



Fairhaven Board of Selectmen

October 29, 2012 Meeting Minutes

Present: Selectman Chairman Brian Bowcock, Vice Chairman Charles Murphy, Clerk Robert Espindola, Executive Secretary Jeffrey Osuch, Town Finance Director John Nunes, Town Planner Bill Roth and Administrative Assistant Anne Kakley. Also present: Beth David from the *Neighborhood News*.

Chairman Brian Bowcock called the meeting to order in the Town Hall Banquet Room at 6:40 p.m.

ABBREVIATED MEETING

Chairman Bowcock explained that the meeting would be abbreviated due to Hurricane Sandy and the resulting State of Emergency that the Town was under. Most regular appointments for the meeting had been canceled.

MINUTES

- The Board voted to accept the minutes of the **October 15, 2012** meeting, **open** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).
- The Board voted to accept the minutes of the **October 15, 2012** meeting, **executive** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Selectmen on the following meetings:

- Tuesday, **October 30** –
 - 8:30 a.m. – Meeting with the Auditor
 - 10:00 a.m. – Job meeting at the Wood School
 - 12:00 p.m. – Unibank meeting
 - 2:30 p.m. – Meet with John Nunes and Jane Bettencourt re: recap
- Wednesday, **October 31** –
 - 9:00 a.m. – Meeting with the BPW
- Thursday, **November 1** –
 - 7:30 – 9:00 a.m. – Forum meeting at the Quest Center
 - 1:00 p.m. – Economic Summit meeting

- Tuesday, **November 6** –
 - 10:00 a.m. – Wood School Job Meeting
- Thursday, **November 8** –
 - 8:30 a.m. to 1:00 p.m. – Meeting at UMass Dartmouth
 - 1:00 p.m. Economic Summit meeting (may get delayed by a half-hour or so)
 - 7:00 p.m. – Finance Committee meeting
- Monday, **November 12**–
 - Holiday – Veteran’s Day – Town Hall closed
- Tuesday, **November 13** –
 - 10:00 a.m. – Wood School Job Meeting
 - 3:30 p.m. – Water Advisory Meeting at BPW
 - 4:30 p.m. – Water District Meeting at BPW
 - 6:30 p.m. – Selectmen’s meeting – Town Hall

CUSHMAN PARK EASEMENT AND FEES

Mr. Osuch said that he had been in contact with Town Counsel and ascertained that total legal fees associated with obtaining an easement for resident Brad Souza, 188 Green Street, across a sliver of Cushman Park land. According to legislature passed down from the State, the Town Meeting-approved easement could only be legally granted if a conservation restriction on a separate parcel of land equaling the size of the easement (or larger) were granted by the Town to offset the easement.

Mr. Osuch said that the total cost of legal services related to the Cushman Park easement for Mr. Souza would be \$6,300 after filing in the Registry of Deeds. The Board agreed that Mr. Souza should pay for the legal costs associated with the easement. Chairman Bowcock said that he thought Mr. Souza could pursue the costs with the quitclaim company that gave him clear title to the property, despite the fact that the front walk crossed over Town land.

Mr. Osuch said that Mr. Souza’s attorney, Benjamin Dowling, had said that his client did not feel he should have to pay for the easement, but Mr. Osuch said that the deed problem only arose when someone owning 188 Green Street built a staircase and walkway over park land. As such, the problem had not been created by the Town, but a previous owner of the property. Mr. Espindola motioned to send Mr. Souza the invoice for \$6,300 for legal costs associated with the easement. Mr. Murphy seconded. Vote was unanimous. (3-0).

TOWN HALL MASONRY REPAIR CHANGE ORDER

The Board voted to approve LaLiberty’s Town Hall Masonry Repair Change Order #1 in the amount of \$2,759.35. (See Attachment A). Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

LALIBERTY FINAL REQUISITION

The Board voted to approve a final payment of \$5,556.87 to LaLiberty Construction, Inc, for Town Hall Masonry Repair. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

STOP LOSS AGREEMENT

The Board voted to accept and sign a Stop Loss Agreement with Blue Cross Blue Shield to provide Stop Loss insurance in arrears to July 1. (See Attachment B). Mr. Murphy motioned to award the contract. Mr. Espindola seconded. Vote was unanimous. (3-0).

AIR MONITORING SITES

The Board met with Bill Roth, Town Planner, to discuss the possibility of using two Town parcels to set up air monitoring equipment. The identified parcels are: at the Taber Street pump and the Slocum Park property. Mr. Roth also presented the Board with a consent form for the parcel usage, but the Board thought it was more appropriate for the BPW to make the approval and sign. The Board did, however, vote to support the request, with Mr. Murphy motioning, Mr. Espindola seconding. The vote was unanimous. (3-0).

HMFH CONTRACT AMENDMENT 3R

The Board reviewed Amendment 3R to the Contract for Designer Services with HMFH. (See Attachment C). Mr. Murphy motioned to approve Amendment 3R to the Contract for Designer Services with HMFH. Mr. Espindola seconded. Vote was unanimous. (3-0).

SCHOOL BONDS

The Board met with Town Treasurer John Nunes to discuss a \$5 million bond for short-term lending for the New Wood School project. Mr. Nunes said that the Town had received eight bids, and the winning bid went to Bank of New York Miller Trust, who bid one percent and offered a \$36,000 premium, bringing the net interest rate to .26 percent.

Mr. Osuch said that he had met with Lisa Dickinson, a fiscal advisor from Unibank, regarding the Town's bond rating and fiscal habits. Dr. Bowcock said that as soon as the Board receives the DOR's Financial Review, Ms. Dickerson would be invited to come to a future meeting to discuss her views on the Town's future bond rating.

