



**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD

GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext 1100 • FAX (508) 839-4602  
[www.grafton-ma.gov](http://www.grafton-ma.gov)

**BOARD OF SELECTMEN**  
**MEETING AGENDA**  
July 12, 2016  
Municipal Center, Conference Room A  
7:00 p.m.

**CALL TO ORDER**

**ANNOUNCEMENTS**

- [National Night Out – August 2<sup>nd</sup> from 5 – 8 PM](#)

**1. SCHEDULE**

- [One Grafton Common Change Orders – Andy Deschenes](#)
- [Charter Review Committee - Update](#)
- [Hazard Mitigation Plan Presentation – Paul Dell’Aquila](#)
- [21 Wheeler Road – Peter Adams](#)

<http://www.grafton-ma.gov/affordable-housing-trust/pages/elmrock-estates-fieldstone-farms-single-family-residential>

- [DPW Building Facility Committee](#)
- [Public Hearing -Grafton Flea Market- Liquor License](#)

**2. APPOINTMENTS**

- Town Administrator

[Police Chief- Authorize Town Administrator to Sign Three Year Renewal Contract](#)

[Michelle Malkasian – Part Time Activities Coordinator-Council on Aging](#)

- Board of Selectmen-none

### 3. RESIGNATIONS

- a) [Peter Adams – ZBA](#)
- b) [Doreen DeFazio - CIPC](#)

### 4. NEW BUSINESS

- a) [Vote to Authorize Town Administrator to Sign Application to Install New Signage for Magnolia Lane](#)
- b) [Vote to Authorize Town Administrator to Sign a Contract for Seven 4-Day Weeks of Golf Instruction with James Chisholm for the Recreation Department](#)
- c) [Vote to Authorize Town Administrator to Sign a Contract with MX Consulting for I.T. Services](#)
- d) [Vote to Sign Regulatory Agreement –Ferry Street](#)
- e) [Vote to Sign 9 Depot Street, Sewer Treatment Facility -Easement](#)
- f) [Vote to Name Lake Ripple Boat Ramp in Memoriam of John Wilson](#)
- g) [Vote to Hold a Special Town Meeting for the Sale of Creeper Hill Road](#)
- h) Vote to Sign Contracts for : Chip seal, Crack Sealing, Pavement Markings and Tree Trimming Services
  - [Comer Contracting, Inc.](#)
  - [Crack-Sealing Inc.](#)
  - [Markings Inc.](#)
  - [Favreau Forestry](#)

### 5. SELECTMEN REPORTS / TA REPORTS

### 6. CORRESPONDENCE

[Cable Oversight Committee- Robert DeToma](#)

### 7. DISCUSSION

### 8. MEETING MINUTES

[5/3/16](#)

## **EXECUTIVE SESSION**

MGL Chapter 30A, Sec. 21(3)

Litigation Update

Litigation Strategy

Union Negotiations

Land Negotiation

Non Union Negotiations

Strategy for Negotiations

Minutes

## **ADJOURN**

## Announcements:

- National Night Out – August 2<sup>nd</sup> from 5 -8 PM

If the Board is in agreement the Board will Vote to approve change orders for One Grafton Common- Andy Deschenes will be in attendance.



West Roxbury, Massachusetts 02132-0003  
Telephone 617-327-3070  
Fax 617-327-9731

Town of Grafton  
30 Providence Road  
Grafton MA, 01519  
Attn: Richard Thuma

Dixon Salo Architects, Inc  
501 Park Ave #210  
Worcester, MA 01610  
Attn: Neil Dixon

Date: March 23, 2016

Re: Grafton Townhouse  
One Grafton Common, Grafton MA 01519

Change Proposal **48R Contract Time Extension**

Costs associated with the addition of 30 working days to original completion date of April 1, 2016 to May 13th, 2016

Item 1: General Conditions "See attached proposal" \$ 15,862.00

General Condition costs are based on 15 working days not calender days with time extension for 30 working days. Extension of time is due to National Grid delays at no fault of MOCC. Work Order # delays, transformer delays, electrical room demolition delayed from original schedule of 9/25/15 to 12/3/16 and as of today, 3/15/16.

|  |                     |
|--|---------------------|
| Subtotal:                                  | \$ 15,862.00        |
| Contractor's Overhead & Profit (10%)       |                     |
| Contractor's Overhead & Profit on FSB (5%) |                     |
| Bond (1.4%)                                |                     |
| <b>Total:</b>                              | <b>\$ 15,862.00</b> |

**Note: Time Extension Request: 30 Days**

Accepted by:

\_\_\_\_\_  
Dixon Salo Architects, Inc

\_\_\_\_\_  
Town of Grafton

\_\_\_\_\_  
Date

7/1/16

\_\_\_\_\_  
Date

**Grafton Town House**

**Project  
General Conditions**

| Description                                      | Annual Cost   | Monthly Cost | Per Diem on 30 day | Number of Days  |
|--|---------------|--------------|--------------------|-----------------|
| Tollet Rental                                    |               | \$ 362.01    | \$ 12.07           | 15              |
| Office Water                                     |               | \$ 99.58     | \$ 3.32            | \$ 49.80        |
| Office Phone & Internet                          |               | \$ 196.14    | \$ 6.54            | \$ 98.10        |
| Insurance & Bonds                                | \$ 40,000.00  | \$ 3,333.33  | \$ 111.11          | \$ 1,666.65     |
| Supervisors Wages                                | \$ 120,000.00 | \$ 10,000.00 | \$ 333.33          | \$ 4,999.95     |
| Payroll Burden (30%)                             | \$ 36,000.00  | \$ 3,000.00  | \$ 100.00          | \$ 1,500.00     |
| Cell Phone & Wireless Internet Card              |               | \$ 165.00    | \$ 5.50            | \$ 82.50        |
| Truck Payments                                   |               | \$ 800.00    | \$ 26.67           | \$ 400.05       |
| Gas Payments                                     |               | \$ 445.67    | \$ 14.86           | \$ 222.90       |
| Laborer (120 Hours @ \$51.25 per hour)           |               |              |                    | \$ 3,075.00     |
| Laborer Burden (30%)                             |               |              |                    | \$ 922.50       |
| Truck Payments                                   |               | \$ 772.33    | \$ 25.74           | \$ 386.10       |
| Gas Payments                                     |               | \$ 394.46    | \$ 13.15           | \$ 197.25       |
| Office Administrative Labor (40 Hours @ \$40.00) |               |              |                    | \$ 1,600.00     |
| Laborer Burden (30%)                             |               |              |                    | \$ 480.00       |
| <b>Total of Above</b>                            |               |              |                    |                 |
|  |               |              |                    | <b>15861.85</b> |



M. O'CONNOR CONTRACTING, INC.

West Roxbury, Massachusetts 02132-0003  
Telephone 617-327-3070  
Fax 617-327-9731

Town of Grafton  
30 Providence Road  
Grafton MA, 01519  
Attn: Richard Thuma

Dixon Salo Architects, Inc  
501 Park Ave #210  
Worcester, MA 01610  
Attn: Neil Dixon

Date: June 27, 2016

Re: Grafton Townhouse  
One Grafton Common, Grafton MA 01519

Change Proposal **46R Swap Service Equipment**

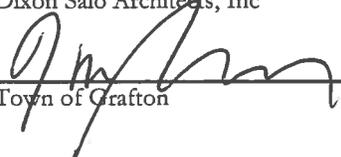
Costs associated to furnish materials and labor to swap  
the service equipment in Room 103

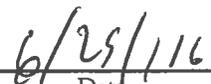
|         |              |                         |    |          |
|---------|--------------|-------------------------|----|----------|
| Item 1: | DMH Electric | "See attached proposal" | \$ | 4,929.00 |
|         |              | "Materials Only"        |    |          |

|  |           |                 |
|--|-----------|-----------------|
| Subtotal:                                  | \$        | 4,929.00        |
| Contractor's Overhead & Profit (10%)       |           |                 |
| Contractor's Overhead & Profit on FSB (5%) | \$        | 246.45          |
| Bond (1.4%)                                | \$        | 69.01           |
| <b>Total:</b>                              | <b>\$</b> | <b>5,244.00</b> |

**Note: Time Extension Request: 0 Days**

Accepted by:

\_\_\_\_\_  
Dixon Salo Architects, Inc  
  
\_\_\_\_\_  
Town of Grafton

\_\_\_\_\_  
Date  
  
\_\_\_\_\_  
Date

D.M.H. Electric, Inc.

29 Legate Hill Road - Unit A  
Sterling, MA 01564

# Change Order

|         |                 |
|---------|-----------------|
| Date    | Change Order No |
| 6/24/16 | 3185-Rev I      |

|   |
|---|
| Name / Address  |
| M. O'Connor Contracting, Inc.<br>PO Box 320277<br>19 Ledge Hill Road<br>West Roxbury, MA 02132-0003 |

|                                      |
|--------------------------------------|
| Job No.                              |
| S372 Grafton Town House   Grafton... |

| Description  | Total           |
|--|-----------------|
| <b>RE: Grafton Town House - Service Equipment</b>  |                 |
| Proposal to furnish and install all labor and material for the removal of existing meter sockets and installation of new meter sockets. This is to include the following.  |                 |
| <ul style="list-style-type: none"><li>- Disconnect all wiring at meter sockets.</li><li>- Removal of one (1) 200 amp three phase meter socket.</li><li>- Removal of three (3) 100 amp single phase meter socket.</li><li>- Furnish and install three (3) new three gang 100 amp single phase meter sockets with manual by-pass switches.</li><li>- Install 200 amp three phase meter socket on hallway .</li><li>- Furnish and install two (2) new tap boxes to accommodate equipment to be mounted on hallway wall adjacent to existing house panel.</li><li>- Furnish and install all conduit, fittings, supports and wiring from one (1) tap box to another.</li><li>- Terminates at all equipment.</li></ul> |                 |
| <b>Total Cost As Outlined:</b>   | <b>4,929.00</b> |
| <b>Total</b> <b>\$4,929.00</b>   |                 |

|              |              |
|--------------|--------------|
| Phone #      | Fax #        |
| 978-422-0400 | 978-422-3580 |

Signature \_\_\_\_\_

**DIVISION OF CAPITAL ASSET MANAGEMENT**

**FORMAT FOR SUBMISSION OF CHANGE ORDER**

**WORK OF "FILED SUB CONTRACTOR" AND/OR "GENERAL CONTRACTOR"**

**NOTE:** The Work Of The "GENERAL CONTRACTOR", "NON FILED SUB CONTRACTOR" And The "FILED SUB CONTRACTOR" Must Be Presented On His/Her Own Company Letterheads. This Information Must Be Completed By Every Contractor Doing Work Created By The Change.

**WORK OF THE "FILED SUB" CONTRACTOR**

**1. DIRECT LABOR: "FILED SUB CONTRACTOR":**

To Include: Prevailing Wage Per Specifications or Verified Union Base Wage, Health/Welfare, Pension and Annuities

| <u>Trade</u> | <u>Classification</u> | <u>No. of Workers</u> | <u>Total Hrs. Worked</u> | <u>Pay Per Hour</u> | <u>Total Cost</u> |
|--------------|-----------------------|-----------------------|--------------------------|---------------------|-------------------|
| Elec         | Elec                  | 1                     | 0                        | \$ 76.17            | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |

TOTAL LABOR COST: \$

**2. MATERIALS: "FILED SUB CONTRACTOR":**

| <u>Type of Material</u>                  | <u>Quantity</u> | <u>Item Price</u> | <u>Total Cost</u> |
|--|-----------------|-------------------|-------------------|
| 3 gang meter sockets with manual by pass | 3               | \$ -              | \$ -              |
| Closing plates                           | 2               | \$ -              | \$ -              |
| 3 Phase Tap Boxes                        | 2               | \$ -              | \$ -              |
| Molded Case Circuit breakers             | 9               |                   | \$ -              |
| Total Lot price for above equipment      | 1               | \$ 3,421.25       | \$ 3,421.25       |
| 2 1/2" EMT                               | 40              | \$ 2.53           | \$ 101.20         |

TOTAL MATERIALS COST: \$

**3. EQUIPMENT: "FILED SUB CONTRACTOR":**

| <u>Type of Equipment</u> | <u>Hours Required</u> | <u>Cost per Unit per hr.</u> | <u>Total Cost</u> |
|--------------------------|-----------------------|------------------------------|-------------------|
|                          |                       |                              | \$ -              |
|                          |                       |                              | \$ -              |
|                          |                       |                              | \$ -              |
|                          |                       |                              | \$ -              |
|                          |                       |                              | \$ -              |

TOTAL EQUIPMENT COST: \$

**4. SUB TOTAL "FILED SUB CONTRACTOR" COST FOR ITEMS 1., 2. & 3.:**

SUB TOTAL: \$

**5. MISC. LUMP SUM SERVICES PROVIDED TO "FILED SUB CONTRACTOR" (POLICE DETAIL, UTILITIES, LUMP SUM SUB SUB WORK, ETC.):**

| <u>Type of Miscellaneous Lump Sum Service</u> | <u>Cost</u> | <u>Total Cost</u> |
|---|-------------|-------------------|
|   |             | \$ -              |
|   |             | \$ -              |
|   |             | \$ -              |

TOTAL MISC. LUMP SUM SERVICE COST: \$



**DIVISION OF CAPITAL ASSET MANAGEMENT**

**FORMAT FOR SUBMISSION OF CHANGE ORDER**

**WORK OF "FILED SUB CONTRACTOR" AND/OR "GENERAL CONTRACTOR"**

**NOTE:** The Work Of The "GENERAL CONTRACTOR", "NON FILED SUB CONTRACTOR" And The "FILED SUB CONTRACTOR" Must Be Presented On His/Her Own Company Letterheads. This Information Must Be Completed By Every Contractor Doing Work Created By The Change.

**WORK OF THE "FILED SUB" CONTRACTOR**

**1. DIRECT LABOR: "FILED SUB CONTRACTOR":**

To Include: Prevailing Wage Per Specifications or Verified Union Base Wage, Health/Welfare, Pension and Annuities

| Trade | Classification | No. of Workers | Total Hrs. Worked | Pay Per Hour | Total Cost |
|-------|----------------|----------------|-------------------|--------------|------------|
| Elec  | Elec           | 1              | 0                 | \$ 76.71     | \$ -       |
|       |                |                |                   |              | \$ -       |
|       |                |                |                   |              | \$ -       |
|       |                |                |                   |              | \$ -       |
|       |                |                |                   |              | \$ -       |
|       |                |                |                   |              | \$ -       |

**TOTAL LABOR COST:** \$

**2. MATERIALS: "FILED SUB CONTRACTOR":**

| Type of Material            | Quantity | Item Price | Total Cost |
|-----------------------------|----------|------------|------------|
| 2 1/2" EMT Comp. Couplings  | 8        | \$ 16.78   | \$ 134.24  |
| 2 1/2" EMT Comp. Connectors | 4        | \$ 13.72   | \$ 54.88   |
| 2 1/2" EMT Strut Clips      | 4        | \$ 6.30    | \$ 25.20   |
| 2 1/2" Plastic Bushings     | 4        | \$ 1.10    | \$ 4.40    |
| 250 MCM CU.                 | 108      | \$ 3.28    | \$ 354.24  |
| Mounting Hardware           | 1        | \$ 12.50   | \$ 12.50   |

**TOTAL MATERIALS COST:** \$

**3. EQUIPMENT: "FILED SUB CONTRACTOR":**

| Type of Equipment | Hours Required | Cost per Unit per hr. | Total Cost |
|-------------------|----------------|-----------------------|------------|
|                   |                |                       | \$ -       |
|                   |                |                       | \$ -       |
|                   |                |                       | \$ -       |
|                   |                |                       | \$ -       |
|                   |                |                       | \$ -       |

**TOTAL EQUIPMENT COST:** \$

**4. SUB TOTAL "FILED SUB CONTRACTOR" COST FOR ITEMS 1., 2. & 3.:**

**SUB TOTAL:** \$

**5. MISC. LUMP SUM SERVICES PROVIDED TO "FILED SUB CONTRACTOR" (POLICE DETAIL, UTILITIES, LUMP SUM SUB SUB WORK, ETC.):**

| Type of Miscellaneous Lump Sum Service | Cost | Total Cost |
|--|------|------------|
|  |      | \$ -       |
|  |      | \$ -       |
|  |      | \$ -       |

**TOTAL MISC. LUMP SUM SERVICE COST:** \$

**CHANGE ORDER SUBMISSION FORMAT CONTINUED:**

6. **"FILED SUB" ALLOWED 7% O&P Mark Up - MISC. LUMP SUM SERVICES:** 7% x ITEM 5: \$
7. **SUB TOTAL "FILED SUB CONTRACTOR" LINE ITEMS 4., 5. & 6.:** SUB TOTAL: \$
8. **INSURANCE AND TAXES ON "FILED SUB CONTRACTOR" DIRECT LABOR ONLY:**
- A. Insurance And Taxes At 30% (Enter 30% x Total of Item 1.):  x ITEM 1.: \$
- OR*
- B. Actual Documented Cost Of Insurance & Taxes On Direct Labor Only. **As Per Contract Include Only The Following:**
- \* Workmen's Compensation
  - \* Massachusetts Unemployment Compensation
  - \* Federal Social Security
  - \* Liability Insurance
- Documented Insurance & Taxes (Enter Approved % x Total of Item 1.):  x ITEM 1.: \$
9. **OTHER APPROVED "FILED SUB CONTRACTOR" DIRECT LABOR FRINGE BENEFITS:** FRINGE BENEFITS:
- (i.e.: Apprentice Training, Education Fund, Legal, Travel, ETC.)
10. **OVERHEAD AND PROFIT OF "FILED SUB CONTRACTOR":** FILED SUB  
Filed Sub Contractor can charge 20% of actual total cost of Item 4.: 20% x ITEM 4: \$
11. **TOTAL OF ITEMS 7., 8. (A. or B.), 9. and 10.** TOTAL COST OF WORK PERFORMED BY "FILED SUB CONTRACTOR":



**WORK OF THE "GENERAL" CONTRACTOR + "NON-FILED" SUBS**

12. **DIRECT LABOR: "GENERAL CONTRACTOR" + "NON-FILED" SUBS:**

To Include: Prevailing Wage Per Specifications or Verified Union Base Wage, Health/Welfare, Pension and Annuities

| <u>Trade</u> | <u>Classification</u> | <u>No. of Workers</u> | <u>Total Hrs. Worked</u> | <u>Pay Per Hour</u> | <u>Total Cost</u> |
|--------------|-----------------------|-----------------------|--------------------------|---------------------|-------------------|
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |
|              |                       |                       |                          |                     | \$ -              |

TOTAL LABOR COST: \$

The Charter Review Committee will provide an update to the Board

Paul Dell' Aquila will provide a Hazard Mitigation Plan presentation.



|                   |                         |
|-------------------|-------------------------|
| Janet A. Pierce   | Executive Director      |
| Chris J. Ryan     | Community Development   |
| Mary Ellen Blunt  | Transportation          |
| Trish Settles     | Municipal Collaboration |
| Dianna Provencher | Business Manager        |
| Howard N. Drobner | Commission Chair        |

## **MEMORANDUM**

**To:** Timothy McInerney, Grafton Town Administrator; Grafton Board of Selectmen

**From:** Paul Dell'Aquila, Principal Planner

**Date:** July 8, 2016

**RE:** Briefing on CMRPC Draft Hazard Mitigation Plan Presentation on July 12, 2016

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In advance of CMRPC's presentation to the Board of Selectmen this coming Tuesday evening (July 12), please accept this briefing on what we intend to present and discuss:

As Town staff and volunteers on the local hazard team coordinated by Deputy EMD Nick Child are aware, this is an important step. We are in the midst of finalizing a draft report that will be made available to the Board and the general public for review and comments soon after Tuesday's meeting. It is a state and federal requirement at this stage in the planning process that we seek out and incorporate comments from the town and the public. We will present a summary of the plan on Tuesday toward that end.

Following review and incorporation of any public input, a revised draft plan will be submitted to the Massachusetts Emergency Management Agency (MEMA) and Federal Emergency Management Agency (FEMA) for review. MEMA and FEMA reviews are expected to be completed this fall. The plan will then be updated to reflect any state and federal revisions, and will be presented to the Board of Selectmen for final review and formal adoption before the end of the year.

For your further information, I have attached a two-page handout that will be available at the presentation on the 12th. Please note that we will be utilizing a slideshow during the presentation.

We look forward to speaking to the Board on Tuesday night. Please let us know if you have any questions in the meantime.



|                   |                         |
|-------------------|-------------------------|
| Janet A. Pierce   | Executive Director      |
| Chris J. Ryan     | Community Development   |
| Mary Ellen Blunt  | Transportation          |
| Trish Settles     | Municipal Collaboration |
| Dianna Provencher | Business Manager        |
| Howard N. Drobner | Commission Chair        |

**Town of Grafton, Natural Hazard Mitigation Plan**  
**Public Presentation: July 12, 2016**

**What is hazard mitigation? What's a mitigation plan?**

- Hazard mitigation is the effort to reduce loss of life and property by lessening the impact of natural disasters
- Mitigation is not disaster response; its goal is to reduce hazard impacts before a disaster occurs
- A mitigation plan identifies natural hazards and the risks they pose to residents, infrastructure, property, and natural resources, and it prioritizes projects, policies, education and procedures for reducing these risks, now and in the future
- Mitigation helps break the cycle of disaster damage, reconstruction, and repeated damage

**Why should Grafton complete and adopt this kind of plan?**

- Planning establishes a road map for achievable actions that can substantially reduce risks
- Formal approval of a plan by the Federal Emergency Management Agency (FEMA) allows the town to receive non-emergency federal disaster assistance and mitigation funding as mandated under the Disaster Mitigation Act of 2000
- The plan is primarily funded by a grant from FEMA through MEMA (with a local in-kind match)

**What natural hazards pose the greatest risks to Grafton?**

- Flooding (rivers and streams, dams, and flash floods)
- Winter storms, hurricanes/tropical storms, severe thunderstorms, and tornadoes
- Droughts and wildfires
- Earthquakes

**Local partners**

Local knowledge is essential to the mitigation planning process. Partners in Grafton to date include:

|                             |                           |                          |
|-----------------------------|---------------------------|--------------------------|
| Nick Child, GEMA            | Jay Cummings, School Dept | Dan Gale, School Dept    |
| Brian Szczerko, DPW         | Joe Maynard, DPW          | Stephen Charest, Fire    |
| Joseph Laydon, Planning     | Normand Crepeau, Police   | Timothy McInerney, TA    |
| Barbara Connelly, CoA       | Paul Cournoyer, Sewer     | Michael Scully, GEMA     |
| Clare Garabedian, GEMA/CERT | Alissa Errede, CMRPHA     | Robert Berger, Bldg Dept |

**Planning timeline**

- |  |                   |
|--|-------------------|
| • Information gathering via mapping, research, and local input | Dec. 2014 to date |
| • Draft plan development                                       | July 2016         |
| ○ Public comments/questions requested by <u>July 29</u>        |                   |
| • Public event #1  | July 2016         |
| • MEMA review  | July/August 2016  |
| • FEMA approval  | Fall 2016         |
| • Public event #2 and local adoption                           | Fall 2016         |
| • 5 year update  | 2021/22           |

### Recent/ongoing mitigation activities

- Generator replacements at two sewer pump stations; sewer infiltration/inflow repairs
- Generators at water operations center, communications facilities, highway garage, schools, police/fire stations and senior center
- Drainage improvements on Main Street, Westborough Road, Millbury Street
- Spillway and other improvements at Lake Ripple Dam
- Tree trimming program (National Grid)
- Code Red system

### Recommended mitigation activities in DRAFT plan

#### A. Structure and Infrastructure Projects

- Fill and maintain fire suppression ponds and cisterns
- Upgrade generator at Millbury Street Elementary School
- Assess Town-owned masonry buildings and study options for reinforcement
- Investigate drainage improvements in developed flood-prone areas
- Update warning sirens
- Research options for converting repeating stations to wireless
  - Install lightning protections at North Grafton repeating station

#### B. Preparedness and Response Actions

- Coordinate with railroads to prevent brush fires
- Continue tree trimming initiative to protect utility lines (National Grid)
- Implement debris management program
- Establish Life Safer Registry to inventory vulnerable residents
- Coordinate roadway information, snow removal and evacuation plans among local and state officials

#### C. Education and Awareness Programs

- Conduct outreach/distribute information regarding lightning strikes and wildfires, storm warnings and warning sirens
- Conduct targeted outreach to aid in establishment of Life Safer Registry

#### D. Local Plan Regulations

- Ongoing review and updates of local plans and policies to ensure that new construction will not occur in flood-prone and other hazard areas

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The draft plan will be available shortly at <http://cmrpc.org/Grafton-hazard-mitigation-plan-draft-v1>

Comments and questions should be directed to Paul Dell'Aquila ([pdellaquila@cmrpc.org](mailto:pdellaquila@cmrpc.org)) or Trish Settles ([tsettles@cmrpc.org](mailto:tsettles@cmrpc.org)) at CMRPC no later than July 29, 2016

*This natural hazard mitigation planning activity is funded by an FY 2013 Pre-Disaster Mitigation grant from the Federal Emergency Management Agency through the Mass. Emergency Management Agency*

Peter Adams will present the 40B proposal for Wheeler Road.



