

Board of Selectmen

Dennis P. Crowley, Chair

John A. Foresto, Vice-Chair

Richard A. D'Innocenzo, Clerk

Glenn D. Trindade

Maryjane White



Medway Town Hall
155 Village Street
Medway, MA 02053
Phone (508) 533-3264
Fax (508) 321-4988

TOWN OF MEDWAY

COMMONWEALTH OF MASSACHUSETTS

Board of Selectmen's Meeting

January 5, 2015, 6:30 PM

Sanford Hall, Town Hall

155 Village Street

Agenda

6:30 PM

- Call to order; Recitation of the Pledge of Allegiance
- Executive Session – Exemption 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares [Net-metering Agreement Enfinity SPV Holdings/SunEdison]

Other Business [To commence immediately after Executive Session close]

1. Public Comments
2. Discussion – Proposed Special Act - Eminent Domain Takings
3. Discussion with Charles River Pollution Control District Representatives
4. Approval – Change of Hours – PragatHari LLC d/b/a West Medway Liquors
5. Authorization of Chairman to Execute Contract with Haley & Ward for General Services
6. Authorization of Chairman to Execute Regulatory Agreement for Millstone Village
7. Authorization of Chairman to Execute Amendment One to Memorandum of Understanding with Town of Arlington for Multi-Jurisdictional Orthoimagery
8. Vote to Continue Membership in the MetroWest Veterans' Services District and Designation of Town Administrator to Serve on Board of Directors
9. Discussion – Possible Special Town Meeting (March 9 or 16, 2015); Vote to Open Warrant
10. Action Items from Previous Meetings
11. Approval of Warrants
12. Approval of Minutes
13. Town Administrator's Report
14. Selectmen's Reports

Upcoming Meetings, Agenda and Reminders

January 20, 2015 ---- Regular Meeting

February 2, 2015 ---- Regular Meeting

AGENDA ITEM #1

Public Comments

No associated back up materials.

Note: In NovusAgenda version, this item appears under “Call to Order” section [unable to change established template].

AGENDA

ITEM #2

Discussion – Proposed Special Act - Eminent Domain Takings

Associated back up materials.

- Proposed special legislation for Redevelopment Authority in connection with eminent domain takings
- Email from Town Counsel dated December 30, 2014

ARTICLE

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a special act providing that legislation be adopted in the form set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen be authorized to approve amendments which shall be within the scope of the general public objectives of the petition:

SECTION 1. Notwithstanding the provisions of General Laws chapters 121B and 79 or any other general or special law to the contrary, the Town of Medway Redevelopment Authority, when acquiring land or any interest therein by eminent domain in accordance with said General Laws chapters 121B and 79, shall be subject to the provisions of this Act.

SECTION 2. If the Town of Medway Redevelopment Authority is unable, upon reasonable investigation, to determine the name of any person entitled to damages awarded on account of the acquisition of land or any interest therein which it acquires by eminent domain under General Laws chapter 79, section six, the Town of Medway Redevelopment Authority, notwithstanding the provisions of General Laws chapter 79, section 7D, shall not be required to set aside any funds on account of any damages awarded to such person; provided that, when the person entitled to such amount or any portion thereof satisfies the Redevelopment Authority of his right to receive it, the Redevelopment Authority shall, after such notice as it may order, order such amount or portion thereof to be paid to him forthwith.

SECTION 3. Notwithstanding the provisions of General Laws chapter 79, section 7E, if any check issued in accordance with General Laws chapter 79, section 7B remains unclaimed by any person entitled thereto for a period of sixty days after notice in accordance with General Laws chapter 79, section 7C, such check shall be withdrawn and the funds retained by the Redevelopment Authority; provided that, when the person entitled to such amount or any portion thereof satisfies the Redevelopment Authority of his right to receive it, the Redevelopment Authority shall, after such notice as it may order, order such amount or portion thereof to be paid to him forthwith.

SECTION 4: The Town of Medway Redevelopment Authority shall not be required to comply with the provisions of General Laws chapter 79, section 40 when acquiring land or any interest therein by eminent domain.

SECTION 5. This act shall take effect upon its passage.

or take any other action relative thereto.

From: Barbara Saint Andre [<mailto:bsaintandre@petrinilaw.com>]

Sent: Tuesday, December 30, 2014 9:46 AM

To: Michael Boynton

Cc: Stephanie Mercandetti

Subject: Redevelopment Authority

Michael, attached is a proposed Town Meeting article to seek special legislation for the Redevelopment Authority in connection with eminent domain takings. I did not limit the proposed legislation to Oak Grove as there may be other projects in the future undertaken by the Redevelopment Authority (RA) where the special legislation would be useful.

Section 2 of the proposed Act addresses the issuance of checks for parcels that are assessed to owners unknown, and would allow the RA to retain the funds for any damages awarded to owners unknown. Should a valid claim be made by the owner, the RA would pay the claim forthwith. There will likely be few owners unknown parcels since we have been able to identify past owners for almost all parcels, even if the owner is only listed as the estate of a person now deceased.

Section 3 of the proposed Act addresses unclaimed checks. Under state law, if an owner is identified but never claims the check, the monies are treated the same way as owners unknown. Section 3 would allow the RA to retain any unclaimed funds. This section will cover the numerous parcels where we have identified a past owner, but do not have information sufficient to identify a current owner and address (such as the various parcels that are listed as owned by an estate of a presumably deceased person.)

Section 4 of the proposed Act would eliminate the requirement that the RA post a bond with the Board of Selectmen.

If you have any questions please contact me.

Barbara J. Saint André
Petrini & Associates, P.C.
372 Union Avenue
Framingham, MA 01702
Tel. (508) 665-4310
Fax (508) 665-4313
bsaintandre@petrinilaw.com

<http://www.petrinilaw.com/>

P A PETRINI & ASSOCIATES, P.C.
Counselors at Public Law



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IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with the requirements imposed by the IRS, Petrini & Associates, P.C. hereby provides notice to the recipient(s) of this e-mail that any U.S. tax advice herein contained in this communication, including any attachments hereto, is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

AGENDA

ITEM #3

**Discussion with Charles River
Pollution Control District
Representatives**

No associated back up materials.

AGENDA

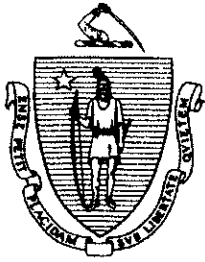
ITEM #4

Approval – Change of Hours – PragatHari LLC d/b/a West Medway Liquors

Associated back up materials attached.

- Alcoholic Beverages Control Commission [ABCC] *Form 43*
- *ABCC Retail Alcoholic Beverages License Application*
- PragatHari LLC corporate vote

Proposed motion: I move that the Board approve a change of Sunday closing hour to 9:00PM for PragatHari LLC d/b/a West Medway Liquors.



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
www.mass.gov/abcc

For Reconsideration

FORM 43
MUST BE SIGNED BY LOCAL LICENSING AUTHORITY

068400011

Medway

01/05/2015

ABCC License Number

City/Town

Local Approval Date

TRANSACTION TYPE (Please check all relevant transactions):

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

Name of Licensee PragatHari, LLC

EIN of Licensee 001132672

D/B/A West Medway Liquors

Manager Kunal Patel

ADDRESS: 175 Main Street

CITY/TOWN: Medway

STATE MA

ZIP CODE 02053

Annual

All Alcohol

Package Store

Annual or Seasonal

Category: (All Alcohol- Wine & Malt Wine, Malt & Cordials)

Type: (Restaurant, Club, Package Store, General On Premises, Etc.)

Complete Description of Licensed Premises:

Application Filed: Dec 19, 2014

Date & Time

Advertised:

Date & Attach Publication

Abutters Notified: Yes No

Licensee Contact Person for Transaction Kunal Patel

Phone: 508-533-2100

ADDRESS: 175 Main Street

CITY/TOWN: Medway

STATE MA

ZIP CODE 02053

Remarks: Change of Sunday closing hour to 9:00PM.

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
 Ralph Sacramone
 Executive Director

ABCC Remarks:

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
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.

REVENUE CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA:

NO FEE

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

06840011

LICENSEE NAME: PRAGATHARI LLC

ADDRESS: 175 MAIN ST

CITY/TOWN: MEDWAY

STATE MA

ZIP CODE 02053

TRANSACTION TYPE (Please check all relevant transactions):

- Change of Hours
 Change of DBA
 Charity Wine License

RECEIVED
DEC 19 2014

MEDWAY
TOWN ADMINISTRATOR

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

CORORATE VOTE
AND
CONSENT OF THE MEMBERS OF
PRAGATHARI, LLC

NOV 29 2014

I, Kunal Patel Manager of PRAGATHARI, LLC, dba West Medway Liquors, 175 Main Street, Medway, MA 02053 hereby certify that a Special Meeting of the Members of PRAGATHARI, LLC was held at 8:00 p.m. on October 29th 2014, with all Members present and acting throughout.

At said meeting it was voted and resolved that:

Hours of Operation will be the following if approved by Local Licensing Board & ABCC:

Monday – 10:00 AM – 10:00 PM

Tuesday – 10:00 AM – 10:00 PM

Wednesday – 10:00 AM – 10:00 PM

Thursday – 10:00 AM – 10:00 PM

Friday -1000 AM – 11:00 PM

Saturday – 10:00 AM – 11:00 PM

Sunday – 10:00 AM – 9:00 PM

The foregoing is an accurate report of the activities which occurred at said meeting.

Date: NOV 29th 2014

Kunal Patel, Manager & Member

A handwritten signature in black ink, appearing to read 'K. K. Patel', is written over a horizontal line.

AGENDA

ITEM #5

Authorization of Chairman to Execute Contract with Haley & Ward for General Services

Associated back up materials attached.

- Contract

Note: Approval from Town Accountant should be affixed prior to meeting. This is a master service agreement which is paid for from available operating funds.

Proposed motion: I move that the Board authorize the Chairman to execute the contract with Haley & Ward for general services.

AGREEMENT FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT made on the ___ day of _____, 2014, by and between the Town of Medway, with a usual place of business at 155 Village Street, Medway, MA (hereinafter referred to as "Town"), and Haley and Ward, Inc. (hereinafter "Consultant"), an engineering firm incorporated in the state of Massachusetts with a usual place of business at 63 Great Rd., Suite 200, Maynard, Massachusetts.

Town and Consultant agree to the performance and furnishing of on-call professional services by Consultant for engineering, planning, architectural and other professional services as set forth in the mutual covenants below. Specific Projects will be authorized in the form of Letters of Understanding, which shall document the scope of work, schedule and fee. A model Letter of Understanding is attached hereto as **Exhibit A** and incorporated herein.

This Agreement will become effective on the date that the last party fully executes the same.

1.0 CONTRACT DOCUMENTS

This Agreement and the Exhibits identified in this section, all of which are attached to and form a part of this Agreement, constitute the entire agreement between Town and Consultant and supersede any and all prior written or oral understandings between Town and Consultant. The Contract Documents consist of the following, and in the event of conflicts or discrepancies among them, they shall be interpreted on the basis of the following priorities:

- (1) The Agreement
- (2) The Exhibits set forth below, in alphabetical order

Exhibits:

- A. Letter of Understanding
- B. Certificate(s) of Insurance and Licenses Required by this Agreement;
- C. Consultant's Corporate Authorization.
- D. Summary of the Conflict of Interest Law for Municipal Employees.
- E. Acknowledgement of Receipt of Summary
- F. Certificate of completion of online ethics training, to be signed and completed by key employees in accordance with Section 11.12 below.

2.0 CONSULTANT'S SERVICES

The full execution of this Agreement by Town and Consultant constitutes the Town's written authorization for Consultant to proceed with the professional services to be described in future Letters of Understanding for specific Projects as authorized by the Town (hereinafter referred to as "Consultant's Services"). This Agreement shall expire on December 1, 2018

unless sooner terminated as provided herein. The obligations of the Town hereunder are subject to appropriation on a fiscal year basis. In the absence of appropriation, this agreement shall be terminated immediately without liability of the Town for damages, lost profits, penalties, or other charges arising from early termination.

2.1 Task Orders

This Agreement is a Task Order Professional Services Agreement. The Town hereby retains Consultant, and Consultant agrees to perform professional services in accordance with the general provisions of this Task Order Professional Services Agreement. Specific assignments will be authorized in the form of Letters of Understanding to document the scope of work, schedule, and fee structure, which will be prepared by Consultant after consultation with the Town. The Town will formally acknowledge receipts and approval of Consultant's Letter of Understanding by signing the Letter of Understanding, through issuance of a Purchase Order, or by similar binding instrument, in a timely fashion.

2.2 Character and Extent of Professional Services

Consultant shall furnish professional services in connection with Task Order projects, for which a scope, schedule and fee are mutually agreed upon by Town and Consultant, as indicated in **Exhibit A** through a Letter of Understanding. It shall be the joint responsibility of Town and Consultant to delineate the scope and to monitor each project for changes in scope.

3.0 GUARANTEES AND WARRANTIES BY CONSULTANT

The Consultant agrees that the services provided hereunder shall conform to the standard of care and practice exercised by design professionals or consultants engaged in performing comparable services; that the personnel furnishing said services shall be qualified and competent to perform adequately the services assigned to them; and that the recommendations, guidance and performance of such personnel shall reflect such standards of care and practice. Upon notice to the Consultant and upon the reasonable request of the Town, Consultant will correct those services not meeting the foregoing standard without additional compensation.

This provision in no way limits the Town's ability to bring actions based in negligence and breach of contract against the Consultant, which actions will be governed by the applicable statutes of limitations and the Massachusetts discovery rule regarding accrual dates for such limitations periods.

4.0 OWNERSHIP OF DOCUMENTS AND WORK PRODUCT

All documents produced pursuant to this Agreement shall be the property of Town. All information acquired from the Town, or from others at the expense of Town, in the performance of this Agreement shall be and remain the property of Town. This includes but is not limited to all records, data files, computer records, work sheets, deliverable products (complete and incomplete) and all other types of information prepared or acquired by Consultant in the performance of Consultant's Services.

The Town shall be entitled to use the documents solely in connection with the completion, maintenance, use and occupancy of the project for which they were prepared. Any other use without written verification or adaptation by the Consultant shall be at the Town's sole risk and without liability to Consultant.

5.0 TOWN'S RESPONSIBILITIES

Town shall appoint a person to serve as liaison between Town and Consultant with respect to a given Project. In addition to serving as Town Liaison, this person shall be responsible for scheduling all meetings between Consultant and Town's representatives. This person, however, shall have no authority to bind Town to make payments in excess of the specific appropriation for this Agreement. Town shall provide all information requested by Consultant that is necessary for the completion of Consultant's Services. However, Town shall not be required to provide information not readily available to it.