At 7:13 p.m., Clerk Espindola read Attachment D, the official vote of approval for the \$5 million bond. Mr. Murphy seconded the motion. Vote was unanimous. (3-0).

NO PARKING SIGN REQUEST

The Board read a letter from Jerald Bettencourt of "Jerry's Auto" on Middle Street. In his letter to the Board, Mr. Bettencourt requested the installation of No Parking signs in front of his business to facilitate traffic coming in and out of his business, especially larger vehicles. The Board believed that the letter was prompted by an ongoing neighborhood dispute. Mr. Roth was

doubtful that the signs were needed, as the space that Mr. Bettencourt referenced was not likely large enough for legal parking in the first place. Mr. Roth said that he would look into the matter further with the Building Commissioner and the Police Chief. No action was taken by the Board.

VEHICLE TRANSFER

The Board read a letter from Council on Aging director Anne Silvia requesting a vehicle transfer from the Police department surplus (a 2004 Ford Taurus) for her use at the COA. The Board was supportive of the request. Mr. Murphy motioned to approve the request to transfer the 2004 Ford Taurus to the COA. Mr. Espindola seconded. Vote was unanimous. (3-0).

COLLECTIVE BARGAINING

The Board read a letter from Sean McArdle, requesting a meeting to begin negotiations with the New England Police Benevolent Association, Local 64. The Board discussed how they would proceed with collective bargaining representation. Mr. Murphy motioned to continue with their current form of representation, with Dr. Bowcock negotiating with Police and Dispatchers' Union, Mr. Murphy negotiating with Fire, and Mr. Espindola negotiating with Clerical. Mr. Espindola seconded the motion. The vote was unanimous. (3-0).

FINANCE COMMITTEE VACANCY

The Board read a letter of resignation from Edward Silva, a long-time at-large member of the Finance Committee. The Board praised Mr. Silva for his years of dedication. Dr. Bowcock set a November 5 deadline for letters of interest for the at-large position, which must be jointly appointed by the Chairman of the Board of Selectmen, the Chairman of the Finance Committee, and the Town Moderator.

CPC APPLICATION – BIKE PATH

The Board reviewed a memo from Bill Roth regarding a proposal from the Bike Path Committee regarding an application for Community Preservation Act funds.

In his memo, Mr. Roth said that the Bike Path Committee wanted to apply for \$10,000 in CPC funds to “improve the safety at high traffic intersections through painted crosswalks and signage” for bicyclists on the Bike Path. See Attachment E for the proposed project.

Because the Board of Selectmen is the appointing authority for the Bike Path Committee, Mr. Roth requested a decision from them regarding the application. Mr. Murphy motioned to approve the CPC application for the Bike Path Committee project as described. Dr. Bowcock seconded. Vote was unanimous. (3-0).

ANIMAL SHELTER DONATION

The Board accepted a donation to the Animal Shelter in the amount of \$519.00. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0). The Board thanked all the donors who had contributed to the total.

OTHER BUSINESS

In other business:

- Mr. Murphy said that the Board had been invited to the Veteran's Day luncheon at the Senior Center, which will take place on Wednesday, November 7 and Thursday, November 8. The Board said that they would be in attendance on one of those days.
- Dr. Bowcock said that the Board had conducted an emergency meeting at noon, prior that day, to discuss Hurricane Sandy. He said that there would be no school on Tuesday, October 30, but Town Hall would be open regular hours.
- The Board thanked Town Treasurer John Nunes for seven and a half years of service and wished him well in his new position in Fall River City Hall.

SPECIAL TOWN MEETING WARRANT

The Board reviewed a rough draft of submitted articles for the Special Town Meeting warrant. Mr. Osuch provided a brief overview to the warrant, which will continue to change over the next couple weeks as more information comes in. The warrant included an article to settle a contract with the Sewer Union for FY12 and FY13, an Unpaid Bill of Prior Year for the Fire Department, an article seeking approval for funding for a renovation/addition to the Greater New Bedford Vocational High School, final funding for the Anaerobic Digester, Stabilization transfers from Sewer Retained Earnings, street acceptances, an article for repairs to the Union Wharf building, Fund Balance Overlay Surplus from the Assessors' office, a request from the Fire Department for a camera security system at the Fire headquarters, an Elliot Lane street light and a transfer of bonds from previously unexpended project balances for the Wood School project.

The Board said it would like to have the Fire Chief come to an upcoming meeting to discuss the request for a camera security system. Mr. Espindola asked if anyone was using the Union Wharf building, and Mr. Osuch said that the building was vacant at this time. Mr. Roth said that repairs will be expensive and that the building may not be worth saving.

The Board will review the warrant again at the November 13 meeting to make recommendations on the articles.

At 8:02 p.m., Mr. Murphy motioned to enter Executive Session to discuss the Town Treasurer's payout and a Land Court judgment. Mr. Espindola seconded the motioned. Vote was unanimous. (3-0). Roll call vote to enter executive session: Mr. Murphy in favor. Mr. Espindola in favor. Dr. Bowcock in favor.

Respectfully,

Anne Kakley

Selectmen's Secretary

(Minutes approved 11/13/2012)

CHANGE ORDER

OWNER
 ARCHITECT
 CONTRACTOR
 FIELD
 OTHER

PROJECT: Fairhaven Masonry Town hall
 Masonry Pavers/Waterproofing at Town hall
 Fairhaven Ma

CHANGE ORDER #: 1

CHANGE ORDER DATE: 09/04/2012

PROJECT #s:

TO: Laliberty Construction, Inc.
 14 Bosuns Lane
 Bourne, Ma 02532

DATE OF CONTRACT: 07/09/2012

FOR: Masonry Pavers/Waterproofing

The Contract is changed as follows:

Remove old Metal Electrical Conduit Cable and replace with new PVC per Inspector
 Electrician 21 man hours x \$110.00 plus material \$1,719.00
 Excavation and Backfill dig trenches 11 man hours x \$65.00 plus compactor 1/2 day \$750.00
 Credit for Stone Dust \$200.00
 Total cost with credit= \$2759.00 plus profit and over head 11% (290.00) = \$2,759.35

The original Contract Sum was	\$53,323.00
The net change by previously authorized Change Orders is	\$0.00
The Contract Sum prior to this Change Order was	\$53,323.00
The Contract Sum will be increased by this Change Order in the amount of	\$2,759.35
The new Contract Sum including this Change Order will be	\$56,082.35
The Contract Time will be increased by	0 days.
The date of Substantial Completion as of this Change Order therefore is	Unchanged

Not valid until signed by all parties below.