**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD  
GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext. 1120 • FAX (508) 839-4602  
planningdept@grafton-ma.gov  
www.grafton-ma.gov

**PLANNING DEPARTMENT**

## **M E M O R A N D U M**

**TO:** Board of Selectmen  
Planning Board  
Affordable Housing Trust

**FROM:** Joseph Laydon, Town Planner 

**DATE:** July 8, 2016

**SUBJECT:** Comments on 21 Wheeler Road – Elmrock Estates – Site Eligibility Application

---

This memorandum documents the 40B Site Eligibility process associated with Elmrock Estates at 21 Wheeler Road. This memorandum also summarizes the project and staff comments on the project that should be incorporated into a comment to be submitted to MassHousing for their consideration in granting a site eligibility letter.

### **Background**

On May 19, 2016 Fieldstone Farms, LLC provide the Town of Grafton with a document entitled “Notice of Application for Chapter 40B Site Eligibility Letter – MassHousing New England Fund Project: “Fieldstone Farms” Wheeler Road and Brigham Hill Road, Grafton MA. The submission of the site eligibility application to MassHousing triggers a 30-day comment period for the Town of Grafton.

On June 2, 2016, Ann Morgan and I attended a site walk at 21 Wheeler Road conducted by Michael Busby from MassHousing. Also in attendance were the project proponent and his development team and Dan Crossin, chair of the Affordable Housing Trust. During the site walk it was noted the property is surrounded by designated open space, that the road was in excess of maximum length requirements, and that the proposed development plan did not contain any open space or provide any trail connections to adjacent trail networks. At the site walk, staff inquired with Mr. Busby about granting an extension for the public comment period to allow for the Town to coordinate its review of the proposed project. Mr. Busby granted the request to extend the comment deadline to July 15, 2016.

### **Development Proposal Summary**

Elmrock Estates (initially named Fieldstone Estates)  
Parcel Size: about 18 acres

Housing Units: 36 single family dwelling, 27 market rate units and 9 affordable units.

By-right Plan: Proponent States 18 single family homes possible

Street Length: 1,550 feet

Street Width: Proposed at 24 feet

Home Sizes: Range from 2,020 to 2,417

Bedrooms: All have 4 Bedrooms

Zoning: Residence 40 (minimum 40,000 square foot lot requirements)

Utilities: Water/Sewer Available, Gas can be extended from 19 Wheeler.

Lot Coverage: Buildings (10%), Parking/Paving (15%), Usable Open Space (68%)

### **Staff Comments**

On June 16, 2016 the Project Proponent and his development team met with various staff from town departments. Attached to this memorandum as Attachment A are meeting notes from that meeting. The following is a summary of issues raised by town staff.

1. Road Length: As of right plan and development exceed maximum permitted by subdivision rules and regulations. Proposed length (1,550 feet) exceeds permitted dead end length of 500 feet.
2. Separation of Roads: Subdivision Regulations require 600 foot separation of subdivision roads, 120 feet is proposed.
3. Emergency Access: No second means of access, concern for length of road, no mid-block turnaround, road width should be increased to 26 or 28 feet, and there are no details on the plan to evaluate adequacy of common driveways.
4. Common Drives: Zoning Bylaw limits the number of lots served by common driveway to no more than 3. The development plan indicates two locations where 4 lots are accessed by common driveways. The development plan does not indicate the location or dimensions of the common driveway serving homes at the northwest corner of the property.
5. Stormwater Design should incorporate Low Impact Development Techniques.
6. Proponent should consider alternative housing design sceneries that permit preservation of open space and connection to adjacent trail systems.

### **Review of MassHousing Application Materials**

As-of-right Plan: The Application includes an as-of-right development plan that indicates that 18 single family homes could be built on the property. The plan however, would rely on waivers being granted by the Planning Board. The Town of Grafton Subdivision Rules and Regulations require a maximum length of dead-end street be no longer than 500 feet. The proposed 1,550 foot subdivision road would require a significant waiver from the Board. Therefore, I estimate that a conforming subdivision road not exceeding 500 feet would result in a subdivision between 6 and 8 homes, not the 18 being proposed.

In addition to the maximum length of street permitted under the Subdivision Rules and Regulations, the Planning Board also requires that adjacent street be no closer than 600 feet. The proposed roadway is 120 feet from the Meadow Lane, therefore requiring another wavier from

the regulations. Due to these two provisions, the density under the as-of-right plan should be reduced from 18 to 8 units.

Sustainable Development Criteria Score Card: The MassHousing application encourages housing projects to be consistent with sustainable development designs and green building principles. The “Developer Self-Assessment” provides for two methods to demonstrate compliance with the sustainable design criteria. The following criteria appear not to have been satisfied in the Applicants Self-Assessment:

- **Criteria 1 - Concentrate Development and Mix Uses:** The Self-Assessment states this criterion has been met. One element that I disagree with is the statement that the development is “compact and/or clustered so as to preserve undeveloped land.” The development plan utilizes a single subdivision road in excess of 1,550 feet and two common driveways to access additional lots within the development. Within both parcels, all open space is either in the back yard of homes or within wetland buffer areas. The Applicant has not clustered structures to retain open space or to provide connections for trails or for habitat to cross from adjacent conservation lands. See Attachment A for response to consider alternative designs in order to preserve open space.
- **Criteria 3 – Protect land and Ecosystems:** The Self-Assessment indicates that the project complies with the criteria to protect land and ecosystems. It is my opinion that the plan does not satisfy this criterion. In the explanation under this criterion, it is stated that “There is no common space ... as each unit has very generous lot size...” It also states that the abundance of undeveloped land will be in “consistent and in context to the rural nature of the surrounding environment.” The language under this criterion is relying on rear yard space to qualify as retained open space. There is no mention of establishing limits of clearing or using deed restrictions to control clearing on individual lots. Furthermore there is little opportunity for preserving trees between houses which would be consistent with the neighborhood. **Use Natural Resources Wisely:** The Self-Assessment states this criterion has been met and that low impact development techniques are being utilized and that energy efficient construction and fixtures will be utilized. I am of the opinion that this criterion has not been met as there is not adequate information to verify this criterion. In the Staff Meeting Notes, when asked about using LID techniques, the applicant’s engineer stated they are open to consider LID techniques, thus supporting that the materials in the application do not demonstrate their utilization. In addition, the explanation does not state how the project will utilize energy saving techniques that are above Building Code Requirements such as building homes that are LED compliant.
- **Criteria 9 – Plan Regionally:** The Applicant states the project is in compliance with the town’s local plan. While the 2013 Housing Production Plan does encourage working with developers on friendly 40B project, the plan does not specify properties for affordable housing projects. The project does conflict with the Town’s Open Space and Recreation Plan. The property is identified within priority protection area to the west of Lake Ripple. The “Western Corridor” is one of five open space corridors that the plan identified as largely contiguous areas of open space and encouraged protection of undeveloped parcels within these areas. The two parcels proposed for development will sever existing open space and present an obstacle for wildlife. The Applicant should

consider a development scenario that clusters development closer to Wheeler Road and retains the rear parcel as open space.

## Conclusion

For projects using MassHousing Financing or financing through the New England Fund, MassHousing requires “Site Approval” also known as a “project eligibility approval” prior to the submission of a comprehensive application to a municipality. According to MassHousing’s website, they visit a site and solicit comments from the municipality as follows:

*“MassHousing will consider any relevant concerns that the municipality might have about the proposed project or the developer. The applicant is encouraged, therefore, to make contact with the municipality prior to submitting the Site Approval application in order to ensure that the applicant understands any concerns that the municipality may be likely to raise regarding the proposed development”*

Therefore the comments submitted from the Town of Grafton as part of the project eligibility approval process typically will result in developers revising their plans to address comments received.

It is my recommendation that comments identified in this memorandum be included in a consolidated document to be sent out from the Town of Grafton. It is important to state how the Town is actively engaged in the creation of affordable housing units and has an Affordable Housing Trust that is committed to increasing Grafton’s affordable housing stock.

I recommend the following comments be submitted to MassHousing:

1. As-of-Right Plan: The as of right plan is not accurate and should be reduced from 18 lots to 8 lots.
2. Significant Emergency Access Concerns: Maximum length of road is a concern for emergency responders. Also there are no details associated with the design of the common driveways to evaluate adequacy for emergency vehicles.
3. Utilization of Low Impact Development Techniques: The development should utilize low impact development techniques to minimize stormwater structures. Three detention basins are proposed adjacent to open space areas, potentially impacting trails and wildlife movement on these parcels.
4. Consider redesigning the development to concentrate development on the Wheeler Road parcel, leaving the rear parcel as open space. This is important to minimize impacts to existing trails and wildlife. Furthermore it will meet a goal of the Open Space and Recreation Plan to permanently protect parcels adjacent to contiguous open spaces.
5. A Traffic Study will be required and the intersection of Wheeler and Worcester Street will need to be examined closely.

Thank you for your consideration of these comments.

ATTACHMENT A  
**21 Wheeler Road Meeting  
Development Team Meeting  
June 16, 2016**

A Development Team meeting was held on June 16, 2016 in Conference Room B at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Town Planner Joseph Laydon, Conservation Agent Maria Mast, Assistant Town Administrator Doug Willardson, Department of Public Works Dave Crouse, Grafton Fire Department Stephen Charest, Peter Adams of Fieldstone Realty, LLC, Stephen O'Connell of Andrews Survey & Eng., Geoff Engler and Moira Cronin with SEB LLC, and Planning Department Office Manager Nicole Larson.

Mr. Laydon began the meeting at 2:40 p.m.

Mr. Laydon reviewed the timeline and next steps for the proposed project. Mr. Engler noted that he is looking forward to gathering municipal feedback into this project. Mr. O'Connell noted the following development details:

- 36 units proposed, 9 units proposed as affordable housing.
- "As of right" plan would have produced 18 single family lots.
- House lots are approximately 2,220 square feet.
- Single family with lot sizes that utilize surrounding background.
- Water, cable, gas and electrical are all accessible from the property. Sewer will need to be brought up Wheeler Road to the project. Gas would need to also be extended up from Meadow Lane.
- Plan is for single road down center with houses and lots to each side.
- Houses on the east side will have walk-out basements.
- Houses on west will be up on hill with inclined driveway.
- Work within the wetland buffer would require Conservation Commission's approval however 40B projects and not subject to local wetlands & stormwater and state requirements apply.
- Pavement width would be 24 feet with bituminous berm and rounding at end of road.
- Proposed roadway is 1500 feet long with some properties accessed through common driveways off the subdivision road.
- Pavement radius of cul-de-sac is 100 feet.
- There will be hydro-flow testing done to verify the development will have suitable water pressure.
- Property currently has 416 feet of frontage.
- The plan follows the general topography of the land.

Mr. Laydon would like to give more separation than 120 feet between entrance and nearby roadway (Meadow Lane). Traffic study will need to be done as development is over 20 units. Mr. O'Connell noted scope of the traffic study would include site distance, speed analysis and level of service.

The group discussed road width. Mr. Charest suggested a 26-28 foot road width for easy access for larger vehicles. Mr. Laydon asked if there could be a midway block put in to cut down on the impervious surface for stormwater and drainage coverage. Ms. Mast asked if an impervious shoulder could be possible. Mr. O'Connell suggested swales and noted driveway culverts that will be present and noted that LID techniques can be difficult, and often times leaves stormwater untreated, but they will be open to consider LID techniques that may work for this property.

The group also noted that the roadway was in excess of the length permitted by the Planning Board's Subdivision Rules and Regulations. Mr. Laydon also noted the as of right subdivision plan exceeded the maximum length and could only be permitted through granting of waivers by the Planning Board.

Mr. Laydon noted that there are a number of lots that are served by common driveways. The Plans did not indicate the location or design of the common driveway serving the cluster of homes on the western side of the second parcel. He noted the longest driveways will be nearly 300 feet in length and will need a hammerhead turnaround. Mr. Charest also noted the steep topography, which will need to be considered when designing the turn around. Mr. Laydon noted that there are 4 lots served by a common driveway at the end of the subdivision road. Since the zoning bylaw restricts common driveways to serving no more than 3 lots, a waiver would be required to be submitted with the comprehensive permit application.

Mr. O'Connell stated the roadway curbing will consider of bituminous berm on the lower side with granite curbing on the upper side. The group discussed the possibility of a boulevard entrance, but that concept was found to be insufficient in addressing the Fire Department's concern for fire access.

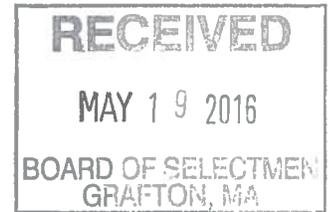
Mr. Laydon inquired whether alternative housing types or a mixture of housing types was considered. Mr. Engler said the location has potential for a unique design, but he defers to the preferences of applicant he represents. Mr. Adams stated that he believes many people want their own homes, and he himself is an advocate of single family homes. He also noted that he is used to building these types of homes. Mr. Laydon noted there are beautiful areas that would be great to maintain, such as the existing field adjacent to Wheeler Road. He also said that there is no integration of connections to the trail systems on the surrounding Grafton Land Trust land. Currently the property to the east side of 21 Wheeler Street is owned by Grafton Land Trust. Mr. O'Connell noted that there are stone walls in rear of some properties that will be preserved and not disturbed, though parts of the wall through the proposed roadway will need to be relocated where possible. He also responded to Ms. Mast's inquiry about preserving as much vegetation as possible with small, walk out yards that would not be fully cleared. Trail heads would be possible and located at the rear of lots at the end of the proposed cul-de-sac.

Mr. Laydon stated that he would be using the notes from this meeting to coordinate comments to MassHousing from the Town.



Massachusetts Housing Finance Agency  
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1091  
Vp: 866.758.1435 | [www.masshousing.com](http://www.masshousing.com)



May 17, 2016

Craig Dauphinais, Chairman  
Board of Selectmen  
Grafton Municipal Memorial Center  
30 Providence Road  
Grafton, MA 01519

RE: Fieldstone Farms

Dear Mr. Dauphinais:

The Massachusetts Housing Finance Agency (MassHousing) is currently reviewing an application for Site Approval submitted by Peter J. Adams. The proposed development will consist of 36 single-family homes located on an 18 acre parcel of land located at 21 Wheeler Road in Grafton.

The site approval process is offered to project sponsors who intend to apply for a comprehensive permit under Chapter 40B. MassHousing's review involves an evaluation of the site, the design concept, the financial feasibility of the proposal, and the appropriateness of the proposal in relation to local housing needs and strategies. As part of our review, we are soliciting comments from the local community and we would appreciate your input. You also may wish to include in your response, issues or concerns raised by other town boards, officials or other interested parties. Pursuant to the new Massachusetts General Laws Chapter 40B regulations (760 CMR 56.00) your comments may include information regarding municipal actions previously taken to meet affordable housing needs such as inclusionary zoning, multifamily districts adopted under G.L. c.40A and overlay districts adopted under G.L. c.40R. Your comments will be considered as part of our review.

We have been informed by the Applicant that the Town has received a copy of the application and site plans. Please inform us of any issues that have been raised or are anticipated in the Town's review of this application. We request that you submit your comments to this office within 30 days so we may process this application in a timely manner.

During the course of its review, MassHousing will conduct a site visit, which Local Boards, as defined in 760 CMR 56.02, may attend. The site visit for this development has been tentatively scheduled for May 26, 2016. Please notify Michael Busby, MassHousing 40B Specialist, at (617) 854-1219 promptly if any representatives of your office or of other Local Boards plan to attend the scheduled site visit.

Please note that if and when an application is submitted for a comprehensive permit, assistance is available to Grafton's Zoning Board of Appeals (ZBA) to review the permit application. The Massachusetts Housing Partnership's (MHP) *Ch. 40B Technical Assistance Program* administers grants to municipalities for up to \$10,000 to engage qualified third-party consultants to work with the town's ZBA in reviewing the Chapter 40B proposal. For more information about MHP's technical assistance grant visit MHP's web site, [www.mhp.net/40B](http://www.mhp.net/40B) or e-mail MHP at [communityinfo@mhp.net](mailto:communityinfo@mhp.net). Also available at MHP's web site are the "Local 40B Review and Decision Guidelines" that were released in November 2005 to provide guidance to local officials as they review comprehensive permit applications. The Chapter 40B regulations and accompanying guidelines issued by DHCD, however, take legal precedence over the MHP guidelines.

If you have any questions, please do not hesitate to telephone me at (617) 854-1219.  
Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Busby", with a long horizontal flourish extending to the right.

Michael J. Busby

The DPW Building Facility Committee will address the Board.

There will be a public hearing for the Grafton Flea Market's request for a Liquor License.



**OFFICE OF THE BOARD OF SELECTMEN**

30 Providence Road  
Grafton, MA 01519  
(508) 839-5335  
BOSGroup@grafton-ma.gov  
www.grafton-ma.gov

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*Jennifer Thomas, Chair  
Bruce Spinney III, Vice Chair  
Sargon Hanna, Clerk  
Craig Dauphinais  
Brook Padgett*

**LEGAL NOTICE**

**BOARD OF SELECTMEN**

Notice is hereby given under Chapter 138 of the General Laws, as amended that an application has been made by Michael G. Peters Inc., d/b/a Grafton Flea Market, 185 Blackstone Street, Mendon MA 01756 for a Beer and Wines Alcoholic License at premises located at 296 Upton Street, Grafton, MA 01519.

Premises to be licensed are located at 296 Upton Street, as shown on a plan on file in the Board of Selectmen's office.

Upon this application, the Grafton Board of Selectmen will hold a public hearing in Conference Room A, Grafton Memorial Municipal Center, 30 Providence Road, Grafton, MA on Tuesday, July 12, 2016 at their meeting beginning at 7:00 PM

Grafton Board of Selectmen

Jennifer Thomas, Chairman  
Bruce Spinney III, Vice Chair  
Sargon Hanna, Clerk  
Craig Dauphinais  
Brook Padgett

Published June 23, 2016  
Grafton News  
Town Bulletin Board



# Grafton Police Department

28 Providence Road • Grafton, Massachusetts 01519  
Telephone (508) 839-8517 • Fax (508) 839-8562  
[www.graftonpolice.com](http://www.graftonpolice.com)

Normand A. Crepeau, Jr.  
Chief of Police

DATE: November 4, 2015  
TO: Timothy P. McInerney – Town Administrator  
SUBJECT: Liquor License Application for Grafton Flea Market

The Grafton Police Department opposes the granting of a *General On-Premises* license for *Wines & Malt Beverages* to Michael G. Peters, Inc. (DBA Grafton Flea Market) for the following reasons:

1. According to information received, a General On-Premises license has to be issued to an individual person and not a corporation. The applicant is listed as Michael G. Peters, Inc.
2. There are no actual rooms for service or seating. As set forth in Chapter 138 Section 12; ...In any city or town wherein the granting of licenses under this section to sell alcoholic beverages or wines and malt beverages is authorized, a person may be granted a general on-premise license by the local licensing authorities, subject to the prior approval of the commission, authorizing him to sell alcoholic beverages without food to patrons and customers subject to all other relevant provisions of this chapter, provided that such beverages shall be sold and drunk in such rooms as the licensing authorities may approve in writing...
3. The license may be issued or denied based on public need. The venue is a flea market open to the public including individuals under the age of 21. The proposed serving area is a shed and the seating area is enclosed by a fence. Given the large number of people who attend the flea market at any given time, it would be difficult to control off premises consumption or monitor patrons who are under 21 who happen to “wander” into the seating area. The application in no way addresses how management will prevent underage drinking or off premises consumption.
4. It is assumed that alcoholic beverages will be stored in shed on site when market is closed. Beverages may not be transported off-premises once delivered. Therefore, no one will be on premises six days a week thus making the storage shed a target for breaking and entering and theft.
5. Hours of operation. While I await a definitive answer from ABCC, it is my understanding that alcoholic beverages may be only served for on-premises consumption on Sundays starting at 11:00 am. Hours would therefore be 11:00 am – 4:00 pm.

**RESTAURANT - ALL ALCOHOLIC** (14 Licenses allowed - 10 Licenses issued - 4 Available)

Ricks Hilltop

Danielle's Restaurant Corp., Danielle's Bar and Grille - *Inactive*

Quatro Amigo's Inc. d/b/a Cancun's Mexican Restaurant 75 Worcester Street

J & J Tavern

Olde Post Office Pub Inc

Zhen Mei, Inc. d/b/a Wong's Restaurant 62 Upton Street

Cheng Du / Fontan Restaurant Inc.

\* **Club Licenses and Innholders are part of the All Alcoholic quota**

**RESTAURANT - Wine & Malt** (5 Licenses allowed - 2 Issued - 3 Available)

Pepperoni Express

Anzio's Brick Oven Pizza

**PACKAGE STORE - ALL ALCOHOLIC** (3 Licenses allowed - 3 issued - 0 Available)

Grafton Liquors, Inc.