6.0 PAYMENT BY THE TOWN FOR CONSULTANT'S SERVICES

In order for the Town to process payment, the Consultant shall invoice the Town monthly for work performed in accordance with the subject Letter of Understanding and documented related expenses incurred during the invoice period. The Town will process payment of invoices within 45 days after receipt of any invoices from the Consultant. The processing of payments to the Consultant shall be predicated upon the prior approval by the Town of all work covered by each individual invoice. The Town reserves all rights to reject any invoices, or portions of invoices, from the Consultant on the grounds the work performed was not authorized by the Town. Compensation to the Consultant shall be in accordance with rates negotiated for respective classes of services as identified in the applicable Letter of Understanding.

7.0 SUSPENSION OF WORK

If Town is unable to proceed with a Project or its obligations under this Agreement either before or after the execution of this Agreement for any reason, regardless of whether such inability is caused by or is within the control of Town, Consultant shall not be entitled to make or assert any claim for damage by reason of said delay. However, the time for completion of Consultant's Services shall be extended to such reasonable time as the Town may determine that will compensate for time lost by such delay, with such determination to be set forth by Town in writing.

8.0 TERMINATION

8.1 By Town

8.1.1 In the case of any default on the part of Consultant with respect to any of the terms of this Agreement, including any Letter of Understanding, Town shall give written notice thereof. If said default is not remedied by Consultant within such time as Town shall specify in writing, Town shall notify Consultant in writing that there has been a breach of this Agreement. Thereafter, Town shall have the right to secure the completion of Consultant's Services remaining to be done on such terms and in such manner as Town shall determine, and Consultant shall pay Town any money that Town shall pay another Consultant for the completion of Consultant's Services, in the excess of what Town would have paid Consultant for the completion of Consultant's Services, and Consultant shall reimburse Town for all expenses incurred by reason of said breach, including attorney's fees incurred by the Town. In case of such breach, Consultant shall be entitled to receive payment only for work satisfactorily completed prior to said breach in good faith and the amount of any balance due Consultant shall be determined by Town in good faith.

8.1.2 Notwithstanding any other provision of this Agreement, the Town reserves the right at any time to suspend or terminate this Agreement in whole or in part for its convenience upon fourteen days written notice to Consultant. Town shall incur no liability by reason of such termination for convenience except for the obligation to pay for work previously authorized by the Town and performed by the consultant through the date of termination less any offset or claim of Town. Consultant shall have no right to recover other amounts, including but not limited to, amounts for lost profits, indirect, incidental or consequential damages, and any unauthorized work performed by the consultant.

8.1.3 In the event of termination by Town, all finished work and documentation, complete and incomplete, shall be delivered to Town. Consultant shall be entitled to receive payment for any work performed and accepted under this Agreement, which was completed prior to the date of termination. In the event of termination prior to the completion of the work, Consultant shall have no right to recover other amounts, including but not limited to amounts for lost profits, indirect, incidental, or consequential damages.

8.1.4 After the notice of termination for cause under Section 8.1.1 above, it is determined that said cause was invalid, the termination shall be deemed to have been effected for the convenience of Town under Section 8.1.2. In such event, a payment adjustment shall be made as provided in Section 8.1.2.

8.1.5 Any termination or suspension of this Agreement shall not impair Town's right to recover damages occasioned by the fault of Consultant. Any suspension shall not limit the right of Town to terminate this Agreement.

8.1.6 The obligations of the Town hereunder shall be subject to appropriation on a fiscal year basis. In the absence of appropriation, this agreement shall be terminated immediately without liability of the Town for damages, lost profits, penalties, or other charges arising from early termination. Town shall notify Consultant forthwith if this Agreement is terminated for lack of appropriation.

8.2 By Consultant

Consultant shall have no damages for delay or hindrance. In the event of delay or hindrance not the fault of the Consultant, an extension of time shall be the Consultant's sole remedy.

8.3 Force Majeure

Neither party shall be liable to the other or deemed to be in breach under this agreement for any failure to perform, including, without limitation, a delay in rendering performance due to causes beyond its reasonable control, such as an order, injunction, judgment, or determination of any Court of the United States or the Commonwealth of Massachusetts, an Act of God, war, civil disobedience, extraordinary weather conditions, labor disputes, or shortages, or fluctuation in electric power, heat, light, or air conditioning. Dates or time of performance shall be extended automatically to the extent of such delays, provided that the party whose performance is affected promptly notifies the other of the existence and nature of such delay.

9.0 INSURANCE

Consultant shall provide and maintain insurance at its own expense until the completion of Consultant's Services as set forth below:

- 9.1** Worker's compensation insurance in accordance with state law;
- 9.2** Comprehensive general liability, comprehensive automobile liability and property damage insurance in the amount of not less than \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate.
- 9.3** The Town must be named as an additional insured on a certification of insurance filed with the Town Administrator at time of contract issue. This Certificate of Insurance will be attached to this Agreement as **Exhibit B**.
- 9.4** Professional liability insurance covering Consultant's errors and omissions with limits of at least \$1,000,000.00 for each occurrence and at least \$2,000,000.00 in the aggregate.

10.0 INDEMNIFICATION

10.1 Indemnity for claims that arise from non-professional services: Consultant hereby agrees to indemnify, defend, and hold harmless Town, and its officers, attorneys, employees, attorneys, and agents from and against any and all claims (including workers' compensation and wage claims) demands, suits, actions, liabilities, damages, penalties, judgments, and costs and expenses, including without limitation the costs and expenses of litigation and attorney's fees, of or by anyone that in any way is caused by, arises out of, or is occasioned by, the acts, omissions, or provision of Consultant's services, or any activities, operations, conducts, negligence, or omissions of Consultant or its agents, as described below, regardless of whether same is caused in part by Town or any third party. Nothing in this paragraph shall apply to indemnification for claims arising from professional services, which is addressed below in article 10.2.

10.2 Indemnity for claims that arise from professional services: To the fullest extent permitted by law, Consultant agrees to indemnify and hold the Town, its officers, directors, shareholders and employees harmless from and against claims, liabilities, damages, penalties, judgments, and costs (including the costs and expenses of litigation and reasonable attorney's fees) to the extent caused by the negligence of Consultant in performance of professional services. Nothing in this section shall apply to indemnification for claims arising from non-professional services which are addressed in article 10.1.

11.0 MISCELLANEOUS PROVISIONS

11.1 Entire Agreement

Unless contained in this Agreement, or the Exhibits incorporated into and made a part of this Agreement, no warranties, statements, promises, or representations shall be considered a part of this Agreement or a basis upon which Consultant or Town entered into this Agreement.

11.2 Assignment of Interest

Consultant shall not assign, transfer, or convey any interest in this Agreement without the prior written consent of Town, which consent shall not be unreasonably withheld.

11.3 Subcontractors

Consultant shall not assign, subcontract, or delegate the performance of its services to any person, corporation, or entity without the prior written consent of Town. Provided that such consent is obtained, it is understood and agreed that any such persons, corporations, or entities hired by Consultant shall be deemed agents of Consultant and that Consultant shall be responsible for the methods, means, and materials used in

connection with the performance of any such services, and for any breach of this Agreement or any delays or damages occasioned by such work.

11.4 Inspection by Town

The authorized representatives and agents of Town shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records of Consultant upon demand.

11.5 Incorporation of Applicable Law

Each and every provision of law required to be included in this Agreement shall be deemed to be included in this Agreement, and this Agreement shall be read and enforced as though such provisions were included herein. If through mistake or otherwise any such provision has not been included in this Agreement, or is not correctly inserted, then upon the application of either party to this Agreement, the Agreement shall forthwith be physically amended to make such inclusion or insertion.

11.6 Governing Law

Town and Consultant shall perform its services in conformity with the requirements and standards of Town, and with all applicable laws and regulations of the Commonwealth of Massachusetts and its political subdivisions, and with all applicable laws and regulations of the Federal Government.

In the event of any dispute concerning the meaning or application of this Agreement, any such dispute shall be resolved pursuant to law of the Commonwealth of Massachusetts and, if necessary, by a Court of the Commonwealth of Massachusetts. Both parties hereby consent to the jurisdiction of any such Court.

11.7 Licensure and Compliance with Massachusetts Tax Law

By executing this Agreement, Consultant agrees and certifies that it is licensed to perform the services required by this Agreement, and that it will secure such licensure for so long as it is bound to perform services under this Agreement. Documentation of such licensure shall be attached to this Agreement as part of **Exhibit B**. Consultant shall comply with all applicable laws, ordinances, rules or regulations or codes of the State and Town in performing the work embraced by this Agreement. Pursuant to Mass. G. L. c. 62C, Section 49A, the Consultant certifies under the penalties of perjury that the Consultant has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

11.8 Corporate Contractor

The Consultant shall endorse upon this Agreement (or attach hereto) a Clerk's Certificate certifying the authority of the party signing this Agreement for the

corporation and the existence of such corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in force and effect as of the date of submission. The certificate and letter will be **Exhibit C** to this Agreement. This Agreement shall not be enforceable against the Town unless and until the Consultant complies with this section.

11.9 Interpretation & Severability

For purposes of interpreting this Agreement in the context of a dispute over its terms or otherwise neither party shall be considered the drafter of this Agreement and neither party shall have any provision of this Agreement construed in its favor as a result of its role in drafting this Agreement or its bargaining power with respect to this Agreement, Consultant's Services, the Project, or otherwise.

11.10 Equal Opportunity

Town is an Equal Opportunity Employer. Consultant shall not discriminate on account of race, color, religion, ancestry, national origin, age, gender, handicap, or other protected class, as identified by law, in its performance of this Agreement. Violation of this paragraph shall be deemed a material breach of this Agreement and the Town may terminate this Agreement as a result of same.

11.11 Consultant's Participation in Dispute Resolution Proceedings

Consultant is obligated to prepare for or appear in any litigation or other dispute resolution proceeding at the request of, and upon behalf of, Town in connection with any disputes arising from or related to the Project. Consultant will be paid a reasonable fee based on its usual and ordinary charges for providing such assistance.

11.12 Ethics Training

A summary of the Conflict of Interest Law is attached hereto as **Exhibit D**, and must be distributed to all key employees of the Consultant whose services are specifically required by name, implication or understanding of the parties. Pursuant to Chapter 28 of the Acts of 2009, as amended, all key employees must complete online ethics training on the State Ethics Commission's website, www.mass.gov/ethics. Within thirty days of the date of this Agreement, each key employee must provide to the Town Clerk (with a copy to the Department of Public Works) a signed acknowledgement of receipt of the summary of the Conflict of Interest Law, in the form attached hereto as **Exhibit E**, and a certificate of completion of the online training which must be printed at the completion of the training. See **Exhibit F**. In the event that the term of this agreement extends for more than two years, all continuously employed key employees shall repeat the online training and provide the Town with a new certificate of completion within ninety before or ninety days after the two-year anniversary of the date of this Agreement. Any new key employee who becomes employed by the Consultant after the date of this Agreement and whose services are specifically required

by this Agreement must complete the online training and provide the Town with a certificate of completion within thirty days of the date on which his services commence pursuant to this Agreement. Satisfaction of these requirements is the sole responsibility of the Consultant and its key employees, and the town shall have no liability for the Consultant's or its key employees' failure to meet these requirements.

IN WITNESS WHEREOF the parties hereto have executed copies of this Agreement on the ____ day of _____, 2014.

CONSULTANT:

By:  _____

Print or type name: Scott A. Miller

Title: President

Corporate Seal

TOWN OF MEDWAY:
By its Board of Selectmen

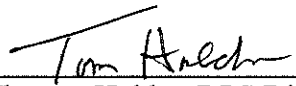
Approved as to Funds Availability

Carol Pratt, Town Accountant

Dated: _____

Funding Source:

Key Org: _____

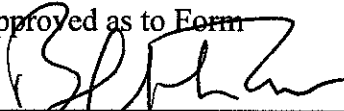


Thomas Holder, DPS Director

Dated: 12.23.14

Account: _____

Approved as to Form



Barbara J. Saint André, Esq.
Petrini & Associates, P.C., Town Counsel

Dated: 12/24/14

Exhibit A

EXHIBIT A
MODEL LETTER OF UNDERSTANDING

[INSERT DATE]

[INSERT NAME OF RECIPIENT]
155 Village Street
Medway, MA 02053

Re: [INSERT TITLE OF PROJECT]

Dear [INSERT NAME OF RECIPIENT]:

Haley and Ward, Inc. is pleased to submit this original and one copy of our Letter of Understanding (LOU) in connection with our Agreement for Professional Services dated [FILL IN DATE] (the Agreement). We propose to provide the professional services set forth in detail under Tasks I through [FILL IN TASK NUMBER]. This LOU outlines the scope of a specific Project that the Town has authorized pursuant to the Agreement, and is subject to all of the provisions of the Agreement. When this LOU is executed and returned to Haley and Ward, Inc. by the duly authorized representative of the Town, it will constitute a notice to proceed with the specific Project. This proposal will be open for acceptance for 60 days from the date of this letter, and may only be modified in writing signed by both of us.

SECTION 1. – Scope of Services

Task I – [Insert Description of Services]

- A. [Detailed description of task.]
- B. [List additional information, if necessary.]

Task II – [Describe Additional Tasks and SubTasks, if necessary]

[Refer to, and attach, Exhibit 1 (Basic Services of the Engineer During the Construction Phase) and Exhibit 2 (Duties, Responsibilities and Limitations of Authority of the Resident Project Representative) for all Projects involving a construction phase.]

[Insert Name of Recipient Here]
[Insert Date Here]
[Insert Page Number Here]

SECTION 2. – Schedule

Upon authorization to proceed, Haley and Ward, Inc. will initiate the work described above. Our services will be performed as expeditiously as is consistent with professional skill and care and with the orderly progress of the work. The [DESCRIBE THE WORK PRODUCT] will be prepared and submitted to Town on [ENTER DATE] after completion of investigation [OR SIMILAR].

[INCLUDE MILESTONE DATES IF APPROPRIATE]

SECTION 3. – Compensation

The Town agrees to pay, and Haley and Ward, Inc. agrees to receive as full compensation for professional services under this Agreement, on the basis of a not-to-exceed amount of [AMOUNT IN WORDS AND FIGURES].

