rd. Contract value of \$20,980.00 To be funded by DER Municipal Culvert Replacement Grant.
  - Execute contract for 5th Street Pedestrian Bridge project with David G. Roach and Sons Inc. Contract value of \$2,338,664.50 to be funded by a MassWorks Infrastructure Grant and Town meeting appropriation.
11. 7:40      Town Administrator's Business
- Substance Abuse Prevention support – Cannabis Impact Fees
    - Execute Agreement with Communities that Care Coalition and FRCOG \$12,000
  - Overview of Special Accounts Available for Town use
  - Notice of appointment of John Martineau to Capital Improvements Committee
  - Topics not anticipated in 48 hour posting

**Other:**

- Anticipated Next Meeting Date: Monday, November 15, 2021 at 6:30 PM

4A

Name: Rueter, Bob

**MONTAGUE APPOINTED OFFICIAL**

**NAME:** Bob Reuter

**DATE:** 11/8/2021

**COMMITTEE:** Energy Committee

**TERM:** 8 months

**TERM EXPIRATION:** 6/30/2022

**SELECTMEN, TOWN OF MONTAGUE**

**TERM STARTS:** 11/09/21

Rueter, Bob personally appeared and made oath that he/she would faithfully and impartially perform his/her duty as a member of the Energy Committee 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.





# Board of Selectmen Town of Montague

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

## Event Application for use of PESKEOMPSKUT PARK and MONTAGUE CENTER TOWN COMMON

Name of applicant Leah Plath

Name of business/group sponsoring proposed event if applicable: Four Rivers Charter  
Public School Drama Club

If applicable, number of years your organization has been running this event in Montague? 0

Address 248 Colrain Rd. Greenfield, MA 01301

Contact phone 413. 626. 9907 Contact email lplath@freps.org

FID \_\_\_\_\_

Dates of proposed event 5/16, 5/17, 5/12, 5/14 + rehearsals Location: Peskeompskut Park  
Band Shell

Hours Shows 7-9<sup>30</sup> pm Set Up: 5<sup>00</sup> pm - 5<sup>30</sup> pm Clean Up: 9<sup>30</sup> - 10<sup>30</sup> pm

Approximate number of people expected to attend ~75-100 per show

What provisions will be made regarding clean up of site? Stage crew will clean each evening

Will the proposed event be:

- ☒ Musical
- ☒ Theatrical
- ☐ Exhibitions
- ☐ Amusements
- ☐ Wedding
- ☐ Other \_\_\_\_\_

Fully & specifically describe content of the proposed exhibition, show and/or amusements:  
Four Rivers Spring musical! (Musical itself TBD.) We normally perform  
at the Shea, but Covid, so we're going with outdoor shows!  
(Full schedule attached)

Fully & specifically describe the premises upon which the proposed event is to take place.

The Peskeomkutuk Park Band Shell + lawn in front for seating.

Use back of form or attach a map of the premises indicating parking area(s), entertainment area(s), vendor area(s), location & number of toilets, location & number of garbage receptacles, garbage storage area, camping area(s), and location of first aid/medical stations.

Will vendors be selling: N/A

- ☐ merchandise
- ☐ food/beverage
- ☐ alcohol
- ☐ other services \_\_\_\_\_

- Parking in town (road parking)

Fully & specifically describe the extent to which the event and/or premises would affect public safety, health, or order. If serving alcohol, indicate separate serving area, approved server i.e. TIPS trained. (separate license required to serve alcohol)

The sound would carry slightly through the park. Hopefully it's pleasant + not a disturbance.

Describe the appropriate level and nature of security and/or traffic control that would be needed and what provisions have been made.

N/A - small audience, faculty on hand at all times.

What provisions will be made regarding first aid and emergency medical care?

First aid kit on premises, but plan is to call 911.

Are you also applying to place signs within Montague to advertise or give directions to your event? (See the Montague Building Inspector)

If so, at which locations? N/A

Attach a copy of your insurance policy or liability binder indicating a minimum policy of \$1 Million Individual/\$3 Million Group.

I attest that to my knowledge the information provided in this application is accurate and not misleading.

Signature of applicant



Date

~~10~~ 11/1/21

License fees:

Monday – Saturday = \$25.00 per day

Sunday = \$50.00

BOARD OF SELECTMEN – Approval

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

Date:

\_\_\_\_\_

POLICE CHIEF - Approval / Comments

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

Date:

\_\_\_\_\_

BOARD OF HEALTH – Approval / Comments

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

Date:

\_\_\_\_\_

Week 1 Full Schedule

Rehearsals 5/2 3<sup>30</sup> - 6<sup>30</sup>

→ 5/3 3<sup>30</sup> - 6<sup>30</sup>

→ 5/4 1<sup>30</sup> - 7<sup>30</sup>

→ 5/5 3<sup>30</sup> - 7<sup>30</sup>

Shows 5/6 7pm - 9<sup>30</sup> (setup 5-6<sup>30</sup>)

" 5/7 7-9<sup>30</sup> pm (Setup 5-6<sup>30</sup>)

Week 2

Rehearsals 5/11 1<sup>30</sup> - 6<sup>00</sup>

" 5/12 3<sup>30</sup> - 6<sup>00</sup>

Shows 5/13 7-9<sup>30</sup> (setup 5-6<sup>30</sup>)

5/14 7-9<sup>30</sup> (setup 5-6<sup>30</sup>)

Rain dates 5/20 + 5/21 (if possible)

M-5003  
October 21, 2021

Ms. Wendy M. Bogusz, Town Administrator  
Town of Montague  
One Avenue A  
Turners Falls, MA 01376

**Re: FY2022 Engineering Agreement Landfill Monitoring Services**

Dear Ms. Bogusz:

Enclosed, please find four (4) originals of the Agreement for Engineering Services for Sanitary Landfill Environmental Monitoring at the Montague Sanitary Landfill as well as a copy of our current insurance certificates. We have updated the Agreement to include semi-annual landfill gas monitoring of three gas monitoring wells and the collection of an additional leachate sample from a new location at the Old Burn Dump Area as required by the MassDEP Corrective Action Design (CAD) Permit approval dated April 5, 2019 for the closure of the Old Burn Dump Area.

If the enclosed Agreement language is acceptable, please have the originals executed by the appropriate Town officials. Upon execution please return a copy to me for our records; the remaining copies are for the Town's records.

We appreciate the opportunity to continue to provide professional engineering services to the Town. If you have any questions regarding the Agreement, please contact me at 413-572-3214; project related questions may be directed to Jeff Thelen at (413) 572-3260.

Very truly yours,

**TIGHE & BOND, INC.**

April S. Lassard  
Director of Contract Management

Enclosures

J:\M\M5003 Montague\009 FY2022 LF Monitoring\FY2022 Agreement trans.docx



**AGREEMENT  
FOR  
ENGINEERING SERVICES  
FOR  
SANITARY LANDFILL  
ENVIRONMENTAL MONITORING  
FISCAL YEAR 2022  
\*\*\*\*\*  
HIGHWAY DEPARTMENT  
TOWN OF MONTAGUE, MASSACHUSETTS**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_ 2021 by and between the Town of Montague, Massachusetts, hereinafter designated as the "TOWN", a municipal corporation duly established by law in the Commonwealth of Massachusetts, as represented by its Board of Selectmen, hereinafter designated and referred to as the "BOARD" and Tighe & Bond, Inc., a corporation incorporated under the laws of Massachusetts, and having its principal office in the City of Westfield, said Commonwealth of Massachusetts, hereinafter designated as the "ENGINEER".

**WHEREAS**, the Massachusetts Department of Environmental Protection (MassDEP) requires groundwater and surface water monitoring of the Montague Sanitary Landfill (hereinafter "Project"), and

**WHEREAS**, the BOARD requires professional engineering services relative to conducting the monitoring activities.

**NOW THEREFORE**, the BOARD and the ENGINEER, for the consideration hereinafter named, agree as follows:

**SECTION 1 - SCOPE OF THE WORK**

The professional engineering services, which are specifically included in this AGREEMENT, are as follows:

A. **Groundwater, Surface Water and Landfill Gas Monitoring**

The ENGINEER shall monitor landfill gas and collect and analyze groundwater and surface water samples in accordance with the program outlined in Attachment A. The ENGINEER shall summarize the data and forward the laboratory reports and data summary to the BOARD after each sampling event.

**SECTION 2 - COMPENSATION**

The BOARD agrees to pay, and the ENGINEER agrees to accept as full compensation for all work called for and completed under the terms of this AGREEMENT, fees and charges as follows:

- A. All services performed under Section 1 shall be furnished on an "hourly plus expense" basis. For the purposes of determining a contract value, it is mutually agreed that the services under this AGREEMENT shall be limited to a maximum fee of \$19,000 for Fiscal Year 2022, invoiced in accordance with ENGINEER's standard billing rates. The breakdown of this limiting fee is as follows:

**Groundwater and Surface Water Monitoring (2 events)**

Labor	\$ 4,250.00
Laboratory Analysis, Sampling & Transportation	<u>\$ 14,750.00</u>
Total Estimated Cost	\$ 19,000.00

- B. For outside services, which are rendered for the ENGINEER by others than its direct employees, the fee shall be the ENGINEER's direct cost-plus ten percent.
- C. Automobile transportation for employees of the ENGINEER traveling in direct reference to the project shall be paid for at the standard Federal rate per vehicle mile at the time of travel.
- D. The ENGINEER shall not be required to provide any engineering services under this AGREEMENT that will result in the limiting fee being exceeded, without first amending this AGREEMENT. In the event that this limiting fee has to be exceeded for reasonable cause, the BOARD and the ENGINEER shall mutually revise it by written amendment to this AGREEMENT. In the event that the BOARD and the ENGINEER cannot reach agreement, the work shall thereupon cease.
- E. Interim payments shall be made monthly to the ENGINEER as the project proceeds. It is understood and agreed that the ENGINEER will be paid only for services rendered by its employees and expenses under this AGREEMENT. All services rendered by TOWN employees will be at no cost to the ENGINEER and it will receive no payment therefore.

**SECTION 3 - MISCELLANEOUS**

- A. The BOARD and the ENGINEER each binds itself, its partners, successors, assigns and legal representatives to the other party to this AGREEMENT and to the partners, successors, assigns and legal representatives of such other parties with respect to all covenants of this AGREEMENT. The ENGINEER shall not assign, sublet or transfer its interest in this AGREEMENT without the written consent of the BOARD.
- B. This AGREEMENT represents the entire and integrated Agreement between the BOARD and the ENGINEER and supersedes all prior negotiations, representations or Agreements, either written or oral. This AGREEMENT may be amended only by written instrument signed by both BOARD and ENGINEER.
- C. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either the BOARD or the ENGINEER.

**IN WITNESS WHEREOF**, the BOARD and ENGINEER have caused these presents to be signed by their respective duly authorized representatives for the purpose on the day and year first written above.

**TOWN OF MONTAGUE  
BY IT'S BOARD OF SELECTMEN**

In the Presence of:

In the Presence of:

Certified as to Appropriation

Town Accountant

**TIGHE & BOND, INC.**



April S. Lassard  
Director of Contract Management

J:\M\M5003 MONTAGUE\009 FY2022 LF MONITORING\FY2022 AGREEMENT.DOCX

**ATTACHMENT A**

**GROUNDWATER, SURFACE WATER AND LANDFILL GAS MONITORING**

<b>TABLE 1</b> <b>Environmental Monitoring Program Parameters</b>	
<b>General Chemistry</b> Field pH Field Temperature Field Specific Conductance Field Dissolved Oxygen Alkalinity Chemical Oxygen Demand (COD) Chloride Cyanide Nitrate (As Nitrogen) Sulfate Total Dissolved Solids (TDS)	<b>Metals</b> Iron (Fe) Manganese (Mn) Arsenic (As) Barium (Ba) Cadmium (Cd) Chromium (Cr) Copper (Cu) Lead (Pb) Mercury (Hg) Selenium (Se) Silver (Ag) Zinc (Zn) Calcium (Ca) Sodium (Na)
<b>Volatile Organic Compounds (VOCs)</b>  EPA Method 8260 Including: Acetone Methyl Ethyl Ketone (MEK) Methyl Isobutyl Ketone (MIBK) Xylenes + ID Unknown Peaks @ 2x Base  Separate Low-Level Analysis for 1,4-Dioxane	
<b>Landfill Gas Monitoring – Field Parameters</b>  Methane – total percent Carbon Dioxide – total percent Oxygen – total percent Balance Gas – total percent	

<b>TABLE 2</b> <b>Environmental Monitoring Program Locations</b>	
Location	Description
<b>Groundwater Monitoring Wells</b>	
DW-1	Downgradient Shallow Well - North of Landfill
DW-2S	Downgradient Shallow Well - Northwest of Landfill
DW-3	Downgradient Shallow Well - West of Landfill (no longer exists)
DW-4	Downgradient Shallow Well - Southwest of Landfill
MW-6S	Upgradient Shallow Well - East of Landfill
MW-7S	Downgradient Shallow Well - Southeast of Landfill
MW-8S	Downgradient Shallow Well - Southwest of DW-4
<b>Surface Water &amp; Seepage Area Stations</b>	
Stream S-2	Downstream Station @ Greenfield Road - Randall Brook
Stream S-4	Downstream Confluence - North and South Branches of Randall Brook
SA-1	Downgradient Seepage Area - South Branch Randall Brook
MH-DP	Discharge Pipe for Internal Drainage from the Old Burn Dump Area - North Branch Randall Brook
SA-XX	New Seepage Area at the Old Burn Dump Area
<b>Landfill Gas Monitoring (3 new gas monitoring wells by others)</b>	
GW-1	Proposed - Between the Landfill and the Transfer Station area
GW-2	Proposed - Between the Landfill and the Dog Shelter
GW-3	Proposed - Between the Landfill and the Judd Wire, Inc. facility



## WendyB-Montague Selectboard

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**Subject:** FW: Breaking News -- Regionalization stakeholder meetings

**Subject:** FW: Breaking News -- Regionalization stakeholder meetings

Hi Wendy

As per the messages below, The Six Town Regionalization Planning Board has hired a facilitator to hold focus groups/info sessions with stakeholder groups. I believe the contractor was hired by the STRPB last night using grant funds that require the work to be complete by the end of the year, so there is an accelerated schedule for engagement. See more information in the email chain below.