<u>JMBA + ARCHITECTS</u>	Laliberty Construction, Inc.	40 Center St
ARCHITECT	CONTRACTOR	OWNER

ADDRESS	ADDRESS	ADDRESS
	Bourne, Ma 02532	Fairhaven Ma

Joseph Booth
 BY (Signature)
 Joseph Booth
 (Typed Name)

[Signature]
 BY (Signature)
J. C. Jagger
 (Typed Name)

[Signature]
 BY (Signature)
 Brian K. Bowcock
 (Typed Name)

DATE 10/22/12

DATE 10-1-2012

DATE _____



MASSACHUSETTS

October 5, 2012

Town of Fairhaven
43 Center Street
Fairhaven, MA 02719-2930

Re: Stop Loss Agreement, including Attachments

Dear Business Partner:

Enclosed are two copies of the Stop Loss Agreement (the "Agreement"), including Attachments, between Town of Fairhaven and Blue Cross and Blue Shield of Massachusetts for the policy year July 1, 2012 through June 30, 2013.

Please sign both copies of this Agreement and return one copy to Blue Cross and Blue Shield within 30 days. You will want to keep the other copy for your records.

No modifications to the terms specified in this Agreement will be binding upon Blue Cross and Blue Shield unless the modifications are agreed to in writing signed by Blue Cross and Blue Shield.

Sincerely,

A handwritten signature in cursive script that reads "Timothy J. O'Brien".

Timothy J. O'Brien
Senior Vice President
Sales Division

Enclosures

**GOVERNMENTAL UNIT
STOP LOSS AGREEMENT**

This Stop Loss Agreement (the Agreement) is entered into by and between **Blue Cross and Blue Shield of Massachusetts, Inc.** (Blue Cross and Blue Shield) and **Town of Fairhaven** (the Purchaser) for the purpose of providing stop loss coverage for certain Paid Claims Expenses. The information contained in the Account Application Form submitted by the Purchaser to Blue Cross and Blue Shield is incorporated here and made a part of this Agreement to the extent it is consistent with the provisions set forth in this Agreement.

The initial term of this Stop Loss Agreement is the Policy Year from July 1, 2012 to June 30, 2013. Attachment A is attached to and incorporated into this Agreement by reference. After the initial Policy Year, this Agreement will automatically be extended from year to year, subject to the terms and conditions of a revised Attachment A and, if applicable, amendments to this Agreement, unless terminated as described in Section 8 below. Blue Cross and Blue Shield may designate a third party to administer the Purchaser's stop loss coverage on Blue Cross and Blue Shield's behalf. References in this Agreement to Blue Cross and Blue Shield may include Blue Cross and Blue Shield's stop loss designee.

In consideration of the mutual promises set out below and the Purchaser's payment of premiums when due, the parties agree as follows:

Section 1. Definitions

The following definitions will apply to the terms as used in this Agreement:

Aggregate Attachment Point means the amount calculated by multiplying the Purchaser's monthly attachment factors by the Purchaser's Monthly Exposure for each month of the Policy Year, and then totaling such amounts after the end of the Policy Year. The Purchaser's monthly attachment factors are specified in Attachment A. However, in no event will the Purchaser's Aggregate Attachment Point be less than the minimum Aggregate Attachment Point specified in Attachment A.

Aggregate Maximum means the maximum amount of aggregate stop loss coverage for which Blue Cross and Blue Shield is liable under this Agreement. The Aggregate Maximum is specified in Attachment A.

Claims Expenses means the expenses that are attributable to those health care services that are incurred by Covered Members, covered and properly paid under the Purchaser's Health Care Plans and that are not excluded from coverage under Section 9 below or any other provision of this Agreement. Claims Expenses do not include administrative charges which are owed to Blue Cross and Blue Shield or any other claims administrator of the Purchaser's Health Care Plans by the Purchaser under the Purchaser's self-funded arrangement with Blue Cross and Blue Shield or other claims administrator.

Contract Basis means the specific time period(s) during which Claims Expenses are incurred, and during which Claims Expenses are paid, in order to be covered by this Agreement. The time period for Incurred Claims Expenses may be different from the time period for Paid Claims Expenses. The Purchaser's Contract Basis(es) are specified in Attachment A.

Covered Member means an employee or his or her dependent who is eligible for and enrolled under the Purchaser's Health Care Plans, who resides in the United States of America or its territories or possessions (including Puerto Rico), and who has not been specifically carved-out from coverage under this Agreement.

Health Care Plans means the health care plans the Purchaser has established for its employees and which are covered under this Agreement as identified in Attachment A.

Incurred Claims Expenses means the Claims Expenses generated from health care services rendered to Covered Members during the time period specified as Contract Basis in Attachment A. Claims Expenses are generally considered "incurred" on the date when covered health care services are provided to a Covered Member. However, in the case of Claims Expenses for an inpatient admission, the incurred date for all or part of the inpatient stay may be deemed to be the date of admission depending on the contractual arrangement between the claims administrator and the provider.