The overall total cost shall be due and payable to Haley and Ward, Inc. upon completion of the scope of work herein stated in this Letter of Understanding, subject to all terms of the Agreement. Interim payments will be made as set forth in the Agreement.

Professional services will be charged on the basis of Direct Labor Costs multiplied by a factor of 3.0. Direct Labor Costs used as a basis for payment mean wages paid to all Haley and Ward, Inc.'s personnel engaged directly on the Project but does not include indirect payroll related costs or fringe benefits. The hourly Direct Labor Costs of personnel of Haley and Ward, Inc. will be adjusted equitably to reflect changes in personnel and in Haley and Ward, Inc.'s overall compensation procedures and practices.

Reimbursable expenses incurred will be charged on the basis of actual cost to Haley and Ward, Inc. with a [INSERT %] markup. Outside services expenses incurred will be charged on the basis of actual cost to Haley and Ward, Inc. with a [INSERT %] markup.

SECTION 4. – Acceptance

If this LOU meets with your approval, please sign, date and return the original and one copy to our office, attention [INSERT APPROPRIATE PERSON].

Respectfully yours,

TOWN OF MEDWAY, MA

HALEY AND WARD, INC.

By: _____

By: _____

Date

Date

[Insert Name of Recipient Here]
[Insert Date Here]
[Insert Page Number Here]

Approved as to Funds Availability:

Carol Pratt, Town Accountant

Thomas Holder, DPS Director

Dated: _____

Dated: _____

Funding Source:

Key Org: _____

Account: _____

BASIC SERVICES OF ENGINEER DURING THE CONSTRUCTION PHASE

This is an Exhibit attached to, and made a part of the Letter of Understanding (LOU) dated [INSERT DATE] between the Town of Medway (OWNER) and Haley and Ward, Inc. (ENGINEER) providing for professional engineering services.

During the Construction Phase the ENGINEER shall provide the following basic services:

A. *General Administration of Construction Contract.* ENGINEER shall consult with and advise OWNER and act as OWNER'S representative as provided in Articles 1 through 17, inclusive, of the Standard General Conditions of the Construction Contract, C-700 (2007 edition) of the Engineers' Joint Contract Documents Committee. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified, except to the extent provided in Exhibit A "Further Description of Basic Engineering Services and Related Matters" and except as ENGINEER may otherwise agree in writing. All of OWNER'S instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in said Standard General Conditions except as otherwise provided in writing.

B. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor(s) while it is in progress:

1. ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s) work. In addition, ENGINEER shall provide the services of a Resident Project Representative (and assistants as agreed) at the site to assist ENGINEER and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, ENGINEER shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and ENGINEER shall keep OWNER informed of the progress of the work.

2. The Resident Project Representative (and any assistants) will be ENGINEER'S agent or employee and under ENGINEER'S supervision. The duties and responsibilities of the Resident Project Representative (and assistants) are set forth in Exhibit B "Duties, Responsibilities and Limitations of Authority of Resident Project Representative.

3. The purpose of ENGINEER'S visits to and representation by the Resident Project Representative (and assistants, if any) at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by exercise of ENGINEER'S efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, ENGINEER can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

C. *Defective Work.* During such visits and on the basis of such observations, ENGINEER may disapprove of or reject Contractor(s)' work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

D. *Interpretations and Clarifications.* ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.

E. *Shop Drawings.* ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

F. *Substitutes.* ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s). When required by the Contract Documents in circumstances beyond ENGINEER'S control, with authorization from the OWNER, ENGINEER shall perform or obtain from others, as circumstances require during construction, services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work. ENGINEER will be paid for such services in accordance with the LOU, or any subsequent modification.

H. *Disputes between OWNER and Contractor.* ENGINEER shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. ENGINEER shall not be liable for the results of any such interpretations or decisions rendered in good faith.

I. *Applications for Payment.* Based on ENGINEER'S on-site observations as an experienced and qualified design professional, on information provided by the Resident Project Representative and on review of applications for payment and the accompanying data and schedules:

1. ENGINEER shall determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of ENGINEER'S knowledge, information and belief, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendations). In the case of unit price work, ENGINEER'S recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

2. By recommending any payment ENGINEER will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made by ENGINEER to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. ENGINEER'S review of Contractor(s)' work for the purposes of recommending payments will not impose on ENGINEER responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or program incident thereto or Contractor(s) compliance with laws, rules, regulations, ordinances, codes or orders applicable to their furnishing and performing the work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

J. *Contractor(s)' Completion Documents.* ENGINEER shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with, the Contract Documents) and shall submit them to

OWNER with written comments.

K. *Inspections.* ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph I.2.

L. *Record Drawings.* Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to ENGINEER and which ENGINEER considers significant.

M. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except ENGINEER'S own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraph A. thru K., inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties and responsibilities assumed by ENGINEER in the Contract Documents.

DUTIES, RESPONSIBILITIES AND
LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE

This is an Exhibit attached to, and made a part of the Letter of Understanding (LOU) dated [INSERT DATE] between the Town of Medway (OWNER) and **Haley and Ward, Inc.** (ENGINEER) providing for professional engineering services.

ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents and in particular, the specific limitations set forth in the Scope of Services of the LOU are applicable.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER'S Agreement with the OWNER dated [INSERT DATE] and LOU dated [INSERT DATE], and in the construction Contract Documents and are further limited and described as follows:

A. General

RPR is ENGINEER'S agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR'S actions. RPR'S dealings in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR'S dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
2. Conferences and Meetings: Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
 - a. Serve as ENGINEER'S liaison with CONTRACTOR, working principally through CONTRACTOR'S superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER'S liaison with CONTRACTOR when CONTRACTOR'S operations affect OWNER'S on-site operations.
 - b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the work.
4. Shop Drawings and Samples:
 - a. Record date of receipt of Shop Drawings and samples.
 - b. Receive samples which are furnished at the site by CONTRACTOR, and notify ENGINEER of availability of samples for examination.
 - c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by ENGINEER.

5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the General Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. Interpretations of Contract Documents: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
7. Modifications: Consider and evaluate CONTRACTOR'S suggestions for modifications in Drawings or Specifications, and report with RPR'S recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.
8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents, including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER'S clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - b. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
 - c. Record names, addresses, telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.
9. Reports:
 - a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR'S compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
 - b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
 - c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
 - d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.
10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.
11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance

with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. Completion:
 - a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
 - b. Conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a final list of items to be completed or corrected.
 - c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER'S authority as set forth in the Agreement or the General Provisions to the Letter Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR'S superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

Exhibit B

Exhibit C

CERTIFICATE OF VOTE

(to be filed if Consultant is a Corporation)

I, Gregory J. Eldridge, hereby certify that I am the duly qualified and acting
(Secretary of the Corporation)

Secretary of Haley and Ward, Inc. and I further certify that at
(Name of Corporation)

a meeting of the Directors of said Company, duly called and held on May 19, 2010,
(Date of Meeting)

at which all Directors were present and voting, the following vote was unanimously
passed:

VOTED: To authorize and empower

Scott A. Miller

Anyone acting singly, to execute Forms of General Quotation, Contracts or Bonds on
behalf of the Corporation.

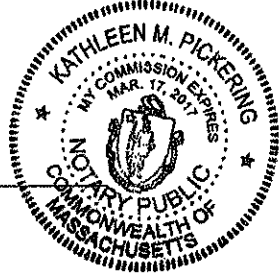
I further certify that the above vote is still in effect and has not been changed or
modified in any respect.

By: *Gregory J. Eldridge*
Gregory J. Eldridge (Secretary of Corporation)

A True Copy:

Attest: *Kathleen M. Pickering*
(Notary Public)

My Commission Expires: March 17 2017
(Date)



Exhibits D & E

Exhibit D



The Official Website of the State Ethics Commission

State Ethics Commission[Home](#) > [Education & Training Resources](#) > [Mandatory Conflict Law Education Requirements](#) > [Municipal Employee Summary](#)**Summary of the Conflict of Interest Law for Municipal Employees**

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

II. On-the-job restrictions.**(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)**

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation : A town administrator accepts reduced rental payments from developers.

Example of violation : A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions . There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation : A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation : A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation : A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation : A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation : A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation : A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation : A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example : A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation : An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation: A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation: A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example: A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation : A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation : A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example : A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example : A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation : Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation : A selectman buys a surplus truck from the town DPW.

Example of violation : A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation : A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18)

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation : A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example : An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example : While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example : A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 6: Revised May 10, 2013

ACKNOWLEDGMENT OF RECEIPT

Exhibit E

I, _____, an employee at _____, hereby acknowledge that I received a
(first and last name) (name of municipal dept.)
copy of the summary of the conflict of interest law for municipal employees, revised May 10, 2013, on _____
(date)

Municipal employees should complete the acknowledgment of receipt and return it to the individual who provided them with a copy of the summary. Alternatively, municipal employees may send an e-mail acknowledging receipt of the summary to the individual who provided them with a copy of it.

Exhibit F

Exhibit F



The Official Website of the State Ethics Commission

State Ethics Commission

Home > Online Training Programs

Conflict of Interest Law Online Training Programs

Please review these instructions prior to beginning the online training program:

- **Web browser-** The programs were developed to work with the Internet Explorer web browser. The programs may also work with other web browsers such as Firefox or Safari, but some pages do not display properly using the Google Chrome web browser. It is recommended that you do not use Google Chrome to run either program.
- **Pop-up blockers-** Some of the information presented in each program, such as the program completion certificate, is displayed using pop-up windows, therefore you must disable any pop-up blockers on your computer. If you are using Internet Explorer, you can do this by clicking "Tools" at the toolbar at the upper left-hand side of the browser page, and then look for "Pop-up Blocker" in the drop-down menu. Hover your mouse over that selection to see if the option to turn off pop-up blockers appears, and if so, turn off pop-up blockers. If you are able to proceed through the entire program but your completion certificate does not display properly, you can temporarily disable the pop-up blocker by holding down the "Ctrl" key on your keyboard, and then click the "View Certificate" button on the program. If you are using Safari, you can disable the pop-up blocker by clicking "Safari", then click "Preferences", then click "Security", and then uncheck the box "Block Pop-up Windows".
- **Program freezes or slow page downloads-** You need to have a media flash player downloaded on your computer to run the video segments. Click the link to download the [Adobe Flash Player](#) if you find that the video does not play or the program appears to freeze and a page will not display properly. If you continue to experience slow downloads, the issue could be with your computer or internet connection.
- **Print your completion certificate-** Remember to print your completion certificate to submit to your employer, and please retain a copy for your records. The Ethics Commission will not have any records to verify that you completed the program.
- **Electronically saving the completion certificate-** To electronically save your completion certificate, you must convert it to a .pdf and then save it to your computer or network. You can also print and scan the completion certificate or save it to your computer as a screenshot. Either way, the completion certificate can then be emailed to your employer as an attachment.
- **Obscured text-** If any text on a page is obscured, you will need to adjust your browser view setting. To adjust your browser view setting, click "View" at the toolbar at the upper left-hand side of the browser page, then select "Zoom" from the drop-down menu and select 100%.

To begin the Conflict of Interest Law online training program, click one of the program links below. If you are unsure which link to click, please ask your employer or contact the State Ethics Commission at 617-371-9500.

FOR STATE AND COUNTY EMPLOYEES

Click the link below

[STATE-COUNTY EMPLOYEE ONLINE TRAINING PROGRAM](#)

FOR MUNICIPAL EMPLOYEES

Click the link below

[MUNICIPAL EMPLOYEE ONLINE TRAINING PROGRAM](#)

Please contact Marisa Donelan, the Commission's Public Education and Communications Division Deputy Chief, at 617-371-9524 or mdonelan@eth.state.ma.us if you have any questions.

STATE ETHICS COMMISSION RECEIPT



Conflict of Interest Law Online Training Program

was completed by: **Scott A. Miller**

on

Wednesday, March 03, 2010

Thank you for completing the State Ethics Commission's online training program.

It is important to keep in mind that information provided in the online training program is general in nature and is not an exhaustive review of the conflict of interest law. The Commission staff also regularly offers free educational seminars at its Boston office, Room 619, One Ashburton Place. Please contact the Commission at 617-371-9500 if you are interested in attending one of these sessions or sponsoring an educational seminar at your facility.

The State Ethics Commission provides free, confidential legal advice about how the law applies in a particular situation. We encourage you to seek legal advice from the Commission at 617-371-9500 and/or your agency's legal counsel if you face a potential conflict of interest. Your agency may have additional restrictions which regulate your conduct.

For additional information about the Ethics Commission and the conflict of interest law, please visit www.mass.gov/ethics.

Educational material about the application of the conflict of interest law can be found at http://www.mass.gov/ethics/educational_materials.html

A summary of the conflict of interest law can be found in [The Top Ten Rules State Employees Need to Know About the Conflict of Interest Law](#).

Do not forget to this page!

STATE ETHICS COMMISSION RECEIPT



Conflict of Interest Law Online Training Program

was completed by: **Robert Pickering**

on
Wednesday, January 20, 2010

Thank you for completing the State Ethics Commission's online training program.

It is important to keep in mind that information provided in the online training program is general in nature and is not an exhaustive review of the conflict of interest law. The Commission staff also regularly offers free educational seminars at its Boston office, Room 619, One Ashburton Place. Please contact the Commission at 617-371-9500 if you are interested in attending one of these sessions or sponsoring an educational seminar at your facility.

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Do not forget to this page!

AGENDA

ITEM #6

Authorization of Chairman to Execute Regulatory Agreement for Millstone Village

Associated back up materials attached.

- Correspondence from Maureen O'Hagan, MCO Housing Services, dated December 17, 2014
- *Regulatory Agreement and Declaration of Restrictive Covenants for Ownership Project*
- Email from Town Counsel dated December 22, 2014

Proposed motion: I move that the Board authorize the Chairman to execute the *Regulatory Agreement and Declaration of Restrictive Covenants for Ownership Project* for Millstone Village as presented.



December 17, 2014

Dennis Crowley
Chair, Medway Board of Selectmen
155 Village Street
Medway, MA 02053

RE: Regulatory Agreement for Millstone Village

Dear Mr. Crowley:

Enclosed are three copies of the Regulatory Agreement for Millstone Village. These documents need to be signed and notarized before the marketing can begin on the eight affordable units. We are trying to get the documents signed by years end and recorded. The Regulatory Agreement has been reviewed and approved by the Town through Susan Affleck-Childs and Doug Havens the Community Housing Coordinator.