Narayan, LLC; D/B/A Five Star Liquors

Valley Plaza Discount Liquors

**PACKAGE STORE - Wine & Malt** (5 Licenses allowed - 3 Issued - 2 Available)

Ultra Mart d/b/a Ultra Mart

Pecorino

**INN HOLDERS - All Alcoholic**

James J. Hunter Jr. d/b/a The Grafton Inn

(Included in the All Alcoholic count)

**CLUB - All Alcoholic** (Included as part of the All Alcoholic count)

Delisle Goulet Post #92, American Legion

Polish National Home Association

Established Fees for Licenses:

|                             |               |            |
|-----------------------------|---------------|------------|
| Restaurant                  | All Alcoholic | \$1,200.00 |
| Restaurant                  | Wine & Malt   | \$ 600.00  |
| Innholder                   | All Alcoholic | \$1,200.00 |
| Package Store               | All Alcoholic | \$1,200.00 |
| Package Store               | Wine & Malt   | \$ 600.00  |
| Club (Polish National Home) | All Alcoholic | \$ 750.00  |
| Club (American Legion Post) | All Alcoholic | \$ 200.00  |



**TOWN OF GRAFTON**  
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www.grafton-ma.gov

**ZONING BOARD OF APPEALS**

**MODIFICATION OF SPECIAL PERMIT (ZBA CASE #816)  
LOCATION OF BEER GARDEN  
296 Upton Street, Grafton MA 01519**

RECEIVED TOWN CLERK  
GRAFTON, MA  
2016 MAY 18 PM 1:39

Re: Modification of the Special Permit with Conditions, Grafton Flea Market, 296 Upton Street, Grafton, Massachusetts; Applicant/ Owner: Grafton Flea Market, Inc.

**I. DECISION**

On May 5, 2016, the Zoning Board of Appeals voted 5 : 0 to approve the Modification of the Special Permit Application for Grafton Flea Market, 296 Upton Street, Grafton, Massachusetts. Assessor Map # 110, Parcel # 0004.0. *Deed reference: Worcester County Registry of Deeds: Book 7838, Page 243.*

**II. BACKGROUND AND AUTHORITY**

The above referenced Application for Modification of a Special Permit was submitted on March 18, 2016. Notice of the public hearing and the subject matter thereof was published in the Grafton News on April 21 and April 28 and posted with the Town Clerk's office. Abutters were notified by First Class Mail. The public hearing on the Application was held on May 5, 2016. The Modification request was to change the location of the Beer Garden per the request of the Board of Selectmen and the Chief of Police.

**III. PROCEDURAL HISTORY**

The original Special Permit was issued on September 10, 2015 by the Zoning Board of Appeals to allow the Change of Use requested, under Section 3.4.3.5 of the Grafton Zoning By-Law. The original decision was filed with the Town Clerk on September 18, 2015. The Certificate of No Appeal was filed with the Worcester County Register of Deeds on **5/17/2016**. The Applicant then appeared before the Board of Selectmen on March 1, 2016 to obtain a liquor license for the Beer Garden. At that meeting the Applicant was asked by the Board of Selectmen and the Chief of Police to change the location of the Beer Garden from a stand-alone area, which was approved by the Zoning Board of Appeals, to an area adjacent to the building containing the Food Court. The Board of Selectmen continued the hearing for the Liquor License until the applicant received the approval from the ZBA regarding the change of the location of the Beer Garden. An application was filed with the Zoning Board of Appeals Board for a Modification Special Permit under Section 3.4.3.5 of the Grafton Zoning Bylaw, to change the location of the Beer Garden from a stand-alone location to it being attached to the current building near the Food Court on March 18, 2016. All abutters within 300 feet of the property were notified of the application and of the public hearing to be held on May 5, 2016

The above referenced public hearing was advertised in the *Grafton News* on April 21, 2016 and April 28, 2016.

1. Special Permit #801 was approved on September 10, 2015, to extend and alter a pre-existing, non-conforming use under Section 3.4.3.5 of the Grafton Zoning By-Law to permit the construction of an accessory structure for the sale of alcohol with the addition of an outdoor seating area.
2. Applicant appeared before the Board of Selectmen on March 1, 2016 to obtain the Liquor License. This case was continued until the Applicant received the Modification to the Special Permit issued by the Zoning Board of Appeals regarding the new location of the Beer Garden.

#### **IV. APPLICATION SUBMISSION MATERIALS**

1. Application entitled "Petition to the Zoning Board of Appeals, Town of Grafton, Massachusetts" dated March 17, 2016 and received March 18, 2016.
2. Project narrative entitled "Grafton Flea Market, Inc., 296 Upton Street" submitted with Application received on March 18, 2016.
3. Certificate of Good Standing dated March 18, 2016 and submitted with Application received on March 18, 2016.
4. Request for Abutters List dated March 16, 2016 completed by Assessors on March 21, 2016 and given to Katrina Koshivos, the Zoning Board of Appeals Assistant on March 21, 2016.
5. Plan entitled: "Exhibit A, Site Plan, Grafton Flea Market, Inc., 296 Upton Street, Grafton, MA," Prepared by: MidPoint Engineering & Consulting, Scale: 1" = 100', Dated: January 1, 2016.
6. Plan entitled: "Exhibit B, Floor Plan, Grafton Flea Market, Inc., 296 Upton Street, Grafton, MA," Prepared by: MidPoint Engineering & Consulting, Scale: 1" = 10', Dated: January 29, 2016.

#### **V. GENERAL FINDINGS**

The changes were viewed as minor and were in conformance with Special Permit #801.

#### **VI. CONDITIONS**

Based on the foregoing findings, and assuming operation in accordance with the conditions set forth herein, the Board determines that the proposed facilities and use will not create a nuisance, hazard or congestion and that there will be no substantial harm to the neighborhood, derogation from the general purpose and intent of the zoning by-law, or be contrary to the public interest. The Zoning Board of Appeals hereby approves the Applicant's Modification of Special Permit Application, subject to the following conditions:

1. This Modification Special Permit decision shall be recorded at the Worcester County Registry of Deeds. Proof of recordation shall be furnished to the Zoning Board of Appeals prior to issuance of a building permit.
2. **The improvement shall be made substantially as shown on the site plan attached identified as Ex. A, Revised 1/7/2016 and Ex. B, Revised 1/29/2016.**

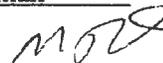
3. The sale of alcoholic beverages shall only be conducted as an accessory use to the operation of the flea market and only during hours the flea market is in operation.
4. All improvements must be made in accordance with applicable regulations and permits.
5. Construction activity shall be permitted Monday through Friday, 7:00 a.m. to 5:30 p.m. Construction activity shall also be permitted on Saturdays from 7:00 a.m. to 5:00 p.m.; provided however that such activity shall be limited to interior work only, and may be undertaken only when the home or structure is constructed to the point where such activity cannot be heard outside the home or structure. No outside construction activity shall take place on Saturdays except between the hours of 8:00 a.m. and 3:00 p.m. No outside construction activity shall take place outside the specified permitted hours or on Sundays or legal holiday, except as may be permitted on a case by case basis by the Chief of Police, or his designee, based on unusual circumstances.
6. This decision is specific to the proposal presented to the Zoning Board of Appeals and documented on the above referenced plans and attachments. Any deviation or change to the project, including but not limited to changes in the design and/or location of the accessory structure and seating area will require the Applicant or his agent to appear before the Zoning Board of Appeals for approval, prior to the change being made under Section 3.4.3 and include an amendment to this Special Permit decision. The Applicant/Owners are advised that it is their sole responsibility to obtain any approvals due to project changes.

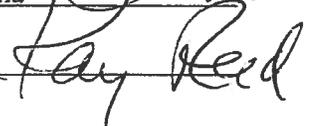
**VIII. RECORD OF VOTE**

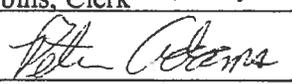
Constituting a supermajority of the Zoning Board of Appeals, the following members voted to approve the Applicant's application for Modification of the Special Permit based on the information in the hearing record and the aforementioned findings, and subject to the aforementioned conditions.

William McCusker, Chairman

Elias Hanna 

Michael Robbins, Clerk 

Kay Reed 

Peter Adams 

**DATE OF FILING OF DECISION:**

**BY ORDER OF THE BOARD**

5/18/14

Katrina M. Kosheer 







**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD  
GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext. 1154 • FAX (508) 839-4602  
www.grafton-ma.gov

**ZONING BOARD OF APPEALS**

RECEIVED TOWN CLERK  
GRAFTON, MA  
2015 SEP 18 AM 9 11  
u

Re: Issuance of Special Permit with Conditions, Grafton Flea Market, 296 Upton Street, Grafton, Massachusetts; Applicant/ Owner: Grafton Flea Market, Inc.

**I. DECISION**

On September 10, 2015, the Zoning Board of Appeals voted 4:0 to approve the Special Permit Application for Grafton Flea Market, 296 Upton Street, Grafton, Massachusetts. Assessor Map # 110, Parcel # 0004.0. *Deed reference: Worcester County Registry of Deeds: Book 7838, Page 243.*

**II. BACKGROUND AND AUTHORITY**

An application was filed with the Zoning Board of Appeals for a Special Permit to extend and alter a pre-existing nonconforming use under Section 3.4.3.5 of the Grafton Zoning Bylaw to permit the construction of an accessory structure for the sale of alcohol with the addition of an outdoor seating area.

**III. PROCEDURAL HISTORY**

An application was filed with the Zoning Board of Appeals Board for a Special Permit under Section 3.4.3.5 of the Grafton Zoning Bylaw on June 26, 2015. All abutters within 300 feet of the property were notified of the application and of the public hearing to be held on August 27, 2015.

The above referenced public hearing was advertised in the *Grafton News* on August 13, 2015 and August 20, 2015.

The August 27, 2015 public hearing was continued to September 10, 2015 at which time the hearing was closed.

**IV. APPLICATION SUBMISSION MATERIALS**

1. Application entitled "Petition to the Zoning Board of Appeals, Town of Grafton, Massachusetts" dated June 22, 2015 and received June 26, 2015.
2. Project narrative entitled "Grafton Flea Market, Inc., 296 Upton Street" submitted with Application received on June 26, 2015.
3. Certificate of Good Standing dated June 15, 2015 and submitted with Application received on June 26, 2015.

4. Request for Abutters List dated May 29, 2015, completed by Assessors on June 5, 2015 and submitted with Application received on June 26, 2015.
5. Plan entitled: "Exhibit A, Site Plan, Grafton Flea Market, Inc., 296 Upton Street, Grafton, MA," Prepared by: MidPoint Engineering & Consulting, Scale: 1" = 100', Dated: April 29, 2015.
6. Plan entitled: "Exhibit B, Floor Plan, Grafton Flea Market, Inc., 296 Upton Street, Grafton, MA," Prepared by: MidPoint Engineering & Consulting, Scale: 1" = 10', Dated: April 29, 2015.
7. Undated photograph submitted with Application received on June 26, 2015.

## V. GENERAL FINDINGS

The Zoning Board of Appeals makes the following general findings regarding the Applicant's Special Permit request:

1. The Grafton Flea Market is located at 296 Upton Street.
2. Grafton Flea Market, Inc. owner of the Grafton Flea Market also owns land at 289 and 293 Upton Street.
3. The Grafton Flea Market has operated at its current location since 1970.
4. When the Grafton Flea Market was started, the property on which it is located was zoned for commercial use, but was subsequently rezoned and is now located in the Agricultural district.
5. The Grafton Flea Market, a retail commercial facility, is not a permitted use and is therefore a pre-existing nonconforming use.
6. The premises consist of approximately 5.8 acres of land on the southwesterly side of Upton Street with 299.23 feet of frontage.
7. The facilities on the premises include a main building which includes some space for vendor displays as well as a restaurant area which provides food service for vendors and flea market customers.
8. In addition to its main premises, the Grafton Flea Market has additional parking on the northeasterly side of Upton Street.
9. The Grafton Flea Market generally operates only on Sundays and Monday holidays from April through December of each year.
10. During its normal operation, the Grafton Flea Market employs police details to provide traffic control and a safe environment.
11. The Grafton Flea Market proposes to add an outside seating area 40' x 50' in size and a 12' x 22' shed for the sale and consumption of alcoholic beverages.
12. The proposed facility will be located in an unpaved area adjacent to an existing storage shed and would be finished with a crushed stone surface and enclosed with a fence.

13. The proposed facility will be located along a paved access way which is used by flea market vendors for set up, but is closed to vehicular traffic during operating hours and will provide pedestrian access to the facility.
14. The proposed facility is intended to serve existing flea market patrons and is not intended to operate independently of the flea market, or at times when the flea market is not open.

## **VI. SPECIFIC FINDINGS**

The Zoning Board of Appeals makes the following specific findings regarding the Applicant's Special Permit request:

1. That existing ingress and egress will serve the proposed facility and are adequate to provide automotive and pedestrian safety and convenience, traffic flow and control as well as access in case of fire or catastrophe.
2. Off street parking and loading are not being materially altered and any additional loading will be conducted along an existing paved interior drive.
3. Refuse collection and disposal will be managed along with refuse generated by the existing facility and will not materially change.
4. The proposed facilities will be interior to the existing site and no additional screening or buffering is required.
5. No additional signage is proposed.
6. Required setbacks and open space requirements are met.
7. The proposed use is consistent with the existing use of the site and other uses along Upton Street and all abutting property affected by the proposed facility is controlled by related parties.
8. The proposed facilities and use will not have significant impact on public or private water supply.
9. The site is not located in a Water Supply Protection Overlay District.
10. The proposed facilities and use will not have any adverse impact on any historic, cultural or scenic landscape.

## **VII. CONDITIONS**

Based on the foregoing findings, and assuming operation in accordance with the conditions set forth herein, the Board determines that the proposed facilities and use will not create a nuisance, hazard or congestion and that there will be no substantial harm to the neighborhood, derogation from the general purpose and intent of the zoning by-law, or be contrary to the public interest. The Zoning Board of Appeals hereby approves the Applicant's Special Permit Application, subject to the following conditions:

1. This Special Permit decision shall be recorded at the Worcester County Registry

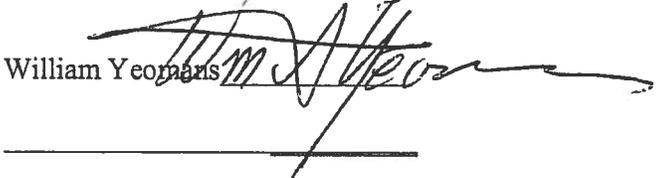
of Deeds. Proof of recordation shall be furnished to the Zoning Board of Appeals prior to issuance of a building permit.

2. The improvements shall be made substantially as shown on the site plan attached to the application.
3. The sale of alcoholic beverages shall only be conducted as an accessory use to the operation of the flea market and only during hours the flea market is in operation.
4. All improvements must be made in accordance with applicable regulations and permits.
5. Construction activity shall be permitted Monday through Friday, 7:00 a.m. to 5:30 p.m. Construction activity shall also be permitted on Saturdays from 7:00 a.m. to 5:00 p.m.; provided however that such activity shall be limited to interior work only, and may be undertaken only when the structure is constructed to the point where such activity cannot be heard outside the structure. No outside construction activity shall take place on Saturdays except between the hours of 8:00 a.m. and 3:00 p.m. No outside construction activity shall take place outside the specified permitted hours or on Sundays or legal holiday, except as may be permitted on a case by case basis by the Chief of Police, or his designee, based on unusual circumstances.
6. This decision is specific to the proposal presented to the Zoning Board of Appeals and documented on the above referenced plans and attachments. Any deviation or change to the project, including but not limited to changes in the design and/or location of the accessory structure and seating area will require the Applicant or his agent to appear before the Zoning Board of Appeals for approval, prior to the change being made under Section 3.4.3 and include an amendment to this Special Permit decision. The Applicant/Owners are advised that it is their sole responsibility to obtain any approvals due to project changes.

**VIII. RECORD OF VOTE**

Constituting a supermajority of the Zoning Board of Appeals, the following members voted to approve the Applicant's application for a Special Permit based on the information in the hearing record and the aforementioned findings, and subject to the aforementioned conditions.

Robert Nault, Vice Chairman 

William Yeomans 

Michael Robbins, Clerk 

Elias Hanna 

**DATE OF FILING OF DECISION:**  
9/18/15

**BY ORDER OF THE BOARD**  
Katrina Keshner



TOWN CLERK

Donna M. Girouard  
Town Clerk

**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD  
GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext. 195  
www.townclerkdept.grafton.ma.us



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Page: 1 of 5 05/17/2016 01:38 PM WD

**CERTIFICATE OF NO APPEAL**

**DECISION:** GRAFTON ZONING BOARD OF APPEALS  
Case # 2015-801 Issuance of Special Permit with  
Conditions

**PETITIONER:** Grafton Flea Market  
296 Upton Street, Grafton, MA 01519

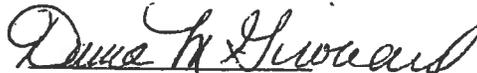
**OWNER:** Grafton Flea Market  
296 Upton Street, Grafton, MA 01519

**DEED REFERENCE:** 296 Upton Street  
Assessor's Map 110, Lot 4  
Worcester District Registry of Deeds  
Book 7838, Page 243

This is to certify that the Decision of the Grafton Zoning Board of Appeals on the petition of the above-named Petitioner, granting to extend and alter a pre-existing nonconforming use under Section 3.43.5 of the Grafton Zoning bylaw to permit the construction of an accessory structure of an accessory structure for the sale of alcohol with the addition of an outdoor seating area was duly recorded in the office of the Town Clerk on September 18, 2015 at 9:51 am.

No Notice of Appeal of the Decision was filed in this office within the twenty days next, the appeal period ending on October 8, 2015.

A true copy, ATTEST:

  
Donna M. Girouard, Town Clerk  
Grafton, MA





**ZONING BOARD OF APPEALS**

**TOWN OF GRAFTON**

GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD  
GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext. 1154 • FAX (508) 839-4602  
koshivosk@grafton-ma.gov  
www.grafton-ma.gov

May 20, 2016

Grafton Flea Market  
296 Upton Street  
Grafton, MA 01519

via Certified Mail #7004 1350 0005 1528 888

Dear Mr. Peters:

Enclosed please find a copy of the Zoning Board of Appeals Decision for a Modification of a Special Permit Case #817, for changing the location of the Beer Garden at 296 Upton Street. You are receiving this document as you are the Applicant / Property Owner listed on the Application.

This decision requires that you file the Decision and a Certificate of No Appeal with the Worcester District Registry of Deeds. Failure to record the Decision and provide notice to our office may cause delays in the issuance of additional permits associated with your project. The Decision was filed with the Town Clerk on Wednesday, May 18, 2016. The Certificate of No Appeal will be available for pick up in the Town Clerk's office on June 8, 2016. The steps for completing a proper filing are as follows:

1. Contact the Town Clerk's office and request a True Copy Attest of your permit along with the Certificate of No Appeal signed by the Town Clerk. The documents cannot be mailed and must be picked up in the office. The Town Clerk's office is open Monday through Friday from 8:30 a.m. to 4:30 p.m. and until 7:00 p.m. on Tuesdays. Their phone number is (508) 839-5335 x1195.
2. Take both documents to the Worcester District Registry of Deeds at 90 Front Street, Worcester and file them. There is a filing fee. They will provide you with a receipt with reference to a Book and number.
3. Hand deliver, mail or email a copy of the receipt to our office. Our office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday.

Please contact the office you have any questions. Thank you.

Sincerely,

Katrina Koshivos  
Zoning Board of Appeals  
Administrative Assistant



**Town of Grafton  
Zoning Board of Appeals  
30 Providence Road  
Grafton, MA. 01519**

**508-839-5335 x1154 - Fax: 508-839-4602  
E-mail: koshivosk@grafton-ma.gov  
Website: www.grafton-ma.gov**

**THE COMMONWEALTH OF MASSACHUSETTS**

**Town of Grafton  
BOARD OF APPEALS**

**Thursday, May 05, 2016**

**Certificate of Granting of Variance or Special Permit  
(General Laws Chapter 40A, Section 11)**

**The Board of Appeals of the City or Town of Grafton, Massachusetts hereby certifies that a**

**Special Permit**

**2016 / 816**

**has been Granted**

**To : GRAFTON FLEA MARKET**

**Address : 296 UPTON STREET**

**City or Town : GRAFTON MA 01519**

**For: TO ALLOW THE GRAFTON FLEA MARKET TO MODIFY THE SPECIAL PERMIT THAT  
WAS ISSUED ON SEPTEMBER 18, 2015, TO RELOCATE THE OUTDOOR SEATING AREA  
FROM THE APPROVED LOCATION TO AN AREA ADJACENT TO THE EXISTING  
BUILDING AND FOOD SERVICES AREA;**

**Date Filed With The Clerks Office**

affecting the rights of the owner with respect to land or buildings at Tax Plan 110 L4.0  
And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its

granting said **Special Permit** and that copies of said decision, and of all plans referred

to in the decision, have been filed with the Town Clerk. Appeals, if any, of this decision must be filed within twenty days (20) after the date of filing of this notice of decision in the Town Clerk's Office. [G.L. c. 40A, sec.15] The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that, if such appeal has been filed that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.



**TOWN OF GRAFTON  
ZONING BOARD OF APPEALS**

30 Providence Road  
Grafton, Massachusetts 01519  
Phone: (508) 839-5335 ext 1154 • FAX: (508) 839-4602  
Email: [koshivosk@graffton-ma.gov](mailto:koshivosk@graffton-ma.gov)  
[www.graffton-ma.gov](http://www.graffton-ma.gov)

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**MINUTES  
ZONING BOARD OF APPEALS  
THURSDAY, MAY 5, 2016  
CONFERENCE ROOM A  
AT THE MUNICIPAL CENTER**

A meeting of the Zoning Board of Appeals was held on Thursday, May 5, 2016 in Conference Room A at the Municipal Center.

**Members present:** Mr. William McCusker-Chairman, Mr. Michael Robbins- Clerk, Mr. Peter Adams, Mr. Elias Hanna, Mr. William Yeomans-Alternate Member, Ms. Kay Reed-Alternate Member and Mr. Robert Berger – ZEO.

**Absent:** Mr. Robert Nault- Vice Chairman

Meeting called to order at 7:30 p.m.

**7:30 p.m. –Case #815- 25 North Street- Special Permit**

Chairman reads the rules of order. The Board introduces themselves. Clerk reads the legal notice. Chairman appoints Ms. Reed as a voting member on this case.

Mrs. Ellen Brown would like to add stairs to a pre-existing, non-conforming deck.

The Board asks who the actual owner of the property is. The applicant informs the Board that she is the Trustee, of the Richard Brown Revocable Trust. Mrs. Brown is the holder of a Life Estate and a Trustee. The trust is the owner of the property.

Mrs. Brown would like to appoint Mr. Steve Cacciopaglia of 792 West Street, Mansfield to speak on her behalf. He is the contractor hired to add the stairs to the existing deck. Currently it is just a platform; they would like to add the stairs so they have access to the back yard from the deck. The deck is 6 1/2' high. The stairs will be going away from the wall that is on the side of the property.

Mr. Berger, the Zoning Enforcement Officer, from his zoning determination, the house was built in 1832.

Chairman asks if anyone wishes to speak in favor or against this petition. No one to speak for or against. Also asks if there have been any letters received in favor or against – none received.