Monthly Exposure means for any month, the total number of individual contracts and of family contracts enrolled in the Purchaser's Health Care Plans during that month.

Paid Claims Expenses means the Claims Expenses paid for Covered Members during the time period specified as Contract Basis in Attachment A. Claims Expenses are considered to be paid on the date that the payment check (or draft) is issued and processed by Blue Cross and Blue Shield or other claims administrator of the Purchaser's Health Care Plans, provided the check (or draft) is delivered within 3 calendar days after being issued and is honored upon presentation. Adjustment to claim payments (up or down) made after the Contract Basis will not be considered in computing Paid Claims Expenses.

Policy Year means the period of time specified in Attachment A.

Specific Deductible Amount means the total Claims Expenses for a Covered Member for which the Purchaser is liable (excluding any member-based charges and capitation payments when charged as a separate fee for the Purchaser) before specific stop loss coverage applies to that Covered Member. The Specific Deductible Amount, if applicable, is specified in Attachment A. A higher Specific Deductible Amount may be established for a Covered Member. In this case, the Specific Deductible Amount will be referred to as a Lasered Specific Deductible Amount.

Specific Lifetime Maximum means the maximum amount of specific stop loss coverage for which Blue Cross and Blue Shield is liable for Claims Expenses for a Covered Member. Payments made as specific stop loss coverage under prior stop loss agreements between Blue Cross and Blue Shield and the Purchaser or under prior Policy Years of this Agreement will be included in calculating the Specific Lifetime Maximum. The Specific Lifetime Maximum is specified in Attachment A.

Section 2. Specific Stop Loss Coverage

Blue Cross and Blue Shield will provide specific stop loss coverage to the Purchaser according to the terms of this Agreement and as specifically set forth in Attachment A for the applicable Policy Year.

Blue Cross and Blue Shield will be liable to the Purchaser for Claims Expenses for a Covered Member that are in excess of the Specific Deductible Amount (or Lasered Specific Deductible Amount, as applicable) for each Policy Year, as calculated in accordance with the Contract Basis specified in Attachment A. Blue Cross and Blue Shield will provide this stop loss coverage up to the Specific Lifetime Maximum specified in Attachment A. (For specific stop loss coverage in the event this Agreement is terminated prior to the end of a Policy Year, see Section 8 below.)

Actively at Work Provision. If, on the first day of the Purchaser's initial Policy Year, a covered employee is already an inpatient in a health care facility or out of work due to a disability, Claims Expenses for that Covered Member will not include Claims Expenses incurred prior to the date he or she returns to work. Likewise, if on the first day of the Purchaser's initial Policy Year a covered retiree or covered dependent is already an inpatient in a health care facility, Claims Expenses for that Covered Member will not include Claims Expenses incurred prior to the date he or she is no longer an inpatient in a facility. This provision may be waived, subject to Blue Cross and Blue Shield's approval of the Purchaser's completed Disclosure Statement or, for Health Care Plans that are administered by Blue Cross and Blue Shield, upon mutual agreement by both parties.

Section 3. Aggregate Stop Loss Coverage *(If Applicable as Specified in Attachment A)*

Blue Cross and Blue Shield will provide aggregate stop loss coverage to the Purchaser according to the terms of this Agreement and as specifically set forth in Attachment A for the applicable Policy Year.

Except as provided in this paragraph, Blue Cross and Blue Shield will be liable to the Purchaser for Claims Expenses for all Covered Members that are in excess of the Aggregate Attachment Point, as calculated in accordance with the Contract Basis specified in Attachment A. However, Blue Cross and Blue Shield will not be liable for Claims Expenses attributable to a Covered Member in excess of the Specific Deductible Amount, even when those Claims Expenses are in excess of the Specific Deductible Amount in the event of (i) a Covered Member who is subject to a Lasered Specific Deductible Amount or (ii) a Covered Member who has exceeded the Specific Lifetime Maximum. Blue Cross and Blue Shield will provide this stop loss coverage up to the Aggregate Maximum specified in Attachment A, unless this Agreement is terminated prior to the end of a Policy Year in accordance with Section 8 below.

Section 4. Stop Loss Premium Charges

Under this Agreement, the Purchaser will pay a monthly premium charge for each enrolled contract in exchange for stop loss coverage provided by Blue Cross and Blue Shield, as specified in Attachment A.

Late Charge. Blue Cross and Blue Shield anticipates that payments for all premium charges will be received by the due date. If full payment is not received by Blue Cross and Blue Shield (or its stop loss designee, as applicable) on or before the due date, Blue Cross and Blue Shield reserves the right to assess a finance charge on the amount that is past due. The finance charge will be calculated from the due date at a rate of up to 1.5% per month. Nothing contained in this paragraph should be construed to limit any other remedies that are available to Blue Cross and Blue Shield, including but not limited to, the rights contained in Section 8 below.

Recalculation of Premium Charge and/or Attachment Factors. Blue Cross and Blue Shield reserves the right to change the monthly stop loss premium charges and/or monthly attachment factors under this Agreement during any Policy Year in the following circumstances: if the number of Covered Members changes by more than 10%; if the Purchaser adds a new health care plan option for its employees (including any new insured health care plan) during the Policy Year; if statutory mandates or regulatory requirements in any way affect the amount of the Purchaser's Claims Expenses (including any state statutes or regulations affecting provider contracts); or if any of the Purchaser's Health Care Plans are amended or terminated during the Policy Year. Blue Cross and Blue Shield will provide the Purchaser with 30 days advance notice of any changes in the monthly stop loss premium charges and/or monthly attachment factors.

Payment of Stop Loss Premium Charges.

A. Stop loss coverage administered by Blue Cross and Blue Shield itself.

The Purchaser must pay the total of all billed stop loss premium charges to Blue Cross and Blue Shield on or before the first day of each month for which stop loss coverage is to be effective (unless otherwise agreed upon by both parties).