Once you have signed each copy please mail all three original copies to:

Steven Venincasa
P.O. Box 1205
Westborough, MA 01581

A copy of the executed Regulatory Agreement will be mailed to you when complete. Please call me should you have any questions at 978-456-8388.

Thank you for your quick response.

Sincerely,

A handwritten signature in cursive script that reads 'Maureen M. O'Hagan'.

Maureen M. O'Hagan
MCO Housing Services

Enclosures

Cc: Susie Affleck-Childs – Planning and Economic Dev. Coordinator
Doug Havens – Community Housing Coordinator
Barbara St. Andre – Town Counsel
Alex Para, Esquire

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 _____ 2014 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 Medway ("the Municipality"), and Millstone Builders LLC, a Massachusetts limited liability company, having an address at 1 Golden Court, Westborough, Massachusetts 01581, 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 Millstone Village at a 51-acre site off Lovering 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 80 condominium units/detached dwellings (the "Units") and 8 of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the "Low and Moderate Income Units");

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

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

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

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality and DHCD (the "Plans and Specifications"). 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;
8 of the Low and Moderate Income Units shall be two bedroom units;
_____ 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. 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 Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area.

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. Intentionally Omitted

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. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the buyer selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of *NAACP, Boston Chapter v. Kemp*. **If the Project is located in the Boston-Cambridge-Quincy, MA-NH MSA, the Project Sponsor must list all Low and Moderate Income Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center); other requirements for listing of units are specified in the Guidelines.** All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor.

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

6. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, religion, color, sex, sexual orientation, 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 company 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 home buyers as permitted by the terms of this Agreement, Project Sponsor will not sell, transfer, lease, exchange or mortgage the Project without the prior written consent of DHCD and the Municipality.

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 Medway
Planning Board
155 Village Street
Medway, MA 02053

Town of Medway
Town Administrator
155 Village Street
Medway, MA 02053

Town of Medway
Community Housing Coordinator
155 Village Street
Medway, MA 02053

Project Sponsor: Millstone Builders LLC
1 Golden Court
Westborough, Massachusetts 01581

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 is made for the benefit of DHCD, and DHCD shall be deemed to be the holder of the affordable housing restriction created by this Agreement. 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 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.

(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 enure 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 18, 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 by providing written notice of such delegation to the Project Sponsor and the Municipality and acceptance by the Municipality.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

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

PROJECT SPONSOR
Millstone Builders LLC

By: _____
Steven F. Venincasa,
its Manager

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT

By: _____
its Associate Director

MUNICIPALITY
Town of Medway Board of Selectmen

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

Re:

Millstone Village
(Project name)

Medway, MA
(City/Town)

Millstone Builders LLC
(Project Sponsor)

The Undersigned being the holder of a mortgage on the above described Project recorded with the Registry of Deeds in Book 32460, Page 306, 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.

Southbridge Savings Bank

By: [Signature]
its President's CEO

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF Worc, ss.

Sept 23, 2014

On this 23rd day of September, 2014, before me, the undersigned notary public, personally appeared Todd M. Tallman, proved to me through satisfactory evidence of identification, which were MA Drivers License, to be the person whose name is signed on the preceding document, as President + CEO of Southbridge Savings Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



[Signature]
Notary Public
Print Name: JAMES A. SANDAGATO
My Commission Expires: 4/3/2020

(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.)

EXHIBIT A

Re:

Millstone Village
(Project name)

Medway, MA
(City/Town)

Millstone Builders LLC
(Project Sponsor)

Property Description

the land in Medway, Norfolk County, Massachusetts, shown as Parcels A & B on a plan of land entitled, "Plan of Land Medway, Massachusetts (Norfolk County), Scale 1" = 100', March 18, 2014, Owner: Betty Ann McCall-Virnaglia, Prepared By: GLM Engineering Consultants, Inc.," which plan is recorded with the Norfolk County Registry of Deeds at Plan Book 632, Plan 76-79.

Said Parcel A contains 30.61 acres, more or less, according to said plan.

Said Parcel B contains 20.40 acres, more or less, according to said plan.

Being the same premises granted to Project Sponsor by deed recorded with said Registry in Book 32460, Page 303.

EXHIBIT B

Re:

Millstone Village
(Project name)

Medway, MA
(City/Town)

Millstone Builders LLC
(Project Sponsor)

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

	Sale Price	Condo Fee	% Interest
One bedroom units	\$ _____	\$ _____	_____
Two bedroom units	\$ <u>170,000</u>	\$100__	.50__
Three bedroom units	\$ _____	\$ _____	_____
Four bedroom units	\$ _____	\$ _____	_____

Location of Low and Moderate Income Units

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

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

EXHIBIT C

[TO BE REPLACED BY BLANK DEED RIDER]

LOCAL INITIATIVE PROGRAM
AFFORDABLE HOUSING DEED RIDER

For Projects in Which
Affordability Restrictions Survive Foreclosure

made part of that certain deed (the "Deed") of certain property (the "Property") from _____ ("Grantor") to _____ ("Owner") dated _____, 200_. The Property is located in the City/Town of _____ (the "Municipality").

RECITALS

WHEREAS, the Grantor is conveying that certain real property more particularly described in the Deed to the Owner at a consideration which is less than the fair market value of the Property; and

WHEREAS, the Property is part of a project which was: [check all that are applicable]

- (i) granted a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from the Board of Appeals of the Municipality or the Housing Appeals Committee and recorded/filed with the _____ County Registry of Deeds/Registry District of Land Court (the "Registry") in Book _____, Page _____/Document No. _____ (the "Comprehensive Permit");
- (ii) subject to a Regulatory Agreement among _____ (the "Developer"), [] Massachusetts Housing Finance Agency ("MassHousing"), [] the Massachusetts Department of Housing and Community Development ("DHCD") [] the Municipality; and [] _____, dated _____ and recorded/filed with the Registry in Book _____, Page _____/as Document No. _____ (the "Regulatory Agreement"); and
- (iii) subsidized by the federal or state government under the Local Initiative Program, a program to assist construction of low or moderate income housing the "Program"; and

WHEREAS, pursuant to the Program, eligible purchasers such as the Owner are given the opportunity to purchase residential property at less than its fair market value if the purchaser agrees to certain use and transfer restrictions, including an agreement to occupy the property as a principal residence and to convey the property for an amount not greater than a maximum resale price, all as more fully provided herein; and

WHEREAS, DHCD (singly, or if more than one entity is listed, collectively, the "Monitoring Agent") is obligated by the Program or has been retained to monitor compliance with and to enforce the terms of this Deed Rider, and eligible purchasers such as the Owner may be required to pay to the Monitoring Agent, or its successor, a small percentage of the resale price upon the Owner's conveyance of the Property, as set out in the Regulatory Agreement and as more fully provided herein; and

WHEREAS, the rights and restrictions granted herein to the Monitoring Agent and the Municipality serve the public's interest in the creation and retention of affordable housing for persons and households of low and moderate income and in the restricting of the resale price of property in order to assure its affordability by future low and moderate income purchasers.

NOW, THEREFORE, as further consideration for the conveyance of the Property at less than fair market value, the Grantor and the Owner, including his/her/their heirs, successors and assigns, hereby agree that the Property shall be subject to the following rights and restrictions which are imposed for the benefit of, and shall be enforceable by, the Municipality and the Monitoring Agent, and, if DHCD is a party to the Regulatory Agreement and is not the Monitoring Agent, by DHCD.

1. Definitions. In this Deed Rider, in addition to the terms defined above, the following words and phrases shall have the following meanings:

Affordable Housing Fund means a fund established by the Municipality for the purpose of reducing the cost of housing for Eligible Purchasers or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for Eligible Purchasers or, if no such fund exists, a fund established by the Municipality pursuant to Massachusetts General Laws Chapter 44 Section 53A, et seq.

Applicable Foreclosure Price shall have the meaning set forth in Section 7(b) hereof.

Appropriate Size Household means a household containing a number of members equal to the number of bedrooms in the Property plus one.

Approved Capital Improvements means the documented commercially reasonable cost of extraordinary capital improvements made to the Property by the Owner; provided that the Monitoring Agent shall have given written authorization for incurring such cost prior to the cost being incurred and that the original cost of such improvements shall be discounted over the course of their useful life.

Area means the Primary Metropolitan Statistical Area or non-metropolitan area that includes the Municipality, as determined by HUD, which in this case is _____.

Area Median Income means the most recently published median income for the Area adjusted for household size as determined by HUD. If HUD discontinues publication of Area Median Income, the income statistics used by MassHousing for its low and moderate income housing programs shall apply.

Base Income Number means the Area Median Income for a four (4)-person household.

Chief Executive Officer shall mean the Mayor in a city or the Board of Selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

Closing shall have the meaning set forth in Section 5(b) hereof.

Compliance Certificate shall have the meaning set forth in Section 6(a) hereof.

Conveyance Notice shall have the meaning set forth in Section 4(a) hereof.

Eligible Purchaser means an individual or household earning no more than eighty percent (80%) of Area Median Income (or, if checked [] _____ percent (___%) of Area Median Income, as required by the Program) and owning assets not in excess of the limit set forth in the Program Guidelines. To be considered an Eligible Purchaser, the individual or household must intend to occupy and thereafter must occupy the Property as his, her or their principal residence and must provide to the Monitoring Agent such certifications as to income, assets and residency as the Monitoring Agent may require to determine eligibility as an Eligible Purchaser. An Eligible Purchaser shall be a First-Time Homebuyer if required by the Program and as specified in the Regulatory Agreement.

First-Time Homebuyer means an individual or household, of which no household member has had an ownership interest in a principal residence at any time during the three (3)-year period prior to the date of qualification as an Eligible Purchaser, except that (i) any individual who is a displaced homemaker (as may be defined by DHCD) (ii) and any individual age 55 or over (applying for age 55 or over housing) shall not be excluded from consideration as a First-Time Homebuyer under this definition on the basis that the individual, owned a home or had an ownership interest in a principal residence at any time during the three (3)-year period.

Foreclosure Notice shall have the meaning set forth in Section 7(a) hereof.

HUD means the United States Department of Housing and Urban Development.

Ineligible Purchaser means an individual or household not meeting the requirements to be eligible as an Eligible Purchaser.

Maximum Resale Price means the sum of (i) the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, plus (ii) the Resale Fee and any necessary marketing

expenses (including broker's fees) as may have been approved by the Monitoring Agent, plus (iii) Approved Capital Improvements, if any (the original cost of which shall have been discounted over time, as calculated by the Monitoring Agent); provided that in no event shall the Maximum Resale Price be greater than the purchase price for which a credit-worthy Eligible Purchaser earning seventy percent (70%) of the Area Median Income (or, if checked [] _____ percent (___%) of Area Median Income, as required by the Program) for an Appropriate Size Household could obtain mortgage financing (as such purchase price is determined by the Monitoring Agent using the same methodology then used by DHCD for its Local Initiative Program or similar comprehensive permit program); and further provided that the Maximum Resale Price shall not be less than the purchase price paid for the Property by the Owner unless the Owner agrees to accept a lesser price.

Monitoring Services Agreement means any Monitoring Services Agreement for monitoring and enforcement of this Deed Rider among some or all of the Developer, the Monitoring Agent, the Municipality, MassHousing and DHCD.

Mortgage Satisfaction Amount shall have the meaning set forth in Section 7(b) hereof.

Mortgagee shall have the meaning set forth in Section 7(a) hereof.

Program Guidelines means the regulations and/or guidelines issued for the applicable Program and controlling its operations, as amended from time to time.

Resale Fee means a fee of 2% of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid to the Monitoring Agent as compensation for monitoring and enforcing compliance with the terms of this Deed Rider, including the supervision of the resale process.

Resale Price Certificate means the certificate issued as may be specified in the Regulatory Agreement and recorded with the first deed of the Property from the Developer, or the subsequent certificate (if any) issued as may be specified in the Regulatory Agreement, which sets forth the Resale Price Multiplier to be applied on the Owner's sale of the Property, as provided herein, for so long as the restrictions set forth herein continue. In the absence of contrary specification in the Regulatory Agreement the Monitoring Agent shall issue the certificate.

Resale Price Multiplier means the number calculated by dividing the Property's initial sale price by the Base Income Number at the time of the initial sale from the Developer to the first Eligible Purchaser. The Resale Price Multiplier will be multiplied by the Base Income Number at the time of the Owner's resale of the Property to determine the Maximum Resale Price on such conveyance subject to adjustment for the Resale Fee, marketing expenses and Approved Capital Improvements. In the event that the purchase price paid for the Property by the Owner includes such an adjustment a new Resale Price Multiplier will be recalculated by the Monitoring Agent by dividing the purchase price so paid by the Base Income Number at the time of such purchase,

and a new Resale Price Certificate will be issued and recorded reflecting the new Resale Price Multiplier. A Resale Price Multiplier of _____ is hereby assigned to the Property.

Term means in perpetuity, unless earlier terminated by (i) the termination of the term of affordability set forth in the Regulatory Agreement or Comprehensive Permit, whichever is longer; or (ii) the recording of a Compliance Certificate and a new Deed Rider executed by the purchaser in form and substance substantially identical to this Deed Rider establishing a new term.

2. Owner-Occupancy/Principal Residence. The Property shall be occupied and used by the Owner's household exclusively as his, her or their principal residence. Any use of the Property or activity thereon which is inconsistent with such exclusive residential use is expressly prohibited.

3. Restrictions Against Leasing, Refinancing and Junior Encumbrances. The Property shall not be leased, rented, refinanced, encumbered (voluntarily or otherwise) or mortgaged without the prior written consent of the Monitoring Agent; provided that this provision shall not apply to a first mortgage granted on the date hereof in connection with this conveyance from Grantor to Owner securing indebtedness not greater than one hundred percent (100%) of the purchase price. Any rents, profits, or proceeds from any transaction described in the preceding sentence which transaction has not received the requisite written consent of the Monitoring Agent shall be paid upon demand by Owner to the Municipality for deposit to its Affordable Housing Fund. The Monitoring Agent or Municipality may institute proceedings to recover such rents, profits or proceeds, and costs of collection, including attorneys' fees. Upon recovery, after payment of costs, the balance shall be paid to the Municipality for deposit to its Affordable Housing Fund. In the event that the Monitoring Agent consents for good cause to any such lease, refinancing, encumbrance or mortgage, it shall be a condition to such consent that all rents, profits or proceeds from such transaction, which exceed the actual carrying costs of the Property as determined by the Monitoring Agent, shall be paid to the Municipality for deposit to its Affordable Housing Fund.