Please include discussion of this opportunity for engagement on next Monday's Selectboard meeting under Six Town Regionalization Planning Board. The board could decide to meet with the consultant, Mary Broderick, as a group or appoint a member to participate in a planned session. Joanne Blier seems to be taking a lead on supporting this engagement process. Perhaps she or Mike Naughton can join the board Monday to share this update. Discussing it at the Board meeting would almost certainly lead to news articles that will help publicize the opportunity for engagement.

Joanne and Mike, please let me know if I've adequately characterized the opportunity.

Steve

**Subject:** RE: Breaking News -- Regionalization stakeholder meetings

Here are the dates of Mary's availability.

Please let me know ASAP when you would like to schedule something.

November 16  
November 17 until 3 pm  
November 18  
November 22  
November 23  
December 1  
December 3  
December 6  
December 7  
December 8

Joanne

Joanne Blier  
Director of Business & Operations  
Gill-Montague Regional School District

35 Crocker Ave  
Turners Falls, MA 01376  
(413) 863-3251

**Subject:** Fwd: Breaking News -- Regionalization stakeholder meetings

Hi everyone,

Following up on Joanne Blier's email below (thanks, Joanne!), I'm adding Jen Audley because she and other Montague Finance Committee members have expressed an interest in participating, along with Lynn Reynolds and Cassie Damkoehler. Lynn and Cassie are Montague's other representatives on the Six Town Regionalization Planning Board (STRPB), and Lynn has offered to help coordinate these focus groups.

All this is breaking news, as the STRPB just met with the facilitator, Mary Broderick, this evening. She is working under grant that calls for her to be done by the end of the year, so she has mapped out a fairly aggressive time frame for meeting with people from the six towns, after which she will write a report of her findings. She left the meeting saying that she would get us a list of dates for us to react to; based on the feedback she gets she hopes to have a schedule put together by the end of the week. So things are happening fast.

Groups she hopes to meet with include Parents/Guardians, Students, Teachers & Support Staff, Community Residents (not a current parent), Administrators, School Committee Members, Town Officials/Town Staff, and Business Leaders/Organizations, which is a pretty wide net, so it will take some doing to get the word out and then assemble representative samplings. As I say, Lynn has offered to help coordinate this, and Joanne has already started the ball rolling, so the two of them (and maybe Cassie?) will be working together. After this email, I will be stepping back from the process, so please get back to them if you are interested in participating and/or in helping to organize the groups.

Thank you very much, and thanks especially to Joane and Lynn.  
Mike Naughton

Hi everyone

The Regionalization Committee has hired a facilitator to hold informational meetings (focus groups) with stakeholder groups to provide a brief background and gather stakeholder input regarding the potential regionalization. Please let me know when and where you think we could hold meetings in the town of Montague and in the town of Gill that would bring in a good crowd.

The hope is to complete the meetings between November 16 - December 8. There could be multiple meetings over the course of an afternoon/evening in different locations in the two towns to allow for different schedules that our groups of stakeholders might be available.

Thank you!

Joanne Joanne Blier  
Director of Business & Operations  
Gill-Montague Regional School District



Virus-free. [www.avg.com](http://www.avg.com)



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## **WendyB-Montague Selectboard**

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**From:** StevenE - Montague Town Administrator  
**Sent:** Thursday, October 21, 2021 2:28 PM  
**To:** david brule  
**Cc:** WendyB-Montague Selectboard; Montague Assistant Planner  
**Subject:** FW: Farren Update

Hi David (and Suzanne)

I wanted to advise the historical commission that we expect to hear an update from Trinity Health New England regarding the Farren Care Center. A member of their leadership team, Jan Hamilton, will appear at our November 8 Selectboard Meeting to provide an update and answer questions regarding their plan for the site, which at this time is to demolish and green-field the site.

For background, they conducted a building assessment that is reported to highlight \$60M in renovation costs to make it a suitable facility for its recent past use. Demolition is currently estimated in the \$6-7M range.

We are not requesting that the Historical Commission attend the Selectboard meeting, but do hope that it will have representation there. In the event you do expect a quorum of the Commission, please work with Wendy to ensure postings are well coordinated.

Thanks - Steve

Steven Ellis  
Montague Town Administrator  
One Avenue A  
Turners Falls, MA 01376  
413-863-3200 x110  
[www.montague-ma.gov](http://www.montague-ma.gov)

Pronouns: Him/His (or just call me Steve)

**WendyB-Montague Selectboard**

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**From:** Walter Ramsey - Montague Planner  
**Sent:** Wednesday, November 3, 2021 3:33 PM  
**To:** WendyB-Montague Selectboard; StevenE - Montague Town Administrator  
**Subject:** 11/8 SB Items

Wendy,

Please include these items on Monday's agenda. I'll send the backup info shortly.

- Planning Department Recommendation for FirstLight Municipal Grant Program: Interpretive Elements for the Peskeompskut Audio Walking Tour
- Execute agreement with SVE Associates for design and engineering in support of replacement of culvert near 29 South Ferry Rd. Contract value of \$20,980.00 To be funded by DER Municipal Culvert Replacement Grant.
- Execute contract for 5th Street Pedestrian Bridge project with David G. Roach and Sons Inc. Contract value of \$2,338,664.50 to be funded by a MassWorks Infrastructure Grant and Town meeting appropriation.

Walter Ramsey, AICP | Montague Town Planner | (413) 863-3200 x 112 | [planner@montague-ma.gov](mailto:planner@montague-ma.gov)

## **Firstlight Municipal Grant**

### **Montague Proposal**

#### **Interpretive Elements for the Peskeompskut Audio Walking Tour**

*Welcome! We are so pleased that you are interested in applying for FirstLight's Municipal Grants. FirstLight is proud to expand its support of our local municipalities by offering grants of up to \$10,000 to the towns of Northfield, Erving, Gill, and Montague for their efforts in environmental projects and overall community engagement and development initiatives.*

*The municipal grants will allocate funds to the towns surrounding our facilities to assist with projects that aim to decrease the impacts of climate change and improve the overall quality of life in Franklin County.*

*Projects Include:*

- Clean energy and energy efficiency*
- Environmental justice and equity*
- Resilience, adaptation and sustainability*
- Climate science and technology*
- Public safety*
- Overall community improvement projects*

*Grant applications must be submitted by November 19, 2021 and award winners will be announced in December 2021.*

**Background:**

Montague has obtained \$20,000 grant from the MassHumanities Storytellers grant to develop a self-guided audio walking tour that explores the nuanced local history of Peskeompskut, an important Native American settlement sieged during King Phillips War and later developed in an industrial center. Through their smart phone, listeners will connect to personal, historic and interpretive narratives by Indigenous and local history partners housed on a story app site. (STQRY) That grant will support the writing and recording of these narratives, costs associated with the app, and advertising. An impressive array of storytellers have partnered with the town for the project. Revered tribal historians, academics, and local historians will share their stories in an accessible format. The storytelling project is an important element for both community development and tourism, but is also part of larger reconciliation commitment that the town has been working on with tribal partners since 2004. The location of the tour is along the Canalside Bike Path between the start of the Bike Path to the Great Falls Discovery Center.

The Firstlight Municipal Grant will allow the Town and its partners to take the project to the next step by developing physical signage to complement/augment the audio tour and make the content even more accessible to the general public.

#### Scope of Work:

Design, fabricate, and install 3 or 4 permanent 2x3 interpretive signs along the Canalside Bike Path between the parking lot and the Great Falls Discovery Center. The signs will generally cover the following themes:

- Precolonial history (Indigenous accounts of the area before the massacre)
- 1676 Massacre history (as documented in the National Park Service Study)
- Industrial history (including the theme of hydropower)
- Geologic History

#### Estimated Budget

Hire qualified individuals to develop content (\$1,000) Note: Most content is being paid by the Storytellers grant

Hire a designer/editor to design and spec the signs (\$2,000)

Hire a fabricator to create and install the signs (\$7,000)

\$10,000

The Town will tap into established working group developing Peskeompskut Audio Walking Tour and the individuals who can produce the content and design.

#### Estimated timeline

Design Winter/Spring 2022. Installation June 2022

#### Consistency with Firstlight Program goals:

- Environmental justice. The work will take place within an Environmental Justice Census Tract as designated by the Mass Executive Office of Energy and Environmental Affairs. It enable the EJ population to engage with the river and local history.
- Equity. A critical element of this project involves providing native people with the opportunity to present their account of this special place.
- Overall community improvement to encourage activation of the Turners Falls Riverfront, increase tourist activity, and create a sense of identity for Turners Falls.

**AGREEMENT FOR PROFESSIONAL SERVICES  
BY AND BETWEEN  
THE TOWN OF MONTAGUE  
AND  
SVE ASSOCIATES**

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_ 2021, by and between the Town of Montague, hereinafter called the OWNER and SVE ASSOCIATES, a division of CERSOSIMO INDUSTRIES INC., with offices at PO Box 1818, Brattleboro, VT 05302 (herein called the "CONSULTANT");

The OWNER'S Designated Representative under this contract is:

Name Walter Ramsey Position/Title Town Planner

Address: One Avenue A, Turners Falls, MA 01376

Telephone (413) 863-3200

Email planner@montague-ma.gov

The CONSULTANT'S Designated Representative under this contract is:

Name Anthony Wonseski Jr. Position/Title P.E.

Address PO Box 1818, Brattleboro, VT 05302

Telephone 802 257 0561

Email twonseski@sveassoc.com

WITNESSETH, for consideration hereinafter set forth, the CONSULTANT AND OWNER hereto agree as follows:

**ARTICLE 1. ENGAGEMENT OF THE CONSULTANT**

- 1.1 THE OWNER hereby engages the CONSULTANT, and the CONSULTANT hereby accepts the engagement to perform certain professional services hereinafter described as:

**Design Services for replacement of culvert near 29 South Ferry Road. Phase I Field Data Collection and analysis. Phase II design and permitting.**

**ARTICLE 2. GENERAL CONDITIONS**

The OWNER agrees that all work be done by the CONSULTANT and all materials to be used on the project shall be in accordance with the standards applicable to the relevant professions employed on the PROJECT.

### **ARTICLE 3. SCOPE OF SERVICES**

This scope of services is found in Attachment A.

### **ARTICLE 4. CONTRACT PRICE AND PAYMENT**

- 4.1.1 For services performed under this AGREEMENT, the OWNER agrees to pay the CONSULTANT a lump sum fee of \$ 20,980 for the scope of services described in Article 3 of this AGREEMENT.
- 4.2.1 Payments to the CONSULTANT shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the rate of 1% per month.
- 4.3.1 For services performed beyond basic services, (additional services) the CONSULTANT shall be compensated in accordance with the procedure established in Article 13.
- 4.4.1 The OWNER agrees to make payment to the CONSULTANT within thirty (30) days of the invoice date for work completed to the OWNER'S satisfaction. If the OWNER fails to make any payment due the CONSULTANT for services and expenses within thirty (30) days after receipt of the CONSULTANT'S statement therefore, except for just cause, the CONSULTANT may, after giving seven (7) days' written notice to the OWNER, suspend services under this AGREEMENT. Unless payment is received by the CONSULTANT within seven (7) days of the notice, the suspension shall take effect without further notice. In the event of a suspension of services due to failure of the OWNER to make payment as agreed in this section, the CONSULTANT shall have no liability of the OWNER for delay or damage caused the OWNER because of such suspension of services.
- 4.5.1 Notwithstanding anything in this AGREEMENT to the contrary, any and all payments that the OWNER is required to make under this AGREEMENT shall be subject to appropriation or other availability of funds as certified by the Town Accountant.

### **ARTICLE 5. TERM OF AGREEMENT AND TIME FOR PERFORMANCE**

- 5.1.1 The CONSULTANT will initiate work under this AGREEMENT following formal acceptance of this AGREEMENT by the OWNER and upon receipt of a Notice to Proceed from the Owner. The CONSULTANT agrees to provide services for the duration of work, starting within two weeks of the Notice to Proceed.

### **ARTICLE 6. KEY PERSONNEL**

- 6.1.1 The CONSULTANT shall provide a list of the names and qualifications of individual staff people who will be assigned to the performance of the CONSULTANT'S obligations under this contract.
- 6.2.1 The OWNER shall have the right to require the CONSULTANT to remove any key

individual from his or her assignment to this PROJECT for cause. The key individual shall receive reasonable notice of any such action.

#### **ARTICLE 7. CONSULTANTS, SUBCONTRACTING, SUCCESSORS AND ASSIGNMENTS**

- 7.1.1 The CONSULTANT shall not employ consultants, except Key Personnel designated in ARTICLE 6, or assign or transfer any part of his services or obligations under this AGREEMENT without the prior approval of and written consent of the OWNER. The OWNER shall not unreasonably withhold such approval. The OWNER may rescind its consent if a consultant or subcontractor is incompetent, irresponsible, or otherwise unsatisfactory, and the CONSULTANT shall remove such consultant or subcontractor from the work. The OWNER'S written consent shall not in any way relieve the CONSULTANT from its responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specifications, estimates or other work or materials furnished.
- 7.2.1 Except as otherwise provided in this contract, whenever the services of the following consultants are required, the CONSULTANT shall employ them within the basic fee for this project: Surveyors, Structural Engineers, Electrical Engineers, Mechanical Engineers, Civil Engineers, Acoustical Engineers, Architects, Landscape Architects and Designers, Cost Estimators, Code Specialists and Specification Writers. Consultants must be registered in their respective disciplines if the applicable General Law requires registration.
- 7.3.1 When the CONSULTANT receives payment from the OWNER, the CONSULTANT shall within 30 calendar days make payment to each consultant whose work was included in the work for which such payment was received from the OWNER. The OWNER shall have the contractual right to investigate any breach of a consultant's contract and to take corrective measures necessary for the best interest of the OWNER.

#### **ARTICLE 8. STATUTORY COMPLIANCE**

- 8.1.1 This AGREEMENT will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the AGREEMENT shall conflict with any provisions or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the contract, the provisions of General Laws are incorporated by reference into this contract, including but not limited to the following:

General Laws Chapter 30B: Procurement of Goods and Services  
General Laws Chapter 30 Sec. 39 et seq: Public Works Contracts  
General Laws Chapter 149, Sec 44A et seq: Public Buildings Contracts

- 8.2.1 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this

AGREEMENT. To whatever extent any provision of this AGREEMENT shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.

- 8.3.1 The CONSULTANT shall exercise due care in accordance with generally accepted standards of professional practice, and perform the work required under this AGREEMENT in conformity with all applicable laws of the Commonwealth of Massachusetts, its political subdivisions and the Federal Government. Unless otherwise provided by law, the CONSULTANT shall promptly pay all fines, penalties and damages that may arise out of or are imposed because of the CONSULTANT'S failure to comply with the provisions of this Article and shall indemnify the OWNER against any liability incurred as a result of a violation of this section, in place at the time of this Agreement's execution.

## **ARTICLE 9. INSURANCE**

### **General Liability Insurance**

- 9.1.1 The CONSULTANT shall secure and maintain, for the duration of this PROJECT, the following General Liability Insurance policy or policies at no cost to the OWNER. With respect to the operation the CONSULTANT performs, the CONSULTANT shall carry Commercial General Liability Insurance providing for a combined single limit of One Million Dollars (\$1,000,000.00) for bodily injury, death and property damage.

### **9.2.1 Automobile Liability Insurance**

The CONSULTANT agrees to hold the Town of Montague harmless from the liability of any accidents, deaths or injuries, or destruction of property, caused by or incurred by employees of the CONSULTANT while engaged in the implementation of this contract.

### **9.3.1 Professional Services Liability Insurance**

The CONSULTANT shall secure, at its own expense, a Professional Services Liability Insurance policy with a limit of One Million Dollars (\$1,000,000) per claim and in the aggregate, and maintain such policy from the time that this CONSULTANT is signed to the date when all construction work designed under this CONSULTANT is completed and accepted by the OWNER. Since this insurance is normally written on a year-to-year basis, the CONSULTANT shall notify the OWNER should coverage become unavailable.

- 9.4.1 The CONSULTANT 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 this AGREEMENT.

- 9.5.1 Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with this AGREEMENT. Any cancellation of insurance whether by the insurers or by the insured shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the OWNER at least fifteen days prior to the intended effective date thereof, which date should be expressed in said notice.



## **ARTICLE 10. RESPONSIBILITIES OF THE OWNER**

The OWNER without cost to the CONSULTANT, shall do the following in a timely manner so as not to delay the services of the CONSULTANT:

- 10.1.1 Designate in writing a person to act as the OWNER'S representative with respect to work to be performed under this AGREEMENT, such person to have authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions with respect to materials, equipment, elements and systems pertinent to the work covered by this AGREEMENT.
- 10.2.1 Through its officials and other employees who have knowledge of pertinent conditions, confer with the CONSULTANT regarding both general and special considerations relating to the PROJECT.
- 10.3.1 Assist the CONSULTANT by placing at the disposal of the CONSULTANT all available information pertinent to the PROJECT including previous reports and existing survey data and any other data relative to design or construction of the PROJECT.
- 10.4.1 Waive or pay all application and permit fees associated with approvals and permits from all governmental authorities having jurisdiction over the PROJECT and obtain such approvals and consents from others as may be necessary for completion of the Project. The CONSULTANT shall assume that the information provided by OWNER is reliable for the purposes of these services. All materials and information provided to the CONSULTANT by OWNER under this contract shall remain the property of OWNER and shall be returned to OWNER upon completion of this contract or upon early termination of this contract
- 10.5.1 Arrange for access to and make all provisions for the CONSULTANT to enter upon public and private lands as required for the CONSULTANT to perform its work under this AGREEMENT.
- 10.6.1 Cooperate with and assist the CONSULTANT in all additional work that is mutually agreed upon.
- 10.7.1 Pay the CONSULTANT for work performed in accordance with terms specified herein.
- 10.8.1 Develop, organize and implement all public information and participation efforts.
- 10.9.1 OWNER does not guarantee the accuracy of information furnished and CONSULTANT must satisfy itself as to the correctness of data, except in instances where written exception to the contrary is specifically indicated by OWNER. If the above data are not available or they are in the opinion of CONSULTANT insufficient, CONSULTANT, upon request, may be given authorization to obtain the services of a consultant or perform the work with its own employees. Such consultants shall carry adequate liability insurance. In no case shall CONSULTANT commence such additional work without prior written authorization of OWNER.

Written consent shall not in any way relieve CONSULTANT from its responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specification, estimates and other work or material furnished.

#### **ARTICLE 11. LIMITATION OF LIABILITY AND INDEMNIFICATION**

11.1.1 CONSULTANT shall indemnify and save harmless OWNER and all of its municipal boards, commissions, departments, officers and employees against any suits, claims of liability or expenses for or on account of any injuries to persons or damage to property to the extent that same are caused by the negligent acts, errors or omissions of the CONSULTANT in the performance of this AGREEMENT and/or failure to comply with the terms and conditions of this AGREEMENT, whether by CONSULTANT or its employees, consultants or subcontractors.

##### **11.2.1 Hazardous Waste Indemnification's**

For the purpose of this AGREEMENT, CONSULTANT shall not be considered an owner or operator of the project site with respect to the discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous waste in any form at the project site. Accordingly, the OWNER agrees to assert no claims against CONSULTANT, its principals, agents, employees, and consultants unless such claims are based, in whole or in part, upon the negligence, breach of AGREEMENT, warranty, indemnity, or other obligation of CONSULTANT, its principals, agents, employees and consultants.

11.2.2 The OWNER hereby warrants that, if he or she knows or has any reason to assume or suspect that hazardous materials may exist at the PROJECT site, he or she has so informed the CONSULTANT. The OWNER also warrants that he or she has done his or her best to inform the CONSULTANT of such known or suspected hazardous materials' type, quantity and location.

#### **ARTICLE 12. NOTICE**

All notices required to be given hereunder shall be in writing and delivered by hand 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 and facsimile or email, but shall be followed by notice in writing in the manner stated above.

#### **ARTICLE 13. EXTENSION OF SERVICES**

The OWNER, from time to time, may require changes or extensions in the Scope of Services to be performed hereunder. Such changes or extensions, including any increase or decrease in the amount of compensation, to be mutually agreed upon by and between the OWNER and the CONSULTANT, shall be incorporated into written amendments to this AGREEMENT.

#### **ARTICLE 14. OWNERSHIP AND USE OF DOCUMENTS**

One (1) reproducible copy of all reports, design drawings, field data, calculations, estimates, and other documents and records (collectively referred to as "documents") which CONSULTANT prepares as instruments of service shall become the property of the OWNER upon payment in full to CONSULTANT under this AGREEMENT. Any re-use of such documents without CONSULTANT's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to CONSULTANT or to CONSULTANT'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 CONSULTANT'S rights under this AGREEMENT.

#### **ARTICLE 15. TERMINATION**

- 15.1 The OWNER may terminate this AGREEMENT, without cause, upon ten days written notice to the CONSULTANT. In the event of such termination, the CONSULTANT shall be compensated for all services performed prior to termination.
- 15.2 If the PROJECT is suspended or abandoned in part for more than three (3) months, the CONSULTANT shall be compensated for all services performed prior to receipt of written notice from the OWNER of such suspension or abandonment, together with other direct costs then due.
- 15.3 If the PROJECT is resumed after being suspended for more than nine (9) months, the CONSULTANT'S compensation shall be equitably adjusted.
- 15.4 In the event of termination by the OWNER, the CONSULTANT will be paid a percentage of the lump sum fee based on work completed on the PROJECT through the completion of services necessary to affect termination, in accordance with the provisions of Article 4 of this AGREEMENT.

#### **ARTICLE 16. GENERAL PROVISIONS**

##### **16.1 Precedence**

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding the CONSULTANT'S services.

##### **16.2 Severability**

If any of these Standard Terms and Conditions shall be finally determined to be invalid or unenforceable in whole or part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this AGREEMENT to replace any such invalid or unenforceable provision with a valid enforceable provision that comes as close as possible to the intention of the stricken provision.

## **ARTICLE 17. PROVISIONS REQUIRED BY MASSACHUSETTS LAW**

- 17.1 The CONSULTANT hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with the award of this AGREEMENT. (Statutory reference: M.G.L. c. 7, §38H (e) (i))
- 17.2 The CONSULTANT hereby certifies that no consultant to or subcontractor for the CONSULTANT has given, offered or agreed to give any gift, contribution or offer of employment to the CONSULTANT, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the CONSULTANT. (Statutory reference: M.G.L. c. 7, §38H (e) (ii))
- 17.3 The CONSULTANT hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of the CONSULTANT, has been retained or hired by the CONSULTANT to solicit for or in any way assist the CONSULTANT in obtaining this AGREEMENT upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this AGREEMENT to the CONSULTANT. (Statutory reference: M.G.L. c. 7 § 38H (e) (iii))
- 17.4 The CONSULTANT hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that the CONSULTANT filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R. (Statutory reference: M.G.L. c. 7, §38H (e) (iv))

## **ARTICLE 18. DISCLOSURE RIGHTS**

OWNER agrees the CONSULTANT has the authority to use its name as a client and a general description of the project as a reference for other prospective clients.

## TAX COMPLIANCE STATEMENT

### Tax Compliance

Pursuant to M.G.L. Ch. 62C, Sec. 49A, I certify under the penalties of perjury that \_\_\_\_\_, to my best knowledge and belief, has complied with all laws of the Commonwealth of Massachusetts relating to taxes.

Date \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name of Person Signing

\_\_\_\_\_  
Authorized Official's Signature

\_\_\_\_\_  
Company or Corporation

## NON-COLLUSION STATEMENT

### Certificate of Non-Collusion

The undersigned certifies under penalties of perjury that AGREEMENT has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the work "person" shall mean any natural person, business, partnership, corporation, union, committee, entity, or group of individuals.

Date \_\_\_\_\_

\_\_\_\_\_  
Typed or Printed Name of Person Signing

\_\_\_\_\_  
Authorized Official's Signature

\_\_\_\_\_  
Company or Corporation

## CERTIFICATE OF VOTE

At a duly authorized meeting of the Board of Directors of

\_\_\_\_\_ held on \_\_\_\_\_,

it was unanimously voted to authorize \_\_\_\_\_

its \_\_\_\_\_ to sign any and all bid and contract documents on

behalf of the Corporation. I further certify that said vote remains in full force and effect and

has not been rescinded or modified as of the date below.

Date \_\_\_\_\_

\_\_\_\_\_  
Corporate Name

\_\_\_\_\_  
Clerk

SEAL:

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT the day and year first above written.

Accepted for the OWNER, TOWN OF  
MONTAGUE, by its Selectboard:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

Accepted for the CONSULTANT,  
\_\_\_\_\_. by:

\_\_\_\_\_

Project Manager

\_\_\_\_\_  
Date

#### CERTIFICATION OF AVAILABLE FUNDS

Certification is herewith given that funds are available for payments required by the terms of this AGREEMENT.