B. Stop loss coverage administered by Blue Cross and Blue Shield's stop loss designee.

The Purchaser agrees to a self-billed payment arrangement for stop loss premium charges (unless otherwise agreed upon by both parties). The Purchaser or its designee will: (i) maintain complete and updated enrollment records with Blue Cross and Blue Shield's stop loss designee using an approved electronic enrollment transaction process; (ii) calculate monthly stop loss premium charges due to Blue Cross and Blue Shield in accordance with the provisions specified in this Agreement; and (iii) remit to Blue Cross and Blue Shield's stop loss designee the total monthly stop loss premium charges due to Blue Cross and Blue Shield on or before the designated monthly due date.

The following provisions apply to this self-billed stop loss premium arrangement:

- (1) Calculation of Stop Loss Premium Charges. The effective date of each subscriber's (or dependent's) enrollment or termination will determine the amount of stop loss premium charges due each month. For a subscriber who is enrolled for coverage under the Purchaser's Health Care Plans on or before the 15th day of the month, the Purchaser will calculate and pay a full month's stop loss premium charge for the membership for that enrollment month, except as otherwise specified below for subscriber terminations. However, if the enrollment date of the subscriber falls after the 15th day of the month, the Purchaser will calculate stop loss premium due for the membership on the first day of the calendar month following the enrollment month. (The Purchaser will not owe a stop loss premium amount for the partial enrollment month when enrollment occurs after the 15th of the month).
- (2) Membership Changes that Require Premium Adjustment. When the effective date of a family status change falls on or before the 15th day of the month, the Purchaser will calculate and pay a full month's stop loss premium charge, including the related premium adjustment for the membership for that enrollment month. However, if the effective date of a family status change falls after the 15th day of the month, the Purchaser will calculate the stop loss premium due without using the adjusted stop loss premium. The Purchaser will calculate and pay the stop loss premium due using the adjusted stop loss premium amount for the membership on the first day of the calendar month following the enrollment month. (The Purchaser will not owe or receive credit for the difference between the calculated stop loss premium and the adjusted stop loss premium amount for the enrollment month when the family status change occurs after the 15th of the month.)
- (3) Subscriber Terminations. When the termination date of a subscriber falls on or before the 15th day of the month, the Purchaser will not owe a stop loss premium amount for the membership for that termination month. However, if the termination date of the subscriber falls after the 15th day of the month, the Purchaser will calculate and pay a full month's stop loss premium charge for the membership for that termination month.

Section 5. Administration of Stop Loss Coverage

Reimbursement Procedures.

A. Stop loss coverage administered by Blue Cross and Blue Shield itself.

For specific stop loss coverage, Blue Cross and Blue Shield will credit the Purchaser's next monthly Administrative Services Account Agreement invoice with the covered Claims Expenses that exceed the Specific Deductible Amount for a given Covered Member (or Lasered Specific Deductible Amount as applicable), up to the Specific Lifetime Maximum specified in Attachment A.

For aggregate stop loss coverage, if applicable as specified in Attachment A, Blue Cross and Blue Shield will calculate the Purchaser's total Claims Expenses approximately three months after the Paid period specified in the Contract Basis has expired. At that time, Blue Cross and Blue Shield will credit the Purchaser with the covered Claims Expenses that exceeded the Aggregate Attachment Point. The Purchaser must notify Blue Cross and Blue Shield if at any time before the end of the Policy Year the Purchaser determines that the total of its Claims Expenses have exceeded its Aggregate Attachment Point. After Blue Cross and Blue Shield verifies the Purchaser's determination, Blue Cross and Blue Shield will credit any further eligible Claims Expenses to the Purchaser.

(The provisions of this section A apply to the extent that Blue Cross and Blue Shield is the claims administrator for the Purchaser's Health Care Plans. Otherwise, the provisions of section B below apply.)

B. Stop loss coverage administered by Blue Cross and Blue Shield's stop loss designee.

The Purchaser must submit a claim to Blue Cross and Blue Shield's stop loss designee in order to request stop loss reimbursement in accordance with the terms of this Agreement. These stop loss claims must be submitted in accordance with Blue Cross and Blue Shield's *Stop Loss Policies and Procedures and Claim Filing Kit* and supported by documentation that is sufficient for Blue Cross and Blue Shield's stop loss designee to process the Purchaser's stop loss claim. Any such stop loss claim must be submitted to Blue Cross and Blue Shield's stop loss designee not more than 30 days after the end of the Contract Basis specified in Attachment A for the applicable Policy Year.

The Purchaser agrees and understands that Blue Cross and Blue Shield or its stop loss designee will have the right to review and audit the Purchaser's enrollment records and the payment of Claims Expenses, as applicable, in order to assure that such Claims Expenses were properly paid in accordance with the terms of the applicable Health Care Plan. Such review and audit may occur either before or after Blue Cross and Blue Shield reimburses the Purchaser for eligible Claims Expenses.