Hearing closed to public input.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Adams to allow Ellen M. Brown as trustee of the Richard Brown Revocable Trust as holder of a Life Estate to 25 North Street, to add stairs to a pre-existing, non-conforming deck within the side setback. On a roll call vote: Ms. Reed- yes; Mr. Adams-yes; Mr. Robbins-yes; Mr. Hanna-yes; Chairman-yes. 5-yes, 0-no, motion passed

Motion made by Mr. Adams and 2<sup>nd</sup> by Mr. Robbins to end hearing. On a vote of 5-yes, 0-no, motion passed, hearing closed.

**7:50 p.m. – Case #817 – 57 Oak Street – Special Permit**

Chairman reads the rules of order. The Board introduces themselves. Clerk reads the legal notice. Chairman appoints Mr. Yeomans as a voting member on this case.

Jessica Assrud of 57 Oak Street, Grafton appoints Mr. Greg Zagunis, 54 Oak Street, Grafton to speak on her behalf, he is her contractor. Mr. Zagunis states that the house is a 2 story home, but the 2<sup>nd</sup> story is a “short” story. We are looking to raise the roof by 3’, move the door over 3’ to the center section of the house. The house was built in 1830, is in the R20 zone and in the Water Supply Protection Overlay District. They will only be going straight up and remaining a single family home.

Chairman asks if there is anyone to speak in favor or against this petition, no one to speak. Chairman asks if there have been any letters received in favor or against this petition, none received.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to allow a second story addition to a pre-existing, non-conforming, structure where 30’ of frontage is required.

On a roll call vote: Mr. Yeomans-yes; Mr. Adams-yes; Mr. Robbins-yes; Mr. Hanna-yes; Chairman-yes. 5-yes, 0-no, motion passed.

Closed to public input.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Adams to close Case #817. . On a vote of 5-yes, 0-no, motion passed, hearing closed.

**Review of Meeting Minutes**

Review of minutes from the 2/25/2016 meeting. Motion made by Mr. Adams and 2<sup>nd</sup> by Ms. Reed to accept the minutes as amended. . On a vote of 5-yes; 0-no – motion passed, minutes accepted.

**8:15 p.m. – Case #816 – 296 Upton Street –Modify Special Permit**

Chairman reads the rules of order. The Board introduces themselves. Clerk reads the legal notice. Chairman appoints Ms. Reed as a voting member on this case.

Mr. Henry Lane, Attorney for the applicant to speak. We went to the Board of Selectmen for a Beer and Wine permit. The Selectmen and the Chief of Police wanted the Beer Garden moved from the proposed location to a location closer to the building and to the current food services area. Due to special wording in the original Special Permit, the applicant needed to appear before the ZBA for their approval for the change of the location.

Chairman states we will be modifying Condition #2, the location of the Beer Garden, per exhibit A & B.

Chairman asks if there are any questions from the Board. Seeing none, Chairman closes the hearing to public input at 8:26 p.m.

Motion made by Mr. Robbins and 2<sup>nd</sup> by Mr. Hanna to change Condition 2, **Improvement shall be made substantially as shown on the site plan attached identified as Ex. A, Revised 1/7/2016 and Ex. B, Revised 1/29/2016,**

On a roll call vote: Ms. Reed-yes; Mr. Adams-yes; Mr. Robbins-yes; Mr. Hanna-yes; Chairman-yes. 5-yes, 0-no, motion passed.

Motion made by Mr. Robbins and 2<sup>nd</sup> by Mr. Adams to end case #816. On a vote of 5-yes, 0-no, motion passed case closed at 8:30 p.m.

**8:45 p.m. – Case#818-25R Trinity Avenue – Variance**

Chairman reads the rules of order. The Board introduces themselves. Clerk reads the legal notice. Chairman appoints Mr. Yeomans as a voting member on this case.

Mr. Matthew Pearson, System Manager of the Grafton Water District and Mary Basset, Council for the Grafton Water District to both speak on behalf of the Water Districts request for the Variance. The lot was created prior to the Zoning By-laws in 1986. The entrance to the lot is very narrow with only 10' of frontage and no way to acquire any additional frontage. The need to build a pump house and well on this lot to obtain the water to service the residence of Grafton. This is the best site for the well. We have dug over 30 different test sites and this is the best possible site for the additional well and pump house for Grafton. It is gravel packed well, which is very beneficial, and the best possible site. Due to the unique soil condition, gravel packed soil; it is the only spot for the well. Attorney Basset, the Grafton Water Districts enabling act states that is must provide water to the residents in the district, there is no other place for the well. If the district is not allowed to dig the well and build the pump house, they will be financially unable to provide water to the town. The Water District owns the land and will suffer the hardship if the variance is not granted.

Chairman states that the hardship is on the town.

Chairman asks if there is anyone to speak for or against the petition, there is no one to speak. Chairman asks if any letters have been received for or against the petition, none have been received.

Chairman closes the case to public input.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Adams to grant a variance the Grafton Water District to allow relief from the 125' frontage and the 10' stabilized vegetated border to construct a municipal well and one related building. On a roll call vote: Mr. Yeomans-yes; Mr. Adams-yes; Mr. Robbins-yes; Mr. Hanna-yes; Chairman-yes. 5-yes, 0-no, motion passed, variance granted.

Motion made by Mr. Adams and 2<sup>nd</sup> by Mr. Hanna to end Case #818. On a vote of 5-yes, 0-no, case #818 closed.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Adams to adjourn meeting. On a vote of 5-yes, 0-no, motion passed, meeting adjourned at 9:07 p.m.

Respectfully submitted by:  
Katrina Koshivos



Clerk  
*Chai*



**TOWN OF GRAFTON  
ZONING BOARD OF APPEALS**

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Grafton, Massachusetts 01519  
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[www.graffton-ma.gov](http://www.graffton-ma.gov)

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**MINUTES**

ZONING BOARD OF APPEALS  
THURSDAY, AUGUST 27, 2015  
FIN. COMM ROOM  
AT THE MUNICIPAL CENTER

A meeting of the Zoning Board of Appeals was held on Thursday, August 23, 2015 in the Fin. Comm. Room, on the 2<sup>nd</sup> floor of the Municipal Center.

**Members present:** Mr. William McCusker- Chairman, Mr. Robert Nault – Vice Chairman, Mr. Michael Robbins- Clerk, Mr. Peter Adams- Member, Mr. Elias Hanna, Mr. William Yeomans-Alternate Member, Mr. Robert Berger – Zoning Enforcement Officer, and Mr. Joe Laydon-Town Planner.

**Absent:** Kay Reed – Alternate Member

Meeting called to order at 7:31 p.m.

**Re-Organization of the Zoning Board of Appeals**

**Chairman:**

Motion was made by Mr. Nault and 2<sup>nd</sup> by Mr. Robbins to nominate Mr. William McCusker as Chairman of the Zoning Board of Appeals. On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Mr. Yeomans-yes.

5-yes-0-no, motion passed, Mr. William McCusker will remain Chairman of the Zoning Board of Appeals.

**Vice Chairman:**

Motion was made by Mr. Robbins and 2<sup>nd</sup> by Mr. Adams to nominate Mr. Robert Nault as Vice Chairman of the Zoning Board of Appeals. On a roll call vote: Mr. Adams-yes; Mr. Hanna-yes; Mr. Robbins-yes; Mr. Yeomans-yes; Chairman-yes.

5-yes, 0-no, motion passed, Mr. Nault will remain Vice Chairman of the Zoning Board of Appeals.

**Clerk:**

Motion was made by Mr. Hanna and 2<sup>nd</sup> by Mr. Nault to nominate Mr. Michael Robbins as Clerk of the Zoning Board of Appeals. On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Yeomans-yes; Chairman-yes.

5-yes, 0-no, motion passed, Mr. Robbins will remain as Clerk of the Zoning Board of Appeals.

**Case #801- 296 Upton Road, Grafton – Special Permit**

Chairman reads rules of order. Clerk reads the legal notice.

Mr. Henry Lane of 100 Main Street, Whitinsville, MA, attorney for the applicant, Michael Peters of 185 Blackstone Street, Mendon, MA to speak for the applicant/owner.

The property was zoned for commercial in the 1970's. In 1980 it was rezoned from Commercial to Agricultural, which made the business legal but a non-conforming use under the new zoning district. The change of use they are requesting is to be able to sell alcohol during operating hours, by adding a beer garden. Business currently has a police detail during operating hours and they do already sell food and soft drinks and water.

Other flea markets in the area sell alcohol; they would just like to compete with them. This is not intended to draw in new customers, the beverages would not leave the fenced in area of the beer garden. All consumption would be confined to one area. There will be no change in the hours or days of operations if the Special Permit is granted. Will still remain open only on Sundays and Monday holidays. Beer sales would be during the hours of 10-4. The sale of the alcohol would only be accessory to the flea market business and not sold any other time.

Chairman states that the current use, the flea market, is not allowed in the Agricultural District. They are requesting altering the use by adding the sale of alcohol – changing from the selling of prepared food to other drinking establishments. If the business was in an allowed zone, there would be no issue, but not allowed in the current zone. The flea market has been in business for over 40 years.

Questions by the Board:

Mr. Adams – aren't drinks, drinks. Why do they need a beer and wine license? Can't they get a one day use license for each day they are open?

Mr. Berger – Zoning Enforcement Officer; the difference in use is the sale of alcohol versus the sale of soft drinks. The use is changing from prepared food, section 3.2.3.1 sub. Section 6 to sub. Section 7 – other eating and drinking establishments.

Mr. Laydon – Town Planner: If the beer and wine were sold from the same place as the food and soft drinks, this could be included. But since it will be sold in a separate location on the property, it is bringing in another use to the property because the sale of the alcohol is now in a separate location. Would also like to see a better site plan showing crosswalks, delineated walking areas, signage regarding pedestrians, handicap access for service at the beer garden and parking. Is there going to be an overflow section if the fenced in area is full? Would also like to see that on the site plan.

Mr. Robbins worried about changing the use to allow the sale of alcohol. Can the ZBA restrict the sale of alcohol to one day only? Per the Chairman, the decision would be to change the use to allow the sale of alcohol but not limit it to how many days he can sell.

Mr. Yeomans states that with 3 police details on duty, the flea market only being open 1 day a week, and with the location of the beer garden totally separate from the rest of the flea market, he sees no issue.

Mr. Hanna, with only 1 day of operation, 40 years in business, and the location of the beer garden being on the other side of the property, sees no issue with changing the use of the business.

Mr. Nault, has no problem with the location of the beer garden, they already have a police detail on site, it is all transient people, also has not issue with the change of use request.

The Zoning Board of Appeals has received correspondence from the Chief of Police stating that he will oppose the sale of alcoholic beverages.

No other correspondence received from any other department.

Chairman would like the decision to be drafted with Joe Laydon, Town Planner, Robert Berger, Zoning Enforcement office and ZBA Assistant Katrina Koshivos.

Attorney Lane will work on the decision with Mr. Laydon and forward to the ZBA for review and approval.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Nault to continue Case #801 to 9:00 p.m. on September 10, 2015.  
On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no, motion passed, hearing continued.

**8:37 p.m. – Case #800 – 18 Millbury Street – Variance for Shed**

Chairman reads rules of order. Clerk reads legal notice.

Mr. Edward Beaman of 18 Millbury Street would like to put a 10' X 12' shed 3' off the lot line. Would like to add the shed for storage. Property is located in an R20 zone. No other place to put the shed other than at the end of the driveway within the setbacks.

Mr. Robbins and Mr. Nault both drove by and looked at the property. This is the only reasonable place to locate the shed. It is a very small, tight lot.

Mr. Yeomans also looked at the property. Very small lot, addition of the shed would improve the area and the property.

Due to the topography of the lot, small, downhill slope, trees, it is the only flat level spot for the shed. There is no garage, not enough area to add a garage and no outside access to the basement.

Chairman asks if we have received any correspondence for or against this petition.

We have received 3 letters from abutters supporting the application for the variance:  
Linda Darling (owner of 16 Millbury), 17 Main Street, North Haven, ME  
Richard Barnard (tenant of 16 Millbury Street)  
David Fadden, 20 Millbury Street

No one to speak in favor or against petition.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Nault to end public input. 5-yes, 0-no, motion passed.  
Motion made by Mr. Nault and 2<sup>nd</sup> by Mr. Robbins to allow a shed to be placed 3' off the right and rear setbacks. 5-yes, 0-no, on a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no, motion passed.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to close hearing on case #800. 5-yes, 0-no, motion passed, hearing closed at 8:57 p.m.

**8:59 p.m. – Case # 802 – 10 Amherst Street – Variance for Shed**

Chairman reads rules of order. Clerk reads legal notice.

Mr. Norman Hill of 52 Millbury Street, Grafton and owner of Land Planning 214 Worcester Street, North Grafton, to speak on behalf of Mr. Tarek Razkalla of 10 Amherst Street, North Grafton, MA. The property in question is a very small lot, located in an R20 zone where 20,000 sq. feet is required and the lot is only 8,000 square feet. There is currently no garage. There is a basement with a bulkhead entrance, but steep steps to store outdoor equipment. Abutting neighbors have sheds that are very close to the lot line. If we put the shed in the proper setbacks, shed would be in the middle of the

yard right next to the house.

Mr. Berger, Zoning Enforcement Officer, responds to the comment about other sheds. They were placed there without any permits and a letter has been sent to each of the homeowners and forwarded to town council. If we grant the variance, other neighbors and residence would be coming in for variances for their sheds.

Mr. Hanna and Mr. Robbins sees the hardship as a small lot, only place for the shed. There is no garage and no place to build a garage and a safety issue with regards to storing gas, etc.

Mr. Laydon, Town Planner, discussion over accessory structures. Maybe by-law needs to be changed to allow for sheds with relation to the size of the lot and the size of the shed.

Chairman asks if anyone to speak in favor or against petition:

Mr. Ted Bartkiewicz of 1 Harvard Street, North Grafton, MA, is a neighbor and abutter and has no issue with the shed being placed in that location on the property. The applicant is making improvements to his property for the better.

Motion made by Mr. Nault and 2<sup>nd</sup> by Mr. Hanna to allow a 10' x 12' shed to be placed 1' from the back and side lot lines per Exhibit A. On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Chairman-no. 4-yes, 1-no, motion passed, variance granted.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to end public input and close public hearing on case #802. 5-yes, 0-no, motion passed hearing closed at 9:30 p.m.

#### **9:30 p.m. – Case #803 -10 Overlook Street – Special Permit**

Mr. Elias Hanna recuses himself from this hearing as he is a member of the church.

Chairman appoints Mr. Yeomans as voting member on this case.

Waive reading of rules of order. Clerk reads legal notice.

Mr. Sargon Hanna of 208 Brigham Hill Road, North Grafton, MA, to speak on behalf of 10 Overlook Street. Mr. Michael F. Loih of Bertin Engineering Associations, 39 Elm Street, Southbridge, MA also to speak on behalf of 10 Overlook Street. The addition was placed on the left side of the church because that was the best place for it. It will add off street handicap parking that will allow direct access to the church and the fellowship hall. Cannot go further back on the lot due to a very large, old oak tree and the root structure they would have to dig up. The tree provides shade to the park behind the church.

Mr. Berger, Zoning Enforcement Officer, states that the lot is in 2 zones. Industrial and R20. Due to the split zones we must use the more restrictive zone, per Section 3.1.4 – Divided Lots. Also, the property has 3 fronts, Overlook Street, High Street, and School Street. We will use Overlook as the “front” of the building.

The front part of the addition on Overlook Street is 22.2', which is less conforming than the current part of the building which is only 10' from the front setback, which is not more non-conforming, which would require a special permit. The High Street side of the addition is increasing the non-conformity, which would require a variance. The rear of the addition is also increasing the non-conformity, which would also need a variance.

Chairman asks if there is anyone to speak in favor or against petition.

parking spots will be added and then in the winter the snow and where it will be plowed.

Chairman asks if there is any other public input. No one else to speak in favor or against.

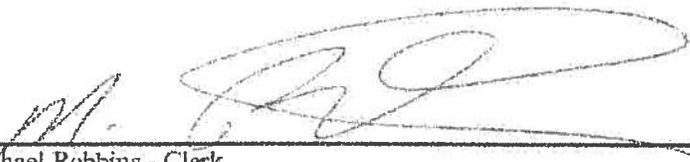
Motion was made by Mr. Nault and 2<sup>nd</sup> by Mr. Robbins to grant a special permit to the Assyrian American Association of MA, Inc. for 10 Overlook Street, Grafton, MA to allow construction of an addition to the existing church as depicted in Exhibit A. On a roll call vote: Mr. Yeomans-yes; Mr. Adams-yes; Mr. Nault-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no – motion passed

Motion was made by Mr. Nault and 2<sup>nd</sup> by Mr. Robbins to grant a variance for a side setback relief of 22.5' and 19.6' of relief on the rear setback to allow construction of an addition to the existing church as depicted in Exhibit A. On a roll call vote: Mr. Yeomans-yes; Mr. Adams-yes; Mr. Nault-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no, motion passed.

Motion made by Mr. Nault and 2<sup>nd</sup> by Mr. Robbins to close the public hearing and case #803. 5-yes, 0-no, motion passed public hearing and case closed at 10:10 p.m.

Motion made by Mr. Nault and 2<sup>nd</sup> by Mr. Hanna to adjourn meeting. On a vote of 5-yes, 0-no, motion passed, meeting adjourned at 10:11 p.m.

Respectfully submitted by:  
Katrina Koshivos



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Mr. Michael Robbins - Clerk



**TOWN OF GRAFTON  
ZONING BOARD OF APPEALS**

30 Providence Road  
Grafton, Massachusetts 01519  
Phone: (508) 839-5335 ext 1154 • FAX: (508) 839-4602  
Email: [koshivosk@graffton-ma.gov](mailto:koshivosk@graffton-ma.gov)  
[www.graffton-ma.gov](http://www.graffton-ma.gov)

RECEIVED TOWN CLERK  
GRAFTON, MA

2015 OCT 16 AM 9 37

**MINUTES**

**ZONING BOARD OF APPEALS  
THURSDAY, SEPTEMBER 10, 2015  
CONFERENCE ROOM A  
AT THE MUNICIPAL CENTER**

A meeting of the Zoning Board of Appeals was held on Thursday, September 10, 2015 in Conference Room A at the Municipal Center.

**Members present:** Mr. Robert Nault, Mr. Michael Robbins- Clerk, Mr. Elias Hanna, Mr. William Yeomans-Alternate Member, and Kay Reed – Alternate Member, Mr. Robert Berger – Zoning Enforcement Officer.

**Absent:** Mr. William McCusker- Chairman, Peter Adams- Member Meeting called to order at 7:31 p.m.

**Review of Meeting Minutes**

Review of minutes from meeting on 7/23/2015. Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to accept the minutes of July 23, 2015 as amended. On a vote of 5-yes; 0-no – motion passed, minutes accepted.

Review of minutes from meeting on 8/27/2015, Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to accept the minutes of August 27, 2015 as amended. On a vote of 5-yes and 0-no, motion passed, minutes accepted.

**7:30 p.m. Case #804-12 Bicknell Road - Variance**

Vice Chairman reads rules of order. Clerk reads the legal notice.

Vice Chairman appoints Mr. Yeomans and Mrs. Reed as voting members on this case.

Vice Chairman reads a letter from Land Planning on behalf of the applicant, withdrawing the case without prejudice. Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to close the public hearing. On a vote of 5-yes, 0-no, motion passed to close the public hearing.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to grant the withdrawal without prejudice. On a roll call vote: Mr. Yeomans-yes; Mrs. Reed-yes; Mr. Robbins-yes; Mr. Hanna-yes; Vice Chairman-yes. 5-yes, 0-no, motion passed, case withdrawn without prejudice.

**8:00 p.m. Case #806 – 8 Donahue Lane –Special Permit**

Vice Chairman appoints Mr. Yeomans and Mrs. Reed as voting members on this case.  
Vice Chairman reads the rules of order. Clerk reads the legal notice.

Mr. William Murphy of 8 Donahue Lane appoints Attorney Rob Knapik to peak on his behalf.

Mr. Hanna makes a point to let everyone know that he has had Attorney Knapik represent him on some legal cases. Applicant is o.k. with Mr. Hanna hearing this case.

Attorney Rob Knapik thanks the Zoning staff and Zoning Enforcement Officer for assistance in submitting the application. The property is currently located in the OLI (Office Light Industrial) District. In 1977 the property was subdivided and a mobile home was placed on this property in 1977 by a Special Permit issued by the ZBA. The owner would like to remove the mobile home and replace with a single family home. Under section 3.4.3.5; changing from the mobile home to a single-family home does not make any more detrimental to the neighborhood.

Questions from the board:

Mr. Hanna comments that moving from a mobile home to a single family home is better for the neighborhood and improves the lot.

Mr. Robbins inquires about the water and sewer. He is informed the mobile home is currently on town water and a septic system and that the septic system will be upgraded.

Vice Chairman asks if there are any letters in favor or against. Informed him there were none.

Zoning Enforcement Office asks why they not need a variance. If you increase the non-conformity you need both a variance and a special permit.

Attorney Knapik states that by altering, changing, or extending the non-conformity will not be more detrimental to the neighborhood. It would be impractical to adhere to the setbacks from 1977. It would make the new home odd looking just trying to make the new home more aesthetically appealing and more in relation to the current homes in the neighborhood.

Mr. Yeomans also states that the new house will be consistent with other houses of the neighborhood and would be a great improvement.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to close the hearing to public input. On a vote of 5-yes, 0-no closed to public input at 8:29 p.m.

Motion made by Mrs. Reed and 2<sup>nd</sup> by Mr. Yeomans to issue a special permit to extend, alter or change a pre-existing, non-conforming, structure or use pursuant to sec. 3.4.3.5 of the Grafton Zoning By-law, so that the petitioner may remove the existing mobile home on the property and replace it with a single-family home, which will not be substantially more detrimental to the neighborhood, as depicted in Exhibit A. On a roll call vote: Mr. Yeomans-yes; Mrs. Reed-yes; Mr. Robbins -no; Mr. Hanna-yes; Vice Chairman - yes. On a vote of 4-yes; 1-no, the motion passed.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to end case #806. On a vote of 5-yes, 0-no, case closed at 8:35 p.m.

#### **8:35 p.m. – case #807- 25 Pullard Road – Special Permit**

Vice Chairman appoints Mr. Yeomans and Mrs. Reed as voting members on this case.

Board introduces themselves. The Vice Chairman reads the rules of order. The clerk reads the legal notice.

Mr. John Cameron of 25 Pullard Road would like to build a breezeway and attached 2 car garage. Very limited as to where garage can be placed due to wetlands and riverfront issues.

Vice Chairman asks if any letters either for or against have been received. Informed him that we have not.

Mr. Konrad Malkowski, 13 Pullard Road Unit #6, is a trustee for the Riverview Condo board that is an abutter to the property in question. The condo board would like the ZBA to vote against this request. The residents in the north part of the complex would have to see the garage and they are worried about the impact of future sales of the condos in that section of the complex.