4. Options to Purchase. (a) When the Owner or any successor in title to the Owner shall desire to sell, dispose of or otherwise convey the Property, or any portion thereof, the Owner shall notify the Monitoring Agent and the Municipality in writing of the Owner's intention to so convey the Property (the "Conveyance Notice"). Upon receipt of the Conveyance Notice, the Monitoring Agent shall (i) calculate the Maximum Resale Price which the Owner may receive on the sale of the Property based upon the Base Income Number in effect as of the date of the Conveyance Notice and the Resale Price Multiplier set forth in the most recently recorded Resale Price Certificate together with permissible adjustments for the Resale Fee, marketing expenses and Approved Capital Improvements (as discounted), and (ii) promptly begin marketing efforts. The Owner shall fully cooperate with the Monitoring Agent's efforts to locate an Eligible Purchaser and, if so requested by the Monitoring Agent, shall hire a broker selected by the Monitoring Agent to assist in locating an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price after entering a purchase and sale

agreement. Pursuant to such agreement, sale to the Eligible Purchaser at the Maximum Resale Price shall occur within ninety (90) days after the Monitoring Agent receives the Conveyance Notice or such further time as reasonably requested to arrange for details of closing. If the Owner fails to cooperate in such resale efforts, including a failure to agree to reasonable terms in the purchase and sale agreement, the Monitoring Agent may extend the 90-day period for a period commensurate with the time the lack of cooperation continues, as determined by the Monitoring Agent in its reasonable discretion. In such event, the Monitoring Agent shall give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period.

(b) The Monitoring Agent shall ensure that diligent marketing efforts are made to locate an Eligible Purchaser ready, willing and able to purchase the Property at the Maximum Resale Price within the time period provided in subsection (a) above and to enter the requisite purchase and sale agreement. If more than one Eligible Purchaser is located, the Monitoring Agent shall conduct a lottery or other like procedure to determine which Eligible Purchaser shall be entitled to enter a purchase and sale agreement with Owner and to purchase the Property. Preference shall be given to Appropriate Size Households. The procedure for marketing and selecting an Eligible Purchaser shall be approved as provided in the Regulatory Agreement and any applicable Program Guidelines. If an Eligible Purchaser is located within ninety (90) days after receipt of the Conveyance Notice, but such Eligible Purchaser proves unable to secure mortgage financing so as to be able to complete the purchase of the Property pursuant to the purchase and sale agreement, following written notice to Owner within the 90-day period the Monitoring Agent shall have an additional sixty (60) days to locate another Eligible Purchaser who will enter a purchase and sale agreement and purchase the Property by the end of such sixty (60)-day period or such further time as reasonably requested to carry out the purchase and sale agreement.

(c) In lieu of sale to an Eligible Purchaser, the Monitoring Agent or the Municipality or designee shall also have the right to purchase the Property at the Maximum Resale Price, in which event the purchase and sale agreement shall be entered, and the purchase shall occur within ninety (90) days after receipt of the Conveyance Notice or, within the additional sixty (60)-day period specified in subsection (b) above, or such further time as reasonably requested to carry out the purchase and sale agreement. Any lack of cooperation by Owner in measures reasonably necessary to effect the sale shall extend the 90-day period by the length of the delay caused by such lack of cooperation. The Monitoring Agent shall promptly give Owner written notice of the lack of cooperation and the length of the extension added to the 90-day period. In the event of such a sale to the Monitoring Agent or Municipality or designee, the Property shall remain subject to this Deed Rider and shall thereafter be sold or rented to an Eligible Purchaser as may be more particularly set forth in the Regulatory Agreement.

(d) If an Eligible Purchaser fails to purchase the Property within the 90-day period (or such further time determined as provided herein) after receipt of the Conveyance Notice, and the Monitoring Agent or Municipality or designee does not purchase the Property during said period, then the Owner may convey the Property to an Ineligible Purchaser no earlier than thirty (30) days after the end of said period at the Maximum Resale Price, but subject to all rights and

restrictions contained herein; provided that the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner agrees to execute, to secure execution by the Ineligible Purchaser and to record with the Deed; and further provided that, if more than one Ineligible Purchaser is ready, willing and able to purchase the Property the Owner will give preference and enter a purchase and sale agreement with any individuals or households identified by the Monitoring Agent as an Appropriate Size Household earning more than eighty percent (80%) but less than one hundred twenty percent (120%) of the Area Median Income.

(e) The priority for exercising the options to purchase contained in this Section 4 shall be as follows: (i) an Eligible Purchaser located and selected by the Monitoring Agent, as provided in subsection (b) above, (ii) the Municipality or its designee, as provided in subsection (c) above, and (iii) an Ineligible Purchaser, as provided in subsection (d) above.

(f) Nothing in this Deed Rider or the Regulatory Agreement constitutes a promise, commitment or guarantee by DHCD, MassHousing, the Municipality or the Monitoring Agent that upon resale the Owner shall actually receive the Maximum Resale Price for the Property or any other price for the Property.

(g) The holder of a mortgage on the Property is not obligated to forbear from exercising the rights and remedies under its mortgage, at law or in equity, after delivery of the Conveyance Notice.

5. Delivery of Deed. (a) In connection with any conveyance pursuant to an option to purchase as set forth in Section 4 above, the Property shall be conveyed by the Owner to the selected purchaser by a good and sufficient quitclaim deed conveying a good and clear record and marketable title to the Property free from all encumbrances except (i) such taxes for the then current year as are not due and payable on the date of delivery of the deed, (ii) any lien for municipal betterments assessed after the date of the Conveyance Notice, (iii) provisions of local building and zoning laws, (iv) all easements, restrictions, covenants and agreements of record specified in the deed from the Owner to the selected purchaser, (v) such additional easements, restrictions, covenants and agreements of record as the selected purchaser consents to, such consent not to be unreasonably withheld or delayed, (vi) the Regulatory Agreement, and (vii), except as otherwise provided in the Compliance Certificate, a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the selected purchaser, and to record with the deed. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the selected purchaser or the enforceability of the restrictions herein.

(b) Said deed, including the approved Deed Rider, shall be delivered and the purchase price paid (the "Closing") at the Registry, or at the option of the selected purchaser, exercised by written notice to the Owner at least five (5) days prior to the delivery of the deed, at such other place as the selected purchaser may designate in said notice. The Closing shall occur at such

time and on such date as shall be specified in a written notice from the selected purchaser to the Owner, which date shall be at least five (5) days after the date on which such notice is given, and no later than the end of the time period specified in Section 4(a) above.

(c) To enable Owner to make conveyance as herein provided, Owner may, if Owner so desires at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, all instruments with respect thereto to be recorded simultaneously with the delivery of said deed. Nothing contained herein as to the Owner's obligation to remove defects in title or to make conveyance or to deliver possession of the Property in accordance with the terms hereof, as to use of proceeds to clear title or as to the election of the selected purchaser to take title, nor anything else in this Deed Rider shall be deemed to waive, impair or otherwise affect the priority of the rights herein over matters appearing of record, or occurring, at any time after the recording of this Deed Rider, all such matters so appearing or occurring being subject and subordinate in all events to the rights herein.

(d) Water and sewer charges and taxes for the then current tax period shall be apportioned and fuel value shall be adjusted as of the date of Closing and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the selected purchaser.

(e) Full possession of the Property free from all occupants is to be delivered at the time of the Closing, the Property to be then in the same condition as it is in on the date of the execution of the purchase and sale agreement, reasonable wear and tear only excepted.

(f) If Owner shall be unable to give title or to make conveyance as above required, or if any change of condition in the Property not included in the above exception shall occur, then Owner shall be given a reasonable time not to exceed thirty (30) days after the date on which the Closing was to have occurred in which to remove any defect in title or to restore the Property to the condition herein required. The Owner shall use best efforts to remove any such defects in the title, whether voluntary or involuntary, and to restore the Property to the extent permitted by insurance proceeds or condemnation award. The Closing shall occur fifteen (15) days after notice by Owner that such defect has been cured or that the Property has been so restored. The selected purchaser shall have the election, at either the original or any extended time for performance, to accept such title as the Owner can deliver to the Property in its then condition and to pay therefor the purchase price without deduction, in which case the Owner shall convey such title, except that in the event of such conveyance in accordance with the provisions of this clause, if the Property shall have been damaged by fire or casualty insured against or if a portion of the Property shall have been taken by a public authority, then the Owner shall, unless the Owner has previously restored the Property to its former condition, either:

(A) pay over or assign to the selected purchaser, on delivery of the deed, all amounts recovered or recoverable on account of such insurance or condemnation award less any amounts reasonably expended by the Owner for any partial restoration, or

(B) if a holder of a mortgage on the Property shall not permit the insurance proceeds or the condemnation award or part thereof to be used to restore the Property to its former condition or to be so paid over or assigned, give to the selected purchaser a credit against the purchase price, on delivery of the deed, equal to said amounts so retained by the holder of the said mortgage less any amounts reasonably expended by the Owner for any partial restoration.

6. Resale and Transfer Restrictions. (a) Except as otherwise provided herein, the Property or any interest therein shall not at any time be sold by the Owner, or the Owner's successors and assigns, and no attempted sale shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the selected purchaser of the Property for and in connection with the transfer of such Property, is equal to or less than the Maximum Resale Price for the Property, and unless a certificate (the "Compliance Certificate") is obtained and recorded, signed and acknowledged by the Monitoring Agent which Compliance Certificate refers to the Property, the Owner, the selected purchaser thereof, and the Maximum Resale Price therefor, and states that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and unless there is also recorded a new Deed Rider executed by the selected purchaser, which new Deed Rider is identical in form and substance to this Deed Rider.

(b) The Owner, any good faith purchaser of the Property, any lender or other party taking a security interest in such Property and any other third party may rely upon a Compliance Certificate as conclusive evidence that the proposed conveyance, sale or transfer of the Property to the selected purchaser is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider, and may record such Compliance Certificate in connection with the conveyance of the Property.

(c) Within ten (10) days of the closing of the conveyance of the Property from the Owner to the selected purchaser, the Owner shall deliver to the Monitoring Agent a copy of the Deed of the Property, including the deed rider, together with recording information. Failure of the Owner, or Owner's successors or assigns to comply with the preceding sentence shall not affect the validity of such conveyance or the enforceability of the restrictions herein.

7. Survival of Restrictions Upon Exercise of Remedies by Mortgagees. (a) The holder of record of any mortgage on the Property (each, a "Mortgagee") shall notify the Monitoring Agent, the Municipality and any senior Mortgagee(s) in the event of any default for which the Mortgagee intends to commence foreclosure proceedings or similar remedial action pursuant to its mortgage (the "Foreclosure Notice"), which notice shall be sent to the Monitoring Agent and the Municipality as set forth in this Deed Rider, and to the senior Mortgagee(s) as set forth in such senior Mortgagee's mortgage, not less than one hundred twenty (120) days prior to the foreclosure sale or the acceptance of a deed in lieu of foreclosure. The Owner expressly agrees to the delivery of the Foreclosure Notice and any other communications and disclosures made by the Mortgagee pursuant to this Deed Rider.

(b) The Owner grants to the Municipality or its designee the right and option to purchase the Property upon receipt by the Municipality of the Foreclosure Notice. In the event that the Municipality intends to exercise its option, the Municipality or its designee shall purchase the Property within one hundred twenty (120) days of receipt of such notice, at a price equal to the greater of (i) the sum of the outstanding principal balance of the note secured by such foreclosing Mortgagee's mortgage, together with the outstanding principal balance(s) of any note(s) secured by mortgage(s) senior in priority to such mortgage (but in no event shall the aggregate amount thereof be greater than one hundred percent (100%) of the Maximum Resale Price calculated at the time of the granting of the mortgage) plus all future advances, accrued interest and all reasonable costs and expenses which the foreclosing Mortgagee and any senior Mortgagee(s) are entitled to recover pursuant to the terms of such mortgages (the "Mortgage Satisfaction Amount"), and (ii) the Maximum Resale Price (which for this purpose may be less than the purchase price paid for the Property by the Owner)(the greater of (i) and (ii) above herein referred to as the "Applicable Foreclosure Price"). The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over such foreclosing Mortgagee's mortgage, and further subject to a Deed Rider identical in form and substance to this Deed Rider which the Owner hereby agrees to execute, to secure execution by the Municipality or its designee, and to record with the deed, except that (i) during the term of ownership of the Property by the Municipality or its designee the owner-occupancy requirements of Section 2 hereof shall not apply (unless the designee is an Eligible Purchaser), and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by the Municipality or its designee, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance from the Owner to the Municipality or its designee or the enforceability of the restrictions herein.

(c) Not earlier than one hundred twenty (120) days following the delivery of the Foreclosure Notice to the Monitoring Agent, the Municipality and any senior Mortgagee(s) pursuant to subsection (a) above, the foreclosing Mortgagee may conduct the foreclosure sale or accept a deed in lieu of foreclosure. The Property shall be sold and conveyed in its then-current "as is, where is" condition, without representation or warranty of any kind, direct or indirect, express or implied, and with the benefit of and subject to all rights, rights of way, restrictions, easements, covenants, liens, improvements, housing code violations, public assessments, any and all unpaid federal or state taxes (subject to any rights of redemption for unpaid federal taxes), municipal liens and any other encumbrances of record then in force and applicable to the Property having priority over the foreclosing Mortgagee's mortgage, and further subject to a Deed Rider, as set forth below.

(d) In the event that the foreclosing Mortgagee conducts a foreclosure sale or other proceeding enforcing its rights under its mortgage and the Property is sold for a price in excess of the greater of the Maximum Resale Price and the Mortgage Satisfaction Amount, such excess shall be paid to the Municipality for its Affordable Housing Fund after (i) a final judicial determination, or (ii) a written agreement of all parties who, as of such date hold (or have been duly authorized to act for other parties who hold) a record interest in the Property, that the Municipality is entitled to such excess. The legal costs of obtaining any such judicial determination or agreement shall be deducted from the excess prior to payment to the Municipality. To the extent that the Owner possesses any interest in any amount which would otherwise be payable to the Municipality under this paragraph, to the fullest extent permissible by law, the Owner hereby assigns its interest in such amount to the Mortgagee for payment to the Municipality.

(e) If any Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, then the rights and restrictions contained herein shall apply to such Mortgagee upon such acquisition of the Property and to any purchaser of the Property from such Mortgagee, and the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the Mortgagee that has so acquired the Property agrees to annex to the deed and to record with the deed, except that (i) during the term of ownership of the Property by such Mortgagee the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such Mortgagee at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to the Mortgagee or the enforceability of the restrictions herein.