Notice Requirements for Claims Expenses under a Health Care Plan Not Administered by Blue Cross and Blue Shield. The Purchaser agrees to do the following, or to cause the Purchaser's agent or claims administrator to do so:

- (1) Give Blue Cross and Blue Shield's stop loss designee prompt written notice of any Covered Member whose Claims Expenses reach 50% of the Specific Deductible Amount.
- (2) Give Blue Cross and Blue Shield's stop loss designee prompt written notice whenever total Claims Expenses reach 50% of the estimated Aggregate Attachment Point.
- (3) Give Blue Cross and Blue Shield's stop loss designee prompt written notice when a Covered Member has been continuously hospitalized for a period of more than 10 days.
- (4) Give Blue Cross and Blue Shield's stop loss designee prompt written notice when a Covered Member submits a health care claim for any of the following conditions: mental disorders requiring hospital confinement; brain injuries; spinal injuries resulting in suspected or real paralysis of any limb; serious burns (for example, 10% or more of the body with third-degree burns, or 30% or more of the body with second degree burns); multiple fractures or serious fracture(s); crushing or massive internal injuries; premature births (for example, those occurring more than 28 days prior to expected delivery date); AIDS (Acquired Immune Deficiency Syndrome); bone marrow and organ transplants; high risk obstetrics; cancer; or cardiac disease.
- (5) Provide Blue Cross and Blue Shield's stop loss designee with such information as Blue Cross and Blue Shield determines to be necessary to administer this stop loss coverage or to adjudicate a stop loss claim that the Purchaser submits; including medical records reflecting the services related to the claim.

Recovery of Claims Expenses.

- (1) For Health Care Plans that are not administered by Blue Cross and Blue Shield, the Purchaser agrees to pursue, or cause the Purchaser's agent or claims administrator to pursue, recoveries for the Purchaser through application of the subrogation, coordination of benefits and/or workers' compensation provisions or from fraud, recovery or any other actions applicable to the Health Care Plan. Blue Cross and Blue Shield will pursue such recoveries for Health Care Plans administered by Blue Cross and Blue Shield.
- (2) Recoveries, if any, must be applied first to stop loss reimbursements Blue Cross and Blue Shield credited and/or paid to the Purchaser under the terms of this Agreement. If any recoveries remain, these amounts will be the Purchaser's or credited to the Purchaser.
- (3) Any recovery amounts the Purchaser receives or that have been credited to the Purchaser will have a corresponding effect on the status of the Purchaser's Specific Deductible Amount and/or Aggregate

Attachment Point; for example, it may bring the Purchaser under the Specific Deductible Amount and/or Aggregate Attachment Point.

Purchaser's Third Party Designee. The Purchaser may designate a third party to perform any of the activities described in this Agreement on the Purchaser's behalf. In this case, the Purchaser must let Blue Cross and Blue Shield know in writing.

Section 6. Confidentiality

The Purchaser certifies that it has amended its group health plan document to add specific safeguards on its use and/or further disclosure of protected health information, as set forth in Title 45 of the Code of Federal Regulations (45 C.F.R.), Part 160 and Part 164, Subparts A and E, as may be amended from time to time (the Privacy Rule).

Blue Cross and Blue Shield will use any information the Purchaser provides to Blue Cross and Blue Shield under this Agreement solely for the purpose of administering the Purchaser's stop loss coverage under this Agreement. Blue Cross and Blue Shield will hold the information confidential and only release it to other parties if necessary to administer this stop loss coverage.

Section 7. General Terms

Amendments. Any modifications to this Agreement will be binding only when in writing and signed by authorized representatives of both parties. For purposes of this section, the Attachment A issued each year by Blue Cross and Blue Shield will not be considered an amendment to this Agreement.

Assignment. Blue Cross and Blue Shield has the right to assign, designate or delegate its rights and obligations under this Agreement in whole or in part to other entities.

Attachment A. For the initial Policy Year of this Agreement and for each subsequent Policy Year in which this Agreement is renewed, Blue Cross and Blue Shield will issue Attachment A to this Agreement. Attachment A will detail the stop loss coverage and stop loss premium charges for services under this Agreement.

Fraud. Any misstatement, concealment or misrepresentation, either in the application or in relation to any statement, warranty, representation or declaration made by the Purchaser (or its representation), whether in writing or otherwise, or in connection with obtaining this stop loss coverage or in the making of any claim under this Agreement will render this stop loss coverage null and void and all claims under this Agreement will be forfeited.

Insolvency. The Purchaser's insolvency, bankruptcy, financial impairment, receivership, dissolution or voluntary plan of arrangement with creditors will not impose upon Blue Cross and Blue Shield any liabilities that would not have existed if the Purchaser did not enter into such state or arrangement. Nothing expressed or implied in this Agreement is intended to confer any rights, remedies, obligations or liabilities whatsoever upon any person other than the parties to this Agreement and their respective successors and assignees.

Legal Action. No action may be brought against Blue Cross and Blue Shield relating to coverage this Agreement unless brought within two years from the time the cause of action arises.

Right to Audit. Blue Cross and Blue Shield reserves the right to audit all necessary records (for example, records held by the Purchaser, the Purchaser's claims administrator and the Purchaser's third party designee) to ensure proper crediting of eligible Claims Expenses for a Covered Member.

Severability. If any of the provisions of this Agreement are found to be invalid, illegal or unenforceable by reason of law, administrative decisions, judicial decision or public policy, all other conditions and provisions of this Agreement will remain in full force and effect.

Waivers. A waiver for any breach of this Agreement on one occasion will not be construed to be a continuing waiver for a similar breach on any other occasion. Such a waiver must be in writing and signed by authorized representatives of both parties to be effective.