By: \_\_\_\_\_  
Accountant, Town of Montague

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

#### A TRUE COPY, ATTEST:

By: \_\_\_\_\_  
Clerk, Town of Montague

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

OWNER'S Massachusetts Sales and Use Tax Certificate Exemption Number \_\_\_\_\_



EXHIBIT A  
SCOPE OF WORK

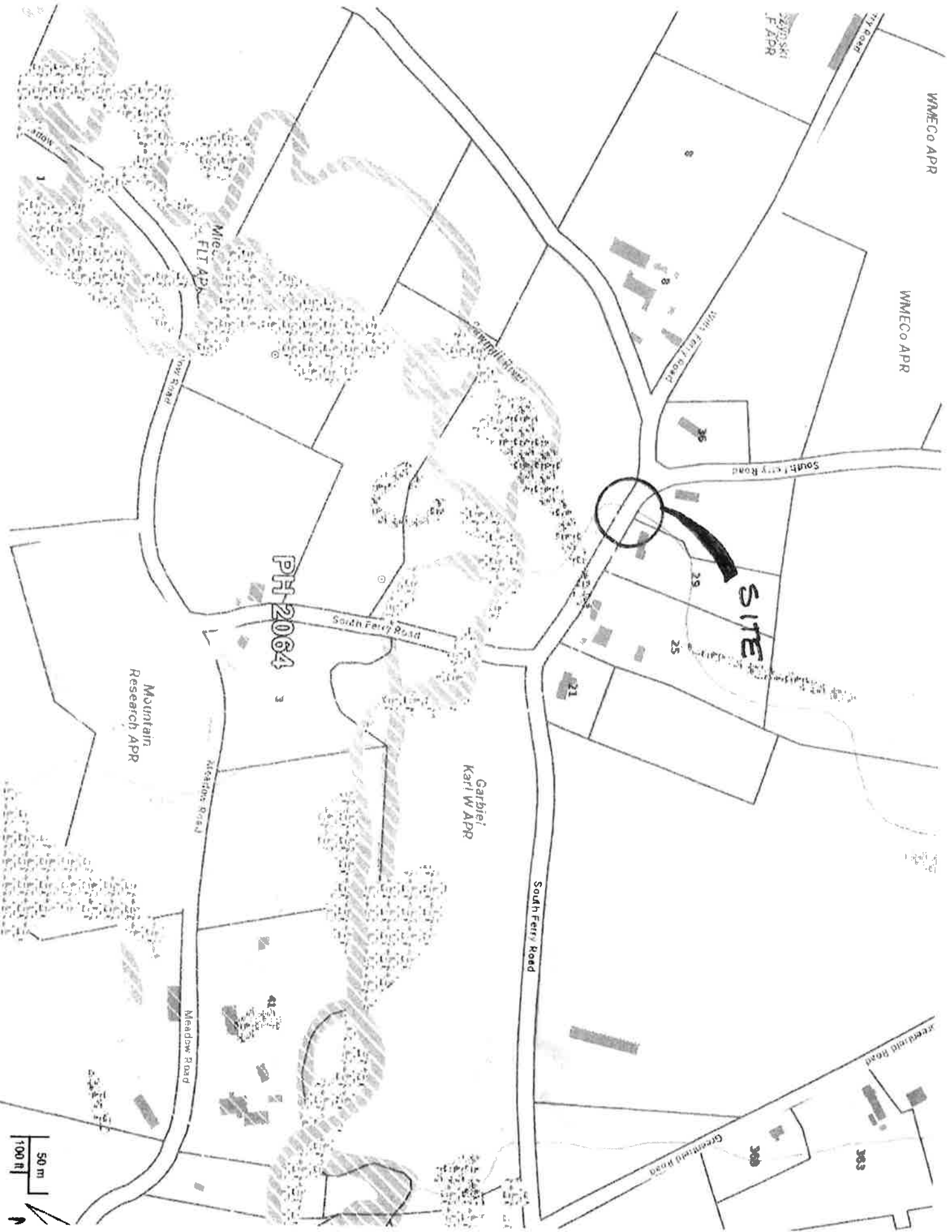
**Scope of Work  
Exhibit 'A'  
Culvert Replacement Project  
29 South Ferry Road  
Montague, MA  
Civil Engineering & Permit Services  
October 15, 2020  
Revised October 19, 2021**

1. Project Research	\$ 400.00
2. Survey and Base Plan Preparation	\$ 2,540.00
3. Hydrology/Hydraulic Analysis	\$ 2,060.00
4. Wendell Wetland Services (Wetland Delineation)	Completed
5. Stream Crossing technical Memorandum	\$ 3,000.00
<b><u>Total Authorized Amount for Phase 1</u></b>	<b><u>\$ 8,000.00</u></b>
6. Culvert Crossing Plan	\$ 5,300.00
7. Notice of Intent, Wetland and MESA Permitting	\$ 3,500.00
8. Meetings and Coordination	\$ 1,680.00
9. Construction Specifications	\$ 1,250.00
10. Opinion of Cost	\$ 900.00
11. Reimbursable Expenses	\$ 350.00
<b><u>Total Authorized Amount for Phase 2</u></b>	<b><u>\$12,980.00</u></b>
<b>Total Authorized Amount</b>	<b>\$20,980.00</b>

**Notes:**

**A. Scope of Services does not include the following:**

- |                               |  |
|-------------------------------|--|
| 1. Boundary Survey            | 5. Construction Administration         |
| 2. Easement Acquisition Plans | 6. Construction Inspection/Observation |
| 3. Legal Services             | 7. Construction Layout/Staking         |
| 4. Structural Services        | 8. Construction Testing                |
|                               | 9. Geotechnical Investigation          |



WMECo APR

WMECo APR

WMECo APR

SITE

PH-2064

Mountain Research APR

Garbie!  
Karl W APR

South Ferry Road

Meadow Road

Greening Road

Rte 101

50 m  
100 ft

10c

## SECTION 5 AGREEMENT

### ***5TH STREET PEDESTRIAN BRIDGE AND INTERSECTION IMPROVEMENTS MONTAGUE, MASSACHUSETTS***

THIS AGREEMENT, executed this 1<sup>st</sup> day of November in the year Two Thousand Twenty-One (herein referred to as the "AGREEMENT") by and between the Town of Montague, party of the first part, and

David G. Roach & Sons, Inc

(Party of the second part)

PO BOX 359/ 99 Barre Depot Rd S. Barre, MA 01074

(Legal address)

Party of the second part agrees to perform the following work under this contract which includes, but is not necessarily limited to the following: construction of new pedestrian bridge, sidewalks, pedestrian ramp, driveway and parking lot entrance modifications, shared use path modifications, curbing, signage and pavement markings, as well as the reconstruction of pavement areas, utility relocations, drainage system improvements and all other incidental items necessary to complete the required work as illustrated on the Drawings. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:

- a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

This work shall be carried out in accordance with the following sections of this Agreement as listed in Agreement Table of Contents (Section 5, Page 2).

WITNESSETH, that the parties to these presents, each in consideration of the undertakings, promises, and agreements on the part of the other herein contained, have undertaken, promised, and agreed and do hereby undertake, promise, and agree, the party of the first part for itself, its successors and assigns, and the party of the second part for himself and his heirs, executors, administrators, successors and assigns, as follows:

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## **A1 DEFINITIONS**

Wherever the words hereinafter defined or pronouns used in their stead occur in the Contract Documents, they shall have the following meanings:

The word "Owner" shall mean the party of the first part above designated.

The word "Contractor" shall mean the party of the second part above designated.

The word "Engineer" shall mean that person duly appointed by the Owner to undertake the duties and powers herein assigned to the Engineer, acting either directly or through duly authorized representatives.

The word "Work" or "work" shall mean furnishing, installing, removing, altering and constructing roadway and appurtenances as shown or specified by the Drawings and Specifications.

The words "herein," "hereinafter," "hereunder" and words of like import shall be deemed to refer to the Contract Documents.

## **A2 THE CONTRACT DOCUMENTS**

Contract Documents include all documents indicated, included or referred to in sections listed in the Contract Documents Table of Contents (Page TOC-1) of the Project Manual and collectively include Bidding Requirements, Contracting Requirements of this bound set, the Drawings, and all appendices, Addenda and amendments to any of the foregoing. The Contract Documents are sometimes herein referred to as the "Contract".

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In the event of any conflict or inconsistency between the provisions of the SPECIAL CONDITIONS and the provisions of any of the other Contract Documents, the provisions of the SPECIAL CONDITIONS shall prevail. In the event of conflict or inconsistency between the provisions of the AGREEMENT and the provisions of the Contract Documents other than the SPECIAL CONDITIONS, the provisions of the AGREEMENT shall prevail.

The Agreement shall be carried out and governed by the Contract Documents.

## **A3 OBLIGATIONS AND LIABILITY OF CONTRACTOR**

The Contractor shall supervise and direct the work using his best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the Contract.

The Contractor shall do all the work and perform and furnish all the labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies and all other things (except as otherwise expressly provided herein) necessary and as herein specified for the proper performance and completion of the Work in the manner and within the time hereinafter specified, in strict accordance with the Contract Documents, in conformity with the directions and to the satisfaction of the Engineer, and at the prices herein agreed upon therefore.

All parts of the Work and all fixtures, equipment, apparatus and other items indicated on the Drawings and not mentioned in the Specifications, or vice versa, and all work and material usual and necessary to make the Work complete in all its parts, including all incidental work necessary to make it complete and satisfactory and ready for use and operation, whether or not they are indicated on the Drawings or mentioned in the Specifications, shall be furnished and executed the same as if they were called for both by the Drawings and by the Specifications.

The Contractor shall coordinate his operations with those of any other contractors who may be employed on other work of the Owner, shall avoid interference therewith, and shall cooperate in the arrangements for storage of materials and equipment.

The Contractor shall conduct his work so as to interfere as little as possible with residents and public travel. Wherever and whenever necessary or required, he shall maintain fences, furnish watchmen, maintain lights, and take such other precautions as may be necessary to protect life and property.

The Contractor shall have complete responsibility for the Work and the protection thereof, and for preventing injuries to persons and damage to the Work and property and utilities on or about the Work, until final completion and acceptance thereof. He shall in no way be relieved of his responsibility by any right of the Engineer to give permission or directions relating to any part of the Work, by any such permission or directions given, or by failure of the Engineer to give such permission or directions. The Contractor shall bear all costs, expenses, losses and damages on account of the quantity or character of the Work or the nature of the land (including but not limited to subsurface conditions) in or under or on which the Work is done being different from that indicated or shown in the Contract Documents or from what was estimated or expected, or on account of the weather, elements, or other causes. The Contractor shall indemnify and save harmless the Owner and the Engineer and their officers, agents and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including attorneys' fees, of whatever kind, directly or indirectly arising out of, relating to or in connection with the Work, whether or not due or claimed to be due in whole or in part to the active, passive or concurrent negligence or fault of the Contractor, his officers, agents, Engineer or any of their respective officers, agents or employees and/or any other person or persons, and whether or not such claims, demands, suits or proceedings are just, unjust, groundless, false or fraudulent; and the Contractor shall and does hereby assume and agree to pay for the defense of all such claims, demands, suits and proceedings, including, if demanded in writing at any time by the Owner or Engineer, counsel chosen by the Owner or Engineer separate from the counsel chosen by the Contractor; provided, however, that the Contractor shall not be required to indemnify the Engineer, his officers, agents or employees, against any such damages occasioned solely by the negligence or fault of the Engineer; and provided further, that the Contractor shall not be required to indemnify the Owner, his officers, agents or employees, against any such damages occasioned solely by faults of the Owner.

The Contractor shall conduct his operations so as not to damage existing structures of work installed either by him or by other contractors. In case of any such damage resulting from his operations, he shall repair and make good as new the damaged portions at his own expense with the consent of the damaged party. In the event that consent is not given, the Contractor shall continue solely liable for the damage caused.

The Contractor shall be as fully responsible to the Owner for the acts and omissions of his subcontractors, their officers, agents and employees as he is for his own acts and omissions and those of his own officers, agents and employees.

Should the Contractor sustain any loss, damage or delay through any act or omission of any other contractor or any subcontractor of any such other contractor, the Contractor shall have no claim against the Owner or Engineer therefore, other than for an extension of time, but shall have recourse solely to such other contractor or subcontractor.

If any other contractor or any subcontractor of any such other contractor shall suffer or claim to have suffered loss, damage or delay by reason of the acts or omissions of the Contractor or of any of his subcontractors, the Contractor agrees to assume the defense against any such claim and to reimburse such other contractor or subcontractor for such loss or damage. The Contractor agrees to and does hereby indemnify and save harmless the Owner and Engineer from and against any and all claims by such other contractors or subcontractors alleging such loss, damage or delay and from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including attorneys' fees, arising out of, relating to or resulting from such claims.

The Contractor shall promptly pay all federal, state and local taxes which may be assessed against him in connection with the Work or his operations under the AGREEMENT and/or the other Contract Documents, including, but not limited to, taxes attributable to the purchase of material and equipment, to the performance of services, and the employment of persons in the prosecution of the Work.

The Contractor shall not participate in or cooperate with an international boycott, as defined in Section 999(b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Section 2 of Chapter 151E of the Massachusetts General Laws.

#### **A4 AUTHORITY OF THE ENGINEER**

The Engineer shall be the sole judge of the intent and meaning of the Drawings and Specifications and his decisions thereon and his interpretation thereof shall be final, conclusive and binding on all parties. No party shall be entitled to rely on any such interpretation nor shall the Engineer be bound by any such interpretation except if it is in writing. The Engineer shall promptly, on the request of any affected party, put any such interpretation in writing.

The Engineer shall be the Owner's representative during the life of the Contract and he shall have all the rights of the Owner to observe the Work in progress. He shall have authority (1) to act on behalf of the Owner to the extent expressly provided in the Contract or otherwise in writing; and (2) to determine the amount, quality, acceptability and fitness of all work, materials and equipment required by the Contract. The Owner will manage the contract and the work.

The Contractor shall proceed without delay to perform the work as directed, instructed, determined or decided by the Owner and shall comply promptly with such directions, instructions, determinations or decisions. If the Contractor has any objection thereto, he may require that any such direction, instruction, determination or decision be put in writing and within ten (10) days after receipt of any such writing he may file a written protest with the Owner stating clearly and in detail his objections, the reasons therefore, and the nature and amount of additional compensation, if any, to which he claims he will be entitled thereby. A copy of such protest shall be filed with the Owner. Unless the Contractor files such written protest with the Owner within such ten (10) day period, he shall be deemed to have waived all grounds for protest of such direction, instruction, determination, or decision and all claims for additional compensation or damages occasioned thereby, and shall further be deemed to have accepted such direction, instruction, determination, or decision as being fair, reasonable, and finally determinative of his obligations and rights under the Contract.



The Engineer and the Owner shall not be responsible for the construction means, controls, techniques, sequences, procedures, or safety procedures of the Contractor, his employees, subcontractors or suppliers.

#### **A5 SAFETY**

The Contractor shall be responsible for jobsite safety, including safety programs and safety procedures. Neither the Owner nor the Engineer assumes responsibility for such programs or procedures.

#### **A6 SUPERVISION OF WORK**

The Contractor shall give the work the constant attention necessary to ensure the expeditious and orderly progress thereof and shall cooperate with the Owner in every possible way.

At all times, the Contractor shall have as his agent on the Work a competent superintendent capable of reading and thoroughly understanding the Drawings and Specifications, with full authority to execute the directions of the Owner regarding the same without delay and to supply promptly such labor, services, materials, equipment, plant, apparatus, appliances, tools, supplies and other items as may be required.

#### **A7 INSURANCE**

Before starting and until final completion and acceptance of the Work and expiration of the guarantee period provided for in the AGREEMENT, the Contractor shall procure and maintain insurance of the types specified in paragraphs (a) to (d), inclusive, below, and to the limits for this insurance specified under SPECIAL CONDITIONS. All insurance shall be obtained from companies with an A.M. Best Co. rating of A+.

Insurance shall be in such form as will protect the Contractor from all claims and liability for damages of any kind, which may arise from operations under the Contract, whether such operations be by himself, his subcontractors, or by any one directly or indirectly employed or engaged by him.

The following types of insurance shall be provided as referenced in Section 7 – SC5:

- (a) Workmen's Compensation and Employer's Liability Insurance.
- (b) General Liability Insurance including:
  - (i) Bodily Injury Liability (including Personal Injury) Insurance for Operations and Completed Operations and Contractor's Protective Bodily Injury Insurance.
  - (ii) Property Damage Liability Insurance (including Broad Form Property Damage Liability Coverage) for Operations and Completed Operations and Contractor's Protective Property Damage Insurance, each including coverage for injury to or destruction of wires, conduits, pipes, mains, tanks, tunnels, or any similar property, and the collapse of, or structural injury to, any building or structure except those on which work under the Contract is being done. Blasting and explosion coverage shall be obtained if there is a need for blasting under the Contract, and no blasting shall be performed until such insurance has been secured.

- (c) Insurance to cover liability for Bodily Injury and Property Damage resulting from the use of owned, non-owned, and hired motor vehicles while such vehicles are being operated in connection with the prosecution of the Work.
- (d) Contractual Liability Insurance covering the liability assumed by the Contractor under the subsection A3 titled OBLIGATIONS AND LIABILITY OF CONTRACTOR of this AGREEMENT.
- (e) Umbrella Liability
- (f) Owner's Protective Public Liability & Property Damage

All policies shall be so written that 1) the Owner will be notified in writing of cancellation or restrictive amendment at least thirty (30) days prior to the effective date of such cancellation or amendment, and 2) the Owner and Owner's Agents will be designated as an additional insured on the General Liability Policy.

Certificates from the Contractor's insurance carriers stating the coverages provided, the limits of liability, and expiration dates shall be filed in duplicate with the Owner before operations are begun.

Renewal certificates shall be furnished by the Contractor to the Owner at least thirty (30) days prior to the expiration date of any of the initial insurances.

The Contractor shall also furnish such other insurance as may be called for by the SPECIAL CONDITIONS.

No insurance required or furnished hereunder shall in any way relieve the Contractor of or diminish any of his responsibilities, obligations and liabilities under the Contract.

#### **A8 PATENTS**

The Contractor shall indemnify and save harmless the Owner and Engineer and all persons acting for or on behalf of the Owner and Engineer from all claims and liability of any nature or kind, and all damages, costs and expenses, including attorney's fees, arising from or occasioned by an infringement or alleged infringement of any patents or patent rights or any trademark or copyright or any alleged unfair competition relating to any invention, process, material, equipment, article, or apparatus, or any part thereof, furnished and installed by the Contractor, or arising from or occasioned by the use or manufacture thereof, including their use by the Owner.

#### **A9 COMPLIANCE WITH LAWS**

This Contract is governed by applicable provisions of Massachusetts General Laws, including but not limited to Massachusetts General Laws Chapter 149, and Regulations and/or the United States Code and Code of Federal Regulations. Any provision in violation of the foregoing shall be deemed null, void and of no effect. Where conflict between Code of Federal Regulations and State Laws and Regulations exist, the more stringent requirements shall apply.

The Contractor shall keep himself fully informed of all applicable Federal, State and local laws, ordinances, rules and regulations affecting those engaged or employed on the Work, the materials and equipment used in the Work or the conduct of the Work, and of all orders, decrees and other requirements of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or other

Contract Documents in relation to any such law, ordinance, rule, regulation, order, decree or other requirement, the Contractor shall forthwith report the same to the Engineer in writing. The Contractor shall at all times observe and comply with, and cause all his agents, employees and subcontractors to observe and comply with all such laws, ordinances, rules, regulations, orders, decrees and other requirements, and he shall protect, indemnify and save harmless the Owner and Engineer, their officers, agents and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, penalties, losses, damages, costs, and expenses, including attorney's fees, arising from or based upon any violation or claimed violation of any such law, ordinance, rule, regulation, order, decree or other requirement, whether committed by the Contractor or any of his agents, employees or subcontractors.

#### **A10 PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted herein, the Contract shall be read and enforced as though they were included herein and such provision shall prevail over any inconsistent language herein. If through mistake or otherwise any such provision is not inserted then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

#### **A11 PERMITS**

The Contractor shall, at his own expense, take out and maintain all necessary permits from the county, municipal, or other public authorities; shall give all notices required by law; and shall post all bonds and pay all fees and charges incident to the due and lawful prosecution of the Work.

#### **A12 NOT TO SUBLET OR ASSIGN**

The Contractor shall constantly give his personal attention to the faithful prosecution of the Work, shall keep the same under his personal control, shall not assign the Contract or sublet the Work or any part thereof without the previous written consent of the Owner, and shall not assign any of the moneys payable under the Contract, or his claim thereto, unless by and with the like written consent of the Owner and the Surety on the Contract Bonds. Any assignment or subletting in violation hereof shall be void and unenforceable.

#### **A13 DELAY BY OWNER**

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Owner or Owner's agent on account of any delay in the commencement of the Work and/or any hindrance, delay or suspension of any portion of the Work, whether such delay is caused by the Owner, the Architect, or otherwise, except as and to the extent expressly provided in G.L. c. 30, §39N. The Contractor acknowledges that the Contractor's sole remedy for any such delay and/or suspension will be an extension of time as provided in this Article.

#### **A14 TIME FOR COMPLETION**

The rate of progress shall be such that the Work shall be performed and completed in accordance with the Contract before the expiration of the time limit stipulated under Section 3 "INSTRUCTIONS TO BIDDERS," except as otherwise expressly provided.

No extension of time will be given for ordinary or foreseeable delays, inclement weather, or accidents and the occurrence of such will not relieve the Contractor of completing the Work within the stipulated time limit. No extension of time will be given, or if given will be valid,

unless based on a written application stating all grounds on which the Contractor relies and delivered to the Owner promptly upon the occurrence of such grounds as the application states, and in any event prior to the stipulated time for completion of the Work. If Contractor shall neglect, fail or refuse to complete the Work within the times herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to the Owner \$750, not as a penalty but as liquidated damages for such breach of contract, for each and every calendar day that the Contractor shall be in default after the time stipulated for completing the Work. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be deducted by the Owner from periodic payments.

If delays are caused by acts of God, acts of government, unavoidable strikes, extra work, or other causes or contingencies clearly beyond the control or responsibility of the Contractor, the Contractor shall be entitled to so much additional time to perform and complete the Work as the Owner shall certify in writing to be just.<sup>1</sup> The Contractor agrees that he shall not have or assert any claim for, nor shall he be entitled to any additional compensation or damages on account of such delays.

The time in which the Work is to be performed and completed is of the essence of the AGREEMENT.

#### **A15 SUNDAY WORK**

No work shall be done on Sunday except (1) usual protective work, (2) work done in case of emergency threatening injury to persons or property, or (3) if all of the conditions set forth in the next paragraph below are met.

No work other than that included in (1) and (2) above shall be done on Sunday except when (a), in the sole judgment of the Owner, the work will be of advantage to the Owner and can be performed satisfactorily. (b) the Owner has given written permission for such Sunday work.

#### **A16 EMPLOY COMPETENT PERSONS**

The Contractor shall employ only competent persons on the Work and shall not employ persons or means which may cause strikes, work stoppages or any disturbances by working people employed by the Contractor, any subcontractor, the Owner, the Engineer or any other contractor.

#### **A17 EMPLOY SUFFICIENT LABOR AND EQUIPMENT**

If in the sole judgment of the Owner the Contractor is not employing sufficient labor, plant, equipment or other means to complete the Work within the time specified, the Engineer may, after giving written notice, require the Contractor to employ such additional labor, plant, equipment and other means as the Owner deems necessary to enable the Work to progress properly.

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<sup>1</sup> This paragraph will be interpreted to include delays in receipt of equipment provided that the Contractor placed his order and submitted shop drawings for such equipment promptly after execution of the Contract, that he has shown due diligence in following the progress of the order, and that the time required for delivery is in accordance with conditions generally prevailing in the industry.

#### **A18 INTOXICATING CHEMICALS**

The Contractor shall not sell and shall neither permit nor suffer the introduction or use of intoxicating chemicals upon or about the Work.

#### **A19 ACCESS TO WORK**

The Owner, the Engineer, and their officers, agents, and employees may at any and all times and for any and all purposes, enter upon the Work and the site thereof and the premises used by the Contractor, and the Contractor shall at all times provide safe and proper facilities thereof.

#### **A20 EXAMINATION OF WORK**

The Owner and Engineer shall be furnished by the Contractor with every reasonable facility for examining and inspecting the Work and for ascertaining that the Work is being performed in accordance with the requirements and intent of the Contract, even to the extent of requiring the uncovering or taking down portions of finished work by the Contractor.

Should the work thus uncovered or taken down prove satisfactory, the cost of uncovering or taking down and the replacement thereof shall be considered as extra work unless the original work was done in violation of the Contract in point of time or in the absence of the Owner, Engineer or his inspector and without his written authorization, in which case said cost shall be borne by the Contractor. Should the work uncovered or taken down prove unsatisfactory, said cost shall likewise be borne by the Contractor.

#### **A21 DEFECTIVE WORK**

The inspection of the Work shall not relieve the Contractor of any of his obligations to perform and complete the Work as required by the Contract. Defective work shall be corrected and unsuitable materials, equipment, apparatus and other items shall be replaced by the Contractor, at the Contractor's cost and expense, notwithstanding that such work, materials, equipment, apparatus and other items may have been previously overlooked or accepted or estimated for payment. If the Work or any part thereof shall be found defective at any time before the final acceptance of the Work, the Contractor shall forthwith make good such defect in a manner satisfactory to the Owner, and its own cost and expense; if any material, equipment, apparatus or other items brought upon the site for use or incorporation in the Work, or selected for the same, is condemned by the Owner as unsuitable or not in conformity with the Specifications or any of the other Contract Documents, the Contractor shall forthwith remove such materials, equipment, apparatus and other items from the site of the Work and shall at his own cost and expense make good and replace the same and any material furnished by the Owner which shall be damaged or rendered defective by the handling or improper installation by the Contractor, his agents, employees or subcontractors.

#### **A22 PROTECTION AGAINST WATER, STORM OR ADVERSE WEATHER**

The Contractor shall take all precautions necessary to prevent damage to the Work by storms, by water entering the site of the Work directly or through the ground and by adverse weather. In case of damage by storm, water or adverse weather, the Contractor shall, at his own cost and expense, make such repairs or replacement or rebuild such parts of the Work as the Owner may require in order that the finished Work may be completed as required by the Contract.

The Contractor shall provide for protection against weather in accordance with MGL C. 149, SS



44F and 44G.

### **A23 MISTAKES OF CONTRACTOR**

The Contractor shall promptly correct and make good any and all defects, damages, omissions or mistakes for which he and/or his agents, employees or subcontractors are responsible, and he shall pay to the Owner all costs, expenses, losses, and damages resulting there from or by reason thereof as determined by the Owner or Engineer.

### **A24 RIGHT TO MATERIALS**

Nothing in the Contract shall be construed as vesting in the Contractor any right of property in the materials, equipment, apparatus and other items furnished after they have been installed or incorporated in or attached or affixed to the Work or the site, but all such materials, equipment, apparatus and other items shall, upon being so installed, incorporated, attached or affixed, become the property of the Owner.

### **A25 CHANGES**

The Owner may make changes in the Work and in the Drawings and Specifications therefore by making alterations therein, additions thereto or omissions there from. All work resulting from such changes shall be performed and furnished under and pursuant to the terms and conditions of the Contract. If such changes result in an increase or decrease in the Work to be done hereunder, or increase or decrease the quantities thereof, adjustment in compensation shall be made therefore at the unit prices stipulated in the Contract for such work, except that if unit prices are not stipulated for such work, compensation for additional or increased work shall be made as provided hereinafter under the subsection titled EXTRA WORK; and for eliminated or decreased work the Contractor shall allow the Owner a reasonable credit as determined by the Owner and Engineer. All decisions with respect to any such changes shall be made by the Owner and shall be conclusive and binding upon the Contractor.

Except in an emergency endangering life or property, no change shall be made unless in pursuance of a written order from the Owner authorizing the change, and no claim for additional compensation shall be valid unless the change is so ordered.

The Contractor agrees that he shall neither have nor assert any claim for or be entitled to any additional compensation for damages or for loss of anticipated profits on work that is eliminated.

### **A26 EXTRA WORK**

The Contractor shall perform any extra work (work in connection with the Contract but not provided for herein) when and as ordered in writing by the Engineer, at the unit prices stipulated in the Contract for such work or, if none are so stipulated, either (a) at the price agreed upon before such work is commenced and named in the written order for such work, or (b) if the Owner so elects, for the reasonable cost of such work, as determined by the Contractor and approved by the Owner, plus a percentage of such cost, as set forth below. No extra work shall be paid for unless specifically ordered as such in writing by the Owner.

The cost of extra work done under (b) above shall include the reasonable cost to the Contractor of materials used and equipment installed, common and skilled labor, and foremen, and the fair rental of all machinery and equipment used on the extra work for the period of such use.

At the request of the Owner, the Contractor shall furnish itemized statements of the cost of the extra work ordered as above and give the Owner access to all records, accounts, bills and vouchers and correspondence relating thereto.

The Contractor may include in the cost of extra work the amounts of additional premiums, if any, (other than premiums on bonds) paid on the required insurance on account of such extra work, of Social Security or other direct assessments under the Contractor's payroll by Federal or other properly authorized public agencies, and of other approved assessments when such assessments are not normally included in payments made by the Contractor directly to his employees, but in fact are, and are customarily recognized as, part of the cost of doing work.

The fair rental for all machinery and equipment shall be based upon the most recent edition of "Compilation of Rental Rates for Construction Equipment," published by the Associated Equipment Distributors, or a similar publication approved by the Engineer. Rental for machinery and equipment shall be based upon an appropriate fraction of the approved monthly rate schedule. If said extra work requires the use of machinery or equipment not already on the site of the Work the actual cost of transportation, not exceeding a distance of one-hundred (100) miles, of such machinery or equipment to and from the Work shall be added to the fair monthly rental provided, however, that this shall not apply to machinery or equipment already required to be furnished under the terms of the Contract.

The Contractor shall not include in the cost of extra work any cost or rental of small tools, buildings, or any portion of the time of the Contractor, his superintendent, or his office and engineering staff.

To the cost of extra work done by the Contractor's own forces under (b) above (determined as stated above), the Contractor shall add 10 percent (10%) to cover his overhead, use of capital, the premium on the Bonds as assessed upon the amount of this extra work, and profit.

In the case of extra work done under (b) above by a subcontractor, the subcontractor shall compute, as above, his cost for the extra work, to which he shall add 10 percent (10%) as in the case of the Contractor, and the Contractor shall be allowed an additional 5 percent (5%) of the subcontractor's cost for the extra work to cover the costs of the Contractor's overhead, use of capital, and the premium on the Bonds as assessed upon the amount of this extra work, and profit. Said subcontractor's cost must be reasonable and approved by the Owner.

If extra work is done under (b) above, the Contractor and/or subcontractor shall keep daily records of such extra work. The daily record shall include the names of persons employed, the nature of the work performed, and hours worked, materials and equipment used, if any, in the prosecution of such extra work. This daily record, to constitute verification that the work was done, must be signed by the Contractor's authorized representative. A separate daily record shall be submitted for each Extra Work Order.

#### **A27 EXTENSION OF TIME ON ACCOUNT OF EXTRA WORK**

When extra work is ordered at any time during the progress of the Work which in the sole judgment of the Owner unavoidably increases the time for the completion of the Work, an extension of time shall be granted as hereinbefore provided under CONTRACT TIME.

#### **A28 CHANGES NOT TO AFFECT BONDS**

It is distinctly agreed and understood that any changes made in the Work or the Drawings or Specifications therefore (whether such changes increase or decrease the amount thereof or the

time required for its performance) or any changes in the manner or time of payments made by the Owner to the Contractor, or any other modifications of the Contract, shall in no way annul, release, diminish or affect the liability of the Surety on the CONTRACT BONDS given by the Contractor, it being the intent hereof that notwithstanding such changes the liability of the Surety on said bonds continue and remain in full force and effect.

#### **A29 CLAIMS FOR DAMAGES**

If the Contractor makes claim for any damages alleged to have been sustained by breach of contract or otherwise, he shall, within ten (10) days after occurrence of the alleged breach or within ten (10) days after such damages are alleged to have been sustained, whichever date is the earlier, file with the Owner a written, itemized statement in triplicate of the details and amount of the alleged damages. The Contractor agrees that unless such statement is made and filed as so required, his claim for damages shall be deemed waived, invalid and unenforceable, and that he shall not be entitled to any compensation for any such alleged damages. Within ten (10) days after the timely filing of such statement, the Owner shall submit his recommendations for action.

The Contractor shall not be entitled to claim any additional compensation for damages by reason of any direction, instruction, determination or decision of the Engineer, nor shall any such claims be considered, unless the Contractor shall have complied in all respects with the third paragraph of that subsection above of this AGREEMENT titled **AUTHORITY OF THE OWNER** including, but not limited to the filing of a written protest in the manner and within the time therein provided.

#### **A30 ABANDONMENT OF WORK OR OTHER DEFAULT**

If the Work shall be abandoned, or any part thereof shall be sublet without previous written consent of the Owner, or the Contract or any moneys payable hereunder shall be assigned otherwise than as herein specified, or if at any time the Owner shall certify in writing that the conditions herein specified as to rate of progress are not being complied with or that the Work or any part thereof is being unnecessarily or unreasonably delayed or that the Contractor has violated or is in default under any of the provisions of the Contract, or if the Contractor becomes bankrupt or insolvent or goes or is put into liquidation or dissolution, either voluntarily, or petitions for an arrangement or reorganization under the Bankruptcy Act, or makes a general assignment for the benefit of creditors or otherwise acknowledges insolvency, the happening of any of which shall be and constitute a default under the Contract, the Owner may notify the Contractor in writing, with a copy of such notice mailed to the Surety, to discontinue all work or any part thereof; thereupon the Contractor shall discontinue such Work forthwith or such part thereof as the Owner may designate, and the Owner may, upon giving such notice, by contract or otherwise as it may determine, complete the Work or such part thereof and charge the entire cost and expense of so completing the Work or such part thereof to the Contractor. In addition to the said entire cost and expense of completing the Work the Owner shall be entitled to reimbursement from the Contractor and the Contractor agrees to pay to the Owner any losses, damages, costs and expenses, including attorney's fees, sustained or incurred by the Owner by reason of any of the foregoing causes. For the purposes of such completion the Owner may for itself or for any contractors employed by the Owner take possession of and use or cause to be used any and all materials, equipment, plant, machinery, appliances, tools, supplies and such other items of every description that may be found or located at the site of the Work.

All costs, expenses, losses, damages, attorneys' fees and any and all other charges incurred by the Owner under this subsection shall be charged against the Contractor and deducted by the Owner out of any moneys due or payable or to become due or payable under the Contract to the Contractor; in computing the amounts chargeable to the Contractor, the Owner shall not be held



to a basis of the lowest prices for which the completion of the Work or any part thereof might have been accomplished, but all sums actually paid or obligated therefore to effect its prompt completion shall be charged to and against the account of the Contractor. In case the costs, expenses, losses, damages, attorneys' fees and other charges, together with all payments theretofore made to or for the account of the Contractor, are less than the sum which would have been payable under the Contract if the Work had been properly performed and completed by the Contractor, the Contractor shall be entitled to receive the difference; in case such costs, expenses, losses, damages, attorneys' fees and other charges, together with all payments theretofore made to or for the account of the Contractor, shall exceed the said sum, the Contractor shall pay the amount of the excess to the Owner.

#### **A31 PRICES FOR WORK**

The Owner shall pay and the Contractor shall receive the prices stipulated in the BID FORM made a part hereof as full compensation for everything performed and furnished and for all risks and obligations undertaken by the Contractor under and as required by the Contract.

#### **A32 MONEYS MAY BE RETAINED**

The Owner may at any time retain from any moneys which would otherwise be payable hereunder so much thereof as the Owner may deem necessary to complete the Work hereunder and to reimburse it for all costs, expenses, losses, damage and damages chargeable to the Contractor hereunder.

#### **A33 USE OR PARTIAL PAYMENT NOT ACCEPTANCE**

It is agreed that this is an entire contract for one whole and complete Work or result and that neither the Owner's entrance upon or use of the Work, or any part thereof nor any partial payments by the Owner shall constitute an acceptance of the Work or any part thereof before its entire completion and final acceptance.

#### **A34 PERIODIC ESTIMATES**

Once a month, except as hereinafter provided, the Contractor shall make an estimate in writing to the Owner, of the total amount and value of the work done to the first of the month. The estimate shall be reviewed and recommended for payment by the Engineer before submittal to the Owner. Submittal without the Engineer's recommendation shall be considered not in the required form. The Owner shall retain five percent (5%) of such estimated value, as set forth under SPECIAL CONDITIONS, as part security for fulfillment of the Contract by the Contractor and shall deduct from the balance all previous payments made to the Contractor, all sums chargeable against the Contractor and all sums to be retained under the provisions of the Contract. The Owner shall pay monthly to the Contractor the balance not deducted and/or retained as aforesaid, except that payment may be withheld at any time if, in the sole judgment of the Owner, the Work is not proceeding in accordance with the Contract.

If the Owner deems it expedient to do so, it may cause estimates and payments to be made more frequently than once in each month. No periodic estimate or payment need be made when, in the sole judgment of the Owner, the total value of the work done since the last estimate amounts to less than the amount set forth under SPECIAL CONDITIONS.

Estimates of lump-sum items shall be based on a schedule dividing each such item into its appropriate component parts together with a quantity and a unit price for each part so that the sum of the products of prices and quantities will equal the Contract price for the item. This

schedule shall be submitted by the Contractor for and must have the approval of the Owner before the first estimate becomes due.

If the Owner determines that the progress of the Work will be benefited by the delivery to the site of certain materials and equipment, when available, in advance of actual requirement therefore and if such materials and equipment are delivered and properly stored and protected, the cost to the Contractor or subcontractor as established by invoices or other suitable vouchers satisfactory to the Owner, less the retained percentages as above provided, may be included in the periodic estimates; provided always that there be duly executed and delivered by the Contractor to the Owner at the same time a Bill of Sale in form satisfactory to the Owner, transferring and assigning to the Owner full ownership and title to such materials or equipment. Prior to the subsequent payment estimate, the Contractor shall demonstrate that suppliers of such materials and equipment have been properly paid.

As a condition precedent to Owner payments hereunder, Contractor, shall furnish lien releases, satisfactory to Owner. Should any lien or notice of lien be filed by any person performing labor or furnishing material to Contractor, Owner shall have the option to (a) retain from amounts due to Contractor a sufficient sum to pay and discharge such obligation, or (b) pay and discharge such lien without regard to its validity and to collect from Contractor all costs including reasonable attorney's fee for discharging such lien. In lieu of (a) or (b) above, Contractor at its option may furnish an indemnity bond, approved by Owner, at the Contractor's cost.

### **A35 FINAL ESTIMATE AND PAYMENT**

Within sixty-five days after (a) the Contractor fully completes the Work or substantially completes the Work so that the value of the work remaining to be done is, in the estimate of the Owner, less than one percent of the original contract price, or (b) the Contractor substantially completes the Work and the Owner takes possession for occupancy, whichever occurs first, the Owner shall pay the Contractor the entire balance due on the contract as determined by the Engineer less (1) a retention based on its estimate of the fair value of its claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of work and less (2) a retention for direct payments to subcontractors. The Engineer also shall fix the date of completion of the work and incorporate the same into the final estimate.

All quantities shown on periodic estimates and all prior payments shall be subject to correction in the final estimate and payment.

The Contractor's acceptance of such final payment shall constitute a waiver of all claims by the Contractor against the Owner, the Engineer and any agent, servant or employee of either, except for such claims as have previously been made in writing, and submitted to the Owner.

A lien waiver shall be precedent to final payment.

### **A36 LIENS**

If at any time any notices of lien are filed for labor performed or materials or equipment manufactured, furnished, or delivered to or for the Work, the Contractor shall, at its own cost and expense, promptly discharge, remove or otherwise dispose of the same, and until such discharge, removal or disposition, the Owner shall have the right to retain from any moneys payable hereunder an amount which, in its sole judgment, it deems necessary to satisfy such liens and pay the costs and expenses, including attorneys' fees, of defending any actions brought to enforce the same, or incurred in connection therewith or by reason thereof.

### **A37 CLAIMS**

If at any time there be any evidence of any claims for which the Contractor is or may be liable or responsible hereunder, the Contractor shall promptly settle or otherwise dispose of the same, and until such claims are settled or disposed of, the Owner may retain from any moneys which would otherwise be payable hereunder so much thereof as, in its sole judgment, it may deem necessary to settle or otherwise dispose of such claims and to pay the costs and expenses, including attorneys' fees, of defending any actions brought to enforce such claims, or incurred in connection therewith or by reason thereof.

### **A38 APPLICATION OF MONEYS RETAINED**

The Owner may apply any moneys retained hereunder to reimburse itself for any and all costs, expenses, losses, damage and damages, liabilities, suits, judgments and awards incurred, suffered or sustained by the Owner and chargeable to the Contractor hereunder or as determined hereunder.

### **A39 NO WAIVER**

Neither the inspection by the Owner or the Engineer, nor any order, measurement, approval, determination or decision or certificate by the Engineer, nor any order by the Owner for the payment of money, nor any payment for or use, occupancy, possession or acceptance of the whole or any part of the Work by the Owner, nor any extension of time, nor any other act or omission of the Owner or of the Engineer shall constitute or be deemed to be an acceptance of any defective or improper work, materials, or equipment; nor operate as a waiver of any requirement or provision of the Contract, nor of any remedy, power or right herein reserved to the Owner, nor of any right to damages for breach of contract. Any and all rights and/or remedies provided for in the Contract are intended and shall be construed to be cumulative; and, in addition to each and every other right and remedy provided for herein or by law, the Owner shall be entitled as of right to an injunction against any breach or threatened breach of the Contract by the Contractor, by his subcontractors or by any other person or persons.

### **A40 LIABILITY OF OWNER**

No person, firm or corporation, other than the Contractor, who signed this Contract as such, shall have any interest herein or right hereunder. No claim shall be made or be valid either against the Owner or any employee, servant or agent of the Owner or the Engineer and neither the Owner nor any employee, servant or agent of the Owner or the Engineer shall be liable for or be held to pay any money except as herein provided. The acceptance by the Contractor of the payment as fixed in the final estimate shall operate as and shall be a full and complete release of the Owner and of every employee, servant or agent of the Owner or the Engineer of and from any and all claims, demands, damages and liabilities of, by or to the Contractor for anything done or furnished for or arising out of or relating to or by reason of the Work except the claim against the Owner for the unpaid balance, if any there be, of the amounts retained as herein provided.

### **A41 GUARANTEE**

The Contractor guarantees that the Work and services to be performed under the Contract, and all workmanship, materials and equipment performed, furnished, used or installed in the construction of the same, shall be free from defects and flaws, and shall be performed and furnished in strict accordance with the Drawings, Specifications, and other Contract Documents, that the strength of all parts of all manufactured equipment shall be adequate and as specified and that the performance test requirements of the Contract shall be fulfilled. This guarantee shall be

for a period of one year from and after the date of completion and acceptance of the Work as stated in the final estimate.

If part of the Work is accepted in accordance with that subsection of this Agreement titled "Partial Acceptance", the guarantee for that part of the Work shall be for a period of one year from the date fixed for such acceptance.

If at any time within the said period of guarantee, any part of the Work requires repairing, correction or replacement, the Owner may notify the Contractor in writing to make the required repairs, correction or replacements. If the Contractor neglects to commence making such repairs, corrections or replacements to the satisfaction of the Owner within ten (10) days from the date of receipt of such notice, or having commenced fails to prosecute such Work with diligence, the Owner may employ other persons to make said repairs, correction or replacements, including compensation for additional professional services, shall be paid by the Contractor.

Nothing contained in the Section shall be construed as a limitation as to any and all rights the Owner may have against the Contractor for any neglect or for any breach of this AGREEMENT.

#### **A42 RETURN OF DRAWINGS**

All Drawings furnished by the Owner or the Engineer to the Contractor may be used only in connection with the prosecution of the Work and shall be returned by the Contractor upon completion of the Work.

#### **A43 LEGAL ADDRESS OF CONTRACTOR**

The Contractor's business address is hereby designated as the place to which communications shall be delivered. The depositing of any letter notice, or other communication in a postpaid wrapper, directed to the Contractor's business address, in a post office box regularly maintained by the Post Office Department or the delivery at designated address of any letter, notice, or other communication by mail or otherwise shall be deemed sufficient service thereof upon the Contractor, and the date of such service shall be the date of receipt. The address may be changed at any time by an instrument in writing, executed and acknowledged by the Contractor, and delivered to the Engineer. Service of any notice, letter, or other communication upon the Contractor personally shall likewise be deemed sufficient service.

#### **A44 HEADINGS**

The headings or titles of any section, subsection, paragraph, provision, or part of the Contract Documents shall not be deemed to limit or restrict the content, meaning or effect of such section, subsection, paragraph, provision or part.

#### **A45 MODIFICATION OR TERMINATION**

Each party shall have the right to terminate this Contract in the event of a failure of the other party to comply with the terms of the Contract. 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.

The Owner shall have the right to terminate the Contract without cause, upon ten (10) days' written notice to the Contractor. In the event that the Contract is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not

incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

Except as otherwise expressly provided herein, the Contract may not be modified except in writing signed by the parties hereto.

#### **A46 RESPONSIBILITY OF ENGINEER**

Neither the Engineer's authority to act under any section of this Agreement or under any other provision in the Contract Documents, nor any decision made by the Engineer to either exercise or not exercise such authority shall excuse Contractor, or any subcontractor, manufacturer, fabricator, supplier, or distributor, or to any of their agents, employees, or any other person from performing any of the Work, or otherwise complying with the terms of the Contract Documents.

#### **A47 NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

Discriminatory employment practices by contractors, subcontractors and suppliers of goods and services based on race, color, religion, national origin, ancestry, age or sex are prohibited. Contractors and suppliers of goods and services shall give written notice of their commitment to non-discrimination to any labor union, association or brotherhood with which they have a collective bargaining or other agreement.

#### **A48 INDEMNIFICATION**

The Contractor shall indemnify, defend and hold the Owner and Agent, as well as the Owner and Agent's successors and assigns, harmless for any claim for damages of whatever description arising from the negligence of the Contractor or any of its employees and subcontractors in the performance of the work or arising from a breach of the Contractor's agreement with the Owner.

#### **A49 MISCELLANEOUS**

**Royalties and Patents:** The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.

**Assignment:** The Contractor shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the Owner.

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

By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.



IN WITNESS HEREOF, the parties of this AGREEMENT have hereunto set their hands and seals as of the day and year first above written.

**TOWN OF MONTAGUE**

**CONTRACTOR**

By: \_\_\_\_\_  
Richard Kuklewicz, Selectboard Chair

By: [Signature]  
Signature of Contractor  
David G. Roach & Sons Inc.  
Name of Contractor

By: \_\_\_\_\_  
Christopher M. Boutwell, member

President  
Title of Contractor

By: \_\_\_\_\_  
Matthew Lord, member

P.O. Box 359 99 Barre Depot Rte  
Street Address

S. Barre MA 01074  
City, State and Zip

043157791  
Tax ID or Social Security No.

Certified as to funds available:

\_\_\_\_\_  
Carolyn Olsen, Town Accountant

FOR CORPORATIONS ONLY:

By: [Signature]  
Clerks' Signature  
Kelly Kemp  
Print or Type Clerk's Name

**CERTIFICATE OF ACKNOWLEDGMENT  
OF CONTRACTOR IF A CORPORATION**

**For AGREEMENT**

State of Massachusetts )  
 )ss:

County of Worcester )

On this 1<sup>st</sup> day of November, 2021, before me  
personally came Daniel Roach to me known, who  
being by me duly sworn, did depose and say as follows:

That he resides at 418 Thayer Rd.  
and is the President  
of Dani G Roach & Sons Inc.

the corporation described in and which executed the foregoing instrument; that he knows the  
corporate seal of said corporation; that the seal affixed to the foregoing instrument is such  
corporate seal and it was so affixed by order of the Board of Directors of said corporation; and  
that by the like order he signed thereto his name and official designation.

Kelly Kemp  
Notary Public



My commission expires 9.30.2022

END OF SECTION

**SECTION 6  
CONTRACT BONDS**

***PERFORMANCE BOND***

(NOTE: This Bond is issued simultaneously with the attached Labor and Materials Bond in favor of the Owner.)

KNOW ALL MEN BY THESE PRESENTS: That we

David G. Roach & Sons, Inc.

(an individual, a partnership, a corporation)

duly organized under the Laws of the State (or Commonwealth) of Massachusetts,

and having a usual place of business at P.O. Box 359, South Barre, MA 01074,

as Principal, and Harco National Insurance Company a

corporation duly organized under the Laws of the State (or Commonwealth) of Illinois

and duly authorized to do business in the State (or Commonwealth) of Massachusetts,

and having a usual place of business at 702 Oberlin Road, Raleigh, NC 27605-0800,

as Surety are holden and stand firmly bound and obligated unto the Town of Montague as  
Two Million Three Hundred Thirty Eight Thousand Six Hundred  
obligee, in the sum of Sixty Four and 50/100\*\*(\$2,338,664.50)

lawful money of the United States of America, to and for the true payment whereof we bind  
ourselves and, each of us, our heirs, executors, administrators, successors, and assigns, jointly  
and severally, firmly by these presents.



WHEREAS, the Principal, by means of a written AGREEMENT (which together with the Contract Documents in said AGREEMENT referred to are collectively sometimes referred to as

the "CONTRACT") dated November 1, 2021 has entered into a contract with the said obligee for 5<sup>th</sup> Street Pedestrian Bridge and Intersection Improvements, Montague, MA a copy of which AGREEMENT is attached hereto and by reference made a part hereof.

NOW THEREFORE, THE CONDITION of this obligation is such that if the Principal shall well and truly keep and fully and faithfully perform all of the terms and conditions of said AGREEMENT and of the "Contract Documents" referred to in said AGREEMENT (which collectively are hereinafter and in said AGREEMENT sometimes referred to as the "Contract") and all modifications thereof on the Principal's part to be performed, this obligation shall be void; otherwise it shall remain in full force and effect.


Wherever the said Principal shall be, and declared by the Owner to be, in default under the said Contract, the Owner having performed the Owner's obligations thereunder, the Surety, for value received, shall promptly remedy the default, or, at the option of the Owner, shall promptly

- (a) Complete the said AGREEMENT and/or Contract in accordance with its terms and conditions, or
- (b) Obtain a bid or bids for submission to and the approval of the Owner for completing the said AGREEMENT and/or Contract and any modifications thereof in accordance with the terms and conditions thereof, and upon determination by the Owner and the Surety of the lowest responsible and acceptable bidder, arrange for a contract between such bidder and the Owner, and make available to the Owner as the Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less a sum that shall be equal to the difference between the Contract price as fixed and provided in said AGREEMENT and/or Contract or any modifications thereof to be paid thereunder to the Principal and the amount previously paid by the Owner to and/or for the account of and/or chargeable against the Principal, but not exceeding (including other costs and damages for which the Surety may be liable hereunder) the amount set forth in the first paragraph hereof.

The Surety, for value received, agrees further that no changes in, omissions from, or alterations, modifications or additions to the terms and provisions of said AGREEMENT and/or Contract or the Work to be performed thereunder, and that no extensions of time given or changes made in the manner or time of making payments thereunder, shall in any way affect the Surety's obligations on this Bond, and the Surety hereby waives notice of any such changes, omissions, alterations, modifications, additions or extensions.

No right of action shall accrue on this Bond to or for the use of any persons other than the Owner named herein or the heirs, executors, administrators, successors and assigns of the Owner.

ar Two Thousand

by  Principal SEAL  
Daniel Roach, President

by Gail M Perrin SEAL  
Surety  
Gail M Perrin, Attorney -in-Fact

\_\_\_\_\_  
Surety

SEAL

If the Principal (Contractor) is a partnership, the Bond should be signed by each of the partners.

If this Bond is signed on behalf of the Surety by an attorney-in-fact, there should be attached to it a duly certified copy of his power of attorney showing his authority to sign such Bonds.

## Important

The attention of the Surety Companies and Principal executing this Performance Bond is Directed to the fact that said Bond shall remain in full effect throughout the life of any guaranty or warranty periods stipulated in the Contract Documents and/or Agreement.

**LABOR AND MATERIALS BOND**

(NOTE: This Bond is issued simultaneously with the attached Performance Bond in favor of the Owner.)

KNOW ALL MEN BY THESE PRESENTS:

That we, David G. Roach & Sons, Inc.  
(an individual, a partnership, a corporation)

duly organized under the Laws of the State (or Commonwealth) of Massachusetts,

and having a usual place of business at P.O. Box 359, South Barre, MA 01074

as Principal, and Harco National Insurance Company a corporation duly  
organized under the Laws of the State (or Commonwealth) of Illinois

and duly authorized to do business in the State (or Commonwealth) of Massachusetts

and having a usual place of business at 702 Oberlin Road, Raleigh, NC 27605-0800 as

surety, are holden and stand firmly bound and obligated unto the Town of Montague, as

obligee, in the sum of Two Million Three Hundred Thirty Eight Thousand  
Six Hundred Sixty Four and 50/100\*\*(\$2,338,664.50)

lawful money of the United States of America, to and for the true payment whereof we bind

ourselves and, each of us, our heirs, executors, administrators, successors, and assigns, jointly

and severally, firmly by these presents.

WHEREAS, the Principal, by means of a written AGREEMENT (which together with the Contract Documents in said AGREEMENT referred to are collectively sometimes referred to as

the "Contract") dated November 1, 2021 has  
entered into a contract with the said obligee for 5<sup>th</sup> Street Pedestrian Bridge and Intersection Improvements, a copy of which AGREEMENT is attached hereto and by reference made a part hereof.

NOW THEREFORE, THE CONDITION of this obligation is such, that if the Principal shall promptly make payments to all claimants as hereinafter defined, for all labor performed or furnished and for all materials and equipment furnished for or used in or in connection with the Work called for by said AGREEMENT and/or Contract and any modifications thereof, including lumber used but not incorporated in said Work, and for the rental or hire of vehicles, tools and other appliances and equipment furnished for or used in connection with said Work, this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, materials and/or equipment used or reasonably required for use in the performance of the said Work, labor and materials being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the said AGREEMENT and/or Contract and any modifications thereof.
2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials or equipment were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant,
  - (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials or equipment for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials or equipment were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the said Work is located, save that such service need not be made by a public officer;
  - (b) After the expiration of one (1) year following the date on which the Principal ceased work on said AGREEMENT and/or Contract and any modifications thereof, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the said Work, or any part thereof, is situated, or in the United States District Court for the district in which the said Work, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said AGREEMENT and/or Contract or said Work, whether or not claim for the amount of such lien be presented under and against this bond.

The Surety, for value received, agrees further that no changes in, omissions from, or alterations, modifications or additions to the terms and provisions of said AGREEMENT and/or Contract or the Work to be performed thereunder, and that no extensions of time given or changes made in the manner of time of making payments thereunder, shall in any way affect the Surety's obligations on this Bond, and the Surety hereby waives notice of any such changes, omissions, alterations, modifications, additions or extensions.

Two Thousand

Principal  
Harco National Insurance Company

\_\_\_\_\_  
Surety

SEAL

**CERTIFICATE OF ACKNOWLEDGMENT OF CONTRACTOR IF A CORPORATION  
FOR CONTRACT BONDS**

State of Massachusetts )

\_\_\_\_\_ )

County of Worcester )

On this 1<sup>st</sup> day of November, 2021,

before me personally came Daniel Roach

to me known, who being by me duly sworn, did depose and say as follows:

That he resides at 418 Thayer Rd Ware MA 01082

and is the President

of David G Roach & Sons Inc.

the corporation described in and which executed the foregoing instrument; that he knows the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal and it was so affixed by order of the Board of Directors of said corporation; and that by the like order he signed thereto his name and official designation.

Kelly Kemp  
Notary Public

My commission expires 9.30.2022



**POWER OF ATTORNEY**  
**HARCO NATIONAL INSURANCE COMPANY**  
**INTERNATIONAL FIDELITY INSURANCE COMPANY**

Bond # 0792321

Member companies of IAT Insurance Group, Headquartered: 702 Oberlin Road, Raleigh, North Carolina 27605

**KNOW ALL MEN BY THESE PRESENTS:** That **HARCO NATIONAL INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of Illinois, and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

**STEVEN M. VITORINO, GAIL M. PERRIN**

West Springfield, MA

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of **HARCO NATIONAL INSURANCE COMPANY** at a meeting held on the 13th day of December, 2018.

"**RESOLVED**, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognition, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** have each executed and attested these presents on this 31st day of December, 2018



STATE OF NEW JERSEY  
County of Essex

Kenneth Chapman

Executive Vice President, Harco National Insurance Company  
and International Fidelity Insurance Company

STATE OF ILLINOIS  
County of Cook



On this 31st day of December, 2018, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY**; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley a Notary Public of New Jersey  
My Commission Expires April 04, 2023

**CERTIFICATION**

I, the undersigned officer of **HARCO NATIONAL INSURANCE COMPANY** and **INTERNATIONAL FIDELITY INSURANCE COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, November 01, 2021





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/03/2021

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

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

PRODUCER Webber & Grinnell 8 North King Street  Northampton MA 01080	CONTACT NAME: Brenda Klaus PHONE (A/C, No, Ext): (413) 586-0111 FAX (A/C, No): (413) 586-6481 E-MAIL ADDRESS: bklaus@webberandgrinnell.com
INSURED David G. Roach & Sons, Inc. Attn: Kelly Kemp, Controller PO Box 359 S Barre MA 01074	INSURER(S) AFFORDING COVERAGE INSURER A: Berkley Assurance/BRECK INSURER B: WCAR- Berkshire Hathaway GUARD INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: Exp 01/22 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			ECP2031571-10	03/28/2021	03/28/2022	EACH OCCURRENCE \$ 1,000,000
			DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000				
			MED EXP (Any one person) \$ 5,000				
			PERSONAL & ADV INJURY \$ 1,000,000				
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							Pollution Liability \$ 1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB			FFX2031573-10	03/28/2021	03/28/2022	EACH OCCURRENCE \$ 6,000,000
	<input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 6,000,000
	DED RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	R2WC270910	01/16/2021	01/16/2022	PER STATUTE OTH-ER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A							

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

## CERTIFICATE HOLDER

## CANCELLATION

Town of Montague One Avenue A  Turners Falls MA 01376	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
--	---

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**WendyB-Montague Selectboard**

---

**From:** StevenE - Montague Town Administrator  
**Sent:** Wednesday, November 3, 2021 12:01 PM  
**To:** WendyB-Montague Selectboard  
**Cc:** Kat Allen; Matt Lord  
**Subject:** CtCC Prevention Proposal 100621.docx  
**Attachments:** CtCC Prevention Proposal 100621.docx

Hi Wendy

Attached find the proposed scope of services for work to be performed by the Community that CARES Coalition in support of implementation of Montague's school- and community-based substance abuse prevention efforts. I would like to ask the Selectboard to execute an agreement to commence the work, which I believe will be in FRCOG's standard form. This work is supported by the Cannabis Impact Fee Stabilization and the CtCC's role was specifically called out in two appropriations that will support it, from last May and this October.

Kat – I tried to reach you by phone earlier. I'd like to work through the agreement with FRCOG at your first convenience. Please send me a separate email or call.

Thanks - Steve

# Communities that Care

## COALITION

### Proposal for Prevention Related Services for the Town of Montague

Whereas the Town of Montague has Cannabis Impact Fees to spend on the mitigation of harm from legalized cannabis, and wished to spend this funding as responsibly as possible, with fidelity to the best evidence in youth substance use prevention and harm reduction...

And whereas the Communities That Care Coalition (a program of the Franklin Regional Council of Governments) has expertise in working with local towns and schools to ensure that youth substance use prevention and youth development efforts are as effective as possible...

The Communities That Care Coalition proposes to work with the Town of Montague to provide monitoring, technical assistance, and evaluation of their youth substance use prevention efforts undertaken with Cannabis Impact Fees.

If funded, the Communities That Care Coalition will:

- Monitor and assess the effectiveness of new and existing prevention efforts in the Gill-Montague Regional School District and Franklin County Technical School, and report findings to the Selectboard and school leaders as requested. Specifically, these services will focus on the...
  - New Licensed Drug and Alcohol Counselor
  - Implementation of the Botvin™ Middle School LifeSkills substance use prevention curriculum
  - Implementation of the PreVenture program
- Provide technical assistance with the selection and implementation of evidence-based drug and alcohol prevention efforts in the schools and community as requested
- Share any emergent youth substance abuse issues or related concerns that are apparent in data collected over the course of the 2021-22 school year.

A one-year budget for these proposed services is:

Coalition Co-Coordinator (Kat Allen), 1 hour per week plus all fringe & admin overhead = \$6,680
Prevention in Schools Coordinator (in hiring process), ½ hour per week plus fringe & admin = \$4,506
Rent, IT, Mileage, Program Support = \$814
<i>Total Budget = \$12,000</i>

## **One-Year Workplan:**

**Ongoing (as requested),** Partnership for Youth Staff will provide technical assistance with the selection and implementation of evidence-based drug and alcohol prevention efforts in the schools and community as requested by authorized school officials and/or the Town.

**Ongoing (as requested),** Partnership for Youth Staff will share any emergent youth substance abuse issues or related concerns that are apparent in data collected over the course of the 2021-22 school year. Staff will give presentations on Gill-Montague Regional School District and Franklin County Technical School's Teen Health Survey data at the request of school staff, School Committee and/or Selectboard members, with the explicit, written permission of the school superintendent.

**Ongoing (as requested),** Partnership for Youth Staff will report back to School Committee and/or Selectboard on progress of implementation of prevention services (including the new Licensed Drug and Alcohol Counselor and the Community-Based Organization Evidence-Based Parent Education Programs) as requested by authorized school officials and/or the Town.

## **Tasks Related to...**

### **The New Licensed Drug and Alcohol Counselor:**

- **In the first quarter,** Partnership for Youth Staff will work with the new Licensed Drug and Alcohol Counselor to determine what metrics (such as number of students seen, types of presenting problems, demographics of students served, outreach to parents, etc.) are already being collected and what additional metrics can be collected. The Partnership for Youth Staff will work on creating any additional data collection tools necessary for monitoring the successful implementation of this initiative.
- **Ongoing (as requested),** Partnership for Youth Staff will seek out and forward any resources that would be valuable to the New Licensed Drug and Alcohol Counselor (such as trainings, protocol, introductions, resources, or other supports that might enhance their effectiveness), and will be available for questions and troubleshooting.

### **The Community-Based Organization Evidence-Based Parent Education Program:**

- Assist Town with drafting of a request for proposals and proposal review criteria.
- Assist Town with technical evaluation of proposals relative to stated review criteria.
- Conduct periodic check-ins with grantees to ensure programs are being implemented with fidelity to the model and that agencies are collecting appropriate process metrics. Monthly check-ins for initial quarter, then at least quarterly.
- Assist grantees with production of report summarizing program participation and any reasonably available initial outcomes.

## Overview of Montague Special Funds and Sources

November 3, 2022

11B

Following is an overview of a set of special purpose accounts and sources available to Montague that extend beyond the well-discussed stabilization and discretionary accounts that are regularly subject to use and appropriation in the context of Town Meeting. This summary is intended to highlight sources at a particular moment in time, in which they are larger and more diverse than would be typical for of this Town.

### **ARPA Funding**

The Town has been allocated \$2,454,623 and received one half of that sum (\$1,227,312). We will be eligible to request the second, equal, half of that funding in June 2022. By rule, funds do not have to be obligated until December 31, 2024, and unexpended funds are not subject to recapture or return until December 31, 2026.

To date, the board has made or signaled interest in the three investments described below. The first two are definitively committed (\$540,493), the third would be made pending receipt of a grant from MA DEP, which requires a matching share that could be up to \$100,000 additional. They could choose another option for funding of that match, subject to Town Meeting approval. If these investments are assumed, we hold a balance of \$586,818 (47%) of the first installment of our ARPA funding. By next July, without further expenditures, we would assume a cash balance of \$1,814,130.

1. Wastewater Infrastructure: \$49,000 to fund an EPA mandated Long Term Control Plan for management of CSOs (combined sewer overflows) resulting from the Town's combined sewer/stormwater infrastructure in select locations.
2. Water and Wastewater Infrastructure: \$491,493 to fund utilities as part of the 5<sup>th</sup> Street Pedestrian Bridge.
3. Wastewater Infrastructure: Up to a 40% match for a DEP Asset Management Program grant up to \$150,000. This project would fund a comprehensive evaluation of I&I and related issues in the Millers Falls collection system and hydraulic modeling to support the CSO Long Term Control Plan alternatives analysis, which builds on the previously referenced CSO control plan to articulate the best engineering approach to reducing CO events in the Town.

### **Receipts Reserved for Appropriation: Sale of Real Property**

The Town has a special account that receives any funds resulting from the sale of property. After recent sales of land in the industrial park, on Sandy Lane, and on 6<sup>th</sup> Street, the balance has suddenly climbed to \$446,446. Like ARPA, you have this money until it is spent. There's not a lot of planned property sales in the works to replenish it. You can use these funds for any purpose for which a city, town or district is authorized to incur debt for a period of five years or more or be applied to the payment of indebtedness. As Carolyn and I have reviewed the statute, if it is something we might otherwise finance through debt, we can apply it to that purpose.

## **Overview of Montague Special Funds and Sources**

November 3, 2022

### **Colle Building Special Reserve Fund**

The Colle Building's lease revenue exceeds its ongoing expenses and these funds are directed into a special revenue account that has a present balance of \$346,062. This account was tapped two years ago to cover in excess of \$150,000 in combined building renovations, which included window, painting, and masonry repair. These funds can only be used to support the operations and maintenance of the building and the next major expenditure will likely be roof replacement. It is possible that these funds could be used for repairs incidental to the streetscape improvement project, but they would require appropriation by Town Meeting.

### **FirstLight Payment for Canal District Utility Replacement**

We've not yet received these funds, but the final agreement associated with FirstLight, which exchanged utility easements associated with the Strathmore Footbridge for those for construction of the new pedestrian bridge included a payment of \$250,000. We've sought opinions from DOR this fall and understand we may have the ability to establish a special revenue account at our winter STM, into which these could be directed (similar to the cannabis accounts), and then subsequently appropriate those funds out for the purposes described in the agreement with FirstLight.

### **CDBG Housing Rehab Repayment Funds**

The Town occasionally receives funding through repayment of past CDBG housing rehab program loans, which benefit low income homeowners and do not require repayment until a property is sold or transferred. The FCHRA manages and distributes these funds to the Town as they become available. Depending on how recent (or not) the original loan was, it flows into one of two locations. Payments are sporadic, but have been more frequent recently due to home sales.

- Older repayments (>5 "program years past) go into the Town's Community Development Discretionary Account, which can be dedicated to specific purposes aligned with the CDBG program goals. The Selectboard has relative flexibility with use of these funds. Recent strength in reserves has allowed us to build that balance to \$85,000, some \$59,000 of which is not yet allocated to a particular use, with the rest in purpose dedicated lines, placed there by past SB action.
- Repayment of more recent loans is subject to active CDBG rules and "programming" processes. Montague is in the final year of a 10-year agreement with FCHRA that essentially splits these revenue 50/50, re-programming 50% to the purposes of additional housing rehab (implemented by FCHRA) and 50% for other active Town CDBG projects. Based on a report yesterday, the Town balance of these funds, held at FCHRA, is expected to be in the vicinity of \$52,000 pending a repayment that is in process. This is being discussed as a possible source of bid contingency for the Shea/Colle streetscape project, which will be bid this winter.