(f) If any party other than a Mortgagee shall acquire the Property by reason of foreclosure or upon conveyance of the Property in lieu of foreclosure, the Property shall be conveyed subject to a Deed Rider identical in form and substance to this Deed Rider, which the foreclosing Mortgagee agrees to annex to the deed and to record with the deed, except that (i) if the purchaser at such foreclosure sale or assignee of a deed in lieu of foreclosure is an Ineligible Purchaser, then during the term of ownership of the Property by such Ineligible Purchaser, the owner-occupancy requirements of Section 2 hereof shall not apply, and (ii) the Maximum Resale Price shall be recalculated based on the price paid for the Property by such third party purchaser at the foreclosure sale, but not greater than the Applicable Foreclosure Price. **Said deed shall clearly state that it is made subject to the Deed Rider which is made part of the deed.** Failure to comply with the preceding sentence shall not affect the validity of the conveyance to such third party purchaser or the enforceability of the restrictions herein.

(g) Upon satisfaction of the requirements contained in this Section 7, the Monitoring Agent shall issue a Compliance Certificate to the foreclosing Mortgagee which, upon recording in the Registry, may be relied upon as provided in Section 6(b) hereof as conclusive evidence

that the conveyance of the Property pursuant to this Section 7 is in compliance with the rights, restrictions, covenants and agreements contained in this Deed Rider.

(h) The Owner understands and agrees that nothing in this Deed Rider or the Regulatory Agreement (i) in any way constitutes a promise or guarantee by MassHousing, DHCD, the Municipality or the Monitoring Agent that the Mortgagee shall actually receive the Mortgage Satisfaction Amount, the Maximum Resale Price for the Property or any other price for the Property, or (ii) impairs the rights and remedies of the Mortgagee in the event of a deficiency.

(i) If a Foreclosure Notice is delivered after the delivery of a Conveyance Notice as provided in Section 4(a) hereof, the procedures set forth in this Section 7 shall supersede the provisions of Section 4 hereof.

8. Covenants to Run With the Property. (a) This Deed Rider, including all restrictions, rights and covenants contained herein, is an affordable housing restriction as that term is defined in Section 31 of Chapter 184 of the Massachusetts General Laws, having the benefit of Section 32 of such Chapter 184, and is enforceable as such. This Deed Rider has been approved by the Director of DHCD.

(b) In confirmation thereof the Grantor and the Owner intend, declare and covenant (i) that this Deed Rider, including all restrictions, rights and covenants contained herein, shall be and are covenants running with the land, encumbering the Property for the Term, and are binding upon the Owner and the Owner's successors in title and assigns, (ii) are not merely personal covenants of the Owner, and (iii) shall enure to the benefit of and be enforceable by the Municipality, the Monitoring Agent and DHCD and their successors and assigns, for the Term. Owner hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts have been satisfied in order for the provisions of this Deed Rider to constitute restrictions and covenants running with the land and that any requirements of privity of estate have been satisfied in full.

9. Notice. Any notices, demands or requests that may be given under this Deed Rider shall be sufficiently served if given in writing and delivered by hand or mailed by certified or registered mail, postage prepaid, return receipt requested, to the following entities and parties in interest at the addresses set forth below, or such other addresses as may be specified by any party (or its successor) by such notice.

Municipality:

Grantor:

Owner:

Monitoring Agent[s]

(1) Director, Local Initiative Program
DHCD
100 Cambridge Street
Suite 300
Boston, MA 02114

(2)

Others:

Any such notice, demand or request shall be deemed to have been given on the day it is hand delivered or mailed.

10. Further Assurances. The Owner agrees from time to time, as may be reasonably required by the Monitoring Agent, to furnish the Monitoring Agent upon its request with a written statement, signed and, if requested, acknowledged, setting forth the condition and occupancy of the Property, information concerning the resale of the Property and other material information pertaining to the Property and the Owner's conformance with the requirements of the Comprehensive Permit, Program and Program Guidelines, as applicable.

11. Enforcement. (a) The rights hereby granted shall include the right of the Municipality and the Monitoring Agent to enforce this Deed Rider independently by appropriate legal proceedings and to obtain injunctive and other appropriate relief on account of any violations including without limitation relief requiring restoration of the Property to the condition, affordability or occupancy which existed prior to the violation impacting such condition, affordability or occupancy (it being agreed that there shall be no adequate remedy at law for such violation), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Municipality and the Monitoring Agent.

(b) Without limitation of any other rights or remedies of the Municipality and the Monitoring Agent, or their successors and assigns, in the event of any sale, conveyance or other transfer or occupancy of the Property in violation of the provisions of this Deed Rider, the Municipality and Monitoring Agent shall be entitled to the following remedies, which shall be cumulative and not mutually exclusive:

- (i) specific performance of the provisions of this Deed Rider;
- (ii) money damages for charges in excess of the Maximum Resale Price, if applicable;
- (iii) if the violation is a sale of the Property to an Ineligible Purchaser except as permitted herein, the Monitoring Agent and the Municipality shall have the option to locate an Eligible Purchaser to purchase or itself purchase the Property from the Ineligible Purchaser on the terms and conditions provided herein; the purchase price shall be a price which complies with the provisions of this Deed Rider; specific performance of the requirement that an Ineligible Purchaser shall sell, as herein provided, may be judicially ordered.
- (iv) the right to void any contract for sale or any sale, conveyance or other transfer of the Property in violation of the provisions of this Deed Rider in the absence of a Compliance Certificate, by an action in equity to enforce this Deed Rider; and
- (v) money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Purchaser.

(c) In addition to the foregoing, the Owner hereby agrees and shall be obligated to pay all fees and expenses (including legal fees) of the Monitoring Agent and/or the Municipality in the event successful enforcement action is taken against the Owner or Owner's successors or assigns. The Owner hereby grants to the Monitoring Agent and the Municipality a lien on the Property, junior to the lien of any institutional holder of a first mortgage on the Property, to secure payment of such fees and expenses in any successful enforcement action. The Monitoring Agent and the Municipality shall be entitled to seek recovery of fees and expenses incurred in a successful enforcement action of this Deed Rider against the Owner and to assert such a lien on the Property to secure payment by the Owner of such fees and expenses. Notwithstanding anything herein to the contrary, in the event that the Monitoring Agent and/or Municipality fails to enforce this Deed Rider as provided in this Section, DHCD, if it is not named as Monitoring Agent, shall have the same rights and standing to enforce this Deed Rider as the Municipality and Monitoring Agent.

(d) The Owner for himself, herself or themselves and his, her or their successors and assigns, hereby grants to the Monitoring Agent and the Municipality the right to take all actions with respect to the Property which the Monitoring Agent or Municipality may determine to be necessary or appropriate pursuant to applicable law, court order, or the consent of the Owner to prevent, remedy or abate any violation of this Deed Rider.

12. Monitoring Agent Services; Fees. The Monitoring Agent shall monitor compliance of the Project and enforce the requirements of this Deed Rider. As partial compensation for providing these services, a Resale Fee [] shall [] shall not be payable to the Monitoring Agent on the sale of the Property to an Eligible Purchaser or any other purchaser in

accordance with the terms of this Deed Rider. This fee, if imposed, shall be paid by the Owner herein as a closing cost at the time of Closing, and payment of the fee to the Monitoring Agent shall be a condition to delivery and recording of its certificate, failing which the Monitoring Agent shall have a claim against the new purchaser, his, her or their successors or assigns, for which the Monitoring Agent may bring an action and may seek an attachment against the Property.

13. Actions by Municipality. Any action required or allowed to be taken by the Municipality hereunder shall be taken by the Municipality's Chief Executive Officer or designee.

14. Severability. If any provisions hereof or the application thereof to any person or circumstance are judicially determined, to any extent, to be invalid or unenforceable, the remainder hereof, or the application of such provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

15. Independent Counsel. THE OWNER ACKNOWLEDGES THAT HE, SHE, OR THEY HAVE READ THIS DOCUMENT IN ITS ENTIRETY AND HAS HAD THE OPPORTUNITY TO CONSULT LEGAL AND FINANCIAL ADVISORS OF HIS, HER OR THEIR CHOOSING REGARDING THE EXECUTION, DELIVERY AND PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

16. Binding Agreement. This Deed Rider shall bind and inure to the benefit of the persons, entities and parties named herein and their successors or assigns as are permitted by this Deed Rider.

17. Amendment. This Deed Rider may not be rescinded, modified or amended, in whole or in part, without the written consent of the Monitoring Agent, the Municipality and the holder of any mortgage or other security instrument encumbering all or any portion of the Property, which written consent shall be recorded with the Registry.

Executed as a sealed instrument this _____ day of _____, 200__.

Grantor:

Owner:

By _____

By _____

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 200__, before me, the undersigned notary public, personally appeared _____, the _____ of _____ in its capacity as the _____ of _____, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

_____ County, ss.

On this ____ day of _____, 200__, before me, the undersigned notary public, personally appeared _____, the _____ of _____ in its capacity as the _____ of _____, proved to me through satisfactory evidence of identification, which was [a current driver's license] [a current U.S. passport] [my personal knowledge], to be the person whose name is signed on the preceding instrument and acknowledged the foregoing instrument to be his or her free act and deed and the free act and deed of _____ as _____ of _____.

Notary Public
My commission expires:

From: Barbara Saint Andre [mailto:bsaintandre@petrinilaw.com]
Sent: Monday, December 22, 2014 9:00 AM
To: Karen Kisty
Subject: RE: Regulatory Agreement for Millstone Village

Karen, I did review and approve this as to form previously.

Barbara J. Saint André
Petrini & Associates, P.C.
372 Union Avenue
Framingham, MA 01702
Tel. (508) 665-4310
Fax (508) 665-4313
bsaintandre@petrinilaw.com

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P A PETRINI & ASSOCIATES, P.C.
Counselors at Public Law



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AGENDA

ITEM #7

Authorization of the Chairman to Execute Amendment One to the Memorandum of Understanding with the Town of Arlington for Multi-Jurisdictional Orthoimagery

Associated back up materials attached.

- *Amendment One – Memorandum of Understanding Between Town of Arlington, MA, fiscal agent for the Massachusetts Orthoimagery Consortium, and the Town of Medway*
- Email from Town Counsel dated December 24, 2014

Proposed motion: I move that the Board authorize the Chairman to execute Amendment One to the Memorandum of Understanding with the Town of Arlington for multi-Jurisdictional Orthoimagery.

AMENDMENT ONE

MEMORANDUM of UNDERSTANDING

Between

The Town of Arlington, MA, fiscal agent for the
Massachusetts Orthoimagery Consortium and

Town of Medway

WHEREAS, a Memorandum of Understanding ("MOU") was made and entered into as of the 4th day of November, 2013 by and between the Town of Arlington (hereinafter "Town"), and Town of Medway (hereinafter "Participant") with regard to a cooperative project for the development of multi-jurisdictional orthoimagery in collaboration with the United States Geological Survey ("USGS") and the Massachusetts Orthoimagery Consortium ("MassOrtho"); and

WHEREAS, the Town, acting as a fiscal agent for Participant received the required initial payments under the MOU (subject to either additional payments or partial refund if Participant's final costs are more or less than the initial amount paid as set forth fully below); and

WHEREAS, under the MOU orthoimagery and other files were to be delivered to Participant on or before December 31, 2014; and

WHEREAS, technical challenges require an extension of time to deliver orthoimagery and other files to Participant, and as such the parties wish to extend the terms of the Agreement for fulfillment of delivery;

NOW THEREFORE, the parties do hereby agree to modify the MOU as follows:

- The date for delivery of orthoimagery and other files shall be extended from December 31, 2014 until February 29, 2016; and
- The orthoimagery, derived from aerial images will be collected in an acceptable window in both spring of 2014 and spring of 2015, generally thought to be from February 1, 2014 through April 30, 2014 and February 1, 2015 through April 30, 2015; and
- Acknowledge that required payments have already been made by Participant.

Such modifications incorporated into the original MOU, read in its entirety as follows:

Purpose

The purpose of this Memorandum of Understanding (MOU) is to specify the responsibilities of the Participant, MassOrtho, an ad-hoc group of municipal GIS volunteers, and the Town of Arlington, the fiscal agent for MassOrtho concerning a project to acquire orthoimagery in collaboration with a federal agency, the USGS.

Reference

MassOrtho has been organized by municipal GIS staff on a volunteer basis and has been managed by staff from the Towns of Andover, Arlington, Concord, and Reading. MassOrtho is receiving assistance from the Metropolitan Area Planning Council (hereafter "MAPC") and the Office of Geographic Information (hereafter "MassGIS"). Under Chapter 30b of Mass. General Laws, municipalities are allowed to purchase supplies or services from any agency or instrumentality of the federal government, the Commonwealth or any of its political subdivisions or any other state or political subdivision thereof. [M.G.L. c.30B, §1(b)(9).]

Background

This is a cooperative project between USGS and MassOrtho to procure high-resolution orthoimagery that is detailed enough to support local, regional, state, and national purposes. The aerial images will be collected in an acceptable window in spring 2014 and spring 2015, generally thought to be from February 1, 2014 through April 30, 2014 and February 1, 2015 through April 30, 2015. Through this MOU, The Participant is providing funding to acquire orthoimagery for its entire geographic area, as described in the Scope of Work attached to this document. In addition, Arlington and the USGS will

enter into a Joint Funding Agreement (JFA). Through this JFA, Arlington will provide funds for all participants to USGS. Funds provided by The Participant to Arlington will be held in fund/trust TBD and used to fulfill the JFA with the USGS to cover the cost of acquiring, quality checking, and delivering the orthoimagery.

Terms of MOU

The Participant agrees to the following:

- provide funding for the project to Arlington, as described in the preliminary cost estimate listed below, by the required deadline of December 1, 2013.
- receive a refund or provide additional funds to account for the difference between the preliminary cost estimate and the final cost. The preliminary cost estimate will be determined by USGS calculations and is detailed in this document. The final cost will be determined by the vendor contract and will be provided by USGS to MassOrtho to The Participant.
- if available and appropriate, agrees to assist the USGS Quality Assurance team by providing supplemental independent horizontal accuracy test points.
- if requested, agrees to assist USGS and/or MassOrtho with imagery quality assurance by reviewing the imagery and providing feedback to MassOrtho, in a timely manner.
- provide feedback on local ground conditions to MassOrtho to support USGS efforts, as needed.
- provide detailed delivery information to MassOrtho for receipt of the final products through USGS.
- to receive all final products from USGS.