Section 8. Termination of This Agreement

Reasons for Termination. This Agreement is subject to termination in the following situations:

- (1) This Agreement will automatically be terminated on the date that the Purchaser's Health Care Plans are terminated.
- (2) Either party has the right to terminate this Agreement for any reason as of the last day of any Policy Year upon one party's 60 days prior written notice to the other.
- (3) Either party has the right to terminate this Agreement for substantial, material and continuing breach of this Agreement by the other party. A breach will not be deemed to be "continuing" unless it continues for at least 30 days after one party receives written notice of the breach by the non-breaching party. Termination will be effective as of the date specified by the non-breaching party.
- (4) Either party has the right to terminate this Agreement for fraud or misrepresentation by the other party. Termination will be effective immediately (or on a specified date) upon the non-faulting party's written notice to the other.
- (5) Blue Cross and Blue Shield has the right to terminate this Agreement for non-payment of charges if full payment of all charges the Purchaser owes Blue Cross and Blue Shield is not received by Blue Cross and Blue Shield within 30 days after the due date. In this case, termination will be as of the last date through which the Purchaser has paid charges to Blue Cross and Blue Shield.
- (6) Blue Cross and Blue Shield has the right to terminate this Agreement if the number of covered active employees falls below Blue Cross and Blue Shield's minimum enrollment requirements as set by Blue Cross and Blue Shield for stop loss coverage under this Agreement. If the Purchaser's covered employee participation falls below this minimum enrollment requirement, Blue Cross and Blue Shield will give the Purchaser 60 days to comply with this enrollment requirement or this Agreement will be subject to termination.

Consequence of Termination. If this Agreement terminates before the end of the Policy Year for any reason, the Purchaser will not be eligible for aggregate stop loss coverage for that Policy Year. Also, for that Policy Year, Blue Cross and Blue Shield will be liable to the Purchaser for Claims Expenses in excess of the Specific Deductible Amount only for those Claims Expenses that are incurred in accordance with the applicable Contract Basis, and paid through the end of the last full calendar month of coverage preceding the termination date.

Section 9. Exclusions

This Agreement does not apply to health care services that are not covered under the terms of the Purchaser's Health Care Plans as determined by Blue Cross and Blue Shield. This Agreement also does not apply to expenses attributable to health care services arising from or related to the following, regardless of whether these health care services are covered under the Health Care Plans. In the event that Blue Cross and Blue Shield credited or paid to the Purchaser any amounts towards stop loss coverage for these expenses, the Purchaser will reimburse Blue Cross and Blue Shield for that amount.

- (1) Claims, losses and benefits payable under workers' compensation, occupational medical and/or employer's liability coverage, or other coverage for work-related injuries.
- (2) Any loss or claim caused or contributed to by war or act of war (declared or not), invasion, acts of foreign enemies, civil war, rebellion, revolution, insurrection, military or usurped power or

confiscation or nationalization or requisition or destruction or damage to property under the order of any government or public authority.

- (3) Expenses related to the administration of the Purchaser's Health Care Plans.
- (4) Expenses or fees in connection with any practices, procedures or treatments which are not accepted as medically necessary or effective.
- (5) Expenses or fees resulting from the use of medications, drugs, procedures or equipment not approved as medically safe or effective by the appropriate authority.
- (6) Expenses or fees which are in excess of the reasonable and customary charges for medical care or services unless agreed to in advance by Blue Cross and Blue Shield.
- (7) Any loss or claim arising from ionizing radiations, pollution or contamination by radioactivity from any nuclear waste from the combustion of nuclear fuel and the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- (8) Any punitive, compensatory or exemplary damages, or any fines, penalties, late fees or other liability imposed on the Purchaser.
- (9) Expenses charged solely on the basis of a Member's enrollment or residency, without regard to whether the Covered Member incurs health care services (such as, but not limited to, the amount payable to New York State's Graduate Education Reform Incentive Pool).

Section 10. Acceptance

This Agreement constitutes both parties' entire understanding and supersedes all prior representations and understandings, whether oral or written, and will be governed by and construed according to the laws of the Commonwealth of Massachusetts.

The Purchaser, on its own behalf and on behalf of its covered employees, hereby expressly acknowledges its understanding that this Agreement constitutes a contract solely between the Purchaser and Blue Cross and Blue Shield of Massachusetts, Inc. (Blue Cross and Blue Shield), which is an independent corporation operating under a license from the Blue Cross and Blue Shield Association, an association of independent Blue Cross and Blue Shield Plans, (the "Association") permitting Blue Cross and Blue Shield to use the Blue Cross and Blue Shield Service Marks in the Commonwealth of Massachusetts, and that Blue Cross and Blue Shield is not contracting as the agent of the Association. The Purchaser, on its own behalf and on behalf of its covered employees, further acknowledges and agrees that the Purchaser has not entered into this Agreement based upon representations by any person other than Blue Cross and Blue Shield and that no person, entity, or organization other than Blue Cross and Blue Shield shall be held accountable or liable to the Purchaser for any of Blue Cross and Blue Shield's obligations to the Purchaser created under this Agreement. This paragraph shall not create any additional obligations whatsoever on the part of Blue Cross and Blue Shield other than those obligations created under other provisions of this Agreement.

This Agreement has been executed in duplicate by the authorized representatives whose signatures appear below:

Blue Cross and Blue Shield of Massachusetts, Inc.

Town of Fairhaven



Timothy J. O'Brien, Senior Vice President
Sales Division

Name: _____

Title: _____

Dated: 10/3/12

Dated: _____

Attachment A for Governmental Unit Stop Loss Agreement

Stop Loss Coverage

Blue Cross and Blue Shield of Massachusetts, Inc. (Blue Cross and Blue Shield) and **Town of Fairhaven** (the Purchaser), parties to a Stop Loss Agreement (the Agreement) effective July 1, 2012, in consideration of the mutual promises set forth below, have agreed as follows:

For the Policy Year July 1, 2012 through June 30, 2013, the following provisions will apply. A new Attachment A will be issued each Policy Year, if the parties renew the Agreement.

Health Care Plan(s)

The Health Care Plans that are covered under this Agreement are the following Health Care Plans:

Network Blue and Blue Care Elect Preferred for which Blue Cross and Blue Shield is the claims administrator.

Specific Stop Loss Coverage

Contract Basis. Claims Expenses incurred during this Policy Year, and paid during the 24 months beginning with the first day of this Policy Year.

Specific Deductible Amount. \$75,000.

Specific Lifetime Maximum. None.