Mr. Dan Pogerzelski, 9 Pleasant Street. Resides around the corner from the applicant in a home that was built in 1959 and he has lived there since 1961. The original setbacks were 7'. The condos were built in the middle of a residential area. I came before this board some time ago for the same reason and my neighbors came and spoke on my behalf and I felt that someone should speak on Mr. Cameron's behalf. Most of the homes in this area have done the exact same addition that Mr. Cameron is requesting and is not out of place.

Motion made by Mr. Robbins and 2<sup>nd</sup> by Mr. Hanna to close this case to public input. On a vote of 5-yes, 0-no, motion passed, hearing closed to public input.

Motion made by Mr. Robbins and 2<sup>nd</sup> by Mr. Hanna to allow the construction of a 24' x 24' garage and breezeway on a pre-existing, non-conforming structure located in the RMF zone. We are looking for 14.8' of relief on the left front setback where 30' is required. The addition of the garage and breezeway will not be more detrimental to the neighborhood. On a roll call vote: Mr. Yeomans-yes; Mrs. Reed-yes; Mr. Robbins-yes; Mr. Hanna-yes; Vice Chairman-yes. 5-yes, 0-no, motion passed.

Motion made by Mr. Robbins and 2<sup>nd</sup> by Mr. Hanna to close case #807. On a vote of 5-yes, 0-no, case #807 closed at 8:55 p.m.

**9:00 p.m. Continuation of Case #801- 296 Old Upton Road – Grafton Flea Market – Special Permit**

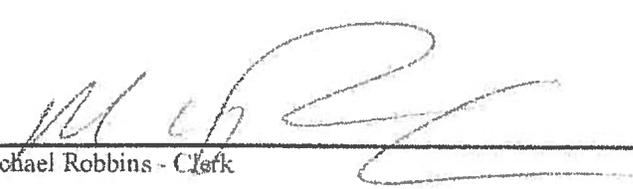
Mrs. Reed is not able to vote on this decision as she did not hear the case. Vice Chairman appoints Mr. Yeomans as a voting member on this decision as he sat in the case.

Only 4 members to vote on this decision. Applicant is o.k. with only 4 members voting on this decision.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to approve the decision on case #801 as submitted. On a roll call vote: Mr. Yeomans-yes; Mr. Robbins-yes; Mr. Hanna-yes; Vice Chairman-yes. 4-yes, 0-no, motion passed, decision approved.

Motion made by Mr. Hanna and 2<sup>nd</sup> by Mr. Robbins to adjourn meeting. On a vote of 5-yes, 0-no, motion passed, meeting adjourned at 9:07p.m.

Respectfully submitted by:  
Katrina Koshivos

  
Mr. Michael Robbins - Clerk



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 239 Causeway Street  
 Boston, MA 02114  
[www.mass.gov/abcc](http://www.mass.gov/abcc)



**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
 MONETARY TRANSMITTAL FORM**

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

ECRT CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA: \$200.00

(CHECK MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL)

CHECK NUMBER

IF USED EPAY, CONFIRMATION NUMBER

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

LICENSEE NAME

ADDRESS

CITY/TOWN  STATE  ZIP CODE

**TRANSACTION TYPE (Please check all relevant transactions):**

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Cordials/Liqueurs Permit       | <input type="checkbox"/> New Officer/Director | <input type="checkbox"/> Transfer of License        |
| <input type="checkbox"/> Change Corporate Name           | <input type="checkbox"/> Issuance of Stock              | <input type="checkbox"/> New Stockholder      | <input type="checkbox"/> Transfer of Stock          |
| <input type="checkbox"/> Change of License Type          | <input type="checkbox"/> Management/Operating Agreement | <input type="checkbox"/> Pledge of Stock      | <input type="checkbox"/> Wine & Malt to All Alcohol |
| <input type="checkbox"/> Change of Location              | <input type="checkbox"/> More than (3) \$15             | <input type="checkbox"/> Pledge of License    | <input type="checkbox"/> 6-Day to 7-Day License     |
| <input type="checkbox"/> Change of Manager               | <input checked="" type="checkbox"/> New License         | <input type="checkbox"/> Seasonal to Annual   |   |
| <input type="checkbox"/> Other <input type="text"/>      |   |   |   |

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

**ALCOHOLIC BEVERAGES CONTROL COMMISSION  
 P. O. BOX 3396  
 BOSTON, MA 02241-3396**

# APPLICATION FOR RETAIL ALCOHOLIC BEVERAGE LICENSE

City/Town

## 1. LICENSEE INFORMATION:

A. Legal Name/Entity of Applicant:(Corporation, LLC or Individual)

B. Business Name (if different) :  C. Manager of Record:

D. ABCC License Number (for existing licenses only) :

E. Address of Licensed Premises:  City/Town:  State:  Zip:

F. Business Phone:  G. Cell Phone:

H. Email:  I. Website:

J. Mailing address (if different from E.):  City/Town:  State:  Zip:

## 2. TRANSACTION:

- New License     New Officer/Director     Transfer of Stock     Issuance of Stock     Pledge of Stock  
 Transfer of License     New Stockholder     Management/Operating Agreement     Pledge of License

The following transactions must be processed as new licenses:

- Seasonal to Annual     (6) Day to (7)-Day License     Wine & Malt to All Alcohol

**IMPORTANT ATTACHMENTS (1):** The applicant must attach a vote of the entity authorizing all requested transactions, including the appointment of a Manager of Record or principal representative.

## 3. TYPE OF LICENSE:

- §12 Restaurant     §12 Hotel     §12 Club     §12 Veterans Club     §12 Continuing Care Retirement Community  
 §12 General On-Premises     §12 Tavern (No Sundays)     §15 Package Store

## 4. LICENSE CATEGORY:

- All Alcoholic Beverages     Wines & Malt Beverages     Wines     Malt  
 Wine & Malt Beverages with Cordials/Liqueurs Permit

## 5. LICENSE CLASS:

- Annual     Seasonal

**6. CONTACT PERSON CONCERNING THIS APPLICATION (ATTORNEY IF APPLICABLE)**

NAME: Henry J. Lane, Lane and Hamer, P.C.  
ADDRESS: 100 Main Street  
CITY/TOWN: Whitinsville STATE: MA ZIP CODE: 01588  
CONTACT PHONE NUMBER: (508) 234-4400 FAX NUMBER: (508) 234-4966  
EMAIL: hlane@laneandhamer.com

**7. DESCRIPTION OF PREMISES:**

Please provide a complete description of the premises. Please note that this must be identical to the description on the Form 43. **Your description MUST include: number of floors, number of rooms on each floor, any outdoor areas to be included in licensed area, and total square footage.** i.e.: "Three story building, first floor to be licensed, 3 rooms, 1 entrance 2 exits (3200 sq ft); outdoor patio (1200 sq ft); Basement for storage (1200 sq ft). Total sq ft = 5600."

A 12' x 22' (264 sq. ft) 1 room shed with sales window, 1 employee entrance/exist, and 1 delivery overhead door; fenced in outdoor seating area 40' x 50' (2,000 sq. ft). with 2 entrances/exists.

Total Square Footage: 2,264 Number of Entrances: 2 Number of Exits: 2  
Occupancy Number: 60 Seating Capacity: 60

IMPORTANT ATTACHMENTS (2): The applicant must attach a floor plan with dimensions and square footage for each floor & room.

**8. OCCUPANCY OF PREMISES:**

By what right does the applicant have possession and/or legal occupancy of the premises? Final Lease

IMPORTANT ATTACHMENTS (3): The applicant must submit a copy of the final lease or documents evidencing a legal right to occupy the premises. Other:

Landlord is a(n): Corporation Other:

Name: Grafton Flea Market, Inc. Phone: (508) 839-2217

Address: P.O. Box 206 City/Town: Grafton State: MA Zip: 01519

Initial Lease Term: Beginning Date July 1, 2010 Ending Date open

Renewal Term: Options/Extensions at: Years Each

Rent: 12,000.00 Per Year Rent: 1,000.00 Per Month

Do the terms of the lease or other arrangement require payments to the Landlord based on a percentage of the alcohol sales? Yes  No

If Yes, Landlord Entity must be listed in Question # 10 of this application.

If the principals of the applicant corporation or LLC have created a separate corporation or LLC to hold the real estate, the applicant must still provide a lease between the two entities.

**9. LICENSE STRUCTURE:**

The Applicant is a(n):

Corporation

Other :

If the applicant is a Corporation or LLC, complete the following:

Date of Incorporation/Organization:

7/12/2010

State of Incorporation/Organization:

Massachusetts

Is the Corporation publicly traded?

Yes  No

**10. INTERESTS IN THIS LICENSE:**

List all individuals involved in the entity (e.g. corporate stockholders, directors, officers and LLC members and managers) and any person or entity with a direct or indirect, beneficial or financial interest in this license.

**IMPORTANT ATTACHMENTS (4):**

A. All individuals or entities listed below are required to complete a Personal Information Form.

B. All shareholders, LLC members or other individuals with any ownership in this license must complete a COR1 Release Form (unless they are a landlord entity)

| Name              | All Titles and Positions      | Specific % Owned | Other Beneficial Interest |
|-------------------|-------------------------------|------------------|---------------------------|
| Michael G. Peters | Pres., Treas., Sec., Director | 100%             |                           |

\*If additional space is needed, please use last page.

**11. EXISTING INTEREST IN OTHER LICENSES:**

Does any individual listed in §10 have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes  No  If yes, list said interest below:

| Name | License Type  | Licensee Name & Address |
|------|---------------|-------------------------|
|      | Please Select |                         |

\*If additional space is needed, please use last page.

**12. PREVIOUSLY HELD INTERESTS IN OTHER LICENSES:**

Has any individual listed in §10 who has a direct or indirect beneficial interest in this license ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes  No  If yes, list said interest below:

| Name | Licensee Name & Address | Date | Reason Terminated |
|------|-------------------------|------|-------------------|
|      |                         |      | Please Select     |
|      |                         |      | Please Select     |
|      |                         |      | Please Select     |

**13. DISCLOSURE OF LICENSE DISCIPLINARY ACTION:**

Have any of the disclosed licenses to sell alcoholic beverages listed in §11 and/or §12 ever been suspended, revoked or cancelled? Yes  No  If yes, list said interest below:

| Date | License | Reason of Suspension, Revocation or Cancellation |
|------|---------|--|
|      |         |  |
|      |         |  |
|      |         |  |

**14. CITIZENSHIP AND RESIDENCY REQUIREMENTS FOR A (§15) PACKAGE STORE LICENSE ONLY :**

**A.) For Individual(s):**

1. Are you a U.S. Citizen? Yes  No
2. Are you a Massachusetts Residents? Yes  No

**B.) For Corporation(s) and LLC(s) :**

1. Are all Directors/LLC Managers U.S. Citizens? Yes  No
2. Are a majority of Directors/LLC Managers Massachusetts Residents? Yes  No
3. Is the License Manager a U.S. Citizen? Yes  No

**C.) For Individual(s), Shareholder(s), Member(s), Director(s) and Officer(s):**

- 1.. Are all Individual(s), Shareholders, Members, Directors, LLC Managers and Officers involved at least twenty-one (21) years old? Yes  No

**15. CITIZENSHIP AND RESIDENCY REQUIREMENTS FOR (§12) RESTAURANT, HOTEL, CLUB, GENERAL ON PREMISE, TAVERN, VETERANS CLUB LICENSE ONLY:**

**A.) For Individual(s):**

1. Are you a U.S. Citizen? Yes  No

**B.) For Corporation(s) and LLC(s) :**

1. Are a majority of Directors/LLC Managers **NOT** U.S. Citizen(s)? Yes  No
2. Is the License Manager or Principal Representative a U.S. Citizen? Yes  No

**C.) For Individual(s), Shareholder(s), Member(s), Director(s) and Officer(s):**

- 1.. Are all Individual(s), Shareholders, Members, Directors, LLC Managers and Officers involved at least twenty-one (21) years old? Yes  No

**16. COSTS ASSOCIATED WITH LICENSE TRANSACTION:**

|  |           |
|--|-----------|
| A. Purchase Price for Real Property:   |           |
| B. Purchase Price for Business Assets: |           |
| C. Costs of Renovations/Construction:  | 10,000.00 |
| D. Initial Start-Up Costs:             |           |
| E. Purchase Price for Inventory:       | 2,500.00  |
| F. Other: (Specify)                    |           |
| <b>G: TOTAL COST</b>                   | 12,500.00 |
| <b>H. TOTAL CASH</b>                   | 12,500.00 |
| <b>I. TOTAL AMOUNT FINANCED</b>        | - 0 -     |

**IMPORTANT ATTACHMENTS (5):** Any individual, LLC, corporate entity, etc. providing funds of \$50,000 or greater towards this transaction, must provide proof of the source of said funds. Proof may consist of three consecutive months of bank statements with a minimum balance of the amount described, a letter from your financial institution stating there are sufficient funds to cover the amount described, loan documentation, or other documentation.

The amounts listed in subsections (H) and (I) must total the amount reflected in (G).

**17. PROVIDE A DETAILED EXPLANATION OF THE FORM(S) AND SOURCE(S) OF FUNDING FOR THE COSTS IDENTIFIED ABOVE (INCLUDE LOANS, MORTGAGES, LINES OF CREDIT, NOTES, PERSONAL FUNDS, GIFTS):**

Cash on hand

\*If additional space is needed, please use last page.

**18. LIST EACH LENDER AND LOAN AMOUNT(S) FROM WHICH "TOTAL AMOUNT FINANCED" NOTED IN SUB-SECTIONS 16(I) WILL DERIVE:**

A.

| Name | Dollar Amount | Type of Financing |
|------|---------------|-------------------|
|      |               |                   |
|      |               |                   |
|      |               |                   |

\*If additional space is needed, please use last page.

B. Does any individual or entity listed in §17 or §18 as a source of financing have a direct or indirect, beneficial or financial interest in this license or any other license(s) granted under Chapter 138? Yes  No

If yes, please describe:

**19. PLEDGE: (i.e. COLLATERAL FOR A LOAN)**

A.) Is the applicant seeking approval to pledge the license?  Yes  No

1. If yes, to whom:

2. Amount of Loan:  3. Interest Rate:  4. Length of Note:

5. Terms of Loan :

B.) If a corporation, is the applicant seeking approval to pledge any of the corporate stock?  Yes  No

1. If yes, to whom:

2. Number of Shares:

C.) Is the applicant pledging the inventory?  Yes  No

If yes, to whom:

**IMPORTANT ATTACHMENTS (6):** If you are applying for a pledge, submit the pledge agreement, the promissory note and a vote of the Corporation/LLC approving the pledge.

**20. CONSTRUCTION OF PREMISES:**

Are the premises being remodeled, redecorated or constructed in any way? If YES, please provide a description of the work being performed on the premises:  Yes  No

A 12' x 22' shed with and outside seating area 40' x 50' to be constructed.

21. ANTICIPATED OPENING DATE:

**IF ALL OF THE INFORMATION AND  
ATTACHMENTS ARE NOT COMPLETE  
THE APPLICATION WILL BE  
RETURNED**

**APPLICANT'S STATEMENT**

I, Michael G. Peters the:  sole proprietor;  partner;  corporate principal;  LLC/LLP member  
Authorized Signatory

of Michael G. Peters, Inc., hereby submit this application for wine and malt beverage license  
Name of the Entity/Corporation Transaction(s) you are applying for

(hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statement and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises does not violate any requirement of the ABCC or other state law or local ordinances;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the Application information as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of, the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

Signature: Michael G. Peters

Date: 10/15/15

Title: President

If the Board is in agreement the Board will vote to affirm the appointment and ratify a 3 year contract for the Police Chief.



OFFICE OF THE  
TOWN ADMINISTRATOR

30 Providence Road

Grafton, MA 01519

(508) 839-5335

Town Administrator: *Timothy P. McInerney*

mcinerneyt@grafton-ma.gov

www.grafton-ma.gov

---

TO: Board of Selectmen

DATE: July 8, 2016

RE: Police Chief Reappointment

I am proud to reappoint Normand Crepeau as Grafton's Police Chief. I hope you support the chief's reappointment by ratifying this agreement on July 12, 2016.

Summary of Terms

This will be a 3 year contact which will expire June 30, 2019.

a) Salary: 1<sup>st</sup> Year 3%, 2<sup>nd</sup> Year 1.5%, 3<sup>rd</sup> Year 1.5%

An additional 1.5% will be given based on a satisfactory performance appraisal during the second and third year of this agreement.

b) Upon **Accreditation** of the Grafton Police Department by the Massachusetts Police Accreditation Commission (MPAC), the chief's salary shall be increased by 2%.

c) Upon **National Accreditation by CELA** of the Grafton Police Department by MPAC, the chief's salary shall be increased by an additional 1%.

Attached is the entire contract for your review and consideration. We look forward to your support of this appointment.

If the Board is in agreement, the Board will affirm the appointment of Michelle Malkasian as a Part Time Activities Coordinator for the Council on Aging.



# Town of Grafton

Grafton Senior Center  
Council on Aging  
30 Providence Road  
Grafton, Massachusetts 01519

Ph. (508) 839-9242  
Fax (508) 839-7306  
Email: [coa@grafton-ma.gov](mailto:coa@grafton-ma.gov)

Ref. #76-16

TO: ✓ Tim McInerney, Town Administrator  
FROM: Barbara Connelly, COA Director *BC*  
DATE: July 7, 2016  
RE: **NEW HIRE – PART-TIME COA ACTIVITIES COORDINATOR**

I recommend the appointment of Michele Malkasian, 37 Kingsnorth Street, Whitinsville, MA 01588 to the position of part-time COA activities coordinator (max. 10/hrs/week).

Michele will start on July 18<sup>th</sup>

Michele's resume and application are attached.

If you need additional information, please feel free to contact me.

BC  
Attachment

If the Board is in agreement the Board will accept the resignation of Peter Adams from the ZBA.

June 22, 2016

Mr. William McCuster, Chairman  
Grafton Zoning Board of Appeals  
30 Providence Rd  
Grafton, Ma. 01519

Dear Bill,

I regretfully submit my resignation from the Grafton Zoning Board of Appeals effective immediately. It has been a real pleasure serving with 22 members, 6 secretaries, 3 Zoning officers + 4 Town Administrators during my appointed time over the years.  
I'll be back

Peter Adams

**RECEIVED**

**JUN 22 2016**

**ZONING BOARD OF APPEALS**

If the Board is in agreement, the Board will accept the resignation of Doreen DeFazio from CIPC.

Doreen DeFazio  
46 North Street  
Grafton, MA 01519

June 21, 2016

Town of Grafton  
Providence Road  
Grafton, MA 01519

To Whom It May Concern:

I hereby tender my resignation from CIPC, effective June 21<sup>st</sup> 2016.

It has been a pleasure to volunteer my time to this committee, and thank you for the opportunity to serve the Town.

Sincerely,

Doreen DeFazio



**GRAFTON**  
Massachusetts

Cindy Ide <idec@grafton-ma.gov>

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## Capital Improvement and Planning Committee

6 messages

---

Cindy Ide <idec@grafton-ma.gov>  
To: Doreen DeFazio <dmdfazio@gmail.com>

Tue, Jun 21, 2016 at 10:50 AM

Hi Doreen,  
Rumor has it that you may no longer be interested in serving on the CIPC.  
If this is true, could you send me a quick resignation letter for our records.

Thanks,  
Cindy

—

Cindy Ide, Secretary

Office of the Town Administrator

30 Providence Road

Grafton, MA 01519

p. 508-839-5335 x 1180

f. 508-839-4602

idec@grafton-ma.gov

www.grafton-ma.gov



@TownofGraftonMA

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Doreen DeFazio <dmdfazio@gmail.com>  
To: Cindy Ide <idec@grafton-ma.gov>

Tue, Jun 21, 2016 at 12:50 PM

Hi Cindy,

I have not been on that committee for over a year. I sent in a resignation notice a long time ago. I am taking it there is not one on record? Should I send a new one? When I get home I can see if I have the original. Thanks.

Doreen  
[Quoted text hidden]

---

Cindy Ide <idec@grafton-ma.gov>  
To: Doreen DeFazio <dmdfazio@gmail.com>

Tue, Jun 21, 2016 at 1:09 PM

Hmmm that is interesting. Let me check and I'll get back to you on it. Sargon mentioned it to me and they'd like to fill the seat if you no longer want it.

Cindy  
[Quoted text hidden]

---

Cindy Ide <idec@grafton-ma.gov>  
To: Doreen DeFazio <dmdfazio@gmail.com>

Tue, Jun 21, 2016 at 1:14 PM

Strange,  
All I have is your interest letter from Aug 2012.

If you can send me a quick note I'd appreciate it and we'll get it all to date.

Cindy  
[Quoted text hidden]

---

**Doreen DeFazio** <dmdefazio@gmail.com>  
To: Cindy Ide <idec@grafton-ma.gov>

Tue, Jun 21, 2016 at 1:31 PM

No problem. I will write one up now and send it over. Sorry about the confusion.

Doreen  
[Quoted text hidden]

---

**Doreen DeFazio** <dmdefazio@gmail.com>  
To: Cindy Ide <idec@grafton-ma.gov>

Tue, Jun 21, 2016 at 2:10 PM

Here you go Cindy. See attached.

Thanks.

Doreen  
[Quoted text hidden]



**GraftonCIPC.docx**  
13K

If the Board is in agreement, the Board will vote to authorize the Town Administrator to sign an application to install new signage for Magnolia Lane.

If the Board is in agreement, the Board will vote to authorize the Town Administrator to Sign a contract for Seven 4 –Day Weeks of golf instruction with James Chisholm for Recreation Department.

# TOWN OF GRAFTON<sup>1</sup>

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DATE: JUNE 30, 2016

This Contract is entered into on, or as of, this date by and between the Town of Grafton, 30 Providence Road, Grafton, MA 01519 (the "Town"), and

James Chisholm  
230 North Main St. Apt #1  
Grafton, MA 01519

[Bill@highfieldsgolfcc.com](mailto:Bill@highfieldsgolfcc.com)

1. This is a Contract for the procurement of the following:  
Seven 4-day weeks of golf instruction during the summer of 2016.

2. The Contract price to be paid to the Contractor by the Town is:  
\$165 per person for half day programs. Not to exceed \$13860.00

3. Payment will be made as follows:

3.1 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.2 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

4. Definitions:

4.1 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, Specifications, and all Supplements. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all.

4.2 Date of Substantial Performance: The date when the work is sufficiently complete and the services are performed, in accordance with Contract documents, as modified by approved Amendments and Change Orders.

4.3 Services: shall mean furnishing of labor, time, or effort by the Contractor. This term shall not include employment agreements, collective bargaining agreements, or grant agreements.

4.4 Work: The services or materials contracted for, or both.

5. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before July 8, 2016, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor. Time is of the essence for the completion of the Contract.

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<sup>1</sup> Contract Short Form Recreation and School Departments\_Services Less than \$25,000.00

**6. Subject to Appropriation:**

Notwithstanding anything in the Contract Documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town.

**7. Permits and Approvals:**

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

**8. Termination and Default:**

8.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

8.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.

8.3 Default. The following shall constitute events of a default under the Contract: any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

**9. The Contractor's Breach and the Town's Remedies:**

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Grafton shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

**10. Statutory Compliance:**

10.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract Documents shall conflict with any provision 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 the General Laws are incorporated by reference into this Contract.

10.2 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract.

11. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract.

12. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

13. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

14. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

15. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds.

16. Corporate Contractor:

If the Contractor is a corporation and is being executed by a party other than its president, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Grafton unless and until the Contractor complies with this section.

17. Minimum Wage/Prevailing Wage;

The Contractor will carry out the obligations of this Contract in full compliance with all of the requirements imposed by or pursuant to G. L. c. 151, §1, *et seq.* (Minimum Wage Law) and the wage rates as set forth in G.L. c. 149 §26 to 27D (prevailing Wage).

18. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Grafton shall be individually or personally liable on any obligation of the Town under this Contract.

19. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or

omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 20. Insurance

### 20.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 20.2 Professional Liability Insurance

Liability of \$1 million per claim and \$3 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

### 20.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of Grafton as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.
- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.

All policies shall identify the Town as an additional insured (except Workers' Compensation) The Contractor must provide notice to the Town immediately upon the cancellation modification of the policy. All Certificates of Insurance shall be on the "MIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer

of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses.

- d. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

#### 21. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 22. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 23. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

#### 24. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 25. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 26. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 27. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 28. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/01/2016

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

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must 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).

|  |   |                                      |
|--|---|--------------------------------------|
| <b>PRODUCER</b><br>K&K Insurance Group, Inc.<br>1712 Magnavox Way<br>Fort Wayne IN 46804   | <b>CONTACT NAME:</b> Mass Merchandising Underwriting  |                                      |
|  | <b>PHONE (A/C, No, Ext):</b> 1-800-506-4856           | <b>FAX (A/C, No):</b> 1-260-459-5590 |
| <b>E-MAIL ADDRESS:</b> info@fitnessinsurance-kk.com  |   |                                      |
| <b>PRODUCER CUSTOMER ID:</b>   |   |                                      |
| <b>INSURER(S) AFFORDING COVERAGE</b>   |   | <b>NAIC #</b>                        |
| <b>INSURED</b><br>James W Chisholm III<br>230 North Main Street, Apartment 1<br>Grafton, MA 01519<br>A Member of the Sports, Leisure & Entertainment RPG | <b>INSURER A:</b> Nationwide Mutual Insurance Company |                                      |
|  | <b>INSURER B:</b>                                     |                                      |
|  | <b>INSURER C:</b>                                     |                                      |
|  | <b>INSURER D:</b>                                     |                                      |
|  | <b>INSURER E:</b>                                     |                                      |
|  | <b>INSURER F:</b>                                     |                                      |

**COVERAGES**

CERTIFICATE NUMBER: W00854366

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<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br><input type="checkbox"/> OTHER: | X         |          | 6BRPG0000005861100 | 06/04/2016<br>12:01 AM EDT | 06/04/2017<br>12:01 AM  | EACH OCCURRENCE   | \$500,000   |
|          |   |           |          |                    |                            |                         | DAMAGE TO RENTED PREMISES (Ea Occurrence)                           | \$300,000   |
|          |   |           |          |                    |                            |                         | MED EXP (Any one person)  | \$5,000     |
|          |   |           |          |                    |                            |                         | PERSONAL & ADV INJURY   | \$500,000   |
|          |   |           |          |                    |                            |                         | GENERAL AGGREGATE   | \$5,000,000 |
|          |   |           |          |                    |                            |                         | PRODUCTS - COMP/OP AGG  | \$500,000   |
|          |   |           |          |                    |                            |                         | PROFESSIONAL LIABILITY  | \$500,000   |
|          |   |           |          |                    |                            |                         | LEGAL LIAB TO PARTICIPANTS  | \$500,000   |
|          | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> OWNED AUTOS ONLY<br><input type="checkbox"/> HIRED AUTOS ONLY<br><input type="checkbox"/> NOT PROVIDED WHILE IN HAWAII<br><br><input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> NON-OWNED AUTOS ONLY              |           |          |                    |                            |                         | COMBINED SINGLE LIMIT (Ea accident)                                 |             |
|          |   |           |          |                    |                            |                         | BODILY INJURY (Per person)  |             |
|          |   |           |          |                    |                            |                         | BODILY INJURY (Per accident)  |             |
|          |   |           |          |                    |                            |                         | PROPERTY DAMAGE (Per accident)                                      |             |
|          | <input type="checkbox"/> UMBRELLA LIAB<br><input type="checkbox"/> EXCESS LIAB<br><input type="checkbox"/> DED <input type="checkbox"/> RETENTION<br><br><input type="checkbox"/> OCCUR<br><input type="checkbox"/> CLAIMS-MADE   |           |          |                    |                            |                         | EACH OCCURRENCE   |             |
|          |   |           |          |                    |                            |                         | AGGREGATE   |             |
|          | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br><input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below  | N/A       |          |                    |                            |                         | <input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER |             |
|          |   |           |          |                    |                            |                         | E.L. EACH ACCIDENT  |             |
|          |   |           |          |                    |                            |                         | E.L. DISEASE - EA EMPLOYEE  |             |
|          |   |           |          |                    |                            |                         | E.L. DISEASE - POLICY LIMIT   |             |
|          | <b>MEDICAL PAYMENTS FOR PARTICIPANTS</b>  |           |          |                    |                            |                         | PRIMARY MEDICAL   |             |
|          |   |           |          |                    |                            |                         | EXCESS MEDICAL  |             |

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

Instructor of: Golf

Sports instruction conducted at locations that are NOT owned or operated by the instructor.

The certificate holder is added as an additional insured, but only for liability caused, in whole or in part, by the acts or omissions of the named insured.

**CERTIFICATE HOLDER****CANCELLATION**

Town of Grafton  
 30 Providence Road  
 Grafton, MA 01519  
 (Owner/Lessor of Premises)

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

*Scott Perbuel*

Coverage is only extended to U.S. events and activities.

\*\* NOTICE TO TEXAS INSURED: The Insurer for the purchasing group may not be subject to all the insurance laws and regulations of the State of Texas

If the Board is in agreement the Board will vote to authorize the Town Administrator to sign a contract with MX Consulting for I.T. services.

100 Mount Drive  
North, MA 02767  
Tel: 508-839-5555  
Fax: 508-839-0200

**SCHEDULED SERVICES AGREEMENT**  
CONTRACT NUMBER: MX-62116GK

=====

|                              |                             |
|------------------------------|-----------------------------|
| CUSTOMER: TOWN OF GRAFTON    | BILL TO: SAME               |
| TIM MCINERNEY                |                             |
| LOCATION: 30 PROVIDENCE ROAD | CUSTOMER PO#                |
| GRAFTON, MA 01519            | COMMENCEMENT DATE: 7/1/2016 |
| TEL 508-839-5335 x 1180      | EXPIRATION DATE: 6/30/2017  |
| FAX 508-839-4602             |                             |

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| ITEM | DESCRIPTION | QTY | CHARGE | CHARGE |
|------|-------------|-----|--------|--------|
|------|-------------|-----|--------|--------|

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|   |                    |  |    |       |           |
|---|--------------------|--|----|-------|-----------|
| 1 | SCHEDULED SERVICES | ONSITE DESKTOP, PRINTER & END USER SUPPORT<br>(\$125 per hr x 4 hrs per week x 52 weeks) | 52 | \$500 | \$ 26,000 |
|---|--------------------|--|----|-------|-----------|

Scheduled Services are set at 4 hour per week to be scheduled in agreed upon increments. Wednesdays from 8:30am to 12:30pm. Weekly hour commitment will be reviewed in 3 months to determine if any adjustments need to be made by either MX Consulting Services or by the Town of Grafton.

Adjustments, changes, cancellation or additional hours can be made with 30 days' notice. Billable quarterly in advance.

**Note:** This agreement will automatically be renewed and billed upon depletion

**Business hours 8:30 – 5:00 M-F**

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SERVICE HOURS: 8 A.M. > 5 P.M. MON > FRI  
EXCLUDING HOLIDAYS

TOTAL CHARGE ANNUAL \$26,000

ON-SITE SERVICE:  
SERVICE: 4 HOUR RESPONSE

CUSTOMER: \_\_\_\_\_

DATE: \_\_\_\_\_



CONSULTING SERVICES, INC.

CONTRACT NUMBER  
MX-62116GK

MX CONSULTING SERVICES INC.  
544 PARAMOUNT DRIVE  
RAYNHAM, MA 02767

CUSTOMER: TOWN OF GRAFTON  
TIM MCINERNEY  
LOCATION: 30 PROVIDENCE ROAD  
GRAFTON, MA  
TELEPHONE: 508-839-5335 X 1180  
FAX 508-839-4602

BILL TO: SAME  
CUSTOMER PO#  
COMMENCEMENT DATE: 7/1/2016  
EXPIRATION DATE: 6/30/2017

| ITEM | MODEL NUMBER             | SERIAL NUMBER      | DESCRIPTION   | QTY | UNIT | MONTHLY CHARGE |
|------|--------------------------|--------------------|---|-----|------|----------------|
| 1    | IBM X3650<br>Vmware ESXi | 7915EDU<br>KQ6TW10 | DUAL XEON 2.5GHZ (6)core, 64GB, (2)<br>73GB 15K HS, RAID 5015, WINDOWS<br>2008 SERVER ENT, ESXi | 1   | 275  | 275            |
| 2    | IBM X3650<br>Vmware ESXi | 7915EDU<br>KQ6TW56 | DUAL XEON 2.5GHZ (6)core, 64GB, (2)<br>73GB 15K HS, RAID 5015, WINDOWS<br>2008 SERVER ENT, ESXi | 1   | 275  | 275            |
| 3    | DS3524                   | 1746A4D<br>13D2281 | IBM 24 BAY STORAGE ARRAY<br>(12)600gb 10k   | 1   | 225  | 225            |
| 4    | XTM 515<br>WG515061      | 80BE027DF-<br>C411 | WATCHGUARD XTM515 FIREWALL WITH<br>UTM THREAT SOFTWARE SUITE                                    | 1   | 175  | 175            |

THIS CONTRACT INCLUDES HARDWARE  
AND SOFTWARE SUPPORT ONSITE  
PARTS AND LABOR 4 HOUR RESPONSE

SERVICE HOURS: 8 A.M. > 5 P.M. MON > FRI

ON-SITE SERVICE: MONTHLY CHARGE \$950  
SERVICE: 4 HOUR RESPONSE ANNUAL CHARGE \$ 11,400

UNLIMITED PHONE SUPPORT

CUSTOMER SIGNATURE: \_\_\_\_\_

DATE:

MX SIGNATURE: \_\_\_\_\_

CONTRACT NUMBER  
MX-62116GK

MX CONSULTING SERVICES INC.  
544 PARAMOUNT DRIVE  
RAYNHAM, MA 02767

CUSTOMER: TOWN OF GRAFTON  
TIM MCINERNEY  
LOCATION: 30 PROVIDENCE ROAD  
GRAFTON, MA 01519  
TELEPHONE: 508-839-5335  
FAX 508-839-4602

BILL TO: SAME  
CUSTOMER PO#  
COMMENCEMENT DATE: 7/1/2016  
EXPIRATION DATE: 6/30/2017

| ITEM | DESCRIPTION  | QTY | MONTHLY CHARGE | ANNUALLY CHARGE |
|------|--|-----|----------------|-----------------|
| 1    | <b>MX MSP GOLD Coverage Remote Monitoring Level Platforms</b><br><b>MONITORING SERVICES</b><br>24x7 Availability Monitoring & Alerting<br>Error & Event Log Monitoring<br>Drive Space Monitoring<br>Website Monitoring<br>Application & Database Monitoring<br>Asset Inventory<br><b>SECURITY SERVICES</b><br>24x7 Desktop/Server Monitoring & Alerting<br>Network Firewall Monitoring<br>Microsoft Patch Management<br>Managed Antivirus and Antispyware<br>Security Administration<br>Backup Monitoring & Administration<br><b>MAINTENANCE SERVICES</b><br>Remote Server & Firewall Remediation<br>Remote Desktop Remediation for 55 PCs<br>HP 8212,5406 & QTY(9)3500YL Switching<br>User Account Administration<br>Printer Management<br>Log File Maintenance<br><b>SUPPORT SERVICES</b><br>Unlimited Phone & Email Support - -<br>Remote Control Support - -<br><b>ADVANCED SUPPORT SERVICES</b><br>Guaranteed Response Times - -<br>Monthly Network Summary Reports - -<br>Quarterly Executive Report & Review - -<br>Annual Technology Plans - -<br>Firewall/VPN/Router Management | 12  | \$ 2,645       | \$31,740        |

This contract covers all remote remediation and administration. For Servers, Firewall and Desktops

SERVICE HOURS: 8 A.M. > 5 P.M. MON > FRI  
EXCLUDING HOLIDAYS

TOTAL CHARGE: \$ 31,740

ON-SITE SERVICE:  
SERVICE: 4 HOUR RESPONSE

CUSTOMER SIGNATURE: \_\_\_\_\_

DATE: : \_\_\_\_\_

If the Board is in agreement, the Board will vote to sign the Ferry Street Regulatory Agreement.

LOCAL INITIATIVE PROGRAM  
REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
OWNERSHIP PROJECT

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this \_\_\_ day of \_\_\_\_\_ 2016 by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD"), pursuant to G.L. c. 23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Grafton (the "Municipality"), and Craftsman Village Grafton, LLC, a Massachusetts limited liability company, having an address at PO Box 250, Shrewsbury, MA 01545, and its successors and assigns ("Project Sponsor").

WITNESSETH:

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

WHEREAS, the Project Sponsor intends to construct a housing development known as Craftsman Village Grafton at a 3.95-acre site on Ferry Street in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project is to consist of a total number of 24 condominium units (the "Units") and 6 of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the "Low and Moderate Income Units");

WHEREAS, Upon application of the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor, DHCD made a determination of project eligibility pursuant to 760 CMR 56.04 and the Project Sponsor has received a comprehensive permit from the Zoning Board of Appeals of the Municipality, which permit is recorded/filed at the Worcester County Registry of Deeds/Registry District of the Land Court (the "Registry") in Book 47869, Page 1 (the "Comprehensive Permit");

WHEREAS, in partial consideration of the execution of this Agreement, DHCD is issuing its final approval of the Project within the LIP Program pursuant to Section 19 of this Agreement, and has given and will give technical and other assistance to the Project.;

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

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality (the "Plans and Specifications") and in accordance with all terms and conditions of the Comprehensive Permit. In addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved "Alternative Development Plan" as set forth in the *Comprehensive Permit Guidelines* (the "Guidelines")) published by DHCD, and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

\_\_\_\_\_ of the Low and Moderate Income Units shall be one bedroom units;  
 \_\_\_\_\_ of the Low and Moderate Income Units shall be two bedroom units;  
 \_\_\_\_\_ 6 \_\_\_\_\_ of the Low and Moderate Income Units shall be three bedroom units; and,  
 \_\_\_\_\_ of the Low and Moderate Income Units shall be four bedroom units.

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

- one bedroom units - 700 square feet
- two bedroom units - 900 square feet
- three bedroom units - 1200 square feet
- four bedroom units - 1400 square feet

The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for the handicapped. Except to the extent that the Project is exempted from such compliance by the Comprehensive Permit, the Project must also comply with all applicable local codes, ordinances and by-laws.

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

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

3. (a) At the time of sale of each Low and Moderate Income Unit by the Project Sponsor, the Project Sponsor shall execute and shall as a condition of the sale cause the

purchaser of the Low and Moderate Income Unit to execute an Affordable Housing Deed Rider in the form of Exhibit C attached hereto and made a part hereof (the "Deed Rider"). Such Deed Rider shall be attached to and made a part of the deed from the Project Sponsor to the Unit Purchaser. Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low and Moderate Income Unit to offer the Low and Moderate Income Unit to the Municipality and to DHCD at a discounted purchase price more particularly described therein. The Municipality and DHCD shall have the option upon terms more particularly described in the Deed Rider to either purchase the Low and Moderate Income Unit or to find an Eligible Purchaser. The Deed Rider shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made a part of the deed from the Unit Purchaser to the Eligible Purchaser, so that the affordability of the Low and Moderate Income unit will be preserved each time that subsequent resales of the Low and Moderate Income unit occur. (The various requirements and restrictions regarding resale of a Low and Moderate Income Unit contained in the Deed Rider are hereinafter referred to as the ("Resale Restrictions"). If upon the initial resale or any subsequent resale of a Low and Moderate Income Unit, the Municipality and DHCD are unable to find an Eligible Purchaser for the Low and Moderate Income Unit, and the Municipality and DHCD each elect not to exercise its right to purchase the Low and Moderate Income Unit, then the then current owner of the Low and Moderate Income Unit shall have the right to sell the Low and Moderate Income Unit to any person, regardless of his income (an "Ineligible Purchaser") at the Maximum Resale Price and subject to all rights and restrictions contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low and Moderate Income Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

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

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

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

4.

(a) Effective August 7, 2007, DHCD has adopted the policies, procedures, and forms for determining limited dividend compliance set forth in the MassHousing document entitled "Preparation of Cost Certification upon Completion of Homeownership 40B Project for Which MassHousing Serves as Project Administrator: Guidance to Developers and Municipalities" (the "MassHousing Guidance"). The MassHousing Guidance shall govern the cost certifications obligations of the Project Sponsor under this Agreement.

(b) The Project Sponsor shall be a limited dividend organization as defined by 760 CMR 56.01. Project Sponsor agrees that the aggregate profit from the Project which shall be payable to Project Sponsor or to the partners, shareholders or other owners of Project Sponsor or the Project shall not exceed twenty percent (20%) of total development costs of the Project , which development costs have been approved by DHCD (the "Allowable Profit").

(c) Within one hundred eighty (180) days after Substantial Completion of the Project (as that term is defined in the MassHousing Guidance) or, if later, within sixty (60) days of the date on which all units in the Project are sold, the Project Sponsor shall deliver to the Municipality and to DHCD an itemized statement of total development costs together with a statement of gross income from the Project received by the Project Sponsor to date in form satisfactory to DHCD (the "Certified Cost and Income Statement") prepared and certified by a certified public accountant satisfactory to DHCD. DHCD requires the prequalification of the certified public accountant hired by the Project Sponsor as more particularly set forth in Article IV (D) of the Guidelines. If all units at the Project have not been sold within twenty-four (24) months of Substantial Completion, a sale price for the remaining unsold units shall be imputed in an amount equal to the average of the last three (3) arms-length sales of comparable units, and a final Certified Cost and Income Statement shall be required within sixty (60) days thereafter. Prior to DHCD's acceptance of the Certified Cost and Income Statement and for a period of 30 days after DHCD provides the Municipality with its determination of compliance with the limited dividend requirement, the Municipality shall have the option of having the Certified Cost and Income Statement evaluated for accuracy (e.g., absence of material errors) applying the same standards as DHCD by an independent auditor selected by the Municipality. DHCD will reasonably review any inaccuracies identified by the Municipality during this period and shall

thereafter make a final determination of the Project Sponsor's compliance with the limited dividend requirement.

(d) .All profits from the Project in excess of the Allowable Profit (the "Excess Profit") shall be paid by the Project Sponsor to the Municipality. The Municipality agrees that upon the receipt by the Municipality of any Excess Profit, the Municipality shall deposit any and all such Excess Profit into an affordable housing fund, if one exists in the Municipality, and otherwise into a fund established pursuant to G.L. c.44 §53A to be used by the Municipality for the purpose of reducing the cost of Low and Moderate Income Units to Eligible purchasers upon resale or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for persons and families of low and moderate income elsewhere in the Municipality. The expenditure of funds from the Affordable Housing Fund shall be reported on an annual basis to DHCD. For so long as the Project Sponsor complies with the requirements of this Section 4, the Project Sponsor shall be deemed to be a limited dividend organization within the meaning of the Act.]

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

(b) The Project Sponsor may use in-house staff to draft and/or implement the Marketing Plan, provided that such staff meets the qualifications described in the Guidelines. The Project Sponsor may contract for such services provided that any such contractor must be experienced and qualified under the standards set forth in the Guidelines. A failure to comply with the Marketing Plan by the Project Sponsor or by the Municipality shall be deemed to be a default of this Agreement. The Project Sponsor agrees to maintain for at least five years

following the sale of the last Low and Moderate Income Unit, a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Project Sponsor or the Municipality. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Project Sponsor or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

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

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

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

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

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

(a) The Project Sponsor (i) is a  Limited Liability Corporation (LLC), duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact

business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

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

(c) The Project Sponsor will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances, including mortgages referred in paragraph 19, below).

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

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

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

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

(b) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Project Sponsor within thirty (30) days after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

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

(i) any change, substitution or withdrawal of any general partner, manager, or agent of the Project Sponsor; or

(ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in the Project Sponsor (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).

(iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of the Project Sponsor's interest in the Project or any party of the Project.

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

Notwithstanding the above, DHCD's consent under this Section 9 shall not be required with respect to the grant by the Project Sponsor of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

The Project Sponsor hereby agrees that it shall provide copies of any and all written

notices received by the Project Sponsor from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

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

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

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

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

Municipality: Town Of Grafton  
Grafton Memorial Municipal Center  
30 Providence Road  
Grafton, Massachusetts 01519

Project Sponsor: Craftsman Village Grafton, LLC  
PO Box 250  
Shrewsbury, Massachusetts 01545

14. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, the Project Sponsor and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and

assigns. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement shall be perpetual, provided however, that this Agreement shall terminate if (a) at any time hereafter there is no Low and Moderate Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions, and there is no Low and Moderate Income Unit at the Project which is owned by the Municipality or DHCD as provided in Section 4 hereof, or (b) if a Comprehensive Permit is not granted to the Project Sponsor for the Project by either the Municipality's Board of Appeals (as that term is defined in the Regulations) or by the Housing Appeals Committee (as that term is used in the Act) within a period of eighteen months from the date of execution of this Agreement, or (c) if at any time the Comprehensive Permit is revoked and all applicable appeal periods with respect to such revocation have expired. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

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

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

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

16. (a) The Project Sponsor and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Project Sponsor or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD

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

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16(a), then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed SHI Eligible Housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory. The foregoing sentence shall not apply to Low and Moderate Income Units that have been conveyed in compliance and remain in compliance with Section 3 of this Agreement.

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

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

19. (a) When executed by DHCD, this Agreement shall constitute Final Approval of the Project as described in 760 CMR 56.04(7). DHCD hereby reaffirms and incorporates by reference in this Agreement each of the findings with respect to project eligibility required by 760 CMR 56.04(1) made in the Site Eligibility Letter for the Project dated May 7, 2010 \_\_\_\_\_. The Project Sponsor hereby explicitly acknowledges its obligation to comply with the cost examination requirements defined in 760 CMR 56.04(8).

(b) The Project Sponsor has provided financial surety in a form and in the amount required by the Guidelines to ensure completion of the cost examination to the satisfaction of the DHCD and the distribution of excess funds as required at 760 CMR 56.04(8)(c). DHCD will provide a copy of this Agreement to the Municipality's Board of Appeals as required by 760 CMR 56.04(7).

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

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

PROJECT SPONSOR

By: \_\_\_\_\_  
Its:

DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT

By: \_\_\_\_\_  
Its:

MUNICIPALITY

By: \_\_\_\_\_  
Its:

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

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

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

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

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

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK, ss. \_\_\_\_\_, 20\_\_

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

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_,ss. \_\_\_\_\_, 20\_\_

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

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

**CONSENT TO REGULATORY AGREEMENT**

The Undersigned being the holder of a mortgage on the above described Project recorded with the Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_ hereby consents to the execution and recording of this Agreement and agrees that in the event of any foreclosure or exercise of remedies under the mortgage it shall comply with the terms and conditions hereof.

LENDER:

\_\_\_\_\_

By: \_\_\_\_\_  
Its:

(If the Project has more than one mortgagee, add additional consent forms. Execution of the consent form by a mortgagee is only necessary if the mortgage has been recorded prior to the Regulatory Agreement.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

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

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

**EXHIBIT A**

Re: Craftsman Village Grafton  
(Project name)  
Grafton  
(City/Town)  
Craftsman Village Grafton, LLC  
(Developer)

Property Description

**EXHIBIT B**

Re: Craftsman Village Grafton  
(Project name)  
Grafton  
(City/Town)  
Craftsman Village Grafton, LLC  
(Developer)

Sales Prices for Low and Moderate Income Units

|                     | <u>Sales Price</u> |
|---------------------|--------------------|
| Studio units        | \$ _____           |
| One bedroom units   | \$ _____           |
| Two bedroom units   | \$ _____           |
| Three bedroom units | \$ <u>193,000</u>  |
| Four bedroom units  | \$ _____           |

If the Board is in agreement the Board will vote to sign the Easement for 9 Depot Street (Sewer Treatment Facility)

Property Address: 9 Depot Street and Providence Road, Grafton, MA (Worcester South)

## GRANT OF EASEMENT

The **TOWN OF GRAFTON**, a municipal corporation with a usual place of business at 30 Providence Road, Grafton, Massachusetts 01519 (hereinafter referred to as the Grantor), for consideration of One (\$1.00) dollar, grants to **MASSACHUSETTS ELECTRIC COMPANY**, a Massachusetts corporation with its usual place of business at 40 Sylvan Road, Waltham, Massachusetts 02451 (hereinafter referred to as the Grantee) with quitclaim covenants, the perpetual right and easement to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current and for the transmission of intelligence, lines to consist of, but not limited to four (4) poles, (which may be erected at different times) with wires and cables strung upon and from the same and all necessary anchors, guys, and appurtenances (hereinafter referred to as the "OVERHEAD SYSTEM") and "UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM" (hereinafter referred to as the "UNDERGROUND SYSTEM") located in Grafton, Worcester County, Massachusetts, consisting of lines of buried wires and cables and lines of wires and cables installed in underground conduits, together with all equipment and appurtenances thereto for the transmission of intelligence and for the furnishing of electric service to the herein described premises and others, and without limiting the generality of the foregoing, but specifically including the following equipment, namely: manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the hereinafter described property.

Said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are located in, through, under, over, across and upon those parcels of land situated off the southerly side of Depot Street and the westerly side of Providence Road, being more particularly shown as "PARCEL No. 1" and "PARCEL No. 4" on a Plan of Land recorded with the Worcester South District Registry of Deeds in Plan Book 327, Plan 75.

WR #20334134

Address of Grantees:  
Mass El. - 40 Sylvan Road, Waltham, Massachusetts 02451

After recording return to:  
David J. Aho  
National Grid USA  
Service Company, Inc.  
40 Sylvan Road  
Waltham, MA 02451

05 GRAFMA GEN

Said "OVERHEAD SYSTEM" is to originate from Pole P.13, which is located on the southwesterly side of Providence Road, to include Push Pole PP-13-89, which extends in a southwesterly direction from Pole P.13, then proceed in a southwesterly direction from said Pole over, upon and across land of the Grantor to Poles P.13-1 and P.13-2, then proceed in an easterly direction to new Pole P.13-3.

And further, said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" (locations of the electrical equipment and other facilities on the hereinbefore referred to premises of the Grantor) are approximately shown on a sketch entitled: "9 Depot St, Grafton Easement Sketch; Date: 06/02/16; Drawn: D.Alberty; WR 20334134; **EXHIBIT 'A' NOT TO SCALE; nationalgrid,**" a reduced copy of said sketch is attached hereto as "Exhibit A" and recorded herewith, copies of which are in the possession of the Grantor and Grantee herein, but the final definitive locations of said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" shall become established by and upon the installation and erection thereof by the Grantee.

Also with the further perpetual right and easement from time to time without further payment therefore to pass and repass over, across and upon said land of the Grantor as is reasonable and necessary in order to renew, replace, repair, remove, add to, maintain, operate, patrol and otherwise change said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and each and every part thereof and to make such other excavation or excavations as may be reasonably necessary in the opinion and judgment of the Grantee, its successors and assigns, and to clear and keep cleared the portions and areas of the premises wherein the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" are specifically located, as shown on the sketch herein referred to, of such trees, shrubs, bushes, above ground and below ground structures, objects and surfaces, as may, in the opinion and judgment of the Grantee, interfere with the efficient and safe operation and maintenance of the "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" and other related electrical equipment. However, said Grantee, its successors and assigns, will properly backfill said excavation or excavations and restore the surface of the land to as reasonably good condition as said surface was in immediately prior to the excavation or excavations thereof.

If said herein referred to locations as approximately shown on the sketch herein also referred to are unsuitable for the purposes of the Grantee, its successors and assigns, then said locations may be changed to areas mutually satisfactory to both the Grantor and the Grantee herein; and further, said newly agreed to locations shall be indicated and shown on the sketch above referred to by proper amendment or amendments thereto. The Grantor, for itself, its successors and assigns, covenant and agrees with the Grantee, for itself, its successors and assigns, that this Grant of Easement and the location of the Overhead System and Underground System may not be changed or modified without the written consent of the Grantee, its successors and assigns, which consent may be withheld by the Grantee in its sole discretion.

It is the intention of the Grantor to grant to the Grantee, its successors and assigns, all the rights and easements aforesaid and any and all additional and/or incidental rights needed to install, erect, maintain and operate within the Grantor's land an "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM" for the transmission of intelligence and for the purpose of supplying electric service for the building, buildings or proposed buildings shown on the last herein referred to sketch or amended sketch and the right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

It is agreed that the "OVERHEAD SYSTEM and "UNDERGROUND SYSTEM" shall remain the property of the Grantee, its successors and assigns, and that the Grantee, its successors and assigns, shall pay all taxes assessed thereon. Grantor agrees that the rights and easement herein granted are for the purpose of providing service to Grantor's property and the further right to service others from said "OVERHEAD SYSTEM" and "UNDERGROUND SYSTEM".

For Grantor's title, see Order of Taking dated May 14, 1969, recorded with the Worcester South District Registry of Deeds in Book 4951, Page 477, and deed dated June 4, 1980, recorded with said Registry of Deeds in Book 6988, Page 31.

IN WITNESS WHEREOF, the Town of Grafton, acting by and through its Board of Selectmen, being thereto duly authorized, has executed this easement this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

TOWN OF GRAFTON

\_\_\_\_\_  
By: Jennifer Thomas  
Its: Chair

\_\_\_\_\_  
By: Bruce W. Spinney III  
Its: Vice Chair

\_\_\_\_\_  
By: Sargon Hanna  
Its: Clerk

\_\_\_\_\_  
By: Craig Dauphinais  
Its: Selectman

\_\_\_\_\_  
By: Brook Padgett  
Its: Selectman

Commonwealth of Massachusetts

County of \_\_\_\_\_ } ss.

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me,

\_\_\_\_\_  
Name of Notary Public

the undersigned Notary Public,  
personally appeared Jennifer Thomas, Bruce W. Spinney III, Sargon Hanna, Craig Dauphinais,  
and Brook Padgett, proved to me through satisfactory evidence of identity, which was/were

\_\_\_\_\_  
Description of Evidence of Identity

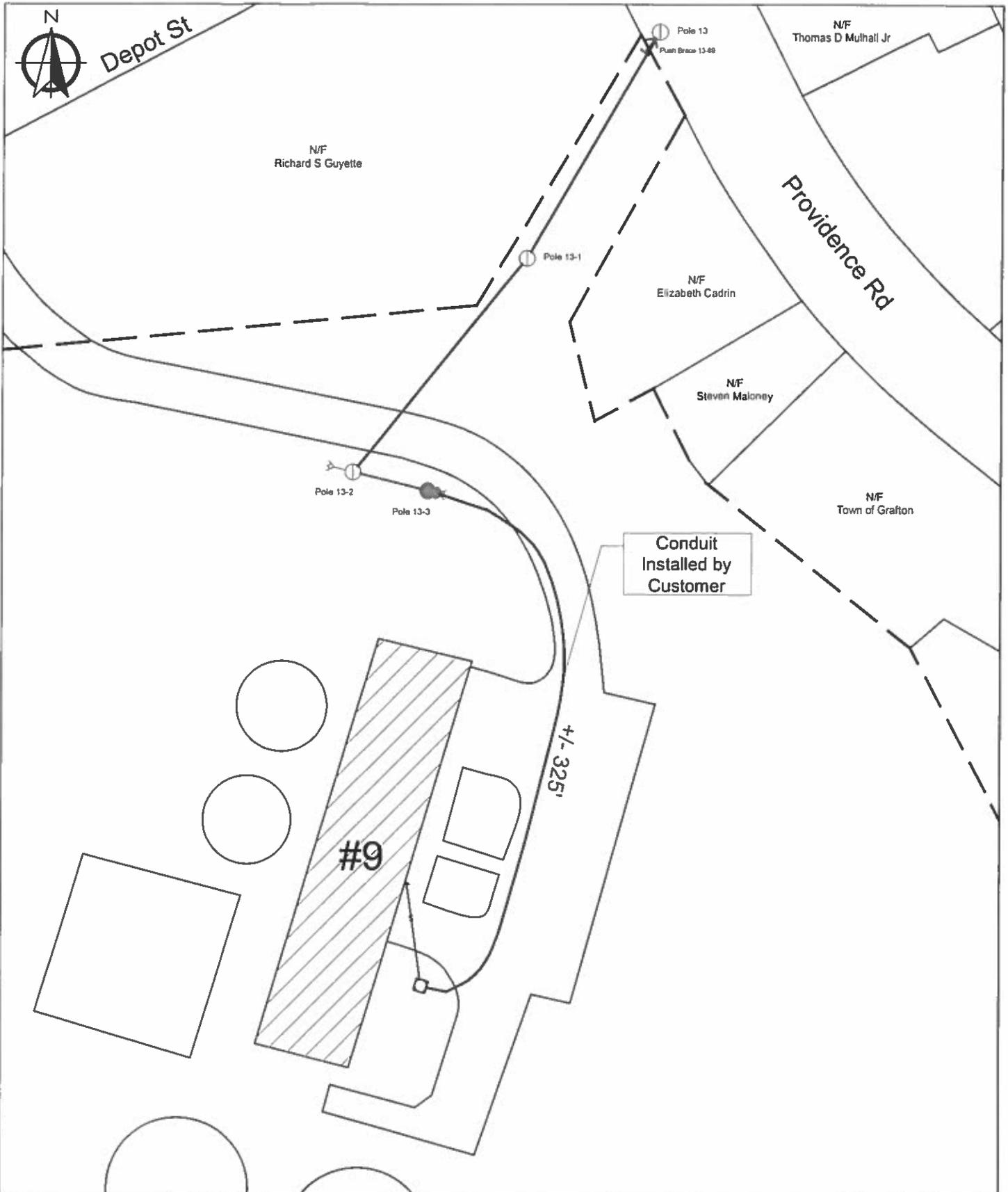
to be the persons whose names are signed on the preceding Grant of Easement, and  
acknowledged to me that they signed it voluntarily for its stated purpose as Members of the  
Grafton Board of Selectman.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires \_\_\_\_\_

Place Notary Seal and/or Any Stamp Above



**LEGEND**

- ⊙ Existing JO Pole
- Proposed SO Pole
- Proposed OH Wire
- Proposed UG Wire (in conduit)
- Existing OH Wire
- ⌵ Proposed Anchor and Guy
- ⬆ Riser
- Customer Service Wire
- Proposed Pad
- ⌵ Existing Push Brace

**9 Depot St, Grafton  
Easement Sketch**

Date: 06/02/16

Drawn: D.Alberty

WR 20334134

**EXHIBIT 'A' NOT TO SCALE**  
The exact location of said Facilities to be established by and upon the installation and erection of the Facilities thereof.

**nationalgrid**

If the Board is in agreement the Board will vote to name the Lake Ripple Boat Ramp in memoriam of John Wilson.



# Grafton Conservation Commission

GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD

GRAFTON, MASSACHUSETTS 01519

Phone: (508) 839-5335 ext. 1138 • FAX: (508) 839-4602

www.grafton-ma.gov • concom@grafton-ma.gov

June 17, 2016

Board of Selectmen  
Grafton Memorial Municipal Center  
30 Providence Road  
Grafton, MA 01519

Subject: Naming of Lake Ripple Boat Ramp

Dear Selectmen:

As you are aware, John Wilson, a dedicated volunteer for the Town of Grafton, has recently passed away. He devoted over thirty years of service to the town through its Conservation Commission, Agricultural Commission, and Lake Quinsigamond Commission. He displayed pure will and fight by attending meetings despite the health issues he was facing.

In honor of his lifetime of service and dedication, the Commission is requesting your approval to name the Lake Ripple boat ramp in memoriam of John Wilson.

Sincerely,

  
\_\_\_\_\_  
Maria Mast, Conservation Agent

If the Board is in agreement, the board will hold a Special Town Meeting for the Sale of Creeper Hill Road.

If the Board is in agreement, the Board will vote to sign contracts for the following:

Comer Contracting Inc. – Comer Contracting, Inc.

Crack Sealing – Crack-Sealing Inc.

Pavement Markings – Markings Inc.

Tree Trimming – Favreau Forestry

## **Contracts for Chip Seal, Seal Coat, Pavement Markings & Tree Trimming for FY16**

### Chip Seal

Comer Contracting, Inc.      \$1.899/Square Yard

### Seal Coat

Superior Sealcoat, Inc.      \$8.00/Gallon

### Pavement Markings

Hi-Way Safety Systems, Inc.      4" Centerline Painting \$.0389 per LF  
4" Sideline Painting \$.0389 per LF

### Tree Trimming

North-Eastern Tree Service, Inc.

Trimming: Groundman Crew \$150.00/Hr.

12" Chipper (W/Chip Box) \$75.00/Hr.

60' Skyworker \$75.00/Hr.

Stump Grinding \$75.00/Hr.

Removal: 6"-12" \$50.00/Ea.

13"-18" \$100.00/Ea.

19"-24" \$480.00/Ea.

25"-30" \$640.00/Ea.

31"-36" \$840.00/Ea.

37"-42" \$980.00/Ea.

43" and up \$1,080.00/Ea.

### Bid Tally Form for Pavement Chip Sealing Services

- |      |                           |              |                 |                |            |
|------|---------------------------|--------------|-----------------|----------------|------------|
| * 1. | <u>Corner Contracting</u> | <u>1.729</u> | per Square Yard | Bid Bond (Y/N) | <u>yes</u> |
| 2.   | <u>all states asphalt</u> | <u>1.82</u>  | per Square Yard | Bid Bond (Y/N) | <u>yes</u> |
| 3.   | _____                     | _____        | per Square Yard | Bid Bond (Y/N) | _____      |
| 4.   | _____                     | _____        | per Square Yard | Bid Bond (Y/N) | _____      |
| 5.   | _____                     | _____        | per Square Yard | Bid Bond (Y/N) | _____      |

WE THE UNDERSIGNED DECLARE UNDER THE PENALTIES OF PERJURY THAT THE ABOVE IS A COMPLETED AND ACCURATE LIST OF BIDS OPENED AND READ ALOUD ON June 21, 2016 (DATE) AT 9:00 AM (TIME) FOR THE ABOVE SPECIFIED CONTRACT.

SIGNED:  DATE: June 21, 2016  
SIGNED:  DATE: 6-21-16

### Bid Tally Form for Crack Sealing Services

|   |                                |                 |            |                           |
|---|--------------------------------|-----------------|------------|---------------------------|
| * | 1. <u>Crack Sealing Inc</u>    | \$ <u>17.00</u> | per Gallon | Bid Bond (Y/N) <u>Yes</u> |
|   | 2. <u>Superior Sealing Inc</u> | \$ <u>17.15</u> | per Gallon | Bid Bond (Y/N) <u>Yes</u> |
|   | 3. <u>Sealcoating Inc</u>      | \$ <u>7.63</u>  | per Gallon | Bid Bond (Y/N) <u>Yes</u> |
|   | 4. _____                       |                 | per Gallon | Bid Bond (Y/N) _____      |
|   | 5. _____                       |                 | per Gallon | Bid Bond (Y/N) _____      |

WE THE UNDERSIGNED DECLARE UNDER THE PENALTIES OF PERJURY THAT THE ABOVE IS A COMPLETED AND ACCURATE LIST OF BIDS OPENED AND READ ALOUD ON June 21, 2016 (DATE) AT 9:30 a.m (TIME) FOR THE ABOVE SPECIFIED CONTRACT.

SIGNED:  DATE: June 21, 2016  
 SIGNED:  DATE: 6-21-16

### Bid Tally Form for Traffic Pavement Markings

|  | 4" Centerline        | 4" Sideline          |
|--|----------------------|----------------------|
| 1. <u>Hopkings Street, Fishers, IN</u> | <u>0395</u> per L.F. | <u>0395</u> per L.F. |
| * 2. <u>Markings inc</u>               | <u>0365</u> per L.F. | <u>0365</u> per L.F. |
| 3. _____                               | _____ per L.F.       | _____ per L.F.       |
| 4. _____                               | _____ per L.F.       | _____ per L.F.       |
| 5. _____                               | _____ per L.F.       | _____ per L.F.       |
|  | Bid Bond (Y/N)       | Bid Bond (Y/N)       |
|  | <u>yes</u>           | <u>yes</u>           |

WE THE UNDERSIGNED DECLARE UNDER THE PENAL TIES OF PERJURY THAT THE ABOVE IS A COMPLETED AND ACCURATE LIST OF BIDS OPENED AND READ ALOUD ON June 21, 2016 (DATE) AT 9:15 a.m. (TIME) FOR THE ABOVE SPECIFIED CONTRACT.

SIGNED: \_\_\_\_\_ DATE: June 21, 2016

SIGNED: \_\_\_\_\_ DATE: 6-21-16



# TOWN OF GRAFTON

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---

DATE: JULY 1, 2016

This Contract is entered into on, or as of, this date by and between the Town of Grafton, 30 Providence Road, Grafton, MA 01519 (the "Town"), and

Comer Contracting, Inc.

1112 Farmington Avenue  
Farmington, CT 06032

1. This is a Contract for the procurement of the following:

The contractor shall provide all labor, equipment, vehicles, insurance and related business processes in furnish and supple liquid asphalt and stone on properly prepared bituminous streets.

2. The Contract price to be paid to the Contractor by the Town is as follows:

\$1.729 per square yard

3. Payment will be made as follows:

3.1

3.1.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s).

3.2 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.3 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

#### 4. Security

4.1 The Contractor must provide security in the form of a payment bond in the amount of 100% of the contract price, conditioned upon the faithful performance of this Contract. The surety company must be qualified to do business under the laws of the Commonwealth of Massachusetts and must be satisfactory to the Town. Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated copy of the Power of Attorney.

#### 5. Definitions:

- 5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.
- 5.2 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.
- 5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.
- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

#### 6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before June 30, 2017, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

#### 7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

#### 8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

#### 9. Termination and Default:

9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days' notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days' notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.

9.3 Default. The following shall constitute events of a default under the Contract:

any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment

or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

#### 11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Grafton shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

#### 12. Statutory Compliance:

- 12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision 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 the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

- 12.2 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 Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

### 13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

### 14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

### 15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to

time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

15.2 The Contractor, if applicable, shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency’s practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.

15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.

15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.

15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Grafton unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Grafton shall be individually or personally liable on any obligation of the Town under this Contract.

## 21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

- 21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 21.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 22. Insurance

### 22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 22.2 Professional Liability Insurance

Liability of \$1 million per claim and \$2 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

### 22.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$2 Million annual aggregate for property damage and \$1 Million per person and \$2 Million per occurrence for bodily injury, which shall include the Town of Grafton as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.

- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- e. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

### 23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

#### 24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### 26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

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

#### 28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

#### 33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Ashland shall be a party.

If this Contract is for Construction, the following provisions will apply:

See SUPPLEMENT S attached hereto.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK]

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

The Town of Grafton by:

The Contractor by:

\_\_\_\_\_  
Chairman, Board of Selectmen

\_\_\_\_\_  
Signature Date

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

\_\_\_\_\_  
Print Name & Title

Certified as to Form:

\_\_\_\_\_  
Town Counsel Date

Certified as to  
Appropriation/Availability of Funds:

\_\_\_\_\_  
Town Accountant Date

## CERTIFICATION OF GOOD FAITH

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

The Contractor by:

\_\_\_\_\_   
 Print Name

\_\_\_\_\_   
 Title/Authority

## CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

\_\_\_\_\_, authorized signatory for  
name of signatory

\_\_\_\_\_, whose  
name of contractor

principal place of business is at \_\_\_\_\_,

\_\_\_\_\_ does hereby certify under the pains and penalties of perjury  
that \_\_\_\_\_ has paid all

name of contractor  
Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## EXAMPLE CLERK'S CERTIFICATE

\_\_\_\_\_  
Action of Shareholders  
Written Consent

(Date)

The undersigned, being the Shareholders of \_\_\_\_\_, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all contract documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, \_\_\_\_\_ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Clerk of Corporation

SEAL

## CONTRACT CHECKLIST

Initials

- |   |       |
|---|-------|
| 1. Certification of Signatures  | _____ |
| • For Corporation: need President's signature or Clerk's Certificate dated no more than 2 years ago With Corporate Seal affixed (see attached form) |       |
| • For LLC: need Manager signature or signed vote of the LLC   |       |
| 2. Certificate of Non-collusion   | _____ |
| 3. Insurance Certificate<br>(showing Town as additional insured)  | _____ |
| • Matches amount of insurance required under contract   |       |
| 4. Certificate of Good Faith  | _____ |
| 5. Certificate of Tax Compliance  | _____ |
| 6. Signed by Contractor   | _____ |
| • Matches certification by Corp officer of authority.   |       |
| 7. Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC both from the Secretary of State                          | _____ |

Contract Reviewed by: \_\_\_\_\_  
Signature

\_\_\_\_\_

Title

Name,

# TOWN OF GRAFTON

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**DATE: JULY 1, 2016**

This Contract is entered into on, or as of, this date by and between the Town of Grafton, 30 Providence Road, Grafton, MA 01519 (the "Town"), and

Crack-Sealing Inc.  
P.O.Box 700  
Raynham, Massachusetts 02767

1. This is a Contract for the procurement of the following:

The contractor shall provide all labor, equipment, vehicles, insurance and related business processes to furnish and supply Random Pavement Crack Sealing by Fiber Reinforced Method.

2. The Contract price to be paid to the Contractor by the Town is as follows:

\$7.00 per gallon

3. Payment will be made as follows:

3.1

3.1.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s).

3.2 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.3 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

4. Security

4.1 The Contractor must provide security in the form of a payment bond in the amount of 100% of the contract price, conditioned upon the faithful performance of this Contract. The surety company must be qualified to do business under the laws of the Commonwealth of Massachusetts and must be satisfactory to the Town. Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated copy of the Power of Attorney.

## 5. Definitions:

- 5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.
- 5.2 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.
- 5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.
- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

## 6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before June 30, 2017, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

9. Termination and Default:

9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.

9.3 Default. The following shall constitute events of a default under the Contract:

any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the

specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

#### 11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Grafton shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

#### 12. Statutory Compliance:

- 12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision 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 the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

- 12.2 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 Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

### 13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

### 14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

### 15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to

time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

15.2 The Contractor, if applicable, shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency’s practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.

15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.

15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.

15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Grafton unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Grafton shall be individually or personally liable on any obligation of the Town under this Contract.

## 21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

- 21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 21.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 22. Insurance

### 22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 22.2 Professional Liability Insurance

Liability of \$1 million per claim and \$2 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

### 22.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$2 Million annual aggregate for property damage and \$1 Million per person and \$2 Million per occurrence for bodily injury, which shall include the Town of Grafton as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.

- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- e. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

### 23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

#### 24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### 26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

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

#### 28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

#### 33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Ashland shall be a party.

If this Contract is for Construction, the following provisions will apply:

See SUPPLEMENT S attached hereto.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK]

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

The Town of Grafton by:

The Contractor by:

\_\_\_\_\_  
Chairman, Board of Selectmen

\_\_\_\_\_  
Signature Date

\_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Certified as to Form:

\_\_\_\_\_  
Town Counsel Date

Certified as to  
Appropriation/Availability of Funds:

\_\_\_\_\_  
Town Accountant Date

## CERTIFICATION OF GOOD FAITH

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

The Contractor by:

\_\_\_\_\_   
 Print Name

\_\_\_\_\_   
 Title/Authority

## CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

\_\_\_\_\_, authorized signatory for  
name of signatory

\_\_\_\_\_, whose  
name of contractor

principal place of business is at \_\_\_\_\_,

\_\_\_\_\_ does hereby certify under the pains and penalties of perjury  
that \_\_\_\_\_ has paid all

name of contractor  
Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## EXAMPLE CLERK'S CERTIFICATE

\_\_\_\_\_  
Action of Shareholders  
Written Consent

(Date)

The undersigned, being the Shareholders of \_\_\_\_\_, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all contract documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, \_\_\_\_\_ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Clerk of Corporation

SEAL

## CONTRACT CHECKLIST

Initials

- |   |       |
|---|-------|
| 1. Certification of Signatures  | _____ |
| • For Corporation: need President's signature or Clerk's Certificate dated no more than 2 years ago With Corporate Seal affixed (see attached form) |       |
| • For LLC: need Manager signature or signed vote of the LLC   |       |
| 2. Certificate of Non-collusion   | _____ |
| 3. Insurance Certificate<br>(showing Town as additional insured)  | _____ |
| • Matches amount of insurance required under contract   |       |
| 4. Certificate of Good Faith  | _____ |
| 5. Certificate of Tax Compliance  | _____ |
| 6. Signed by Contractor   | _____ |
| • Matches certification by Corp officer of authority.   |       |
| 7. Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC both from the Secretary of State                          | _____ |

Contract Reviewed by: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Name,

# TOWN OF GRAFTON

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**DATE: JULY 1, 2016**

This Contract is entered into on, or as of, this date by and between the Town of Grafton, 30 Providence Road, Grafton, MA 01519 (the "Town"), and

Markings Inc.

30 Riverside Drive  
Pembroke, Ma 02359

1. This is a Contract for the procurement of the following:

The contractor shall provide all labor, equipment, vehicles, insurance and related business processes to furnish and supply to provide Traffic Pavement Markings as outlined in the Specifications.

2. The Contract price to be paid to the Contractor by the Town is as follows:

4" Centerline \$0.0365 per linear foot

4" Sideline \$0.0365 per linear foot

3. Payment will be made as follows:

3.1

3.1.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s).

3.2 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.3 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

#### 4. Security

4.1 The Contractor must provide security in the form of a payment bond in the amount of 100% of the contract price, conditioned upon the faithful performance of this Contract. The surety company must be qualified to do business under the laws of the Commonwealth of Massachusetts and must be satisfactory to the Town. Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated copy of the Power of Attorney.

#### 5. Definitions:

- 5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.
- 5.2 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.
- 5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.
- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

## 6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before June 30, 2017, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

## 7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

## 8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

## 9. Termination and Default:

- 9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.
- 9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.
- 9.3 Default. The following shall constitute events of a default under the Contract:  
any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified

in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

#### 11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Grafton shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

#### 12. Statutory Compliance:

- 12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision 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 the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

- 12.2 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 Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment

Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

15.2 The Contractor, if applicable, shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency’s practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.

15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.

- 15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.
- 15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Grafton unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Grafton shall be individually or personally liable on any obligation of the Town under this Contract.

#### 21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

- 21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 21.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor

or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 22. Insurance

### 22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 22.2 Professional Liability Insurance

Liability of \$1 million per claim and \$2 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

### 22.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$2 Million annual aggregate for property damage and \$1 Million per person and \$2 Million per occurrence for bodily injury, which shall include the Town of Grafton as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.

- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.
- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- e. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

### 23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the

Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

#### 24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### 26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

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

#### 28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

#### 33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Ashland shall be a party.

If this Contract is for Construction, the following provisions will apply:

See SUPPLEMENT S attached hereto.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK]

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

The Town of Grafton by:

The Contractor by:

\_\_\_\_\_  
Chairman, Board of Selectmen

\_\_\_\_\_  
Signature Date

\_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Certified as to Form:

\_\_\_\_\_  
Town Counsel Date

Certified as to  
Appropriation/Availability of Funds:

\_\_\_\_\_  
Town Accountant Date

## CERTIFICATION OF GOOD FAITH

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

The Contractor by:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title/Authority

## CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

\_\_\_\_\_, authorized signatory for  
name of signatory

\_\_\_\_\_, whose  
name of contractor

principal place of business is at \_\_\_\_\_,

\_\_\_\_\_ does hereby certify under the pains and penalties of perjury  
that \_\_\_\_\_ has paid all

name of contractor

Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## EXAMPLE CLERK'S CERTIFICATE

\_\_\_\_\_  
Action of Shareholders  
Written Consent

(Date)

The undersigned, being the Shareholders of \_\_\_\_\_, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all contract documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, \_\_\_\_\_ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Clerk of Corporation

SEAL

## CONTRACT CHECKLIST

Initials

- |   |       |
|---|-------|
| 1. Certification of Signatures  | _____ |
| • For Corporation: need President's signature or Clerk's Certificate dated no more than 2 years ago With Corporate Seal affixed (see attached form) |       |
| • For LLC: need Manager signature or signed vote of the LLC   |       |
| 2. Certificate of Non-collusion   | _____ |
| 3. Insurance Certificate<br>(showing Town as additional insured)  | _____ |
| • Matches amount of insurance required under contract   |       |
| 4. Certificate of Good Faith  | _____ |
| 5. Certificate of Tax Compliance  | _____ |
| 6. Signed by Contractor   | _____ |
| • Matches certification by Corp officer of authority.   |       |
| 7. Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC both from the Secretary of State                          | _____ |

Contract Reviewed by: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Name,

# TOWN OF GRAFTON

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**DATE: JULY 1, 2016**

This Contract is entered into on, or as of, this date by and between the Town of Grafton, 30 Providence Road, Grafton, MA 01519 (the "Town"), and

Favreau Forestry  
109 Chase Hill Road  
Sterling, MA 01564

1. This is a Contract for the procurement of the following:

The contractor shall provide all labor, equipment, vehicles, insurance and related business processes to furnish and supply to provide Tree Cutting and Removal Services as outlined in the Specifications.

2. The Contract price to be paid to the Contractor by the Town is as follows:

See attached tally sheet.

3. Payment will be made as follows:

3.1

3.1.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s).

3.2 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.3 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

#### 4. Security

4.1 The Contractor must provide security in the form of a payment bond in the amount of 100% of the contract price, conditioned upon the faithful performance of this Contract. The surety company must be qualified to do business under the laws of the Commonwealth of Massachusetts and must be satisfactory to the Town. Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated copy of the Power of Attorney.

#### 5. Definitions:

- 5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.
- 5.2 Contract Documents: All documents relative to the Contract including (where used) Request for Proposals and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.
- 5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.
- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

#### 6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before June 30, 2014, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

9. Termination and Default:

- 9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.
- 9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.
- 9.3 Default. The following shall constitute events of a default under the Contract:  
any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment

or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

#### 11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Grafton shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

#### 12. Statutory Compliance:

- 12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision 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 the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

- 12.2 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 Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

### 13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

### 14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

### 15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to

time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

15.2 The Contractor, if applicable, shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency’s practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.

15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.

15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.

15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Grafton unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Grafton shall be individually or personally liable on any obligation of the Town under this Contract.

## 21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

- 21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- 21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 21.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 22. Insurance

### 22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

### 22.2 Professional Liability Insurance

Liability of \$1 million per claim and \$2 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

### 22.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$2 Million annual aggregate for property damage and \$1 Million per person and \$2 Million per occurrence for bodily injury, which shall include the Town of Grafton as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident.

- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- e. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

### 23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

#### 24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### 26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

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

#### 28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

#### 33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Ashland shall be a party.

If this Contract is for Construction, the following provisions will apply:

See SUPPLEMENT S attached hereto.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK]

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

The Town of Grafton by:

The Contractor by:

\_\_\_\_\_  
Chairman, Board of Selectmen

\_\_\_\_\_  
Signature Date

\_\_\_\_\_

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Certified as to Form:

\_\_\_\_\_  
Town Counsel Date

Certified as to  
Appropriation/Availability of Funds:

\_\_\_\_\_  
Town Accountant Date

**CERTIFICATION OF GOOD FAITH**

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

The Contractor by:

\_\_\_\_\_
Print Name

\_\_\_\_\_
Title/Authority

**CERTIFICATE OF STATE TAX COMPLIANCE**

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A

\_\_\_\_\_, authorized signatory for
name of signatory

\_\_\_\_\_, whose
name of contractor

principal place of business is at \_\_\_\_\_,

\_\_\_\_\_ does hereby certify under the pains and penalties of perjury
that \_\_\_\_\_ has paid all

name of contractor
Massachusetts taxes and has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_
Signature Date

## EXAMPLE CLERK'S CERTIFICATE

---

Action of Shareholders  
Written Consent

(Date)

The undersigned, being the Shareholders of \_\_\_\_\_, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all contract documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, \_\_\_\_\_ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on \_\_\_\_\_, 20\_\_.

---

Clerk of Corporation

SEAL

## CONTRACT CHECKLIST

Initials

- |   |       |
|---|-------|
| 1. Certification of Signatures  | _____ |
| • For Corporation: need President's signature or Clerk's Certificate dated no more than 2 years ago With Corporate Seal affixed (see attached form) |       |
| • For LLC: need Manager signature or signed vote of the LLC   |       |
| 2. Certificate of Non-collusion   | _____ |
| 3. Insurance Certificate<br>(showing Town as additional insured)  | _____ |
| • Matches amount of insurance required under contract   |       |
| 4. Certificate of Good Faith  | _____ |
| 5. Certificate of Tax Compliance  | _____ |
| 6. Signed by Contractor   | _____ |
| • Matches certification by Corp officer of authority.   |       |
| 7. Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC both from the Secretary of State                          | _____ |

Contract Reviewed by: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Name,

Correspondence:

Sargon Hanna will read correspondence from the Cable Oversight Committee signed by Robert DeToma.



To: Town of Grafton  
Board of Selectmen

From: Cable Oversight Committee  
Robert F. DeToma - Chairman

Date: July 6, 2016

At their meeting of Saturday, June 25<sup>th</sup>, 2016, the Cable Oversight Committee voted unanimously to recommend that the Board of Selectmen appoint Robert Hassinger to the negotiating team for the renewal of the Verizon Cable License.

In the Oversight Committees' opinion, Mr. Hassinger's thirty years of experience is important to the negotiating process, and will help the Town of Grafton continue to receive revenues from Verizon at levels consistent with the past.

Thank you for your consideration of this recommendation.

A handwritten signature in black ink, appearing to read "Robert F. DeToma". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

If the Board is in agreement, the Board will vote to approve meeting minutes of 5/3/16 as presented.



**TOWN OF GRAFTON**  
GRAFTON MEMORIAL MUNICIPAL CENTER  
30 PROVIDENCE ROAD

GRAFTON, MASSACHUSETTS 01519  
(508) 839-5335 ext 1100 • FAX (508) 839-4602  
[www.grafton-ma.gov](http://www.grafton-ma.gov)

**BOARD OF SELECTMEN  
MEETING MINUTES**

May 3, 2016  
Municipal Center, Conference Room A  
7:00 p.m.

**CALL TO ORDER**

A regular meeting was called to order at 7:01 PM. Present: Craig Dauphinais, Jennifer Thomas, Bruce Spinney, Dennis Flynn, Brook Padgett, Tim McInerney, Doug Willardson and Laura St. John-Dupuis.

**ANNOUNCEMENTS**

Mr. Dauphinais asked for a moment of silence for Mr. Edwin Finn, who passed away on Sunday.

**Electricity Aggregation Plan - Open for Public Comment and Review**

Mr. McInerney stated that DOER requires the Town to make an announcement to tell the public about the Electricity Aggregation plan and that it is accessible the Town's web page, the Town Administrator's office and in the Town Clerk's office for review. The Town will accept comments until June 1, 2016.

**Transfer of Liquor License – Simone Linsin d/b/a Pecorino to Pecorino Inc.**

Mr. Spinney read the public hearing notice. Mr. Padgett made a motion to open the public hearing. Ms. Spinney seconded. All were in favor.

Mr. Padgett made a motion to close the public hearing. Mr. Spinney seconded. All were in favor.

Ms. Thomas made a motion to change Transfer of Liquor License from Simone Linsin d/b/a Pecorino to Pecorino Inc. Mr. Flynn seconded. All were in favor.

**Application for Class II License – Kamel Kamel d/b/a K Motors at 21 Shrewsbury Street**

Mr. Spinney read the public hearing notice. Mr. Padgett made a motion to open the public hearing. Mr. Spinney seconded. All were in favor

48  
49 Mr. Spinney made a motion to close the public hearing, Ms. Thomas seconded. All were  
50 in favor.

51  
52 Mr. Flynn made a motion to approve the Class II License for K-Motors, Ms. Thomas  
53 seconded. All were in favor.

54  
55 **7:30 PM Joint Meeting with Moderator and Fin Com - Town Meeting**  
56 **Logistics/Motion Assignments**

57  
58 Mr. Willardson stated that there will be a projection screen showing how to use voting  
59 clickers. There will be test questions #1 and #2. We will have to hold people at the door  
60 during the testing process.

61  
62 Mr. Mead stated that there will not be a question, He will just ask them to test button 1  
63 and button 2.

64  
65 Mr. Willardson stated that when the moderator asks for the vote, the votes will be  
66 displayed on the same screen.

67  
68 Mr. Willardson stated that presentations will be: Library Building Committee will make a  
69 presentation. The Board will read the motion to get it on the floor. Mr. McInerney has  
70 responses, if people want more, there will be people from those departments that can  
71 answer to these.

72  
73 Chief Gauthier addressed the Board stated he met with Mr. McInerney and Mr.  
74 Willardson and talked about doing an evaluation of the Fire Departments equipment.

75  
76 Mr. McInerney asked the Chief if he could get one of the two trucks on the ballot which  
77 one he would want. The Chief stated the all wheel drive pumper because it is more  
78 versatile.

79  
80 Mr. McInerney stated that he has been looking at lease pricing and that there areMthere  
81 are a lot of opportunities for us to get better rates. Mr. Dauphinais stated that he likes  
82 the fact that this comes off of debt exclusion.

83  
84 **Lawn Maintenance**

85  
86 Mr. McInerney introduced Phil Johnson (Superintendent of Parks and Cemetery) and  
87 thought we could run through how we are handling Lawn Maintenance

88  
89 Mr. Johnson stated that he use TruGreen to fertilize, for broad leaf control, grubs and  
90 crab grass four times per year.

91  
92 Mr. Johnson did a cost comparison, what is done now costs \$4K for organic it would be  
93 approximately \$7K.

94

95 Mr. Spinney asked if it would be possible to negotiate a multiyear contract to get the  
96 cost down.

97  
98 Mr. Johnson said he's not sure, but the \$7K does not include broad leaf, crab grass or  
99 grub control if needed.

100  
101 Mr. Spinney asked why Mr. Johnson doesn't handle all town areas. Mr. Johnsons stated  
102 that the school program is completely separate.

103  
104 Mr. Spinney asked what is irrigated; Mr. Johnson stated that Mill Villages is not. Mr.  
105 Spinney stated that with irrigation it buffers that. Mr. Johnson stated that the Common is  
106 like an athletic field because it gets so much. He's not sure what organic will do to it, but  
107 he will try it. He treats it like a turf field.

108  
109 Mr. Padgett asked Mr. Spinney how we got to this point. A lot of chemicals are in  
110 herbicides and pesticides, there is long term issues that impact people. Mr. Spinney  
111 said the exposure is limited but over the years it builds up and doesn't feel the costs  
112 associated with it are great.

113  
114 Ms. Thomas stated that there is an expectation that the common may not look the way it  
115 looks today.

116  
117 Mr. Johnson stated that that's why the companies cut out the phosphorous.

118  
119 Mr. Spinney stated he doesn't think it's far off to go organic. And thinks they will be able  
120 to negotiate a price. Ms. Thomas stated she is not against it.

121  
122 Mr. Dauphinais asked Mr. Johnson if when he talked to true green about this, had they  
123 had an opinion.

124  
125 Mr. Johnson said he didn't get an opinion either way. Mr. Dauphinais stated that we  
126 should try organics and we can always revisit.

127 Ms. Thomas do we have a contract. Mr. Johnson stated that we do and its up in June.

128  
129 Ms. Thomas do they have an organic program? Mr. Johnson stated yes.

130  
131 Ms. Thomas is there any more applications on our contract. Mr. Johnson sated yet one  
132 more for all of the fields for fertilization.

133  
134 Mr. McInerney stated that he will have someone from TruGreen, the School  
135 Department, Mr. Johnson and Ms. Mast of Conservation to the May 24<sup>th</sup> Board meeting  
136 to discuss further.

137  
138 **Vote to approve Kearsarge Energy Solar Agreements.**

139  
140 Mr. McInerney stated that we are looking to have 5 projects that will come on-line in late  
141 December 2016. The savings offsets costs. We are in lock step with the School  
142 Department using net metering.

143  
144 Mr. Spinney made a motion to approve the Kearsarge project. Ms. Thomas seconded.  
145 All were in favor.

146  
147 **RESIGNATIONS**

148  
149 Kerry MacDougall Lewis, Part Time, Activities Coordinator - Council on Aging

150  
151 Mr. Spinney made a motion to accept the resignation of Kerry MacDougall Lewis. Ms.  
152 Thomas seconded. All were in favor.

153  
154 **NEW BUSINESS**

155  
156 **Vote to Approve Road Closure for the Historical Society's 49<sup>th</sup> Annual Antiques**  
157 **Show and Sale - Saturday, June 18, 2016 7:00 AM – 5:00 PM.**

158  
159 Mr. Spinney made a motion to approve Road Closure for the Historical Society's 49<sup>th</sup>  
160 Annual Antiques Show and Sale - Saturday, June 18, 2016 7:00 AM – 5:00 PM.

161  
162 Mr. Flynn seconded. All were in favor.

163  
164 **Vote to approve One Day Beer & Wine License - Wild Flower Society, Inc. May18,**  
165 **2016.**

166  
167 Mr. Padgett made a motion to approve a One Day Beer & Wine License - Wild Flower  
168 Society, Inc. May18, 2016. Mr. Spinney seconded. All were in favor.

169  
170 **Vote to approve One Day Beer & Wine License – VFW Post No. 1497 for Grafton**  
171 **High School Scholarship Fund- May 29, 2016.**

172  
173 Mr. Spinney made a motion to One Day Beer & Wine License – VFW Post No. 1497 for  
174 Grafton High School Scholarship Fund- May 29, 2016. Mr. Padgett seconded. All were  
175 in favor.

176  
177 **Town Administrator Report**

178  
179 Mr. Willardson provided the following items for his report:

- 180  
181
  - A walk to school day that is planned for the Millbury Street Elementary School  
182 and North Street.
  - Town Clean up day was a huge success
  - Touch a Truck at the DPW was this past Saturday

183  
184  
185  
186  
187  
188 Mr. McInerney provided the following items for his report:

- 189  
190
  - There is a Solar Challenge meeting on May 25<sup>th</sup> and May 26<sup>th</sup>

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- Mr. McInerney stated that Board should expect a Medical Marijuana Facility application to come before the board for a location at Centech Park. Mr. McInerney stated there is a process and that the Board should have a meeting to discuss.

Mr. Flynn stated that he has concerns with the process and feels it should be open to the public. If the Board votes in non-opposition . The Board should consider how we may want to do things differently and take input from the public and decide what to do.

Ms. Thomas suggests that the company who wants to put in a Medical Marijuana facility come to Board and answer questions.

Mr. Padgett suggests an advertised public meeting.

The Board agreed to a public hearing for May 24<sup>th</sup> with Nature’s Remedy. The Notice will go to abutters of the location at Centech Park.

Mr. James Gallagher addressed the Board, asking the board to look at Sag’e application requirement that they has to submit and that DHS requires a letter of non-opposition. Also a host agreement in place before a letter of non-opposition is given.

Mr. Mark Johnson of Hilltop Street addressed the Board asking who will be responsible for letters of non-opposition, the Planning Board or the Board of Selectmen.

Mr. Padgett stated that the letter will come from the Board of Selectmen.

Mr. Johnson asked about and outline of how the process will work, guidelines of the DPH. Also that a registered marijuana dispensary will not be able to proceed without a letter of non-opposition, possibly negotiate that this facility will only be a medical marijuana facility prior to getting a letter of non-opposition.

**DISCUSSION**

**M.A.S.S. Opposition to Ballot Question to Legalize Commercial Marijuana**

Mr. Flynn states that 20% of teens will use marijuana and that exposure has been on the rise in Children under the age of six. The Superintendants Association has joined a coalition in Massachusetts.

**FY17 Budget:**

Mr. McInerney has heard that the House budget will be announced next Thursday.

**MEETING MINUTES**

239  
240 Mr. Spinney made a motion to accept the meeting minutes of 4/12 as presented. Mr.  
241 Padgett seconded. All were in favor.

242

243 **EXECUTIVE SESSION**

244

245 **At 9:01 Ms. Thomas made a motion to go into Executive Session**

246

247 MGL Chapter 30A, Sec. 21(3)

248 Litigation Update

249 Litigation Strategy

250 Union Negotiations

251 Land Negotiation

252 Non Union Negotiations

253 Strategy for Negotiations

254 Minutes

255 **ADJOURN**