Arlington, as MassOrtho's fiscal agent, agrees to the following:

- create an account within the Town to hold all MassOrtho participant's funds, including the funds of The Participant.
- receive the funds delivered from The Participant
- if necessary, provide The Participant with a written notice of request/refund as determined by the final cost. The preliminary cost estimate will be determined by USGS calculations and is detailed in this document. The final cost will be determined by the vendor contract and will be provided by USGS to MassOrtho to The Participant.
- Provide USGS with payments from the account within the Town on behalf of The Participant as needed.

Effective Period of MOU

This MOU will remain in effect until the orthoimagery and other files listed above are received by The Participant OR until February 29, 2016, whichever comes first.

Authorized Signatures

<hr/>		
The Participant (print name)	Authorized Agent Signature	Date
<hr/>		
Arlington, fiscal agent (print name)	Authorized Agent Signature	Date
<hr/>		

From: Barbara Saint Andre [<mailto:bsaintandre@petrinilaw.com>]
Sent: Wednesday, December 24, 2014 11:28 AM
To: Susan Affleck-Childs
Cc: Michael Boynton
Subject: FW: Orthoimagery - Next Steps

Susy, I have no comments on the proposed amendment to the agreement between the town and the Town of Arlington; however, as noted in my email below, this is an intermunicipal agreement, so the amendment should be approved by and signed by the Board of Selectmen.

Barbara J. Saint André
Petrini & Associates, P.C.
372 Union Avenue
Framingham, MA 01702
Tel. (508) 665-4310
Fax (508) 665-4313
bsaintandre@petrinilaw.com

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P A PETRINI & ASSOCIATES, P.C.
Counselors at Public Law



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AGENDA

ITEM #8

**Vote to Continue Membership in the
MetroWest Veterans' Service District
and Designation of Town Administrator
to Serve on Board of Directors**

No associated back up materials.

Proposed motion: I move that the Board vote to continue the Town's membership in the MetroWest Veterans' Service District and to designate the Town Administrator to serve on the MetroWest Veterans' Service District's Board of Directors.

AGENDA ITEM #9

**Discussion –
Possible Special Town Meeting
[March 9 or 16, 2015];
Vote to Open Warrant**

No associated back up materials.

Proposed motion: I move that the Board set a Special Town Meeting for March____, 2015 and that the Board move to open the Special Town Meeting Warrant for March____, 2015.

AGENDA ITEM #10

Action Items from Previous Meetings

Associated back up materials attached.

- Action Item List

	DATE	ACTION ITEMS BOS	WHO	COMPLETED
1	7/6/2010	Street acceptance progress	S. Affleck-Childs	Ongoing
2	9/20/2010	Route 109 Project	T. Holder/M. Boynton	Ongoing
3	2/4/2013	Brentwood Project	DPS	Ongoing
4	2/3/2014	Cable license renewal process (commences 36 mos. ahead of license exp.); Mtg of Cable Advisory Com	BOS	Verizon to initiate in early 2015; Com to meet in fall 2014
5	2/24/2014	Report on unaccounted for water	T. Holder	Monitoring
6	7/22/2014	Net-metering Agreement	J. Foresto/S. Mercande	Ongoing
7	7/28/2014	Policy - Responsibility for implementation School construction projects	BOS	October
8	7/28/2014	Zoning Bylaw recodification	SAC/Judi Barrett	2015 Town Meeting
9	7/28/2014	DPS Facility Study	G. Trindade	Ongoing
10	8/11/2014	McGovern School windows project (final design)	School Dept.	March Special Town Meeting (?)
11	8/11/2014	Discussion with CRPCD Reps	BOS	Jan 5, 2015 Meeting
12	8/11/2014	Banner Display Policy	TA's Office	January 2015
13	8/11/2014	Consideration of Local Meals Tax	BOS	Annual Town Meeting

AGENDA

ITEM #11

Approval of Warrants

Warrants to be provided at meeting.

AGENDA

ITEM #12

Approval of Minutes

Associated back up materials attached.

- Minutes from Board of Selectmen's Meeting 10/20/14
- Minutes from Board of Selectmen's Meeting 10/21/14
- Minutes from Board of Selectmen's Meeting 11/25/14

1 **Board of Selectmen's Meeting**
2 **Monday, October 20, 2014 – 7:30 PM**
3 **Sanford Hall**
4 **155 Village Street**
5
6

7 **Present: Dennis Crowley, Chair; John Foresto, Vice-Chair; and Maryjane White.**
8

9 Also Present: Michael Boynton, Town Administrator; and Susy Affleck-Childs, Economic Development
10 and Planning Coordinator.
11

12 *****

13
14 At 7:00 PM Chairman Crowley called the meeting to order and led the Pledge of Allegiance.
15

16 **Public Comments:**

17 There was none.
18

19 **Public Hearing – Morningside Dr; Vote:**

20 **Mr. Foresto moved to open the public hearing on the Morningside Drive street acceptance. Ms.**
21 **White seconded. The vote was unanimous, 3-0-0.**
22

23 There was no one from the public present to comment during the hearing. Ms. Affleck-Childs stated
24 that the hearing was advertised and abutters were notified.
25

26 Ms. Affleck-Childs explained that the street acceptance process at this stage requires that the Board
27 establish the road layout and boundaries. Town Meeting authorizes the acceptance of the street.
28

29 Ms. Affleck-Childs provided a brief history of the development of Morningside Drive, which was
30 approved by the Zoning Board of Appeals in 2005 and then turned over to the Planning and Economic
31 Development Board for construction oversight. She noted there are a few details to be worked out
32 before Town Meeting accepts the road but they do ask that the Selectmen vote to lay it out.
33

34 **Mr. Foresto moved to close the public hearing. Ms. White seconded. The vote was unanimous, 3-0-0.**
35

36 **Mr. Foresto moved that the Board lay out Morningside Drive as a public way in its entirety from**
37 **Station 0+00 beginning at its intersection with Holliston Street to its end at Station 5+27.55. The**
38 **roadway is shown on the Street Acceptance Plan for Morningside Drive dated 10/7/2014 prepared by**
39 **Outback Engineering of Middleborough, MA. Ms. White seconded. The vote was unanimous, 3-0-0.**
40

41 **Warrants**

42 **Mr. Foresto moved to approve the warrant dated 10/23/14 as follows:**
43

44	School Bills	\$ 337,981.85
45	Town Bills	\$1,429,829.98
46	<u>Payroll (School and Town)</u>	<u>\$1,091,083.31</u>
47	Total	\$2,858,895.14

48

1 **Ms. White seconded, and it was unanimously voted, 3-0-0.**

2

3 **At 7:10 PM Selectman Foresto moved to adjourn; Selectman White seconded. No discussion. VOTE:**

4 **3-0-0.**

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MEDWAY BOARD OF SELECTMEN
155 VILLAGE STREET • MEDWAY, MASSACHUSETTS 02053
(508) 533-3264 • FAX: (508) 533-3281

Dennis Crowley, Chairman
John Foresto, Vice Chairman
Richard D'Innocenzo, Clerk
Glenn Trindade, Member
Mary Jane White, Member

Board of Selectmen's Meeting Minutes

October 21, 2014 at 7:00 p.m.

Presentation Room, Middle School

45 Holliston Street

Present: Chairman Dennis Crowley; Selectmen John Foresto, Rick D'Innocenzo, Maryjane White, and Glenn Trindade; and Town Administrator Michael Boynton.

At 7:01 p.m., Chairman Crowley called the meeting to order and led in the Pledge of Allegiance.

Authorization of Chairman to Execute Contract for Council on Aging Nursing

Services:

The Director of the Council on Aging Missy Dziczek said the contract is for \$7,000 and will allow the Town to keep Linda Hastings on staff for 5 hours per week. Ms. Hastings has been in this position for several years. This position has been funded through a grant for the last four years. Ms. Dziczek said Ms. Hastings is very knowledgeable and they are very happy with the collaboration. Some of Ms. Hastings duties include leading classes, doing occasional home visits, and performing blood pressure and blood sugar checks.

Selectman Trindade moved that the Board authorize the Chairman to execute the contract for the Council on Aging Nursing Services as presented; Selectman White second; Resident Jonathan Minnaert of Summer Hill Road asked why these services were not provided by the Visiting Nurses Association (VNA). Ms. Dziczek said the Board of Health has a contract with the VNA but the services provided under this contract are not provided by the VNA. Ms. Hastings provides most of the services at the Senior Center although she is available for the occasional home visit; All ayes 5-0-0.

Public Comments:

Chairman Crowley acknowledged that some residents were in attendance to discuss their concerns about the new turf fields and the use of crumb rubber fill. Chairman Crowley invited residents to speak but reminded everyone that it is not a Public Hearing and the Board has regular business that they need to attend to as well. He also emphasized that Board members are always available to discuss residents' concerns and all of the Board of Selectmen's meetings are open to the public.

Steven Lee of Lovering Street said the concern is the use of crumb rubber fill and not the project in general. He said he would like the project stopped so that alternatives can be

1 explored. He agreed that there is no conclusive evidence to show that crumb rubber fill
2 causes cancer. Mr. Lee said that Hanlon Field is almost complete but he thinks the Town
3 should look at the alternatives for the other two turf fields that are not complete.

4
5 Alan White of Skyline Drive spoke as a concerned parent. He said he was initially
6 excited for the project but became worried after seeing the NBC News report and doing
7 some research. Mr. White said several factors should be considered, including the age of
8 the children playing on the fields and how temperature may affect the product. He said it
9 is possible that additional chemicals may be released on hot days. Also, the fill may
10 degrade over time releasing carcinogens. Mr. White would like the safety concerns
11 addressed before moving forward.

12
13 Andrea Kerr of Waterview Drive reiterated that the CDC has not made any conclusive
14 findings but said it is odd that they have declined to comment on the subject. She said
15 the NBC News report is continuing and wanted to know what will be done to remediate
16 the situation if a link between crumb rubber fill and cancer is discovered.

17
18 Kirk Souza of Juniper Drive said he supports using an alternative fill even at a higher
19 cost. He would also support replacing the crumb rubber fill at Hanlon Field. He said it is
20 not likely that we will have answers soon and it is possible that people may not want to
21 use the fields if crumb fill gets enough negative press.

22
23 Tracy Stewart of Lovering Street said she recently learned of a cork product that is 100%
24 natural and can be used as a fill. Ms. Stewart said she believes we are just beginning to
25 hear about this issue. She said she would like residents to have an opportunity to speak
26 with Gale Associates. Ms. Stewart said she would like the Board of Selectmen to find a
27 safe alternative.

28
29 Jonathan Minnaert of Summer Hill Road said he thinks it is important for the Town to
30 consider an alternative fill from a legal standpoint. He said there could be lawsuits in the
31 future if a link is found. Town Administrator Michael Boynton said the Town has some
32 protection, including the Tort Claims Act and their contracts with Gale Associates and
33 RAD Sports. The Town hired both firms to provide expertise. In addition, he thinks it
34 would be very difficult to find that Medway did not use due diligence.

35
36 Medway resident and High School Athletic Director Rob Pearl said crumb fill has been
37 used since the mid 1970's on fields and playgrounds and the abovementioned study is
38 inconclusive. He said cork requires moisture, which can create potential mold issues, and
39 none of the other alternatives has been tested. He said using fertilizer on grass fields is a
40 big concern especially considering the fields' proximity to wetlands.

41
42 DPS Director Tom Holder provided an update on the progress of the fields. He said
43 Hanlon Field is complete and the crumb rubber fill is installed. He said they anticipate
44 that the entire project, including the parking lot and trails, will be complete by
45 Thanksgiving. Mr. Holder said that synthetic turf fields can be used during the winter
46 months but they will not be prepared to use these fields this winter. Athletic Director

DRAFT

1 Rob Pearl said some groups have already expressed an interest in using the fields during
2 the winter months for tournaments. The plan is to start using the fields in March 2015.

3
4 Selectman D’Innocenzo said that alternative materials are a good idea but there isn’t a lot
5 of research on those products or their possible toxicity. He said crumb rubber has been
6 around since the 1970’s and used on fields since the 1990’s. He said the concern is using
7 an alternative fill that has not been researched and could cause injury. Selectman
8 D’Innocenzo thanked resident Alan White for forwarding studies and research. Mr.
9 Minnaert said it is important not to consider something safe just because it has been
10 around for decades.

11
12 Selectman Trindade said this was not a callous decision and a Committee worked for two
13 years on this project. The goal was to create a quality and safe surface for the children of
14 Medway to play on. He said one of the most important considerations was cushion. He
15 said the Committee looked at all of the research carefully and went with the best option.
16 He assured residents that if a link between crumb rubber and cancer was found the Town
17 would change the fields immediately. He noted that there are 11,000 turf fields in the
18 U.S. He said grass fields have their own issues because they require the use of pesticides
19 and fertilizers. Selectman Trindade said he believes the fields are safe and the right
20 option. He reiterated that no testing has been performed on the alternative fill options.
21 Selectman D’Innocenzo added that the existing grass fields will still be used so children
22 will not play solely on the turf fields. In addition, the children will play on turf fields
23 when they play in neighboring towns.

24
25 Ms. Stewart reported that the EPA has retracted turf safety assurances because Public
26 Employees for Environmental Responsibility (PEER) filed suit. She provided photos of
27 injuries that female professional soccer players have sustained from playing on turf. She
28 added that the fumes from the rubber may cause neurological damage as well and urged
29 the Board to delay putting down the crumb rubber. Selectmen Trindade said that the
30 Board reads all the material that is forwarded to them and takes it very seriously. He said
31 the article Ms. Stewart referred to was not about the danger of playing on turf but about
32 the injustice of men playing on grass and women playing on turf for the World Cup.

33
34 Selectman White said she appreciates and respects the amount of work that has gone into
35 this project but she has concerns. She said it is worrisome that there are no answers to
36 the questions that have been raised.

37
38 Discussion followed about delaying the project and using the winter months to further
39 explore alternatives. Chairman Crowley reiterated the fact that there is no proof that
40 there is a link between crumb rubber and cancer. In addition, a delay would impact the
41 Town’s financial obligations. Selectman Trindade added that the Committee and Board
42 looked at all of the information and made the best choice.

43
44 Ms. Stewart asked if this topic could be discussed further at a future Board of
45 Selectmen’s meeting. Chairman Crowley said the Board has a limited amount of time

1 during meetings to deal with many issues but encouraged residents to set up informal
2 meetings to discuss this matter further.

3
4 Chairman Crowley thanked everyone for attending the meeting and participating in the
5 discussion.

6
7 **Approval of 2014 Fall Town Meeting Warrant Article Additions:**

8
9 **Article 17: (Utility Easement Grants: Route 109 Project)** – This article would allow
10 the Board of Selectmen to grant easements to the utility companies relative to the Route
11 109 project. Some of the utility poles will be located on Town property.

12
13 **Selectman Trindade moved that the Board add an article to the Fall Town Meeting**
14 **warrant to authorize utility easement grants associated with the Route 109 project;**
15 **Selectman White second; No discussion; All ayes 4-0-0. (Selectman D’Innocenzo was**
16 **not present for this vote.)**

17
18 **Article 21: (Amend Zoning Bylaw: Commercial District I) and Article 22: (Amend**
19 **Zoning Bylaw: Adult Retirement Community Planned Unit Development) - Town**
20 **Counsel recommended changes to the language of Article 21 and Article 22.**

21
22 **Selectman Trindade moved that the Board authorize language changes**
23 **recommended by Town Counsel to zoning bylaw Article 21 - Commercial District 1**
24 **- and Article 22 - Adult Retired Community Planned Unit Development - should the**
25 **Planning and Economic Development Board adopt these changes at its meeting on**
26 **October 21, 2014; Selectman White second; No discussion; All ayes 4-0-0 (Selectman**
27 **D’Innocenzo was not present for this vote).**

28
29 **Selectman Trindade moved that the Board recommend for approval Article 10 -**
30 **Prior Year Bills - and Article 17 - Route 109 Utility Easement Grants; Selectman**
31 **White second; No discussion; All ayes 5-0-0.**

32
33 **Article 1: (Fiscal Year 2015 Budget Appropriation)** – The Board initially approved
34 \$229,000 under this article to supplement the FY15 budget at their meeting several weeks
35 ago. Since that meeting there has been significant discussion about this article. As a
36 result, the Board made cuts to each line item and the total amount was reduced to
37 \$113,500. The Board also discussed the variety of funding options including the levy,
38 free cash, and the Finance Committee Reserve Account. In the end, the Board agreed to
39 use funds from the Operational Stabilization Account. The balance of this account is
40 \$196,000. Money was set aside in this account several years ago in case the economy
41 slowed and salaries needed to be supplemented. Selectman Foresto said the Board
42 always intended to draw this account down to zero once it was not needed. Last year
43 \$600,000 was transferred from this account to a reserve account for the new DPS
44 Facility. Administrator Boynton said using these funds will not bring the total of the
45 stabilization funds below 10% of the operating budget, which will be important in April
46 when they go out to bond. Frank Rossi and Chris Lagan, members of the Finance

1 Committee, were in attendance and agreed that the reduced amount was a good
2 compromise. Chris Lagan asked if free cash could be used to fund these items. The
3 Board said the free cash is needed for road work because Chapter 90 funds are being used
4 for work related to the Route 109 project. Administrator Boynton said his preference is
5 to fund the items in total at \$229,000 but he understands the Board's reluctance to raise
6 the levy. The Board recognized that the items they are funding are recurring items that
7 will need to be added to the FY16 budget. Everyone agreed that next year's budget will
8 be tight. The Board asked that Article 1's language be revised to show that the funds will
9 be transferred from the Operational Stabilization Account.

10
11 **Selectman Trindade moved that the Board approve the new language for Article 1**
12 **as read by the Town Administrator; Selectman D'Innocenzo second; No discussion;**
13 **All ayes 5-0-0.**

14
15 **Vote to Close Fall Town Meeting Warrant and Post:**

16 **Selectman Trindade moved that the Board close the 2014 Fall Town Meeting**
17 **Warrant; Selectman White second; No Discussion; All Ayes 5-0-0**

18
19 The Board will be notified when the warrant is posted. Copies of the warrant will be
20 available at Town Hall, the Police Station, the Library, and on the Town's website. A
21 copy of the revised warrant will be sent to the Finance Committee for discussion at their
22 meeting tomorrow night.

23
24 **Authorization of Chairman to Approve Invoices Related to Middle School**
25 **Renovation Project and the Middle School Site Improvement Project:**

26 The Middle School Building Committee disbanded and voted to give the Board of
27 Selectmen control over the remaining funds and pay invoices related to the project.

28
29 **Selectmen Trindade moved that the Board authorize the Chairman to approve**
30 **invoices related to the Middle School Renovation Project and Site Improvement**
31 **Project; Selectman White second; No discussion; All ayes 5-0-0.**

32
33 **Approval – One-Day Alcohol License – William & Sue Shelley – Thayer Homestead**
34 **– October 25, 2014:**

35 **Selectman Foresto moved that the Board authorize the issuance of a one-day alcohol**
36 **license to the Shelleys for their October 25, 2014 event contingent upon submission**
37 **of appropriate liability coverage and the Police Department's recommendation and**
38 **to waive the \$50 fee; Selectman Trindade second; Chairman Crowley asked Allison**
39 **Potter to make sure the applicants know liability coverage is absolutely necessary.**
40 **Ms. Potter said she is working on this with the Shelleys; All Ayes 5-0-0.**

41
42 **Minutes:**

43 **Selectman Trindade moved that the Board approve the September 2, 2014 meeting**
44 **minutes as written; Selectman Foresto second; No discussion; All ayes 5-0-0.**

45

1 **Selectman Trindade moved that the Board approve the October 7, 2014 as**
2 **amended; Selectman Foresto second; Chairman Crowley asked that the word**
3 **agreed be removed from the bullets on page 2. Only the amounts should be listed;**
4 **All ayes 5-0-0.**

5
6 **Action Items:**

- 7 • Selectman Foresto asked the Board to review their policy on waiving the fee
8 related to the one-day alcohol license policy.
- 9 • Chairman Crowley said they are about to begin the leak detection process related
10 to unaccounted for water. He said there may be some private funding available
11 for this project. The Town will be examining the southwest corner of Medway.
- 12 • The Service Level Agreement with the schools needs to be finalized shortly after
13 the Fall Town Meeting and they need to have an understanding of the
14 responsibilities prior to the meeting.

15
16 **Town Administrator Report:**

- 17 • The Community & Economic Development Director position has been filled.
- 18 • Today there was a retirement celebration for John Emidy. Administrator Boynton
19 thanked Mr. Emidy for his hard work. He reported that the new Building
20 Commissioner begins on October 27. He also thanked all of the department heads
21 for their help during his transition this summer.
- 22 • A Red Cross Shelter Training will be held on October 28, 2014 at the Thayer
23 Homestead.
- 24 • The Board of Health is holding a flu shot clinic on Monday, October 27, 2014 at
25 the Senior Center from 3:00-5:00 p.m. The vaccines are free.

26
27 **Selectmen Reports:**

- 28 • Chairman Crowley spoke with Senator Spilka this morning. She said there are
29 funds available to Medway for Open Space projects. Administrator Boynton will
30 follow-up with Senator Spilka's office for more information, including when
31 Medway needs to submit letter of interest. The Board will discuss this further at
32 their next meeting.
- 33 • The Board needs to adopt their budget policy in November. They need to review
34 a draft.
- 35 • Chairman Crowley said he was happy with how the discussion on the turf fields
36 went tonight. He said it is important for the Board to listen to all residents'
37 concerns whether they agree with them or not. He thanked Selectman
38 D'Innocenzo and Selectman Trindade for their work on this project.

39
40 **At 8:58 p.m., Selectman Trindade moved to adjourn; Selectman White second; No**
41 **discussion; All ayes 5-0-0.**

42
43 Respectfully submitted,

44
45 Michelle Reed

1 **MEDWAY BOARD OF SELECTMEN**
2 155 VILLAGE STREET • MEDWAY, MASSACHUSETTS 02053
3 (508) 533-3264 • FAX: (508) 533-3281
4

*Dennis Crowley, Chairman
John Foresto, Vice Chairman
Richard D'Innocenzo, Clerk
Glenn Trindade, Member
Mary Jane White, Member*

5 **Board of Selectmen's Meeting Minutes**

6 **November 25, 2014 at 7:00 p.m.**

7 **Presentation Room, Middle School**

8 **45 Holliston Street**
9

10 **Present:** Chairman Dennis Crowley; Selectmen John Foresto, Rick D'Innocenzo, Mary
11 Jane White, and Glenn Trindade; and Town Administrator Michael Boynton.

12
13 School Committee Members Diane Borgatti, Dawn Rice-Norton, Richard Eustis, Cindy
14 Sullivan, Carole Bernstein; Superintendent Judy Evans; Director of Finance &
15 Operations Don Aicardi; Director of Curriculum, Instruction, and Assessment Armand
16 Pires; and Director of Student Services Kathleen Bernklow.

17
18 Finance Committee Members Frank Rossi, Chris Lagan, Todd Alessandri, Barry
19 Schroeder, Rohith Ashok, Jeff O'Neil, Ellen Hillery, and Jim Sullivan.

20
21 At 7:00 p.m. School Committee Chairman Diane Borgatti called the Joint Meeting of the
22 School Committee, Board of Selectmen, and Finance Committee to order.
23

24 **FY15 Reconfigured School Budget Discussion:**

25 The School Committee, Board of Selectmen, and Finance Committee met to review and
26 discuss the recommended adjustments for the FY15 school budget. The School
27 Committee reviews and reconfigures the current year's budget in the fall to account for
28 final salary numbers, unforeseen costs, and finalization of cost estimates. The FY15
29 budget was approved at the Annual Town Meeting in May 2014. Chairman Borgatti
30 introduced the new Director of Finance and Operations Don Aicardi.
31

32 Mr. Aicardi explained that the total amount of the budget did not change but they are
33 recommending a reallocation of resources within the budget. He said a significant
34 amount of personnel changes occurred after the budget was finalized, which resulted in a
35 savings of \$519k. Some of this was due to unexpected retirements and replacements
36 being hired at a lower cost. Also, some positions that were left vacant were not filled.
37

38 Mr. Aicardi reported that there have also been unanticipated costs relative to Out-of-
39 District Tuition, Out-of-District transportation services, energy, and building
40 maintenance. Mr. Aicardi said that the majority of the unanticipated costs are related to
41 Out-of-District (OOD) Tuition. He explained that OOD Tuition is funded through a
42 variety of sources, including the Special Education Circuit Breaker program, School
43 Choice funds, federal grants and an allocation from the Town. Director of Student
44 Services Kathleen Bernklow said there are currently 38 students with Out-of-District

DRAFT

1 placements but it varies from year to year. Students are placed out of district when the
2 district cannot provide the services they require. She said the current budget is
3 approximately \$2 million and about \$1 million is spent on 7 students. A portion of the
4 unexpected increase is due to students who moved into the district and the rest is due to
5 students who needed to have their current placements changed. Ms. Bernklow also
6 reported that Governor Patrick just announced 9c cuts that will impact Circuit Breaker
7 funding. Ms. Bernklow said Medway will apply for extraordinary relief through the
8 Special Education Circuit Breaker program in March.

9
10 Mr. Aicardi said they are also watching the utilities very closely. The district's three year
11 natural gas contract just ended and they have not renewed it yet. They are monitoring the
12 prices closely and hope to lock in around \$.90-\$1.00 per therm. As a result of the current
13 market conditions, he is recommending additional funds be added to the natural gas
14 account and utility service account. Finance Committee Chairman Frank Rossi asked
15 what savings the Town is realizing from the solar arrays on the high school and middle
16 school. Mr. Aicardi said he would forward the information on the annual projected
17 savings to the Finance Committee. He said they are also considering adding additional
18 arrays to the high school and in the parking lot. He said they have just begun to look into
19 this and will keep everyone updated.

20
21 In addition, Mr. Aicardi said they are recommending funds be added to the building
22 maintenance and operations accounts. Mr. Aicardi said this is based on what he has
23 observed over the last couple months, including equipment breaking. He also reported
24 that they are working with the Town to consolidate grounds maintenance.

25
26 Superintendent Evans reported that the student population has stabilized. There are
27 currently eight classrooms at each grade level. In FY16 and FY17, they plan to reduce 2
28 classrooms teachers at the middle school.

29
30 Board of Selectmen Chairman Crowley asked for more specific information on where the
31 excess will be allocated. Superintendent Evans said there should be approximately
32 \$250k-\$350k remaining that will be placed in the Circuit Breaker account.
33 Approximately \$519k was saved through salary vacancies. They expect approximately a
34 \$600k overrun in the special education budget but this will be offset by extraordinary
35 relief so it will be more like \$286k. She said there will be a significant balance in the
36 Circuit Breaker account but nothing like in previous years. Chairman Crowley asked for
37 the FY15 beginning balance of the Circuit Breaker account. In addition, Chairman
38 Crowley asked Mr. Aicardi to provide the Board with how his salary is allocated within
39 the budget. The Board of Selectmen said they are very happy with the format of the
40 information and thanked Mr. Aicardi for his work.

41
42 Free Full Day Kindergarten and the impact of the reduced tuition was also discussed.
43 This year the tuition was reduced from \$3,400 to \$2,400. Superintendent Evans said
44 there are 6 classrooms of Full Day Kindergarten and 1 classroom of Half Day
45 Kindergarten. There are a total of 137 students enrolled in kindergarten and 18 are in the
46 half day program. The reduction in tuition cost the Town about \$100k. The decision to

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1 reduce the tuition was made because the Town could not afford the \$300k it would cost
2 to provide free Full Day Kindergarten. The Board asked for more specific information
3 on how the reduced tuition impacted the enrollment numbers. School Committee
4 member Dawn Rice-Norton said the School Committee started discussing free Full Day
5 Kindergarten after the results of a survey several years ago that showed 2/3rds of families
6 would enroll in the full day program but can't due to the cost. Selectmen Trindade said it
7 is important that children are provided with the best possible start but that it is also
8 necessary to make sure that all students in all grades are receiving the best education
9 possible. Superintendent Evans said they are hoping to keep Full Day Kindergarten
10 tuition at \$2,400 next year.

11
12 Superintendent Evans invited everyone to attend the Budget Advisory Committee
13 meetings that will begin in December. The meetings are posted and open to the public.
14 The Committee will examine each area of the school budget in detail. There is also a
15 Public Hearing on December 4, 2014.

16
17 **At 8:08 p.m., Selectman Trindade moved to adjourn; Selectman White second; No**
18 **discussion; All ayes 5-0-0.**

19
20 Respectfully submitted,

21
22
23 Michelle Reed

AGENDA

ITEM #13

Town Administrator's Report

AGENDA ITEM #14

Selectmen's Reports