Monthly Stop Loss Premium Charges. \$79.70 for each individual contract and \$201.49 for each family contract.

ATTACHMENT F

CONTRACT FOR DESIGNER SERVICES AMENDMENT NO. 3R

WHEREAS, the Town of Fairhaven ("Owner") and HMFH Architects, Inc., (the "Designer") (collectively, the "Parties") entered into a Contract for Designer Services for the New Fairhaven Elementary School Project (Project Number _____) at the Wood Elementary School on 60 Sconticut Neck Road, Fairhaven, MA. "Contract"; and

WHEREAS, effective as of 3/19/12, the Parties wish to amend the Contract:

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Amendment, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. The Owner hereby authorizes the Designer to perform services for the Design Development Phase, the Construction Phases, and the Final Completion Phase of the Project, pursuant to the terms and conditions set forth in the Contract, as amended.
2. For the performance of services required under the Contract, as amended, the Designer shall be compensated by the Owner in accordance with the following Fee for Basic Services:

Fee for Basic Services: Amendment	Original Contract	After this
Project Scope & Budget Submittal Phase	<u>\$115,888.00</u>	<u>\$115,888.00</u>
60% Construction Document Phase Approval	<u>\$486,075.36</u>	<u>\$486,075.36</u>
90% Construction Document Phase Approval	<u>\$243,038.68</u>	<u>\$243,038.68</u>
Final Construction Document Phase Approval	<u>\$81,012.56</u>	<u>\$81,012.56</u>
Bidding Phase	<u>\$68,594.00</u>	<u>\$68,594.00</u>
Construction Phase	<u>\$369,720.00</u>	<u>\$369,720.00</u>
Completion Phase	<u>\$7,545.00</u>	<u>\$7,545.00</u>
MA-CHPS Registration	<u>\$</u>	<u>\$1,375.00</u>
MA-CHPS Design Phase Fee	<u>\$</u>	<u>\$2,640.00</u>
Hazardous Materials Design Services	<u>\$</u>	<u>\$3,080.00</u>
Conservation Commission Review	<u>\$</u>	<u>\$1,930.50</u>
Early Site Bid Package	<u>\$</u>	<u>\$5,440.00</u>
Total Fee	<u>\$</u>	<u>\$1,386,339.10</u>

This Amendment is a result of: Hazardous Materials Design Services, site review and walkthrough with the Conservation Commission, and early site bid package

Attachment D
Bob (Clerk)
will read into
record.

VOTE OF THE BOARD OF SELECTMEN

I, the Clerk of the Board of Selectmen of the Town of Fairhaven, Massachusetts, certify that at a meeting of the board held October 29, 2012, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: to approve the sale of a \$5,000,000 1.00 percent General Obligation Bond Anticipation Note (the "Notes") of the Town dated November 2, 2012, and payable November 1, 2013, to TD Securities (USA) LLC at par and accrued interest, if any, plus a premium of \$36,050.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated October 16, 2012 and a final Official Statement dated October 23, 2012 each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

Further Voted: that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures in such form as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Notes.

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth

in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Notes were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: October 29, 2012

Clerk of the Board of Selectmen

AM 17402398.1



Fairhaven Bike Path Committee

Town Hall · 40 Center Street · Fairhaven, MA 02719

Memorandum

Date: October 25, 2012

To: Board of Selectmen
Board of Public Works

From: William D. Roth, Jr., AICP
Planning and Economic Development Director

RE: Bike Enhancement and Safety Project – CPC Application

RECEIVED
2012 OCT 25 A 9:31
BOARD OF SELECTMAN
FAIRHAVEN MASS

The Bike Path Committee has been working on an Enhancement and Safety project and is seeking your support for the submittal of a CPC application. The estimated cost for the materials is approximately \$10,000. The Project will consist of signage (safety, directional and informational), road markings, and painting of crosswalks. The materials purchased with this project will allow the Town to bring awareness to motorist that the roads are shared with bicyclist; improve safety at high traffic intersections through painted crosswalks and signage.

Below is a detailed list of what the project will consist of:

“Share The Road” signs: Installing approximately 20 “Share The Road” signs throughout Town (New Boston Rd., Alden Rd., Adams St., Main St. and Sconticut Neck Rd.). This will bring awareness to motorist that bicyclist also use the roads.

“Bike Route” directional signs: Installing approximately 10 Bike Route directional signs. The signs will direct bicyclist to Ft. Phoenix and to West Island.

Shared Lane Markings: Purchasing of two “Sharrow” stencils: This will allow the painting of Sharrows on the road.

Portable Crosswalk Signs: Purchasing of three portable safety crosswalk signs. This will allow the Town to place these signs on an as needed seasonal basis at high traffic intersections such as Sconticut Neck Road.

Road Paint: Purchasing five - 5 gallon containers of road paint (green and white)

The following are examples of the materials proposed for the project:

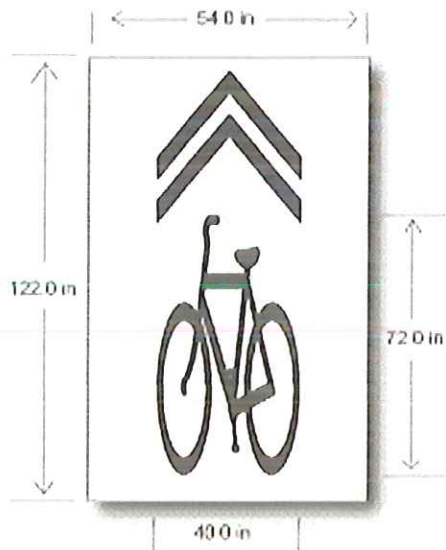
Share the Road Signs:



Bike route signs:



Shared Lane Markings:



Portable Crosswalk signs:

