

AGENDA
Lakeville Select Board and acting as the
Wage & Personnel Board as needed

Lakeville Police Station – 323 Bedford Street
January 9, 2023 – 6:00 PM

PLEASE ASK IF ANYONE IS RECORDING THE MEETING
AND ANNOUNCE CABLE TAPING (IF PRESENT)

1. Select Board Announcements
2. Town Administrator Announcements
3. Meet with Plymouth County Treasurer Tom O'Brien and Commissioner Jared Valanzola regarding County's ARPA Selection Process
4. Discuss and possible vote to award bid for Assawompset Elementary School improvements
5. MBTA Communities and Southcoast Rail briefing from Town Planner
6. Discuss and possible vote to approve funding for Gamache Playground Refurbishment Project
7. Discuss and possible vote to approve lease agreement with SBA Towers II, LLC for the wireless tower facility at 100 Fern Avenue
8. Discuss and possible vote to approve license for Lakeville Martial Arts Studio
9. Discuss selection process for at large members to the Fire Station Building Committee
10. Discuss community recognition program concepts
11. Reschedule February 27th Select Board Meeting Date
12. Review and possible vote to approve Select Board Meeting Minutes of December 19, 2022
13. New Business
14. Old Business
15. Possible Executive Session pursuant to M.G.L. c.30A, §21a (3) to discuss strategy with respect to collective bargaining, specifically with PBA Local 185; IAFF Local 3188 and Laborer's International Union, if an open meeting may have a detrimental effect on the bargaining position of the public body and the Vice Chair so declares and pursuant to M.G.L. c.30A, §21a (4) to discuss the deployment of or strategy regarding security personnel or devices and pursuant to M.G.L. c.30A, §21a (7) to comply with the Open Meeting Law, MGL Chapter 30A, §22(f): approval of Executive Session Minutes for October 13, 2022 and December 5, 2022 and not to return to Open Session.

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Lakeville Select Board arise after the posting of this agenda, they may be addressed at this meeting.

AGENDA ITEM #1 JANUARY 9, 2023

SELECT BOARD ANNOUNCEMENTS

Happy New Year!

Just a reminder that residents don't have to climb the stairs for dog licensing, tax payments or census drop off. The Town Clerk and Treasurer's Offices are located in the middle section of Town Hall now for improved access .

TOWN CLERK

To get additional information on any of the Town Clerk items, please visit the Town Clerk's page on the Town's website at www.lakevillema.org

Nomination papers for the April 3, 2023 Annual Town Election will be available on Monday, January 9, 2023 at the Town Clerk's Office, by appointment only. The last day to OBTAIN papers is February 9, 2023 and the deadline to RETURN them is February 13, 2023.

Papers can be pulled from the Town Clerk's Office on normal business days from 8:00 a.m. to 4:30 p.m. on Monday through Thursday and 8:00 a.m. to 12:00 p.m. on Friday by APPOINTMENT ONLY. For more information, call the Town Clerk's Office at (508) 946-8800.

2023 dog licenses are available starting Tuesday, January 3rd. Residents can renew dog licenses by mail, drop off in the Town Clerk's Drop box or pay online. Online payment is only available only during the licensing period of January 3rd - April 30th.

The ANNUAL TOWN CENSUS has already been mailed out and should be arriving in your mailbox soon. Residents are urged to check the information contained on the form, make any necessary corrections or additions and sign and return it to the Town Clerk's Office in the enclosed envelope as soon as possible.

Completed forms can be submitted via US Postal Mail, dropped off in the Town Clerk's Drop Box located outside of Town Hall, or the Council on Aging.

The information should be current as of January 1st. Please return your census form even if there are no changes or if you will be moving after January 1st.

ASSESSORS OFFICE

The Assessor's office would like to let residents know if they are going to file an Abatement on their Personal Property or Real Estate Tax that the abatement application needs to be in to the Assessors office no later than February 1st, 2023. Applications are in the vestibule near the clerk's office or on our website under Real-Estate

<https://www.lakevillema.org/assessors-office/pages/real-estate>

Also, Form of List applications for FY2024 were mailed and due back on March 1, 2023 and 3ABC applications for FY2024 were mailed and due back on March 1, 2023.

TREASURERS OFFICE

FY23 Q3/Q4 Actual Tax Bills have been mailed and are due on February 1, 2023 and May 1, 2023.

FIRE DEPARTMENT

We are hiring full-time and on call firefighters. Perspective applicants can find information on Department social media pages and the town's HR webpage.

Burn permits are available through Viewpoint Cloud, the Town's e-permitting platform. Please renew existing permits, if all applicable.

**AGENDA ITEM #2
JANUARY 9, 2023**

TOWN ADMINISTRATOR ANNOUNCEMENTS

**AGENDA ITEM #3
JANUARY 9, 2023**

**MEET WITH PLYMOUTH COUNTY TREASURER TOM O'BRIEN AND
COMMISSIONER JARED VALANZOLA REGARDING COUNTY'S
ARPA SELECTION PROCESS**

**AGENDA ITEM #4
JANUARY 9, 2023**

**DISCUSS AND POSSIBLE VOTE TO AWARD BID FOR
ASSAWOMPSET ELEMENTARY SCHOOL IMPROVEMENTS**

Attached is a memo from the Owner's Project Manager with their recommendation on awarding the bid to NENA Construction Inc. at \$3,144,000.

Also attached are the bid tabulation, references for NENA Construction, the updated project budget and timeline, the draft contract which has been approved by Town Counsel, and the Project Funding Agreement.

Tracie Craig-McGee

From: Ari Sky
Sent: Wednesday, December 28, 2022 2:15 PM
To: Lia Fabian; Lorraine Carboni; Richard LaCamera
Cc: Tracie Craig-McGee; Todd Hassett, Lakeville Town Accountant
Subject: FW: Assawompset ARP - GC Bid Review
Attachments: Assawompset GC Bid Review.pdf; GCListofBidReceived.pdf; Exhibit A - Budget (1).pdf

All –

Good news on the AES renovation project. We'll plan on including the bid award with the January 9th agenda. Thanks.

Ari J. Sky, ICMA-CM

Town Administrator
Town of Lakeville
346 Bedford Street
Lakeville, Massachusetts 02347
asky@lakevillema.org
(508) 946-8803



From: Joe Spangenberg <joes@watermarkenv.com>
Sent: Wednesday, December 28, 2022 1:59 PM
To: Gregory Goodwin <ggoodwin@freelake.org>; Alan Strauss <astrauss@freelake.org>; Todd Hassett, Lakeville Town Accountant <thassett@lakevillema.org>; Kara Lees <klees@freelake.org>; Ari Sky <asky@lakevillema.org>
Cc: John Haley <johnh@watermarkenv.com>; Greg Hill <GHill@slamcoll.com>; Richard Polvino <RPolvino@slamcoll.com>
Subject: Assawompset ARP - GC Bid Review

Good Afternoon:

Watermark has completed the General Contractor bid review. See attached Bid Review checklist. Three (3) conforming bids were received. See attached GC List of Bids Received. The apparent lowest responsive bidder is NENA Construction, Inc.. The low bid, including the filed sub-bid amount for Waterproofing, is \$3,144,000 which is approximately 7% below the next lowest bidder. NENA selected themselves as the Waterproofing sub-bid. NENA has confirmed that they have included in their bid the other two areas of work (HVAC and Electrical) for which no filed sub-bids have been received. Their references have been contacted and have been found to be acceptable.

The Construction Cost Estimate for the project included in the Total Project Budget and Project Funding Agreement (Exhibit A – Budget attached) is \$3,379,255. The low bid is \$235,255 below the project budget for construction, not including the potentially eligible construction contingency amount of \$168,963.

Based upon the bid review performed and summarized herein, Watermark is recommending the award of the General Construction Contract to NENA Construction, Inc.. Bonds and insurance certificates have been requested from NENA

and we will now work with SLAM to get the contract documents ready for signature by the Town immediately following Select Board acceptance of the award recommendation at the January 9, 2023 meeting.

If there are any questions, please give me a call or send an email.

Joe

Joseph Spangenberger, PE

Watermark
285 Billerica Rd.
Chelmsford, MA 01824

978-452-9696 (x103)
978-265-2851 Cell

Check us out at www.watermarkenv.com



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Assawompset ARP General Contractor Bid Review

Items to be Supplied with Bid	NENA	J. J. Cardoso	Paul J. Rogan
Bid Form (Section 00 4000 or 00 5000)	X	X	X
Unit Price Form (01-2200a)	X	X	X
Certificate of Non-Collusion-Tax Compliance (Section 00 1500b)	X	X	X
Certificate of Signature (Section 00 1500c)	X	X	X
DCAMM Certificate of Eligibility	X	X	X
DCAMM Update Statement	X	X	X
Bid Bond	X	X	X

UNIT PRICING

	NENA	J.J. Cardoso	Paul J. Rogan
No. 1: DEDUCT			
06 6116 Interior Window Stool Removal, Abatement and New Solid Surface Stool Installation: Each \$ _____ / Each	\$ 295	\$ 100	\$ 25
No. 2: DEDUCT			
02 2820 Interior Window Stool Mastic Abatement: Each \$ _____ / Each	\$ 200	\$ 10	\$ 25
No. 3: ADD			
02 2820 Asbestos Abatement Caulking: LF \$ _____ / L	\$ 50	\$ 30	\$ 75

DCAMM Certification Information

Single Project Limit	\$ 6,000,000	\$ 12,000,000	\$ 9,100,000
Aggregate Project Limit	\$ 12,000,000	\$ 35,000,000	\$ 38,000,000
Average Performance Rating	97	93	97

GC E-Bid : List of bids received 12/22/22 05:00 PM Assawompset Elementary Window/Door Replacement 852859

Company	Contract Price (Whole Dollar) ▾	DCAMM Update Statement (Parts 1 - 7) (PRIVATE)	Bid Package	Action	Comments
NENA Construction Inc., 33 Alfred Street, Warwick, RI 02889	\$3,144,000.00	View File	View File	Approve Reject	
J. J. Cardosi Inc., 28 Boston Street, East Providence, RI 02914	\$3,438,670.00	View File	View File	Approve Reject	
Paul J Rogan Company, 25 Hayward Street, Braintree, MA 02184	\$3,945,000.00	View File	View File	Approve Reject	

Close Save

References of Apparent Low Responsive Bidder: NENA Construction

Springfield High School of Science and Technology (\$3,534,000; 50% complete)

City of Springfield – Will Cahillane @ 413-265-0070

Arcadis – Vikas Nagardeolekar @ 413-478-8443

SGH – Mary Donlon @ 207-890-7726

Houston – Residential Sound Insulation Program (\$6,725,000; Project Completion: July, 2021)

C&S Companies – Dennis Scheid @ 216-701-2319

New Bedford Housing – Bay Village (\$904,037; Project Completion: July, 2021)

City of New Bedford – Kevin Rego @ 774-762-6355

<u>Springfield Window and Door Replacement</u>	Owner (Cahillane)	OPM (Nagardeolekar)	Designer (Donlon)
General Performance	Positive	Positive	Neutral - Negative
Communication	Positive	Positive	Positive - Neutral
Project Management	Positive	Positive (2)	Negative
Quality of Work	Positive	Positive	Neutral
Schedule Compliance (1)	Neutral	Neutral	Neutral - Negative
Change Orders	Neutral	Positive	Neutral
Work with Again	Positive	Positive	Negative

Notes:

1. Project is late in finishing due to window fabrication/delivery issues. Contract did not have a specific end date or time for completion.
2. Need to establish clear expectations on project management, communication and superintendence (Rick Cuqua – Recommended Superintendent).

City of New Bedford – Bay Village - Window and Door Replacement **Owner (Rego)**

General Performance Excellent

Communication	Excellent
Project Management	Excellent
Quality of Work	Excellent
Schedule Compliance	Excellent
Change Orders	Neutral
Work with Again	Positive

City of Houston – Noise Mitigation

Owner (Scheid)

General Performance	Excellent
Communication	Excellent
Project Management	Excellent
Quality of Work	Excellent
Schedule Compliance	Excellent
Change Orders	Positive
Work with Again	Positive

Notes:

1. Nothing negative to report. Excellent contractor.

Ari Sky

From: Joe Spangenberg <joes@watermarkenv.com>
Sent: Wednesday, January 4, 2023 5:22 PM
To: Ari Sky
Cc: Kara Lees; Todd Hassett, Lakeville Town Accountant; Gregory Goodwin; Alan Strauss; John Haley
Subject: Assawompset ARP - Updated Total Project Budget & Project Schedule
Attachments: Assawompset ARP - Total Project Budget (Form 3011) - Rev 2 Post-Bid.pdf; Free-Lake Post-Bid Schedule Rev 1.pdf

Ari:

See attached for the updated Total Project Budget and updated Project Schedule. A few things to note:

The Total Project Budget has been updated for the negotiated adjustments to the Designer and OPM contracts and the GC Low Bid which results in the following:

Original Total Budget	\$4,222,294
Revised Total Budget	<u>\$3,964,960</u>
Difference (Savings)	\$ 257,334

Please note that the savings will need to be shared with MSBA based upon the reimbursement rate (53.53%) when the PFA Bid Amendment is processed. Until the amendment is executed, I'd caution any firm statements regarding this savings amount. I don't expect any significant adjustments but until the amendment is executed the amounts shown for contingencies and the Maximum Total Facilities Grant are not set in stone.

Regarding the schedule, we have improved on the contract award date we originally projected by a few days (assuming we make the award by next Friday) and have adjusted the fab/delivery timeframe to 16 weeks per the most recent guidance from the manufacturers. With those changes, things look good for receiving the windows in mid-July which is ideal. That said, this is still an aggressive schedule and we'll need to keep the heat on to make it happen.

Think that covers everything you requested. Please let me know if you have any questions.

Joe

Joseph Spangenberg, PE

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285 Billerica Rd.
Chelmsford, MA 01824

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Total Project Budget

Submittal Date: June 27, 2022

Freetown-Lakeville Regional School District
Assawampsett Elementary School - Window & Door Replacement Project

	Estimated Budget	Scope Items Excluded From the Basis of Estimated Total Facilities Grant or Otherwise Ineligible	Basis of Estimated Total Facilities Grant ¹	Estimated Maximum Total Facilities Grant ¹
Total Project Budget: All costs associated with the project are subject to 863 CMR 2.16(5) Feasibility Study Agreement				
1 OPM Feasibility Study	\$15,000		\$15,000	
2 A&E Feasibility Study	\$61,811		\$61,811	
3 Env. & Site	\$0		\$0	
4 Other	\$0		\$0	
5 Feasibility Study Agreement Subtotal	\$76,811	\$0	\$76,811	\$41,117
6 Legal Fees	\$0		\$0	\$0
7 Owner's Project Manager	\$0		\$0	\$0
8 Design Development	\$38,290		\$38,290	\$0
9 Bidding	\$20,648		\$20,648	\$0
10 Construction Contract Administration	\$220,097		\$220,097	\$0
11 Closeout	\$20,788		\$20,788	\$0
12 Extra Services	\$0		\$0	\$0
13 Reimbursable & Other Services	\$0		\$0	\$0
14 Cost Estimates	\$1,000		\$1,000	\$0
15 Advertising	\$0		\$0	\$0
16 Permitting	\$0		\$0	\$0
17 Owner's Insurance	\$1,000		\$1,000	\$0
18 Other Administrative Costs	\$0		\$0	\$0
19 Other Administration Subtotal	\$301,823	\$0	\$301,823	\$161,566
Architecture and Engineering				
20 Basic Services	\$0		\$0	\$0
21 Design Development	\$115,140		\$115,140	\$0
22 Construction Contract Documents	\$10,600		\$10,600	\$0
23 Bidding	\$84,259		\$84,259	\$0
24 Construction Contract Administration	\$11,968		\$11,968	\$0
25 Closeout	\$0		\$0	\$0
26 Other Basic Services	\$0		\$0	\$0
27 Basic Services Subtotal	\$221,967	\$0	\$221,967	\$0
28 Reimbursable Services	\$0		\$0	\$0
29 Construction testing	\$2,000		\$2,000	\$0
30 Printing (over minimum)	\$0		\$0	\$0
31 Other Reimbursable Costs	\$32,500		\$32,500	\$0
32 Hazardous Materials (Oversight Costs)	\$0		\$0	\$0
33 Geotech & Geo-Env.	\$0		\$0	\$0
34 Site Survey	\$0		\$0	\$0
35 Wetlands	\$0		\$0	\$0
36 Traffic Studies	\$0		\$0	\$0
37 Architectural/Engineering Subtotal	\$256,467	\$0	\$256,467	\$137,287
CM & Risk Preconstruction Services				
38 Pre-Construction Services	\$0		\$0	\$0
39 Site Acquisition	\$0		\$0	\$0
40 Land/Building Purchase	\$0		\$0	\$0
41 Appraisal Fees	\$0		\$0	\$0
42 Recording fees	\$0		\$0	\$0
43 Site Acquisition Subtotal	\$0	\$0	\$0	\$0
Construction Costs				
44 Construction Budget	\$3,144,000		\$3,144,000	\$0
45 GMP Fee	\$0		\$0	\$0
46 GMP Insurance	\$0		\$0	\$0
47 GMP Contingency	\$0		\$0	\$0
48 Division 1 - General Requirements	\$0		\$0	\$0
49 Division 2 - Existing Conditions	\$0		\$0	\$0
50 Division 3 - Concrete	\$0		\$0	\$0
51 Division 4 - Masonry	\$0		\$0	\$0
52 Division 5 - Metals	\$0		\$0	\$0
53 Division 6 - Woods, Plastics and Composites	\$0		\$0	\$0
54 Division 7 - Thermal and Moisture Protection	\$0		\$0	\$0
55 Division 8 - Openings	\$0		\$0	\$0
56 Division 9 - Finishes	\$0		\$0	\$0
57 Division 10 - Specialties	\$0		\$0	\$0
58 Division 11 - Equipment	\$0		\$0	\$0
59 Division 12 - Furnishings	\$0		\$0	\$0
60 Division 13 - Special Construction	\$0		\$0	\$0
61 Division 14 - Conveying Systems	\$0		\$0	\$0
62 Division 21 - Fire Suppression	\$0		\$0	\$0
63 Division 22 - Plumbing	\$0		\$0	\$0
64 Division 23 - HVAC	\$0		\$0	\$0
65 Division 25 - Integrated Automation	\$0		\$0	\$0
66 Division 26 - Electrical	\$0		\$0	\$0
67 Division 27 - Communications	\$0		\$0	\$0
68 Division 28 - Electronic Safety and Security	\$0		\$0	\$0
69 Division 31 - Earthwork	\$0		\$0	\$0
70 Division 32 - Exterior Improvements	\$0		\$0	\$0
71 Division 33 - Utilities	\$0		\$0	\$0

Cells highlighted in yellow include equations established for the calculation of the projects Maximum Total Facilities Grant and for the analysis of the projects budget. The equations in the highlighted cells should not be changed.

Soft Cost Reimbursement	Excluded	Eligible Soft Costs	Category
Est'd Budget	\$316,823	\$0	\$316,823 -Administration
	\$316,278	\$0	\$316,278 -A/E Services
	\$0	\$0	Ineligible therefore not included in calculation -Site Acquisition
	\$0	\$0	\$0 -Miscellaneous Proj Costs
	\$0	\$0	\$0 -PFE
	\$16,696	\$16,696	\$16,696 -Potentially Eligible Owner's Contingency
		\$851,997	Total Eligible Soft Costs
		\$851,997	Total Eligible Less Cap Exclusion

Construction Costs associated with Soft Cost Cap Calculation

Est'd Eligible Budget	\$0
	\$3,144,000

Not included in this calculation -Construction Contingency

\$3,144,000	Total Construction Cost
\$628,800	20% Soft Cost Allowance
\$23,197	Reimbursable Soft Cost

Eligible minus Reimbursable is negative, then no exclusion is applied.
 -If Eligible minus Reimbursable is positive, then reduce Potentially Eligible Owner's Contingency until 0. If Eligible minus Reimbursable remains positive, then the value is entered into the line "Soft Costs that exceed 20% of Constn Cost" in the Ineligible column.

OPM Services	Construction Budget	Eligible Fees	Total % of Constr	OPM Fee @ 10.00%
Basic Services	\$314,823	\$314,823	10.01%	\$314,400
Extra Services	\$0	\$0	0.00%	\$0
Designer Services	\$283,778	\$283,778	9.03%	\$471,600
Extra Services	\$34,500	\$34,500	1.10%	\$0

Soft Cost Exclusion for Spaces Ineligible per Regulations or Scope Outside of ARP

Total Construction Budget Costs	\$3,144,000
Applicable Ineligible Budget Costs	\$0
Ratio for Soft Cost Exclusions	0.00%

Exclusion for Scope Less Than Invited Years or Spaces Ineligible per Regulations

Total Building Area	#(S/F)
Areas of Eligible Spaces	\$1
Ineligible Areas	\$1
Ineligible Areas Near Areas	#(S/F)
Construction Budget Costs for Scope	\$0
Eligible Construction Budget Costs	\$0
Potentially Eligible Budget Costs	\$0
Exclusion for Service Life/Ineligible Spaces	#(S/F)

Freetown-Lakeville Regional School District
Assawampsett Elementary School - Window & Door Replacement Project

Submission Date: June 27, 2022

Cells highlighted in yellow include equations established for the calculation of the project's Maximum Total Facilities Grant and for the analysis of the projects budget. The equations in the highlighted cells should not be changed.

	Total Project Budget: All costs associated with the project are subject to 963 CMR 2.16(f)	Estimated Budget	Scope Items Excluded from the Basis of Estimated Total Facilities Grant or Otherwise Ineligible	Basis of Estimated Total Facilities Grant ¹	Estimated Maximum Total Facilities Grant ¹
70	Construction Budget	\$3,144,000	\$0	\$3,144,000	\$1,682,963
71	Alternates				
72					
73					
74	Alternates Subtotal ³	\$0	\$0	\$0	\$0
75	Miscellaneous Project Costs				
76	Utility company Fees				
77	Testing Services				
78	Swing Space/Modulars				
79	Other Project Costs (Mailing & Moving)				
80	Misc. Project Costs Subtotal	\$0	\$0	\$0	\$0
81	Furnishings and Equipment				
82	Furniture				
83	Equipment				
84	Computer Equipment				
85	FF&E Subtotal	\$0	\$0	\$0	\$0
86	Soft Costs that exceed 20% of Const'n Cost				
87	Project Budget	\$3,779,101	\$0	\$3,779,101	\$2,022,953

Board Authorization		
88	Project Budget	\$3,779,101
89	Scope Items Excluded or Otherwise Ineligible	\$0
90	Basis of Estimated Total Facilities Grant ^{1,3}	\$3,779,101
91	Reimbursement Rate	53.53%
92	Estimated Maximum Total Facilities Grant ¹	\$2,022,953

93	Total Construction Contingency ²	\$168,963
94	Ineligible Construction Contingency ²	\$0
95	Potentially Eligible Construction Contingency ²	\$168,963
96	Total Owner's Contingency ²	\$16,896
97	Ineligible Owner's Contingency ²	\$0
98	Potentially Eligible Owner's Contingency ²	\$16,896
99	Total Potentially Eligible Contingency ²	\$185,859
100	Reimbursement Rate	53.53%
101	Potential Additional Contingency Grant Funds ²	\$99,490
102	Maximum Total Facilities Grant	\$2,122,443
103	Total Project Budget	\$3,964,960

This document was prepared by the MSBA based on a preliminary review of information and estimates provided by the Owner's Project Manager of Assawampsett Elementary School for the Project. Based on this preliminary review, the MSBA has determined that the project budget, cost and scope items are eligible for reimbursement by the MSBA. All project budget, cost and scope items are subject to review and audit by the MSBA. The MSBA may determine that certain additional budget, cost and scope items are ineligible for reimbursement. In its sole discretion, the MSBA may determine that certain additional budget, cost and scope items are eligible for reimbursement. When an alternate increases project scope (an "add" alternate), the amount of the alternate is not included within the Construction Budget. By contrast, when an alternate decreases project scope (a "deduct" alternate), the amount is included within the Construction Budget.

1. The estimated maximum facilities grant established for the Project Funding Agreement does not include any potentially eligible contingency funds and is subject to review and audit by the MSBA. At the time of PFA Bid Amendment, the Estimated Maximum Facilities Grant and the Maximum Total Facilities Grant will be adjusted to account for any budget revision requests submitted and approved by the MSBA at the time of establishing the Amendment.

2. Pursuant to Section 3.30 of the Project Funding Agreement and the applicable policies and guidelines of the Authority, any project costs associated with the reallocation or transfer of funds from either the Owner's contingency or the construction contingency to other budget line items shall be subject to review by the Authority to determine whether any such costs are eligible for reimbursement by the Authority. All costs are subject to review and audit by the MSBA.

3. The Alternate Subtotal budget line represents the scope of work that the District may list as an alternate to the construction contract. When an alternate increases project scope (an "add" alternate), the amount of the alternate is not included within the Construction Budget. By contrast, when an alternate decreases project scope (a "deduct" alternate), the amount is included within the Construction Budget.

Contingency Cap Calculations	
Eligible Construction Budget	\$3,144,000
Eligible Const'r Cont Cap @ 5%	\$157,200
Eligible Construction Budget	\$3,144,000
Eligible Owner's Cont Cap @ 0.5%	\$15,720

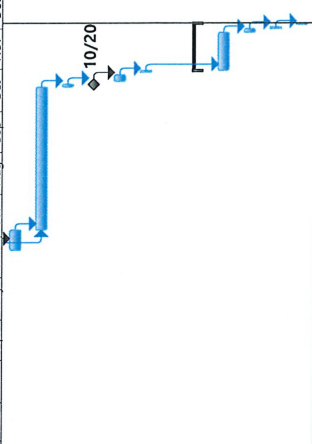
\$0 if Total Eligible Soft Costs exceed Reimbursable Soft Cost Cap.

Freetown-Lakeville Regional School District

ID	Task Name	Duration	Start	Finish	2022	2023	2023	2023	2023	2023	2023	2023	2023	2023	2023	2023
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	Assawampset Elementary School ARP															
2	Windows/Doors Replacement Project															
3																
4	OPM & Designer Contract Execution	10 days	Thu 3/24/22	Thu 4/7/22												
5	OPM Contract Award	7 days	Thu 3/24/22	Fri 4/1/22												
6	Initial Site Visit	1 day	Wed 3/30/22	Wed 3/30/22												
7	Execute Designer Contract	5 days	Thu 3/31/22	Wed 4/6/22												
8	Submit Contracts, Checklist, Schedule and Org Chart to MSBA	0 days	Thu 4/7/22	Thu 4/7/22												
9																
10	Schematic Design (SD)	102 days	Tue 4/12/22	Wed 8/31/22												
11	Conduct Site Investigation	0 days	Tue 4/12/22	Tue 4/12/22												
12	Prepare/Submit Site Investigation Report to MSBA	5 days	Tue 4/12/22	Mon 4/18/22												
13	Prepare & Submit Draft Schematic Design	40 days	Tue 4/12/22	Mon 6/6/22												
14	Prepare & Submit Draft Cost Estimate	10 days	Tue 6/7/22	Mon 6/20/22												
15	District/OPM Review Draft SD & Cost	12 days	Tue 6/7/22	Wed 6/22/22												
16	Finalize & Submit Schematic Design to MSBA	3 days	Thu 6/23/22	Mon 6/27/22												
17	MSBA Board Meeting	1 day	Wed 8/31/22	Wed 8/31/22												
18	MSBA Schematic Design Approval	0 days	Wed 8/31/22	Wed 8/31/22												
19																
20	60% Construction Documents (CD)	51 days	Fri 7/29/22	Fri 10/7/22												
21	Prepare & Submit 60% Construction Documents	39 days	Fri 7/29/22	Wed 9/21/22												
22	Update Cost Estimate - 60% Constr. Docs	10 days	Thu 9/22/22	Wed 10/5/22												
23	District/OPM Review 60% Constr. Docs	10 days	Thu 9/22/22	Wed 10/5/22												
24	Finalize & Submit 60% Construction Documents	2 days	Thu 10/6/22	Fri 10/7/22												
25																
26	Town Meeting - Funding Approval	0 days	Mon 11/14/22	Mon 11/14/22												
27																
28	100% Construction Documents (CD)	27 days	Mon 10/10/22	Tue 11/15/22												
29	Prepare & Submit Draft Construction Documents	19 days	Mon 10/10/22	Thu 11/3/22												
30	District/OPM Review Construction Documents	5 days	Fri 11/4/22	Thu 11/10/22												
31	Complete Final Constr. Docs for Bidding	3 days	Fri 11/11/22	Tue 11/15/22												
32																
33	Bidding & Contract Award	43 days	Wed 11/16/22	Fri 1/13/23												
34	Public Notice	10 days	Wed 11/16/22	Tue 11/29/22												
35	Pre-Bid Meeting	1 day	Wed 11/30/22	Wed 11/30/22												
36	Receive Filled Sub-Bids	9 days	Thu 12/1/22	Tue 12/13/22												
37	Receive General Bids	7 days	Wed 12/14/22	Thu 12/22/22												
38	Review and Tabulate Bids	4 days	Fri 12/23/22	Wed 12/28/22												
39	District/MSBA Execute Proj Fund Agmt (PFA)	0 days	Tue 1/3/23	Tue 1/3/23												
40	Prepare/Review Contract Documents	12 days	Thu 12/29/22	Fri 1/13/23												
41	Award Construction Contract	0 days	Fri 1/13/23	Fri 1/13/23												
42																
43	Construction	206 days	Mon 1/16/23	Mon 10/30/23												
44	Submittals	40 days	Mon 1/16/23	Fri 3/10/23												
45	Submittal Review & Approval	15 days	Mon 3/13/23	Fri 3/31/23												
46	Fabrication & Delivery	80 days	Mon 4/3/23	Fri 7/21/23												
47	Mobilization	0 days	Wed 6/21/23	Wed 6/21/23												

Freetown-Lakeville Regional School District

ID	Task Name	Duration	Start	Finish	2022											
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
					Qtr. 1, 2023			Qtr. 2, 2023			Qtr. 3, 2023			Qtr. 4, 2023		
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
48	Demo/Abatement/Temporary Protection	11 days	Wed 6/21/23	Wed 7/5/23												
49	Window & Door Installation	75 days	Thu 7/6/23	Wed 10/18/23												
50	Commissioning (MSBA)	2 days	Thu 10/19/23	Fri 10/20/23												
51	Substantial Completion	0 days	Fri 10/20/23	Fri 10/20/23												
52	Punchlist & Final Inspection	5 days	Mon 10/23/23	Fri 10/27/23												
53	Construction Complete	1 day	Mon 10/30/23	Mon 10/30/23												
54																
55	Closeout	25 days	Tue 10/31/23	Mon 12/4/23												
56	Review/Submit Closeout Documentation	20 days	Tue 10/31/23	Mon 11/27/23												
57	Submit Final COs and Budget Rev Request (BRR)	3 days	Tue 11/28/23	Thu 11/30/23												
58	Confirm Project Budget in ProPay	1 day	Fri 12/1/23	Fri 12/1/23												
59	Closeout Complete	1 day	Mon 12/4/23	Mon 12/4/23												



 **AIA**® Document A101® – 2017**Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Town of Lakeville – Freetown-Lakeville Regional School District
346 Bedford St.
Lakeville, MA 02347

and the Contractor:
(Name, legal status, address and other information)

NENA Construction, Inc.
33 Alfred Street
Warwick, RI 02889

for the following Project:
(Name, location and detailed description)

Assawompset Elementary School
MSBA ARP – Windows and Doors Replacement Project
232 Main Street
Lakeville, MA 02347

The Architect:
(Name, legal status, address and other information)

The S/L/A/M Collaborative
250 Summer Street, 4th Floor
Boston, MA 02210

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)
June 21, 2023

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than () calendar days from the date of commencement of the Work.

By the following date: October 20, 2023

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be Three Million, One Hundred and Forty-Four Thousand (\$ 3,144,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
------	-------

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 4.3 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

Item	Price
------	-------

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
1. DEDUCT – Interior Window Stool Removal, Abatement, and New Solid Surface Stool Installation	Each	\$295.00 Each
2. DEDUCT – Interior Window Stool Mastic Abatement	Each	\$200.00 Each
3. ADD – Asbestos Abatement Caulking	LF	\$50.00 LF

Init.

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

\$1,200 per calendar day

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 P Contractor shall provide a draft Application for Payment to the Architect for review and approval no later than the 1st day of each month. The Architect will respond with comments within five (5) calendar days. Provided that a complete Application for Payment approved and certified by the Architect is received by the Owner, the Owner shall make payment of the amount certified to the Contractor not later than 15 calendar days after receipt of the complete, approved and certified invoice.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

5 Percent

§ 5.1.7.1.1 The following items are not subject to retainage:

N/A

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

N/A

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

Amounts associated with work that is incomplete, damaged or otherwise not accepted by the Architect.

Amounts associated with work items for which a fully executed manufacturer's or Contractor warranty has not been submitted and approved by the Architect.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

otherwise in accordance with the applicable provisions of the Prompt Payment Act, M.G.L. c. 149, § 29E.

Init.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Paragraph deleted)

Interest rate shall be calculated with the applicable provisions of the Prompt Payment Act, M.G.L. c. 149, § 29E.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

Not Appointed

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Paragraph deleted)

Payment for termination at the Owner’s convenience shall be calculated based upon the applicable section(s) of M.G.L. Chapter 149.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

Mr. Ari Sky, Town Administrator
346 Bedford Street
Lakeville, MA 02347

asky@lakevillema.org

Init.

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Mr. Chadd B. Garcia - COO
33 Alfred Street
Warwick, RI 02889

cgarcia@nenainc.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(Paragraph deleted)

N/A

§ 8.7 Other provisions:

N/A

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4

- .5 Drawings

Number

Title

Date

MSBA Accelerated
Repair Program –
Assawompset Elementary
School – Windows/Door
Replacement

November 15, 2022

Init.

.6 Specifications

Section

Sections 0-33

Title

Invitation for Bid &
Project Manual – Town of
Lakeville –
Freetown-Lakeville
Regional School District
– MSBA Accelerated
Repair Program –
Windows and Doors
Replacement Project

Date

November 15,
2022

Pages

625

.7 Addenda, if any:

Number

One
Two

Date

December 5, 2022
December 13, 2022

Pages

9
4

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

(Paragraph deleted)

.8 Other Exhibits:

(Paragraphs deleted)

N/A

Title

Date

Pages

Supplementary and other Conditions of the Contract:

Document

00 2500

Title

Supplementary General
Conditions

Date

November 15,
2022

Pages

30

.9 Other documents, if any, listed below:

N/A

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

CONTRACTOR *(Signature)*

(Printed name and title)

(Printed name and title)

Init.

Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:34:36 ET on 01/05/2023.

PAGE 1

Town of Lakeville – Freetown-Lakeville Regional School District
346 Bedford St.
Lakeville, MA 02347

...

NENA Construction, Inc.
33 Alfred Street
Warwick, RI 02889

...

Assawompset Elementary School
MSBA ARP – Windows and Doors Replacement Project
232 Main Street
Lakeville, MA 02347

...

The S/L/A/M Collaborative
250 Summer Street, 4th Floor
Boston, MA 02210

PAGE 2

[] Established as follows:

...

June 21, 2023

PAGE 3

[] By the following date: October 20, 2023

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Three Million, One Hundred and Forty-Four Thousand (\$ 3,144,000.00), subject to additions and deductions as provided in the Contract Documents.

...

- | | | | |
|----|--|-------------|----------------------|
| 1. | <u>DEDUCT – Interior Window Stool Removal, Abatement, and New Solid Surface Stool Installation</u> | <u>Each</u> | <u>\$295.00 Each</u> |
| 2. | <u>DEDUCT – Interior Window Stool Mastic Abatement</u> | <u>Each</u> | <u>\$200.00 Each</u> |
| 3. | <u>ADD – Asbestos Abatement Caulking</u> | <u>LF</u> | <u>\$50.00 LF</u> |

PAGE 4

\$1,200 per calendar day

...

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment. (Federal, state or local laws may require payment within a certain period of time.)P Contractor shall provide a draft Application for Payment to the Architect for review and approval no later than the 1st day of each month. The Architect will respond with comments within five (5) calendar days. Provided that a complete Application for Payment approved and certified by the Architect is received by the Owner, the Owner shall make payment of the amount certified to the Contractor not later than 15 calendar days after receipt of the complete, approved and certified invoice.

PAGE 5

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

5 Percent

...

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

...

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

N/A

...

(Insert any other conditions for release of retainage upon Substantial Completion.)

Amounts associated with work that is incomplete, damaged or otherwise not accepted by the Architect.

Amounts associated with work items for which a fully executed manufacturer's or Contractor warranty has not been submitted and approved by the Architect.

...

otherwise in accordance with the applicable provisions of the Prompt Payment Act, M.G.L. c. 149, § 29E.

PAGE 6

(Insert rate of interest agreed upon, if any.)

—%

Interest rate shall be calculated with the applicable provisions of the Prompt Payment Act, M.G.L. c. 149, § 29E.

...

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Not Appointed

...

[] Litigation in a court of competent jurisdiction

...

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Payment for termination at the Owner's convenience shall be calculated based upon the applicable section(s) of M.G.L. Chapter 149.

...

(Name, address, email address, and other information)

Mr. Ari Sky, Town Administrator
346 Bedford Street
Lakeville, MA 02347

...

asky@lakevillema.org
PAGE 7

Mr. Chadd B. Garcia - COO
33 Alfred Street
Warwick, RI 02889

...

cgarcia@nenainc.com

...

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

N/A

...

N/A

...

.2 AIA Document A101™ 2017, Exhibit A, Insurance and Bonds

.4 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

PAGE 8

Sections 0-33

MSBA Accelerated November 15, 2022
Repair Program –
Assawompset Elementary
School – Windows/Door
Replacement

Invitation for Bid & November 15, 625
Project Manual – Town of 2022
Lakeville –
Freetown-Lakeville
Regional School District
– MSBA Accelerated
Repair Program –
Windows and Doors
Replacement Project

One

December 5, 2022 9

Two

December 13, 2022 4

~~.8~~ Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

~~.8~~ Other Exhibits:

AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204 2017 incorporated into this Agreement.)

N/A

The Sustainability Plan:

Supplementary and other Conditions of the Contract:

00 2500

Supplementary General November 15, 30
Conditions 2022

(List here any additional documents that are intended to form part of the Contract Documents. AIA

Document A201™ 2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

N/A

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:34:36 ET on 01/05/2023 under Order No. 3104236683 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



Massachusetts School Building Authority

Deborah B. Goldberg
Chairman, State Treasurer

James A. MacDonald
Chief Executive Officer

John K. McCarthy
Executive Director / Deputy CEO

January 4, 2023

Mr. Alan Strauss, Superintendent
Freetown-Lakeville Regional School District
98 Howland Road
Lakeville, MA 02347

Re: Freetown-Lakeville Regional School District, Assawompset Elementary School

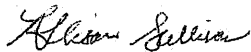
Dear Superintendent Strauss:

Enclosed for your records, please find a copy of the fully-executed Project Funding Agreement and Exhibit A-Total Project Budget for the Assawompset Elementary School Project in the Freetown-Lakeville Regional School District (the "District").

Also attached for your convenience, please find instructions for entering project budgets in the Massachusetts School Building Authority (the "MSBA") ProPay System, the Project Funding Agreement Budget Revision Request Form and a Total Project Budget form with cost codes included. Please note the MSBA will not process reimbursement requests until the District has entered the budget and the budget has been accepted by the MSBA.

Please feel free to contact Evan Levesque if you have any questions.

Regards,



Allison Sullivan
Senior Project Coordinator

Cc: Legislative Delegation
Steve Owen, Chair, Freetown-Lakeville Regional School Committee
Jean Fox, Vice-Chair, Freetown-Lakeville Regional School Committee
John Haley, Owner's Project Manager, Watermark Environmental, Inc.
Richard Polvino, Designer, S/L/A/M Collaborative
File: 10.2 Letters

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

PROJECT FUNDING AGREEMENT
ACCELERATED REPAIR PROGRAM

This PROJECT FUNDING AGREEMENT, (the "Project Funding Agreement"), dated as of January 3, 2023 (the "Effective Date") is entered into by and between the Massachusetts School Building Authority, an independent public authority of the Commonwealth of Massachusetts (the "Authority"), and the Freetown-Lakeville Regional School District together with its successors and assigns (the "District" or "Owner") (Authority and District or Owner collectively referred to herein as the "Parties").

RECITALS

WHEREAS, the provisions of General Laws Chapter 70B, as amended ("Chapter 70B"), Chapters 208 and 210 of the Acts of 2004, and 963 CMR 2.00 *et seq.* authorize the Authority to provide a Total Facilities Grant (as defined in Section 1 below) to Eligible Applicants for approved school building construction, renovation and repair projects; and

WHEREAS, the District has applied for and desires to receive a Total Facilities Grant from the Authority pursuant to the provisions of Chapter 70B, Chapters 208 and 210 of the Acts of 2004, and 963 CMR 2.00 *et seq.* for a Project (as defined in Section 1 below) consisting of a windows and doors replacement project at the Assawompset Elementary School located at 232 Main Street in Lakeville, Massachusetts, owned by the Town of Lakeville, but operated by the District pursuant to a lease agreement recognized under 963 CMR 2.05(1) as it is more particularly described elsewhere in this Agreement; and

WHEREAS, the Authority has determined that this Project is eligible for participation in the Authority's Accelerated Repair Program; and

WHEREAS, the Authority has determined that the District's Project is eligible for the receipt of a Total Facilities Grant, and the District has agreed to receive a Total Facilities Grant, pursuant to a payment schedule determined by the Authority and subject to all of the terms and conditions of this Project Funding Agreement; and

WHEREAS, the Project is in the best interests of the Commonwealth and the District with respect to its site, type of construction, sufficiency of accommodations, open space preservation, urban development, urban sprawl, and energy efficiency; and

WHEREAS, the Project has a value over its useful life commensurate with the lifecycle cost of building, operating, and maintaining the school facility; and

WHEREAS, the Project is not at a school that has been the site of an approved school project pursuant to Chapter 70B or Chapter 645 of the Acts of 1948, as amended, within the 10 years prior to the Project Application date, or the Project is unrelated to such previously approved project in the same school; and

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WHEREAS, the Project is within the capacity of the Authority to finance within revenues projected to be available to the Authority; and

WHEREAS, the Authority, through a competitive procurement process, has selected a pool of Owner's Project Managers and a pool of Designers for the Accelerated Repair Program and has assigned an Owner's Project Manager and a Designer from those pools to the District's Project in accordance with the assignment process described in the Authority's "Consultant Assignment Procedure: MSBA Accelerated Repair Program," which is incorporated by reference herein; and

WHEREAS, on August 31, 2022, the Board of the Authority has voted to authorize the Executive Director to enter into a Project Funding Agreement with the District for the Project; and

WHEREAS, the District has taken all necessary votes authorizing the Project and has authorized and appropriated the Total Project Budget, in formats acceptable to the Authority;

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

The Authority agrees to provide a Total Facilities Grant to the District, subject to all of the following terms and conditions:

SECTION 1 DEFINITIONS

Capitalized terms that are not defined in this Section 1 shall have the meanings ascribed to them in Chapter 70B or 963 CMR 2.00 *et seq.* For purposes of this Project Funding Agreement, the following words shall have the following meanings:

"Accelerated Repair Program" means the Authority's program to provide Total Facilities Grants to school districts for certain Projects involving the repair, replacement, or upgrade of roofs, boilers, and/or window systems and related upgrades in accordance with the terms and conditions of the Accelerated Repair Program, including, but not limited to, the Authority's Sustainability Requirements for the Accelerated Repair Program, which are incorporated by reference herein, and any other eligibility requirements set forth in this Project Funding Agreement or otherwise established by the Authority.

"Assisted Facility" means the school facility or facilities that is/are eligible for and will receive either a Total Facilities Grant or partial payment of a Total Facilities Grant pursuant to this Project Funding Agreement.

"Construction Contract Documents" means all agreements, contracts, and other documents, including, but not limited to, the Owner-Contractor or Owner-CM at Risk Contracts and attachments thereto, Advertisements, Instructions to Bidders, Bidding Documents, Contract Forms, Conditions of the Contracts, Specifications, Drawings, all addenda issued prior to

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execution of the Contracts, and other documents listed in the Owner-Contractor or Owner-CM at Risk contracts and any amendments or modifications issued after execution of said contracts, executed by and between the District and the Contractors or any other parties that set forth the terms, conditions, requirements, and specifications for the design and construction of the Project. For purposes of this Project Funding Agreement, the Construction Contract Documents shall also at all times include a current construction schedule, a current Total Project Budget, and a current cash flow projection.

“Contractor” is the person or entity identified as such throughout the Construction Contract Documents and who is primarily responsible for the performance and execution of the construction work on the Project.

“Designer” shall mean the individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of architecture, landscape architecture, or engineering that meets the requirements of M.G.L. c. 7C, § 44, and has been procured and assigned by the Authority and contracted by the District in accordance with the procedures described in the Authority’s “Science Lab Initiative and Accelerated Repair Program Owner’s Project Manager and Designer Assignment Procedure,” which are incorporated by reference herein, and all other applicable provisions of law to perform professional design services.

“Effective Date” means the date stated in the first paragraph of this Project Funding Agreement which shall be the date on which this Project Funding Agreement shall take effect.

“Excusable Delay” means a delay of the Project that either (a) is solely because of a natural event, such as flood, storms, or lightning, that is not preventable by any human agency, or (b) is reasonably determined by the Authority to be excusable.

“Final Request and Certificate for Reimbursement” means the certificate, submitted by the District to the Authority upon final completion of the Project, that is (1) signed by the Owner’s Project Manager stating that, to the best of the Owner’s Project Manager’s knowledge and belief, the Project has been completed and constructed in accordance with all Construction Contract Documents; (2) signed by the Designer stating that, to the best of the Designer’s knowledge and belief, the Project has been completed and constructed in accordance with the Construction Contract Documents and all applicable building and safety codes in effect at the time of construction; and (3) signed by a duly authorized representative of the District stating, to the best of his/her knowledge and belief, that all of the terms and conditions of this Project Funding Agreement, all other agreements between the District and the Authority and all applicable regulations and guidelines of the Authority have been satisfied.

“Monthly” means once each calendar month.

“Notice to Proceed” means the written communication issued by the District to the Contractor or CM at Risk authorizing him to proceed with the Owner-Contractor or Owner-CM at Risk contract and establishing the date for commencement of the contract time.

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“Owner’s Project Manager” shall mean the individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or other entity procured and assigned by the Authority and contracted by the District, in accordance with the procedures of the Authority’s “Science Lab Initiative and Accelerated Repair Program Owner’s Project Manager and Designer Assignment Procedure,” which are incorporated by reference herein, and all other applicable provisions of law to fully and completely manage and coordinate administration of the Project to completion. The Owner’s Project Manager must meet the qualifications set forth in M.G.L. c. 149, § 44A ½, 963 CMR 2.00 *et seq.*, and all applicable policies and guidelines of the Authority.

“Project” refers to a windows and doors replacement project at the Assawompset Elementary School located at 232 Main Street in Lakeville, Massachusetts, as it is more particularly described elsewhere in this Agreement, which is a (1) Capital Construction Project, (2) Major Reconstruction Project, or (3) School Project, each as defined in Chapter 70B, §2.

“Project Cash Flow” means a detailed accounting of the projected amount of funding being received and expended by the District during the course of the Project on a monthly basis, which is attached hereto as Exhibit “D”.

“Project Permits” means all permits, approvals, consents and licenses issued or granted by governmental authorities, necessary or appropriate to the construction, completion and occupancy of the Project.

“Project Schedule” means the schedule for the Project, including a detailed estimated timeline as described in 963 CMR 2.10(10), which is attached hereto as Exhibit “C”.

“Project Scope” means the scope of the Proposed Project that has been mutually agreed to by the Authority and the District and as is attached hereto as Exhibit “B”.

“Project Scope and Budget Conference” means the conference described in 963 CMR 2.10(9).

“Project Site” means the specific location of the Project as more fully described in Exhibit “E” attached hereto.

“Schematic Drawings and Plans” means, where applicable to the Project, preliminary floor plans identifying programmatic and other spaces, elevations, site plans, plot plans, topographical plans, plans showing the location of the Project in relationship to other schools in the district, engineering studies, and any other plans deemed necessary by the Authority.

“Subcontractor” means a person or entity that has a direct contract with the Contractor or CM at Risk to perform a portion of the work on the Project.

“Total Facilities Grant” means the Authority’s final, approved, total financial contribution to an Approved Project, which is calculated by the Authority pursuant to the provisions of Chapter 70B, Chapter 208 of the Acts of 2004, and 963 CMR 2.00 *et seq.*, and paid to the District pursuant to a schedule established by the Authority and subject to the terms and conditions of this Project Funding Agreement.

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“Estimated Maximum Total Facilities Grant” shall mean the estimated Total Facilities Grant amount, as set forth in the Total Project Budget (“Exhibit A”), which amount does not include reimbursement amounts for any potentially eligible costs within the owner’s contingency and construction contingency line items in the Total Project Budget (“Exhibit A”). The actual Total Facilities Grant for the Project may be an amount less than the Estimated Maximum Total Facilities Grant pursuant to the Authority’s regulations, policies, and guidelines and the provisions of this Agreement.

“Maximum Total Facilities Grant” shall mean the maximum Total Facilities Grant amount, as set forth in the Total Project Budget (“Exhibit A”), which the District may be eligible to receive for the Project, which amount shall not be exceeded under any circumstances. The Maximum Total Facilities Grant amount includes reimbursement amounts for any potentially eligible costs that may be expended from the owner’s contingency and the construction contingency line items in the Total Project Budget (“Exhibit A”) in accordance with the Authority’s regulations, policies, and guidelines and the provisions of this Agreement. The eligibility of any such costs for reimbursement shall be determined by the Authority within its sole discretion provided that the total amount of Project costs eligible for reimbursement, including any eligible costs expended from the owner’s contingency and construction contingency line items, shall not exceed the Maximum Total Facilities Grant amount under any circumstances. The actual Total Facilities Grant for the Project may be an amount less than the Maximum Total Facilities Grant pursuant to the Authority’s regulations, policies, and guidelines and the provisions of this Agreement.

“Total Project Budget” means a complete and full enumeration of all costs, including both hard costs and soft costs, so-called, that the District reasonably estimates, to the best of its knowledge and belief, has been or will be incurred in connection with the planning, design, construction, development, the mobilization of the operation, and the completion of the Project, approved by the Authority, which may be updated from time to time by mutual agreement of the Parties and which is attached hereto as Exhibit “A”.

“Vendor” means any person, entity, business, or service provider under contract or agreement with the District to provide goods or services to the District in connection with the Project.

SECTION 2 THE PROJECT AND THE TOTAL FACILITIES GRANT

2.1 As of the Effective Date and subject to the satisfaction of or compliance with, as reasonably determined by the Authority, (a) all of the terms and conditions of this Project Funding Agreement, (b) the applicable provisions of Chapter 70B, Chapters 208 and 210 of the Acts of 2004, and 963 CMR 2.00 *et seq.*, and (c) any other rule, regulation, policy, guideline, approval, or directive of the Authority, the Authority hereby approves the following Estimated Maximum Total Facilities Grant for the Project: an amount that, except as specifically provided in this Section 2.1, shall under no circumstances exceed the lesser of (i) fifty-three and fifty-three hundredths percent (53.53%) of the final approved, total eligible Project costs, as determined by the Authority, (“Reimbursement Rate”) or (ii) \$2,160,168.00 (“Estimated Maximum Total

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Facilities Grant"). Notwithstanding the foregoing, the Authority may determine, in its sole discretion, and subject to the limitations set forth in Section 2.3 of this Agreement, that expenditures from the owner's contingency and construction contingency line items of the Total Project Budget, so-called, are eligible for reimbursement, and in the event of any such determination, the Authority may adjust the above-stated Estimated Maximum Total Facilities Grant amount to account for the eligible, approved owner's and construction contingency expenditures up to a Maximum Total Facilities Grant of \$2,259,658.00. In no event shall the final, Maximum Total Facilities Grant, including any eligible owner's and construction contingency amounts, exceed \$2,259,658.00. The Parties hereby acknowledge and agree that the Estimated Maximum Total Facilities Grant and Maximum Total Facilities Grant amounts set forth in this Section 2.1, are maximum amounts of funding that the District may receive from the Authority for the Project, and that the final amount of the Total Facilities Grant may equal an amount less than \$2,160,168.00, as determined by an audit conducted by the Authority. Any costs and expenditures that are determined by the Authority to be either in excess of the above-stated Total Facilities Grant or ineligible for payment by the Authority shall be the sole responsibility of the District. The Parties hereby agree that costs incurred by the District in connection with the Project prior to the Effective Date may be eligible for reimbursement if the Authority determines in its sole discretion that such costs meet the Authority's eligibility requirements.

2.2 In the event that the Authority reasonably determines that the Project is not in accordance or compliance with the Project Scope, the Project Schedule, the Total Project Budget, the Construction Contract Documents, the Schematic Drawings and Plans, all of the covenants in Section 3 of this Project Funding Agreement, all other terms and conditions of this Project Funding Agreement, the provisions of Chapter 70B, Chapters 208 and 210 of the Acts of 2004, 963 CMR 2.00 *et seq.*, and any other applicable rule, regulation, policy, guideline, approval or directive of the Authority, including, but not limited to, the terms and conditions of the Accelerated Repair Program, including the Authority's "Sustainability Requirements for the Accelerated Repair Program," or is delayed (other than an Excusable Delay), then the Authority may temporarily and/or permanently withhold payments to the District for the Project, provided that the Authority shall not unreasonably withhold any such payments. In the event that the Authority either temporarily or permanently withholds payment for the Project, the District hereby agrees and acknowledges that the Authority shall have no liability for any such withholding of payment or any loss that may occur as a result of any such withholding of payment.

2.3 The Parties hereby acknowledge and agree that, in the event that the lowest, responsible bid accepted by the District for the construction of the Project is lower than the corresponding amount set forth in the Total Project Budget, the Authority shall reduce the Total Facilities Grant amount set forth in Section 2.1 of this Agreement accordingly. The Parties hereby further acknowledge and agree that, in the event that the lowest, responsible bid accepted by the District for the construction of the Project exceeds the corresponding amount set forth in the Total Project Budget, the Authority shall not make any adjustments to its Total Facilities Grant on account of the bid, and the increased costs shall be the sole responsibility of the District. The Parties hereby further acknowledge and agree that, in the event that the lowest responsible bid accepted by the District for construction of the Project exceeds the corresponding amount set forth in the Total Project Budget, the District may use a reasonable amount of the owner's and/or construction

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contingency to fund the cost of any such budget overrun; provided however, that expenditures of owner's and/or construction contingency funds for the purpose of funding such budget overruns shall not be eligible for reimbursement by the Authority and shall be the sole responsibility of the District.

2.4 The Reimbursement Rate for the Project is calculated as set forth in the reimbursement rate summary, attached hereto as **Exhibit "I"**, and shall be subject to the provisions of M.G.L. c. 70B, 963 CMR 2.00 *et seq.*, and the policies and guidelines of the Authority.

2.5 INTENTIONALLY LEFT BLANK

SECTION 3 COVENANTS

The District covenants and agrees that as long as this Project Funding Agreement is in effect, the District shall and shall cause its employees, agents, and representatives to perform and comply with the following covenants:

3.1 The District acknowledges and agrees that the Authority's grant program, established pursuant to Chapter 70B, Chapters 208 and 210 of the Acts of 2004, 963 CMR 2.00 *et seq.*, and any other applicable rule, regulation, policy or guideline of the Authority, is a non-entitlement, discretionary program based on need and the District shall not be entitled to any funds from the Authority except as provided in this Project Funding Agreement.

3.2 The District shall and shall cause its employees to comply with all provisions of this Project Funding Agreement all other agreements related to the Project that have been referenced herein or otherwise approved in writing by the Authority and all provisions of law that are applicable to the Project and this Project Funding Agreement and the District shall take all action necessary to fulfill its obligations under this Project Funding Agreement and under all other agreements related to the Project that have been referenced herein or otherwise approved by the Authority.

3.3 The District hereby agrees that it shall submit all Project information, including but not limited to, Total Project Budget information, plans, specifications, Project Schedules, and Project progress reports, and any additional information that may be requested by the Authority, to the Authority in a timely manner in a form satisfactory to the Authority.

3.4 The District hereby agrees that it shall use its best efforts and resources to diligently satisfy and complete each of the terms and conditions of this Project Funding Agreement as promptly as possible.

3.5 The District hereby acknowledges and agrees that all costs related to the Project, including the costs identified in the Total Project Budget and costs of the items appearing in the Project Scope, shall be subject to review and audit by the Authority, and the Authority shall determine, in its sole discretion, whether such costs are eligible for reimbursement pursuant to the Authority's regulations, policies and guidelines. There may be Project costs, in addition to

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the items specifically identified as ineligible in the Total Project Budget and/or the Project Scope that are ineligible for reimbursement according to such regulations, policies, and guidelines. The District hereby further acknowledges and agrees that certain costs incurred by the District in connection with the Project shall not be eligible for reimbursement by the Authority, pursuant to 963 CMR 2.10 & 2.16(5) and any other rules, regulations, policies, and guidelines of the Authority, including, but not limited to, the following:

- (a.) Financing and Interest Costs. The District hereby acknowledges and agrees that any financing costs incurred by the District, including, but not limited to, interest, principal, costs of issuance, and any other cost related to short or long term bonds, notes, or other certificates of indebtedness, refunding notes or bonds, temporary loans, or any other form of indebtedness issued by the District in relation to an Approved Project and all costs associated with credit rating services, legal services related to the issuance of any indebtedness, and financial consulting services shall not be eligible for reimbursement by the Authority.
- (b.) Legal Fees and Costs. The District hereby acknowledges and agrees that the cost of legal services, including, but not limited to, bond counsel fees, attorney's fees, arbitration or mediation fees, filing fees, and any other legal fees, costs, or expenses incurred by the District in connection with the Project shall not be eligible for reimbursement by the Authority.
- (c.) All other costs identified in 963 CMR 2.16(5).

All project costs and Project Scope items are subject to review and audit by the Authority, and whether a project cost is eligible for reimbursement shall be determined by the Authority, in its sole discretion, during the Authority's audit of the Project.

3.6 The District hereby acknowledges and agrees that the Authority's Total Facilities Grant is subject to the District's adherence to and maintenance of the Project Scope, Project Schedule, and Total Project Budget, and the District shall not make any changes, additions, or reductions to the Project Scope, Project Schedule, or Total Project Budget without the prior written approval of the Authority. Any increases to the Total Project Budget as set forth in Exhibit A as of the Effective Date, shall not result in any changes to the amount of the Total Facilities Grant set forth in Section 2.1 of this Project Funding Agreement.

3.7 The District hereby acknowledges and agrees that the Authority shall not provide any funding for the Project in excess of the amount of the Total Facilities Grant described in Section 2 of this Agreement.

3.8 The District hereby acknowledges and agrees that the Authority shall not be required or obligated to make any payment of the Total Facilities Grant for eligible Project costs while an Event of Default, as defined in Section 22, shall have occurred.

3.9 The District hereby acknowledges and agrees that it shall provide the Authority with an updated Total Project Budget on a Monthly basis that shall include, but not necessarily be limited to, the following: (a) the projected total Project costs, (b) actual expenditures to date, (c)

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estimated remaining expenditures for the Project, (d) a detailed explanation of all variances from Total Project Budgets previously submitted to the Authority, (e) all sources and amounts of funding, and (f) an updated Project Schedule.

3.10 The District hereby agrees that, in order to demonstrate that adequate funding for the Project is available, it shall provide the Authority with financial statements, details relating to the financial condition of the District, an updated Project Cash Flow projection on a Monthly basis, in a suitable format acceptable to the Authority, to demonstrate that adequate funding for the Project is available.

3.11 The District hereby agrees that the Project shall meet the Authority's Sustainability Requirements for the Accelerated Repair Program, which are incorporated by reference herein, and the District further agrees that the Project shall produce measurable energy savings and shall incorporate sustainable maintenance practices.

3.12 The District hereby agrees that it shall use its best efforts and resources to secure additional energy conservation resources from other sources, including utility conservation programs, and shall allocate savings from reduced energy consumption to improved routine and capital maintenance practices.

3.13 The District hereby acknowledges and agrees that, in the event that it receives, has received, or is eligible to receive any insurance proceeds, damages, awards, payments, rebates, grants, or donations from any third party or funding source, other than the Authority, for or in connection with the Project, all such amounts shall be disclosed to the Authority in writing and shall be deducted from the total amount of eligible project costs (also known as Basis of Total Facilities Grant), as determined by the Authority, and the remaining amount of eligible costs shall be apportioned according to the District's reimbursement rate to calculate the maximum Total Facilities Grant.

3.14 The District shall use the Authority's Contract for Project Management Services and, Contract for Designer Services, as they have been revised by the Authority specifically for the Accelerated Repair Program, and any other standard contracts, contract provisions, guidelines, procurement documents, requests for services, and forms prescribed by, or otherwise acceptable to, the Authority to procure and hire any Owner's Project Manager, Designer, Contractor, professionals, or Consultants in connection with the Project.

3.15 During the course of the Project, the District shall investigate and review, and shall require the Owner's Project Manager and the Designer to investigate and review the progress and quality and construction of the Project. The District shall undertake all reasonable efforts designed to ensure that the Contractor, Subcontractors, and all Vendors expeditiously and diligently construct, equip and complete the Project in a good and workmanlike manner.

3.16 The District hereby acknowledges and agrees that it shall keep all records related to the Project including, but not limited to, those records described in 963 CMR 2.16(4), for as long as the Assisted Facility is in service as a public school or remains under the ownership or control of the District. The District shall and shall cause its employees, agents, representatives, and its

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Owner's Project Manager, Designer, Contractor, and Vendors to keep adequate records of the Project and shall make all Project records and the Project Site available to the Authority, representatives of the Authority, and the Authority's Commissioning Consultant.

3.17 The District shall neither change nor permit a change of the Designer or any of its key personnel or sub-consultants without the prior written approval of the Authority in accordance with the provisions of 963 CMR 2.12 and the Authority's requirements for the "Science Lab Initiative and Accelerated Repair Program Owner's Project Manager and Designer Assignment Procedure." If there is any change or proposed change in the Designer or any of its key personnel or subconsultants, the District shall give a written notice to the Authority that shall include a statement of reasons for the change or proposed change and an explanation of the impact of the change or proposed change on the Project. If the Authority determines, in its sole discretion, that a change of the Designer is necessary, the Authority shall assign a new Designer from the Authority's pre-selected pool of Designers for the Accelerated Repair Program in accordance with the procedures described in the Authority's "Science Lab Initiative and Accelerated Repair Program Owner's Project Manager and Designer Assignment Procedure." The District shall not contract with any new Designer other than a Designer assigned by the Authority to the Project. The District shall also use the Authority's standard Contract for Designer Services as it has been specifically revised by the Authority for the Accelerated Repair Program.

3.18 The District shall not change the Contractor without first giving prior written notice to the Authority of the District's intent to make such a change in accordance with the provisions of 963 CMR 2.12. As part of its written notice to the Authority, the District shall provide a statement of reasons for the proposed change and an explanation of the impact of the change on the Project. The District shall comply with all applicable provisions of law in selecting or otherwise allowing a new Contractor to take over the Project and the District shall provide written notice to the Authority identifying the new Contractor and describing the process by which the new Contractor was selected for or otherwise took over the Project.

3.19 By no later than ten (10) days after the Effective Date, the District shall certify to the Authority in writing that it has delivered this Project Funding Agreement to the Designer, Owner's Project Manager, and Contractor hired, or otherwise assigned to the Project, by the Authority and/or the District and shall provide the Authority with copies of the transmittal letters and any documents evidencing such delivery. In the event that the Owner's Project Manager, Designer, or Contractor is assigned by the Authority or hired by the District after the Effective Date, the District shall deliver this Project Funding Agreement to said Owner's Project Manager, Designer, or Contractor within ten (10) days after the effective date of hire or assignment.

3.20 With respect to all actions taken in relation to the Project, the District and all of its officers, agents and employees shall observe and obey, and shall include language in all of its contracts with the Owner's Project Manager, Designer, Contractor, and all Vendors requiring them to observe and obey all federal, state and local laws, regulations, ordinances, codes, statutes, orders, and directives and any other applicable provisions of law.

3.21 The District shall require the Contractor to indemnify the Authority and comply with the indemnification requirements set forth in Section 16 of this Project Funding Agreement. Within

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sixty (60) days after the Effective Date, the District shall provide the Authority with written documentation evidencing such indemnification of the Authority, unless otherwise agreed in writing by the Authority. In the event that the Contractor is hired or assigned by the District after the Effective Date, the District shall provide such written documentation evidencing such indemnification within ten (10) days after the effective date of hire or assignment. In the event that the District does not obtain indemnification of the Authority from the Contractor within these deadlines, the Authority may terminate this Project Funding Agreement.

3.22 The District shall furnish to the Authority such further affidavits, certificates, opinions of counsel, surveys and other documents and instruments as may be required by the Authority to ensure that the terms of this Project Funding Agreement are being observed and performed in all respects, and that the Project is progressing satisfactorily as planned in strict compliance with all applicable federal, state, and local laws, regulations, ordinances, codes, statutes, orders, and directives and any other applicable provisions of law.

3.23 During the course of the Project, the District shall submit to the Authority a list of all proposed changes (in the form of a Potential Change Order log, so-called) and all actual changes, amendments, addenda to the Construction Contract Documents, the Owner-Designer contract, and the Owner-OPM contract. The District shall submit all executed change orders, extra work orders, or modifications to the Project to the Authority for the Authority to consider whether the costs associated with such change orders, extra work orders, or modifications are eligible for reimbursement by the Authority pursuant to this Project Funding Agreement. The District hereby acknowledges and agrees that the Authority's review of the proposed change orders, change orders, and amendments shall be limited to whether the change order or amendment may be eligible for reimbursement pursuant to this Agreement and the Authority's regulations, policies, and guidelines. The District must independently determine whether the proposed change order or amendment is reasonable and necessary for the Project. Nothing stated herein shall relieve the District of its obligation to comply with all applicable law related to the processing of change orders and amendments by the District.

3.24 The District shall undertake all reasonable efforts to ensure that the Contractor and Subcontractors obtain all Project Permits and shall certify to the Authority in writing that the Contractor and Subcontractors have obtained such Project Permits within fifteen (15) days after the Project Permits have been obtained. With respect to any of the Project Permits that are required by law to be recorded or filed with any government office, the same shall be duly recorded and filed in accordance with all applicable requirements. The Authority shall have the right to request copies of Project Permits at any time, and the District shall make available any Project Permits requested by the Authority.

3.25 Prior to receiving final payment from the Authority, the District shall have obtained all required inspections and approvals of the Project that are required by law or otherwise required by the Authority.

3.26 The District hereby acknowledges and agrees that the Authority may engage an independent party, not affiliated or associated with the Owner's Project Manager, Designer, or Contractor, to provide commissioning services with the intent of achieving, verifying and

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documenting the performance of building systems in accordance with the design intent and the functional and operational needs of the District (hereinafter "Commissioning Consultant"). The District agrees that it shall fully cooperate with and accommodate the commissioning efforts undertaken by the Authority and the Commissioning Consultant and shall require the Owner's Project Manager, Designer, and Contractor to provide the same level of cooperation and accommodation. The District further agrees to allow adequate time within its Project Schedule to allow the Authority's Commissioning Consultant to perform its work, and the Authority shall not be responsible for any delays that may result from the Commissioning Consultant's work.

3.27 Within ninety (90) days after the District approves final payment to the Contractor for the Project, or provides such other appropriate documentation, as reasonably determined by the Authority, indicating that the construction of the Project is one hundred percent (100%) complete, the District shall submit to the Authority a Final Request and Certificate for Reimbursement and an accounting of the total final Project costs in a form prescribed by or otherwise acceptable to the Authority.

3.28 The District hereby agrees that, upon completion of the Project, the Assisted Facility shall have an anticipated useful life of at least 50 years as a public school or that the Project will materially extend the useful life of the School and preserve an asset that otherwise is capable of supporting the required Educational Program.

3.29 The District hereby acknowledges and agrees that neither the District nor any of its employees, officials or agents shall submit any false or intentionally misleading information or documentation to the Authority in connection with this Project Funding Agreement, and further acknowledges and agrees that the submission of any such information or documentation shall be a material breach of this Project Funding Agreement and shall be cause for the Authority to revoke any and all payments otherwise due to the District, to recover any previous payments made to the District, and/or make the District ineligible for any further funding from the Authority. The District hereby further agrees that it shall have a continuing obligation to update and notify the Authority in writing when it knows or has any reason to know that any information or documentation submitted to the Authority contains false, misleading or incorrect information.

3.30 The District hereby acknowledges and agrees that the Authority shall bear no responsibility, cost or liability for the results of any study, environmental assessment, geotechnical site testing, including but not limited to, site remediation, clean-up, or other site remediation services.

3.31 The District hereby acknowledges and agrees that the requirements set forth in the Agreement are intended solely for the benefit and protection of the Authority as the grantor of Project funding. Nothing herein shall be construed as advice to, nor create a duty to provide advice to, the District regarding legal or contractual requirements or best practices for the Project. It is solely the obligation of the District to determine and comply with all legal requirements applicable to the Project and to determine and enforce any necessary contractual requirements and obligations of its Designer, Owner's Project Manager, and Contractor.

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3.32 The District shall not issue the Notice to Proceed prior to the Effective Date unless otherwise agreed to in writing by the Authority.

3.33 The District shall use its best efforts to monitor the performance of the Owner's Project Manager, Designer, Contractor, and Vendors and shall use its best efforts to enforce the provisions of the District's contracts with each of them.

3.34 The District shall not combine, consolidate, or conjoin in any way the procurement, pre-qualification or selection of a Contractor, Subcontractor, consultant, or vendor for the Project with the procurement, pre-qualification or selection of a Contractor, Subcontractor, consultant or vendor for any other construction, repair or renovation project without the express prior written approval of a duly authorized representative of the Authority. Any costs incurred by the District that relate to, or arise out of, the use of a combined, consolidated or conjoined procurement, pre-qualification or selection process as proscribed above, including, but not limited to, the preparation of bid documents, requests for services, and requests for qualifications, without the express prior written approval of a duly authorized representative of the Authority shall not be eligible for reimbursement.

3.35 Specifications for Construction Contract Documents shall comply with, among other things, the provisions of G.L. c. 30, §39M(b). If the District intends to include specifications that are written for less than full competition for one or more items of material furnished under the Construction Contract Documents (so-called "proprietary specifications") as described in G.L. c. 30, §39M(b), the District shall provide to the Designer for inclusion with the Designer's Construction Documents submittals to the Authority the supporting documentation required by G.L. c. 30, §39M(b). Upon request by the Authority, the District shall submit to the Authority all documentation required by G.L. c. 30, §39M(b) and any additional documentation or certifications that the Authority may require. If the District fails to comply with the provisions of G.L. c. 30, §39M(b) or this paragraph, the Authority may deem ineligible some or all of the costs related to such proprietary specifications.

SECTION 4

REPRESENTATIONS AND WARRANTIES

The District and the undersigned, for themselves and for the District, hereby warrant and represent that each of the following statements is true, correct and complete:

4.1 The District is validly organized and existing under and by virtue of the laws of the Commonwealth, has full power and control over its properties pursuant to a lease agreement with the Town of Lakeville, and carry on its business as now conducted, and has full power and authority to execute, deliver and perform its obligations under this Project Funding Agreement.

4.2 The District is duly authorized and has taken all necessary steps to authorize the execution and delivery of this Project Funding Agreement and to perform and consummate all transactions contemplated by this Project Funding Agreement. The undersigned have been duly authorized in accordance with law to execute and deliver this Project Funding Agreement on behalf of the District. This Project Funding Agreement and its execution by the undersigned does not and will

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not, to any material extent, conflict with or result in the violation of any charter, by-law, ordinance, order, rule, regulation, statute or any other applicable provision of law or any order, rule, regulation or judgment of any court or other agency of government.

4.3 The District has all requisite legal power and authority to own, or to control in accordance with the provisions of 963 CMR 2.05(1), and to operate the Assisted Facility and Project Site for the useful life of the Assisted Facility.

4.4 The District holds fee simple title, or, in the alternative, a lease in accordance with the provisions of 963 CMR 2.05(1), to the Assisted Facility and the Project Site and any easements and rights-of-way, necessary to ensure the undisturbed use and possession of the Assisted Facility and Project Site.

4.5 No information furnished by or on behalf of the District to the Authority in this Project Funding Agreement, including all Exhibits attached hereto, the Feasibility Study Agreement, the Initial Compliance Certification, or any other document, certificate or written statement furnished to the Authority in connection with the Statement of Interest or Project contains any untrue statement of a material fact or omits any material fact necessary to make the statements contained in this Agreement or in the aforementioned documents not misleading in light of the circumstances in which the same were made.

4.6 The District has duly obtained all necessary votes, resolutions, appropriations, and local approvals for the Project, in accordance with formats prescribed by or otherwise acceptable to the Authority, and has taken all actions necessary or required by law to enable it to enter into this Project Funding Agreement and to fund and perform its obligations hereunder in accordance with the Authority's policies and standards. This Project Funding Agreement constitutes a valid and binding obligation of the District, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization or other laws heretofore or hereafter enacted and general equity principles.

4.7 The District has read and fully understands, and shall remain in compliance with Chapter 70B; Chapter 208 and 210 of the Acts of 2004; 963 CMR 2.00 *et seq.*, and all other applicable rules, regulations, policies, guidelines approvals, directives, and procedures of the Authority.

4.9 The District has read and fully understands the provisions of 963 CMR 2.04 and warrants and represents that the Project has been designed and constructed in accordance with the requirements and standards set forth in 963 CMR 2.04.

4.10 The District has read and fully understands the provisions of 963 CMR 2.16 and understands that certain costs and expenses incurred by the District in connection with the Project shall not be eligible for reimbursement by the Authority, including, but not limited to, those items listed in 963 CMR 2.16.

4.11 The District has read and fully understands the provisions of 963 CMR 2.16(4) and has a record keeping system in place to file, track, and retain all records related to the Project for as

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long as the Assisted Facility is in service as a public school or remains under the ownership of the District.

4.12 The Project has successfully undergone review, or shall have successfully undergone review prior to the solicitation of construction bids, by any departments or agencies of the Commonwealth required by law to review such projects, including, but not limited to, the Massachusetts Historical Commission, the Massachusetts Commission Against Discrimination, the Secretary of Environmental Affairs, and the Architectural Access Board in accordance with all applicable laws and regulations and the District has provided, or shall have provided prior to the solicitation of construction bids, any written documentation evidencing such reviews to the Authority.

4.13 No litigation before or by any court, public board or body is pending against either the District or the Authority seeking to restrain or enjoin the execution and delivery of this Project Funding Agreement or the construction or operation of the Project, or contesting or affecting the validity of this Project Funding Agreement or the power of the District to pay its share of the Project.

4.14 The District has read and fully understands the provisions of the Massachusetts Conflict of Interest law, M.G.L. c. 268A, and has implemented policies and procedures to ensure that all District employees, agents, consultants and representatives and the Owner's Project Manager, Designer, Contractor and Vendors working on or for the Project are in compliance with M.G.L. c. 268A to the extent that it is applicable.

4.15 The District meets all of the applicable requirements of M.G.L. c. 7C, § 44; c. 30 (sections 39F, 39J, 39K, 39N, 39O, 39P and 39R); c. 70B; c. 149; chapter 193 of the Acts of 2004; 963 CMR 2.00 *et seq.*; and all other applicable provisions of federal, state, and local law, and has implemented policies and procedures to ensure that all District employees, agents, consultants and representatives and the Owner's Project Manager, Designer, Contractor, and Vendors working on or for the Project are in compliance with the applicable requirements of M.G.L. c. 7C, § 44; c. 30 (sections 39F, 39J, 39K, 39N, 39O, 39P and 39R); c. 70B; c. 149; chapter 193 of the Acts of 2004; 963 CMR 2.00 *et seq.*; and all other applicable provisions of federal, state, and local law.

4.16 The District has implemented policies and procedures to prevent and eliminate fraud, waste and abuse of public funds in connection with the Project.

4.17 The District has submitted all audit materials requested by the Authority in connection with any project for which the District has received or anticipates receiving funding from the Authority.

4.18 The District has submitted to the Authority a completed electronic payments form, as prescribed by the Authority and attached hereto as Exhibit "J", in accordance with the instructions stated on the form.

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4.19 In each fiscal year since fiscal year 1999, the District has spent at least 50% of the sum of the District's calculated foundation budget amounts for the purposes of foundation utility and ordinary maintenance expenses and extraordinary maintenance allotment as defined in M.G.L. c. 70 for those purposes.

4.20 All meetings of all public bodies in the District that relate in any way to the Project, including, but not limited to, the meetings of the District's school building committee, have been conducted, and shall be conducted, in compliance with the provisions of G.L. c. 30A, §§ 18 – 25, 940 CMR 29.00 *et seq.*, and all other applicable law.

4.21 The District shall work with its local counsel to ensure that any contracts related to the Project, to which the District is a party, meet the applicable requirements of M.G.L. c. 149, § 44A (2)(g), and contain workforce participation goals for minorities and women, and include the processes and procedures to ensure compliance with the workforce participation goals, including reporting and enforcement provisions.

The District shall work with its local counsel to ensure that any contracts related to the Project, to which the District is a party, meet the applicable requirements of M.G.L. c. 7C, §6 and M.G.L. c. 7, §61, and contain Annual Program Goals for Minority Business Enterprise ("MBE") and Women Business Enterprise ("WBE") Participation, and include the processes and procedures to ensure compliance with the Minority and Women Business Goals, including reporting and enforcement provisions.

SECTION 5 DISBURSEMENT OF TOTAL FACILITIES GRANT

Subject to the terms and conditions of this Project Funding Agreement, the Authority shall disburse Total Facilities Grant funds to the District in accordance with and subject to the following:

5.1 (a.) Using the Authority's Pro-Pay system, the District shall submit requests for reimbursement to the Authority on a Monthly basis in a format and manner prescribed by the Authority, including but not limited to evidence of an agreement between the District and the Town of Lakeville relative to the transfer of reimbursement funds to the Town of Lakeville from the District; provided, however, that the District shall not make any requests for reimbursement that total less than \$50,000. If the total value of a request for reimbursement is less than \$50,000, the District shall hold that request until such time as it can meet the \$50,000 threshold. Each request for reimbursement shall be approved locally by a duly authorized representative of the District, shall be in a form prescribed by or otherwise acceptable to the Authority, and shall include, in reasonable detail: (1) the amount of reimbursement requested, (2) the nature of the materials, property, or services received, (3) the total value of the work performed and materials furnished by each of the Designer, Contractor, Owner's Project Manager, and each Vendor to date, (4) the value of the work completed during the reimbursement period, and (5) the percentage of completion to date for each line item of work.

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(b.) Each request for reimbursement submitted by the District shall be accompanied by (1) the invoices for each of the amounts requisitioned, (2) proof of payment by the District, and (3) any other supporting documentation and information substantiating the District's request for reimbursement, as the Authority may request, in a form satisfactory to the Authority.

(c.) Each request for reimbursement shall include a written certification signed by a duly authorized representative of the District stating that: (1) such request for reimbursement is solely for costs incurred by the District in connection with the Project, (2) the obligations itemized in the request for reimbursement have not been the basis for a prior request for reimbursement submitted by the District that has been paid or rejected by the Authority, unless otherwise directed by the Authority, (3) the request for reimbursement is for work actually and properly performed or for materials or property properly identified in the request for reimbursement as not incorporated in the work but delivered and suitably stored at the Project Site, (4) the request for reimbursement properly identifies materials or property approved for payment by the District as stored off the Project Site, with all costs of storage, insurance, perpetual inventory, monthly inspection and any maintenance requirement borne by the Contractor, and that the District has received the necessary proof of insurance and titles to the materials or property prior to payment to the Contractor, (5) the District has not received and is not expecting to receive any rebates, monetary settlements, grants, monetary donations, surety bond payments, insurance proceeds, or any other funding from a third party, other than the Authority, in connection with the Project that is the subject of the request for reimbursement, (6) the request for reimbursement is for costs that already have been duly paid by the District, and (7) the request for reimbursement is within the Total Project Budget approved by the Authority.

(d.) After receipt from the District of a timely and properly submitted request for reimbursement, the Authority shall make a reasonable effort to reimburse the District for the Authority's share of eligible Project costs, subject to the terms and conditions of this Project Funding Agreement within 15 days of receiving such request for reimbursement. The District hereby acknowledges and agrees that the amount of eligible Project costs reimbursed by the Authority may be subject to change depending on the results of an audit conducted by the Authority pursuant to Sections 5 and 6 of this Project Funding Agreement.

5.2 The Authority may review and perform a preliminary audit on each request for reimbursement submitted pursuant to this Section 5 to ensure that only eligible, approved costs of the Project are reimbursed by the Authority. In the event that the Authority determines that an item contained in a request for reimbursement submitted by the District is not eligible for reimbursement by the Authority, the Authority shall adjust a pending or a subsequent reimbursement to the District to account for the ineligible costs. The District hereby acknowledges and agrees that each audit conducted pursuant to this Section 5 is preliminary, and the Authority may further adjust and alter the results of a preliminary audit after conducting subsequent audits or the final project cost audit of the Project pursuant to Section 6 of this Project Funding Agreement.

5.3 Notwithstanding any other provisions of this Project Funding Agreement to the contrary, in no event shall disbursements of the Total Facilities Grant by the Authority exceed, in the aggregate, ninety-five percent (95%) of the Total Facilities Grant described in Section 2 of this

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Project Funding Agreement, unless the District has filed a Final Request and Certificate for Reimbursement and the Authority has completed a final project cost audit of the Project pursuant to Section 6 of this Project Funding Agreement.

SECTION 6 FINAL PROJECT COST AUDIT

6.1 Upon the filing of a Final Request and Certificate for Reimbursement with the Authority or at a time determined by the Authority, the Authority shall conduct a final, close-out project cost audit of the Project, including a review of all requests for reimbursement and other documentation submitted to the Authority during the course of the Project, any other documents or materials that the Authority may request, and an inspection of the Project, to determine the final Total Facilities Grant. The District hereby agrees and acknowledges that the Contractor's, Owner's Project Manager's and Designer's records shall be subject to audit by the Authority and such records shall include, but not be limited to, to the extent applicable, accounting records, written policies and procedures, Subcontractor files (including proposals of successful and unsuccessful bidders, bid tabulations, etc.), original estimates, estimating work sheets, correspondence, change order files (including documentation covering negotiated settlements), backcharge logs and supporting documentation, general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends, and any other Contractor records which may have a bearing on matters of interest to the Authority in connection with the Contractor's work for the District. All of the foregoing shall be open to inspection and subject to audit and/or reproduction by the Authority and/or its agent and/or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) Contractor compliance with all requirements of the Construction Contract Documents, and (b) compliance with provisions for pricing change orders, invoices or claims submitted by the Contractor or any of his payees.

6.2 Other specific records subject to audit by the Authority shall include all information, materials and data of every kind and character such as documents, subscriptions, recordings, computerized information, agreements, purchase orders, leases, contracts, commitments, arrangements, correspondence, electronic mail, invoices, notes, daily diaries, photographs, videos, meeting minutes, field reports, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information that may in the Authority's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any District documents, Designer documents, Owner's Project Manager documents, Vendor documents or Construction Contract Documents. Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with the Project. In those situations where said records have been generated from computerized data (whether mainframe, mini-computer, PC based or other computer systems), the District agrees to provide the Authority with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange formats.

6.3 Upon satisfactory completion of the final project cost audit, as reasonably determined by the Authority, the Authority shall send an audit report and acceptance form and release to the District and, subject to the execution of the acceptance form and release by the District, make a

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final payment of the Total Facilities Grant to the District, less all adjustments for ineligible Project costs and any other adjustments that the Authority reasonably determines as necessary.

6.4 Notwithstanding any provisions in this Project Funding Agreement to the contrary, the ninetieth (90th) day after the District approves final payment to the Contractor for the Project or the ninetieth (90th) day after the District provides sufficient documentation, as reasonably determined by the Authority, indicating that the construction of the Project is approximately one-hundred percent (100%) complete or such other time, as the Authority may determine in its sole discretion, shall be the final cut-off date for incurring Project costs that may be eligible for reimbursement by the Authority.

SECTION 7 OWNER'S PROJECT MANAGER

7.1 The District shall neither change nor permit a change of the Owner's Project Manager or any of its key personnel or sub-consultants without the prior written approval of the Authority in accordance with 963 CMR 2.11 and the Authority's requirements for the "Science Lab Initiative and Accelerated Repair Program Owner's Project Manager and Designer Assignment Procedure." If there is any change or proposed change in the Owner's Project Manager or any of its key personnel or subconsultants, the District shall give a written notice to the Authority that shall include a statement of reasons for the change or the proposed change and an explanation of the impact of the change or the proposed change on the Project. If the Authority determines, in its sole discretion, that a change of the Owner's Project Manager is necessary, the Authority shall assign a new Owner's Project Manager from the Authority's pre-selected pool of Owner's Project Managers for the Accelerated Repair Program in accordance with the procedures described in "Science Lab Initiative and Accelerated Repair Program Owner's Project Manager and Designer Assignment Procedure." The District shall not contract with any new Owner's Project Manager other than an Owner's Project Manager assigned by the Authority to the Project. The District shall also use the Authority's standard Contract for Project Management Services as it has been specifically revised by the Authority for the Accelerated Repair Program.

7.2 The District shall make all reasonable efforts to ensure that the Owner's Project Manager complies with all provisions of any contract between the District and the Owner's Project Manager and shall use its best efforts to enforce its rights thereunder.

7.3 If the Authority determines (1) that the Owner's Project Manager is not performing its obligations in accordance with the provisions of the Owner-Owner's Project Manager contract, Chapter 70B, Chapters 208 and 210 of the Acts of 2004, 963 CMR 2.00 *et seq* and any policies, approvals, directives and guidelines of the Authority, or (2) that the District, knowing or having reason to know that the Owner's Project Manager is not performing its obligations in accordance with the provisions of the Owner-Owner's Project Manager contract, Chapter 70B, Chapters 208 and 210 of the Acts of 2004, 963 CMR 2.00 *et seq.*, and any policies, approvals, directives and guidelines of the Authority, has failed to use its best efforts to enforce its rights under the Owner-Owner's Project Manager Contract, or (3) if the District fails to perform its obligations under any provisions of this Project Funding Agreement that relate to services of the Owner's Project Manager, the Authority reserves the right to withhold payments to the District, to recoup

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payments already made to the District, and/or to set off against payments due to the District, any otherwise eligible costs, as determined by the Authority, that relate to reimbursement to the District for Owner's Project Manager services.

7.4 The District hereby agrees that the Authority shall have free access to, and open communication with, any Owner's Project Manager assigned to the Project by the Authority and contracted by the District and that the Authority shall have full and complete access to all information and documentation relating to the Project to the same extent that the District has such access. The District agrees that it shall require any such Owner's Project Manager to fully cooperate with the Authority in all matters related to the Project; to promptly communicate, transmit, and/or make available for inspection and copying any and all information and documentation requested by the Authority; to fully, accurately and promptly complete all forms and writings requested by the Authority; and to give complete, accurate, and prompt responses to any and all questions, inquiries and requests for information posed by the Authority. The District agrees that it shall not in any way, directly or indirectly, limit, obstruct, censor, hinder or otherwise interfere with the free flow of communication and information between the Owner's Project Manager and the Authority in all matters related to the Project and as provided herein; that it shall not suffer the same to occur by the act or omission of any other person or entity; and that it shall not retaliate against the Owner's Project Manager for communicating information to the Authority as provided herein. The District agrees to execute, deliver and/or communicate to the Owner's Project Manager any and all authorizations, approvals, waivers, agreements, directives, and actions that are necessary to fulfill its obligations under this paragraph. The District further agrees that the Authority shall bear no liability whatsoever arising out of the Authority's knowledge or receipt of information communicated to the Authority by the Owner's Project Manager and that the District shall remain responsible for the management and completion of the Project.

SECTION 8

DUTY TO BUILD, MAINTAIN AND OPERATE

8.1 The District hereby acknowledges and agrees that, in the event that the District does not complete the Project or otherwise fails to operate and maintain the Assisted Facility as a public school in substantial compliance with the District's educational program and in accordance with the provisions of this Project Funding Agreement, Chapter 70B, Chapter 208 and 210 of the Acts of 2004, 963 CMR 2.00 *et seq.* and any rules, regulations, policies, and guidelines of the Authority, the District shall reimburse the Authority the full amount of any and all funds received from the Authority in connection with the Project.

8.2 The District shall maintain the Assisted Facility as a public school in substantial compliance with the District's educational program and in accordance with the provisions of this Project Funding Agreement, Chapter 70B, 963 CMR 2.00 *et seq.*, Chapter 208 and 210 of the Acts of 2004, and any rules, regulations, policies, and guidelines of the Authority, unless otherwise agreed to in writing by the Authority. In the event that the District knows or has reason to know that the Assisted Facility is no longer operated and maintained as a public school in substantial compliance with the District's educational program and in accordance with the provisions of this Project Funding Agreement, Chapter 70B, 963 CMR 2.00 *et seq.*, Chapter 208

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and 210 of the Acts of 2004, and any rules, regulations, policies and guidelines of the Authority, the District shall give written notice thereof to the Authority.

8.3 The District shall maintain the Assisted Facility in a good, safe, and habitable condition in all respects and in full compliance with all applicable laws, by-laws, ordinances, codes, covenants, and rules and regulations set forth by any government authority with jurisdiction over matters concerning the condition and the use of the Assisted Facility.

SECTION 9 INSURANCE

9.1 The District shall obtain and maintain all insurance required by law and such other insurance in such types and in such amounts as the Authority may require from time to time.

9.1.1 During the course of the Project, the District shall purchase and maintain, or shall cause the Contractor to purchase and maintain, at their own expense, coverage against loss or damage to the Project in an amount equivalent to the Total Project Budget at the sole expense of the District, Contractor, as the case may be. Such coverage shall be written on an "all risks" basis or equivalent form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and theft, vandalism, malicious mischief, terrorism, collapse, earthquake, flood (if the Project is not in an "A" or "V" flood zone), windstorm, falsework, testing and startup, and debris removal including demolition occasioned by enforcement of any applicable legal requirements. The limits for earthquake and flood shall be the lesser of the Total Project Budget or \$10,000,000. The policy shall include transportation and coverage for delivered and/or stored materials designated to be incorporated into the Project. The policy shall include the Authority as a loss payee as its interests may appear. Coverage shall be maintained until final acceptance of the Project by the District and final payment has been made. The District (or Contractor, if coverage is purchased by Contractor) is responsible for the payment of any and all deductibles, self-insured retentions or any portion thereof under the policy.

9.1.2 Following completion of the Project, the District shall, at its sole expense, purchase and maintain coverage against loss or damage to the Assisted Facility in an amount equivalent to the estimated full replacement cost of the Assisted Facility. Such coverage shall be written on an "all risks" basis or equivalent form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and theft, vandalism, malicious mischief, terrorism, collapse, earthquake, flood (if the Project is not in an "A" or "V" flood zone), windstorm, falsework, mechanical and electrical breakdown, and boiler and machinery accidents, and debris removal including demolition occasioned by enforcement of any applicable legal requirements. The limits for earthquake and flood shall be the lesser of the estimated full replacement cost of the Assisted Facility or \$10,000,000. The policy shall include the Authority as a loss payee as its interests

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may appear. The District is responsible for the payment of any and all deductibles, self-insured retentions or any portion thereof under the policy.

9.1.3 The District shall include the Authority as an additional insured in any commercial general liability policy held by the District for liability arising out of the Project.

9.1.4 The Authority shall not be responsible for the payment of deductibles, self-insured retentions, or any portion thereof.

9.1.5 Upon request by the Authority, the District shall obtain and provide to the Authority originals of certificates of insurance evidencing the insurance coverage required by this section of the Project Funding Agreement.

9.2 The District shall require by contractual obligation, and shall also ensure by the exercise of due diligence, that each of any Owner's Project Manager, Designer, Contractor, or Vendor hired by the District in connection with the Project obtain and maintain all insurance coverage required by law and such other insurance coverage in such types and amounts as the Authority may require from time to time, including the insurance coverage required by this Project Funding Agreement and by any standard contracts that are prescribed by the Authority and executed by the District, including, but not limited to, the Authority's standard contract for Project Management Services and standard contract for Designer Services, as they have been specifically revised for the Accelerated Repair Program. The insurance required by this Section shall be provided at the sole expense of the Owner's Project Manager, Designer, Contractor, and Vendors, as the case may be, and shall be in full force and effect for the full term of any contract between the District and said Owner's Project Manager, Designer, Contractor, and Vendors or for such longer period as the Authority may require, including any such longer period that may be required by this Project Funding Agreement or the standard contracts prescribed by the Authority and executed by the District.

9.3 The District shall include in the contract between the Owner and the Contractor, as the case may be, the standard language contained in Exhibit G regarding minimum insurance requirements for Contractors. The District may impose additional insurance requirements for either construction delivery method provided that any such additional requirements shall not be inconsistent with the requirements imposed by the standard language set forth herein and further provided that the District shall give the Authority a written notice that clearly describes any such additional requirements. It shall be the sole responsibility of the District to determine whether additional insurance requirements are desirable or necessary and should be included in the contract between the Owner and the Contractor.

9.4 The District shall obtain originals of certificates of insurance evidencing the insurance coverage that may be required by the Authority from time to time, including the insurance coverage required by this Project Funding Agreement, any standard contracts that are prescribed by the Authority and executed by the District, including, but not limited to, the Authority's standard contract for Project Management Services and standard contract for Designer Services as they have been specifically revised for the Accelerated Repair Program, and any other contract between the District and the Owner's Project Manager, Designer, Contractor, or Vendors,

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simultaneously with the execution of said contracts or, in the event that said contracts have been executed prior to the date of this Project Funding Agreement, as soon as possible thereafter. Upon request of the Authority, the District shall submit such certificates of insurance to the Authority, showing each type of insurance, insurance company, policy number, amount of insurance, deductibles/self-insured retentions, and policy effective and expiration dates. The District shall require each of the Owner's Project Manager, Designer, Contractor, and Vendors to submit updated insurance certificates to the District prior to the expiration of any of the insurance policies or coverage referenced in this Section so that the District shall at all times possess certificates indicating current coverage.

9.5 The failure of the District to ensure that each of the Owner's Project Manager, Designer, Contractor, and Vendors obtain and maintain the insurance required by the Authority, this Project Funding Agreement, any standard contract prescribed by the Authority and executed by the District or any other contract between the District and the Owner's Project Manager, Designer, Contractor, or Vendors, or to provide the insurance certificates required by this Project Funding Agreement shall constitute a material breach of this Project Funding Agreement and shall be just cause for termination of this Project Funding Agreement.

9.6 The District shall, and shall require, as the case may be, its insurers and each of the Owner's Project Manager, Designer, Contractor, Vendors and their insurers to, give written notice to the Authority at least thirty days prior to the effective date of any termination, cancellation, or material modification of any insurance required by this Project Funding Agreement, any standard contracts that are prescribed by the Authority and executed by the District, including, but not limited to, the Authority's standard contract for Project Management Services and standard contract for Designer Services, as they have been specifically revised for the Accelerated Repair Program, and any other contract between the District and the Owner's Project Manager, Designer, Contractor, or Vendors.

9.7 With respect to all policies of insurance required of the Owner's Project Manager, Designer, Contractor, and Vendors by this Project Funding Agreement, any standard contracts that are prescribed by the Authority and executed by the District, including, but not limited to, the Authority's standard contract for Project Management Services and standard contract for Designer Services, as they have been specifically revised for the Accelerated Repair Program, and any other contract between the District and the Owner's Project Manager, Designer, Contractor, and Vendors, the District shall ensure that neither the District nor the Authority shall be responsible for the payment of deductibles, self-insured retentions or any portion thereof.

9.8 Insufficient insurance shall not release the Owner's Project Manager, Designer, Contractor, or Vendors from any liability for breach of their obligations under an agreement between the District and any of them.

9.9 All insurance policies required by this Project Funding Agreement, any standard contract prescribed by the Authority and executed by the District and any other contract between the District and the Owner's Project Manager, Designer, Contractor, or Vendors shall be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts with a financial strength rating of "A-" or better as assigned

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by A.M. Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the District and the Authority.

9.10 The District shall take all reasonable steps designed to ensure that the Owner's Project Manager, Contractor, Designer, and Vendors each agree that they and their Subcontractors shall do no act, nor suffer any act to be done, which will vacate, void or impair the coverage of any insurance policies required under this Project Funding Agreement, any standard contract prescribed by the Authority and executed by the District or any other contract between the District and the Owner's Project Manager, Designer, Contractor, or Vendors.

9.11 The District shall, upon request by the Authority, produce copies of all policies of insurance maintained by the District, its Contractor, Owner's Project Manager, Designer and Vendors related to the Project, to the Authority.

SECTION 10 COMPLIANCE WITH CONSTRUCTION CONTRACT DOCUMENTS, PROJECT PERMITS AND OTHER APPLICABLE LAW

10.1 The District shall be solely responsible to the Authority for the implementation and completion of the Project in accordance with the Construction Contract Documents and Project Permits, and for the economical and efficient operation and administration of the Project. In addition, notwithstanding any right of approval, review, or inspection held by the Authority in connection with this Project Funding Agreement, the District shall be fully and solely responsible for taking all reasonable actions designed to ensure that the Project complies with all applicable building codes, laws, rules and regulations.

10.2 The District shall be responsible for enforcing the provisions of the Construction Contract Documents and shall use its best efforts to ensure that the Contractor performs all of its contractual obligations thereunder in a satisfactory manner.

SECTION 11 DEFECTS

11.1 The District shall use its best efforts to require the Contractor, at the Contractor's own cost and expense, to repair any defect in materials or workmanship in the Project or any portion of the Project that may develop during the applicable warranty period and the District shall, to the extent permitted by law, indemnify, defend and hold the Authority harmless from and against any loss, cost, liability or expense paid or incurred by the Authority (including all attorney's fees and other costs incurred by the Authority in the defense of any such action) with respect to any claim asserted against the Authority by any party with respect to any such defect, actual or alleged.

SECTION 12

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

ACCESS

12.1 The District shall permit the Authority to have unrestricted access to the Project Site and the Assisted Facility at all reasonable times and shall allow the Authority to examine, inspect and copy all agreements, Construction Contract Documents, books, records, communications, and all other documents, materials and information related to the Project, for the purposes of, without limitation, determining compliance with this Project Funding Agreement, compliance with all other agreements related to the Project, and for assessing the progress of the Project.

12.2 The District shall promptly make available to the Authority any other documents or materials related to the Project, as the Authority may request from time to time.

SECTION 13 PRESENCE ON THE PREMISES OF THE ASSISTED FACILITY

13.1 The District shall require each of the Owner's Project Manager, Designer, Contractor and Vendors, as the case may be, to agree that all persons whose duties bring them upon the Project Site shall comply with the reasonable directions of the authorized officers and/or representatives of the District and the Owner's Project Manager.

13.2 In the event of a material accident of any kind related to the Project, the District shall immediately notify the Authority in writing. For purposes of this section, material accident shall mean an accident resulting in death, serious injury or a serious breach in the physical plant.

SECTION 14 RESTRICTION ON SALE, LEASE, OR REMOVAL FROM SERVICE

14.1 As a condition of the Authority providing a Total Facilities Grant to the District, the District agrees to maintain and operate the Assisted Facility as a public school facility consistent with its educational program and in accordance with the provisions of this Project Funding Agreement, Chapter 70B, Chapter 208 and 210 of the Acts of 2004, 963 CMR 2.00 *et seq.*, and any rules, regulations, policies and guidelines of the Authority. In the event that the District wishes to sell, rent, lease, license, mortgage, donate, transfer control of, declare as surplus or otherwise dispose of an Assisted Facility, or any portion of an Assisted Facility, or convey or terminate any interest therein, other than renting, licensing, leasing or otherwise allowing for a temporary or periodic community use of the Assisted Facility that does not interfere with or result in changes to the Educational Program, the District shall provide the Authority with a written notice of its intent to sell, rent, lease, license, mortgage, donate, transfer control of, declare as surplus, or otherwise dispose of the Assisted Facility, or any portion of an Assisted Facility, or convey or terminate any interest therein, at least sixty (60) days prior to the effective date of any such proposed action, in accordance with the notice provisions of Section 17 of this Project Funding Agreement. The notice of intent to take any of the aforementioned actions shall include the current appraised value of the Assisted Facility and the maximum resale price on the basis of highest and best use of the facility. If the Authority disagrees with the current appraised value of the Assisted Facility, the Authority may obtain a second appraisal at its own expense, and the

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

current appraised value shall be equal to the greater of the two appraisal amounts on the basis of highest and best use of the facility.

14.2 The provisions of Chapter 70B, § 15(a)-(c) shall apply to any sale, rental, lease or removal from service of the Assisted Facility, except for a rental or lease that is for a temporary or periodic community use. In the event that the District sells, rents, or leases the Assisted Facility, other than renting or leasing the Facility for a temporary or periodic community use, the Authority shall receive no less than its share, in proportion to its investment in the total Project cost, of the fair market value of the Assisted Facility, as determined by an appraisal conducted pursuant to Section 14.1 above.

SECTION 15 NOTICE OF CLAIMS

15.1 The District shall notify the Authority promptly in writing at the address and in the manner required by Section 17 of this Project Funding Agreement of any material claim or action brought against the District, Designer, Owner's Project Manager, Contractor, Vendors and/or any and all Sub-Contractors arising out of this Project Funding Agreement or the Project.

15.2 Neither the District nor any person or entity claiming by through or under it, shall file a civil action arising out of the provisions of this Project Funding Agreement against the Authority without first serving the Authority with a written notice stating the factual basis of its claims, the applicable provisions of the Project Funding Agreement that the claim is based upon, and the remedy that the District is seeking. No civil action arising out of the provisions of this Project Funding Agreement shall be filed by the District against the Authority until the expiration of sixty (60) days after the Authority has received the notice of claim required by this section.

SECTION 16 INDEMNIFICATION

16.1 To the fullest extent permitted by law, the District shall indemnify, defend, and hold harmless the Authority and its officers, agents and employees from and against any and all claims, actions, damages, awards, judgments, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorneys fees and costs of investigation and litigation whatsoever which may be incurred by or for which liability may be asserted against the Authority, its officers, agents or employees arising out of any activities undertaken by, for, or on behalf of the District in the implementation of this Project Funding Agreement or any activities, acts or omissions in relation to the Project, including, but not limited to, the performance of any contract or obligation directly or indirectly related to the Project. This Section shall not be construed to negate or abridge any other obligation of indemnification running to the Authority which would otherwise exist.

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

16.2 To the fullest extent permitted by law, and unless otherwise agreed to in writing by the Authority, the District shall require the Contractor, as the case may be, to indemnify, defend, and hold harmless the Authority and its officers and employees as set forth below:

To the fullest extent permitted by law, the Contractor hereby agrees to indemnify, defend and hold harmless the Authority and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Authority arising out of or resulting from the performance or non-performance of the work performed by the Contractor and subcontractors, provided that such claims, damages, liabilities, injuries, costs, fees, expenses, or losses are alleged to be caused in whole, or in part, by an act or omission of any of the Contractor, any subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

SECTION 17 NOTICE

17.1 Any notices required or permitted to be given by either of the Parties hereunder shall be given in writing and shall be delivered to the addressee (a) in-hand (b) by certified mail, postage prepaid, return receipt requested; (c) by electronic mail; or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be addressed as follows:

If to the Authority:

Massachusetts School Building Authority
40 Broad Street, Suite 500
Boston, MA 02109
Attention: Director of Capital Planning
Facsimile: (617) 720-8460

If to the District:

Freetown-Lakeville Regional School District
98 Howland Road
Lakeville, MA 02347
Attention: Superintendent

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

or to such other address or addressee as the District and the Authority may from time to time specify in writing. Any notice shall be effective only upon receipt, which for any notice given by facsimile shall mean notice that has been received by the party to whom it is sent as evidenced by a confirmation slip that bears the time and date of receipt.

SECTION 18 AMENDMENTS

18.1 This Project Funding Agreement may be amended only through a written amendment signed by duly authorized representatives of the District and the Authority.

SECTION 19 ADDITIONAL PROVISIONS

19.1 All certifications, filings, and submissions to the Authority required by this Project Funding Agreement shall contain a statement, signed by a duly authorized representative of the District, that such certification, filing, or submission is true, complete and accurate, to the best of the District's knowledge.

19.2 No member or employee of the Authority shall be held personally or contractually liable by or to the District under any provision of this Project Funding Agreement, because of any breach of this Project Funding Agreement, or because of its execution or attempted execution.

19.3 The District shall neither assign any interest, in whole or in part, in this Project Funding Agreement, nor transfer any interest in same, whether by assignment or novation, without the prior written approval of the Authority.

19.4 Nothing in this Project Funding Agreement shall be construed as creating a duty or obligation on the part of the Authority to oversee or monitor the performance of the Designer, Contractor, Owner's Project Manager or other Project participants. The Authority shall not be responsible for, among other things, the design of the Project, architectural plans, construction means, methods, techniques, sequences or procedures, quality control or construction safety, or compliance with the Construction Contract Documents, Project Permits or any applicable provisions of law, which shall be and remain the sole responsibility of the District and its Designer, Contractor, Owner's Project Manager and Vendors, as the case may be.

SECTION 20 GOVERNING LAW, VENUE, AMENDMENT AND SEVERABILITY

20.1 This Project Funding Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. In case any provision(s) hereof shall be determined invalid or unenforceable under the applicable law, such provision(s) shall, insofar as possible, be construed or applied in such manner as will permit the enforcement of this Project Funding Agreement; otherwise, this Project Funding Agreement shall be construed as though such provision(s) had never been made a part hereof.

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

20.2 Any civil action brought against the Authority by the District, or any person or entity claiming by through or under it, that arises out of the provisions of this Project Funding Agreement, shall only be brought in the Superior Court for Suffolk County, Massachusetts. The District, for itself and for any person or entity claiming by through or under it, hereby waives any defenses that it may have as to the venue to which it has agreed herein, including, but not limited to, any claim that this venue is improper or that the forum is inconvenient. The District for itself and for any person or entity claiming by through or under it, hereby waives all rights, if any, to a jury trial in any civil action against the Authority that may arise out of the provisions of this Project Funding Agreement.

20.3 This Project Funding Agreement and any amendments hereto shall be deemed null and void and of no further force or effect unless it is executed by a duly authorized representative of the District and a duly authorized representative of the Authority. The undersigned, who are signing on behalf of the District, hereby warrant and represent that they possess the full legal authority to execute this Project Funding Agreement on behalf of the District and to bind the District to its terms and conditions. In the event that the Authority determines that the undersigned are not duly authorized to execute this Project Funding Agreement and to bind the District, the Authority may, in its sole discretion, take whatever action it deems necessary to terminate this Project Funding Agreement, to suspend or terminate payments to the District and to recover any funds disbursed to the District. Any rights and remedies available to the Authority under the provisions of this Project Funding Agreement shall be in addition to any other rights and remedies provided by law.

SECTION 21 WAIVERS

21.1 The terms, conditions, covenants, duties and obligations contained in this Project Funding Agreement may be waived only by written agreement executed by duly authorized representatives of the District and the Authority. No waiver by either party of any term, condition, covenant, duty or obligation shall be construed as a waiver of any other term, condition, covenant, duty or obligation nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or a different section, subsection, paragraph, clause, phrase, or other provision of this Project Funding Agreement. Forbearance or indulgence in any form or manner by either Party to this Project Funding Agreement shall not be construed as a waiver, nor in any way limit the remedies available to that party.

21.2 The Authority's payment(s) to the District under this Project Funding Agreement or its review, approval, or acceptance of any actions by the District under this Project Funding Agreement shall not operate as a waiver of any rights or remedies available to the Authority under this Project Funding Agreement or as otherwise provided by law and the District shall remain liable to the Authority for all damages incurred by the Authority arising out of the District's failure to perform in accordance with the terms and conditions of this Project Funding Agreement.

SECTION 22 DEFAULTS AND REMEDIES

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

22.1 The occurrence of any of the following events shall constitute, and is herein defined to be, an Event of Default under this Project Funding Agreement:

(a.) If the District shall fail to perform or observe any covenant, agreement, term or condition on its part provided in this Project Funding Agreement and such failure shall continue for a period of thirty (30) days after written notice thereof shall be given to the District by the Authority; provided that, if such failure cannot be remedied within such thirty (30) day period, it shall not constitute an Event of Default hereunder if corrective action satisfactory to the Authority, as determined by the Authority, in writing, is instituted by the District within such period and diligently pursued until the failure is remedied;

(b.) If any representation or warranty made by the District in this Project Funding Agreement shall prove to have been incorrect, false, or to be misleading in any material respect;

22.2 If any Event of Default hereunder shall occur and be continuing, the Authority may proceed to protect its rights under this Project Funding Agreement, and may: (a) terminate this Project Funding Agreement, (b) permanently withhold or temporarily suspend payment of the Total Facilities Grant to the District, (c) recover any payments of the Total Facilities Grant previously made to the District, and/or (d) may exercise any other right or remedy upon such default as may be granted to the Authority under this Project Funding Agreement or under any other applicable provision of law.

22.3 No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient.

22.4 The rights and remedies conferred upon or reserved to the Authority under this Project Funding Agreement are not intended to be exclusive and every such right or remedy shall be cumulative and shall be in addition to any other rights or remedies provided by law. The Authority may assert a right to recover damages by any appropriate means, including, but not limited to, set-off, suit, withholding, recoupment, or counterclaim either during or after performance of this Project Funding Agreement.

SECTION 23 TERMINATION

23.1 This Project Funding Agreement may be terminated by the Authority if an Event of Default shall have occurred as provided in Section 22. Notice of such termination shall be in writing and shall be effective immediately upon service of the notice in the manner provided in Section 17. Upon five (5) days written notice, this Project Funding Agreement may be terminated by the Authority in the event of any action constituting fraud, malfeasance, or illegal activity committed in connection with the Project by the District or any of the District's employees, or, where the District knew or should have known, by the Architect, Owner's Project Manager, Contractors, or Vendors.

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

23.2 This Agreement may be terminated by mutual written agreement of the Parties.

**SECTION 24
PUBLIC RECOGNITION OF THE AUTHORITY'S PARTICIPATION**

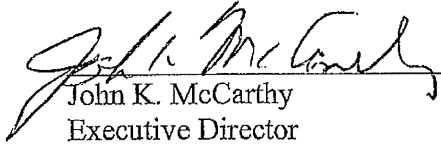
24.1 The District shall erect a project identification sign on the construction site during the period of construction of the Project in accordance with the provisions of 963 CMR 2.04(1)(g).

Execution Copy

District Name: Freetown-Lakeville Regional School District
School Name: Assawompset Elementary School
Project ID Number: 202106650002

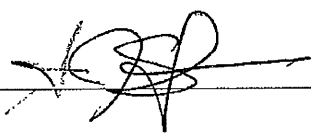
IN WITNESS WHEREOF, the Authority and the District have caused this Project Funding Agreement to be executed by their duly authorized representatives this 3 day of January in the year 2023

THE MASSACHUSETTS SCHOOL BUILDING AUTHORITY
BY:



John K. McCarthy
Executive Director

FREETOWN-LAKEVILLE REGIONAL SCHOOL DISTRICT
BY:



Alan J Strauss
Name (Type/Print)
Superintendent of Schools
Title/Office (Type/Print)

EXECUTION COPY

**EXHIBIT A
PROJECT BUDGET
FREETOWN-LAKEVILLE REGIONAL SCHOOL DISTRICT
ASSAWOMPSET ELEMENTARY SCHOOL**

PROJECT FUNDING AGREEMENT

Total Project Budget

Freetown-Lakeville Regional School District
Assawampset Elementary School

8/24/2022

Total Project Budget: All costs associated with the project are subject to 963 CMR 2.16(5)	Estimated Budget	Scope Items Excluded from the Basis of Estimated Total Facilities Grant or Otherwise Ineligible	Basis of Estimated Total Facilities Grant ¹	Estimated Maximum Total Facilities Grant ¹
Feasibility Study Agreement				
OPM Feasibility Study	\$15,000	\$0	\$15,000	
A&E Feasibility Study	\$61,811	\$0	\$61,811	
Env. & Site	\$0	\$0	\$0	
Other	\$0	\$0	\$0	
Feasibility Study Agreement Subtotal	\$76,811	\$0	\$76,811	\$41,117
Administration				
Legal Fees	\$0	\$0	\$0	\$0
Owner's Project Manager				
Design Development	\$0	\$0	\$0	
Construction Contract Documents	\$39,850	\$0	\$39,850	
Bidding	\$23,767	\$0	\$23,767	
Construction Contract Administration	\$220,097	\$0	\$220,097	
Closeout	\$20,788	\$0	\$20,788	
Extra Services	\$0	\$0	\$0	
Reimbursable & Other Services	\$0	\$0	\$0	
Cost Estimates	\$0	\$0	\$0	
Advertising	\$1,000	\$0	\$1,000	
Permitting	\$0	\$0	\$0	
Owner's Insurance	\$0	\$0	\$0	
Other Administrative Costs	\$1,000	\$1,000	\$0	
Administration Subtotal	\$306,502	\$1,000	\$305,502	\$163,535
Architecture and Engineering				
Basic Services				
Design Development	\$0	\$0	\$0	
Construction Contract Documents	\$119,684	\$0	\$119,684	
Bidding	\$11,968	\$0	\$11,968	
Construction Contract Administration	\$95,747	\$0	\$95,747	
Closeout	\$11,968	\$0	\$11,968	
Other Basic Services	\$0	\$0	\$0	
Basic Services Subtotal	\$239,367	\$0	\$239,367	
Reimbursable Services				
Construction testing	\$0	\$0	\$0	
Printing (over minimum)	\$2,000	\$0	\$2,000	
Other Reimbursable Costs	\$0	\$0	\$0	
Hazardous Materials	\$32,500	\$0	\$32,500	
Geotech & Geo-Env.	\$0	\$0	\$0	
Site Survey	\$0	\$0	\$0	
Wetlands	\$0	\$0	\$0	
Traffic Studies	\$0	\$0	\$0	
Architectural/Engineering Subtotal	\$273,867	\$0	\$273,867	\$146,601
CM@Risk/Preconstruction Services				
Pre-Construction Services	\$0	\$0	\$0	\$0
Site Acquisition				
Land/Building Purchase	\$0	\$0	\$0	
Appraisal Fees	\$0	\$0	\$0	
Recording fees	\$0	\$0	\$0	
Site Acquisition Subtotal	\$0	\$0	\$0	\$0
Construction Costs				
Construction Budget	\$0	\$0	\$0	
GMP Fee	\$0	\$0	\$0	
GMP Insurance	\$0	\$0	\$0	
GMP Contingency	\$0	\$0	\$0	
Division 1 - General Requirements	\$1,149,348	\$0	\$0	
Division 2 - Existing Conditions	\$359,163	\$0	\$0	
Division 3 - Concrete	\$0	\$0	\$0	
Division 4 - Masonry	\$4,620	\$0	\$0	
Division 5 - Metals	\$7,700	\$0	\$0	
Division 6 - Woods, Plastics and Composites	\$153,914	\$0	\$0	
Division 7 - Thermal and Moisture Protection	\$30,295	\$0	\$0	
Division 8 - Openings	\$1,395,164	\$0	\$0	
Division 9 - Finishes	\$55,123	\$0	\$0	
Division 10 - Specialties	\$750	\$0	\$0	
Division 11 - Equipment	\$0	\$0	\$0	
Division 12 - Furnishings	\$87,819	\$0	\$0	
Division 13 - Special Construction	\$0	\$0	\$0	
Division 14 - Conveying Systems	\$0	\$0	\$0	
Division 21 - Fire Suppression	\$0	\$0	\$0	
Division 22 - Plumbing	\$0	\$0	\$0	
Division 23 - HVAC	\$85,282	\$0	\$0	
Division 25 - Integrated Automation	\$0	\$0	\$0	
Division 26 - Electrical	\$46,156	\$0	\$0	
Division 27 - Communications	\$0	\$0	\$0	
Division 28 - Electronic Safety and Security	\$0	\$0	\$0	

Total Project Budget

Freetown-Lakeville Regional School District
Assawompset Elementary School

8/24/2022

Total Project Budget: All costs associated with the project are subject to 963 CMR 2.16(5)	Estimated Budget	Scope Items Excluded from the Basis of Estimated Total Facilities Grant or Otherwise Ineligible	Basis of Estimated Total Facilities Grant ¹	Estimated Maximum Total Facilities Grant ¹
Division 31 - Earthwork	\$0	\$0		
Division 32 - Exterior Improvements	\$3,920	\$0		
Division 33 - Utilities	\$0	\$0		
Construction Budget	\$3,379,255	\$0	\$3,379,255	\$1,808,915
Alternates				
	\$0	\$0	\$0	
	\$0	\$0	\$0	
	\$0	\$0	\$0	
Alternates Subtotal	\$0	\$0	\$0	\$0
Miscellaneous Project Costs				
Utility company Fees	\$0	\$0	\$0	
Testing Services	\$0	\$0	\$0	
Swing Space/Modulars	\$0	\$0	\$0	
Other Project Costs (Mailing & Moving)	\$0	\$0	\$0	
Misc. Project Costs Subtotal	\$0	\$0	\$0	\$0
Furnishings and Equipment				
Furnishings	\$0	\$0	\$0	
Equipment	\$0	\$0	\$0	
Computer Equipment	\$0	\$0	\$0	
FF&E Subtotal	\$0	\$0	\$0	\$0
Soft Costs that exceed 20% of Const'n Cost		\$0	\$0	
Project Budget	\$4,036,435	\$1,000	\$4,035,435	\$2,160,168

Board Authorization	
Project Budget	\$4,036,435
Scope Items Excluded or Otherwise Ineligible	-\$1,000
Basis of Estimated Total Facilities Grant ¹	\$4,035,435
Reimbursement Rate	53.53%
Estimated Maximum Total Facilities Grant ¹	\$2,160,168

Total Construction Contingency ²	\$168,963
Ineligible Construction Contingency ²	\$0
Potentially Eligible Construction Contingency ²	\$168,963
Total Owner's Contingency ²	\$16,896
Ineligible Owner's Contingency ²	\$0
Potentially Eligible Owner's Contingency ²	\$16,896
Total Potentially Eligible Contingency ²	\$185,859
Reimbursement Rate	53.53%
Potential Additional Contingency Grant Funds ²	\$99,490
Maximum Total Facilities Grant	\$2,259,658
Total Project Budget	\$4,222,294

Total Project Budget

**Freetown-Lakeville Regional School District
Assawompset Elementary School**

8/24/2022

Total Project Budget: All costs associated with the project are subject to 963 CMR 2.16(5)	Estimated Budget	Scope Items Excluded from the Basis of Estimated Total Facilities Grant or Otherwise Ineligible	Basis of Estimated Total Facilities Grant ¹	Estimated Maximum Total Facilities Grant ¹
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This document was prepared by the MSBA based on a preliminary review of information and estimates provided by the Owner's Project Manager of Freetown-Lakeville Regional School District for the Assawompset Elementary School project. Based on this preliminary review, certain budget, cost and scope items have been determined to be ineligible for reimbursement, however, this document does not contain a final, exhaustive list of all budget, cost and scope items which may be ineligible for reimbursement by the MSBA. Nor is it intended to be a final determination of which budget, cost and scope items may be eligible for reimbursement by the MSBA. All project budget, cost and scope items shall be subject to review and audit by the Authority, and the Authority shall determine, in its sole discretion whether any such budget, cost and scope items are eligible for reimbursement. The MSBA may determine that certain additional budget, cost and scope items are ineligible for reimbursement.


1. The estimated maximum facilities grant established for the Project Funding Agreement does not include any potentially eligible contingency funds and is subject to review and audit by the MSBA. At the time of PFA Bid Amendment, the Estimated Maximum Facilities Grant and the Maximum Total Facilities Grant will be adjusted to account for any budget revision requests submitted and approved by the MSBA at the time of establishing the Amendment.

2. Pursuant to Section 3.20 of the Project Funding Agreement and the applicable policies and guidelines of the Authority, any project costs associated with the reallocation or transfer of funds from either the Owner's contingency or the Construction contingency to other budget line items shall be subject to review by the Authority to determine whether any such costs are eligible for reimbursement by the Authority. All costs are subject to review and audit by the MSBA.

By signing this Total Project Budget, I hereby certify that I have read and understand the form and further certify, to the best of my knowledge and belief, that the information supplied by the District in the table above is true, accurate, and complete.

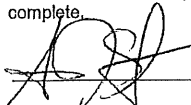
By:
Title: Chair of School Building Committee
Date: _____

By signing this Total Project Budget, I hereby certify that I have read and understand the form and further certify, to the best of my knowledge and belief, that the information supplied by the District in the table above is true, accurate, and complete.



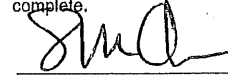
By:
Title: Chief Executive Officer
Date: 12/13/22

By signing this Total Project Budget, I hereby certify that I have read and understand the form and further certify, to the best of my knowledge and belief, that the information supplied by the District in the table above is true, accurate, and complete.



By:
Title: Superintendent of Schools
Date: Dec 13, 2022

By signing this Total Project Budget, I hereby certify that I have read and understand the form and further certify, to the best of my knowledge and belief, that the information supplied by the District in the table above is true, accurate, and complete.



By:
Title: Chair of School Committee
Date: 12/13/2022

**AGENDA ITEM #5
JANUARY 9, 2023**

**MBTA COMMUNITIES AND SOUTHCOAST RAIL BRIEFING FROM
TOWN PLANNER**

The Town Planner will be present to update the Board on this and the status of the Lakeville Station.

**AGENDA ITEM #6
JANUARY 9, 2023**

**DISCUSS AND POSSIBLE VOTE TO APPROVE FUNDING FOR
GAMACHE PLAYGROUND REFURBISHMENT PROJECT**

Attached is a memo from the Town Administrator regarding the above project.

Also attached is information from the Park Commission regarding the refurbishment, a plan and pictures of the equipment they are looking to purchase.



TOWN OF LAKEVILLE
Town Administrator's Office

346 Bedford Street
Lakeville, MA 02347
(508) 946-8803

January 6, 2023

TO: Select Board

FROM: Ari J. Sky, Town Administrator *AS*

SUBJECT: Gamache Playground Renovations

Attached is a request package from the Park Commission to refurbish and expand the Gamache Playground at Ted Williams Camp. The Commission has been developing indicative quotes over the past several months for a program that would restore current equipment and construct a fully accessible play area.

The entire package would involve site work, fencing installation, and equipment replacement and refurbishment, would require formal procurement. However, the information accumulated to date is sufficient to establish an initial budget of \$170,000. This project would be eligible for ARPA funding as an outdoor recreation improvement.

To date, the Town has received both tranches of direct ARPA funding, totaling \$1,210,073. Of that amount, the Select Board has designated \$100,000 for COVID response and \$44,785 for the Ted Williams Camp tennis courts project, leaving \$1,065,288 currently available. I would therefore recommend that the Select Board approve funding from the Town's ARPA proceeds if it wishes to proceed.

Thank you for your consideration, and please let me know if you have any questions.

Attachment

Proposal to refurbish and expand the Gamache Playground at Ted Williams Camp
From the Park Commission

Everyone knows how important it is for a community to provide children a safe place to socialize, learn, play and release pent up energy. Looking at Ted Williams Camp, you would assume it would fit that bill. There is one thing missing. It is full of organized sports and activities, but limited for a kid to be a kid. A modern playground is the perfect addition to Ted Williams Camp and will add that missing element, safe individualized play.

On January 5, 2023 the Park Commission voted to request an allocation of up to \$170,000.00 to build a fully accessible new play space and restore the current equipment at the Gamache Playground in Ted Williams Camp. Over the last 4 months, the commission has worked with representatives from 3 different playground companies. Through meeting with these reps the Park Commission was able to define what they would like to see in a play space; safety, inclusivity and education. We have indicative pricing from 3 companies; the requested amount incorporates the most favorable quote, as well as pieces from the other quotes.

The Park Commission wanted to create a community playground, so we went to the people, developed a vision for the playground area, then we went to our town administration. We have met with Ari Sky and Frank Moniz to get their input for the playground area. They suggest a fully enclosed area to control the entry and safety of children, while also keeping out unauthorized furry friends. Site work and installation will be procured in an add-alternate format, to ensure the most favorable pricing, and the actual cost will be determined through the procurement process.

We are looking forward to working with you to create a play area that will be something we can all be proud of and that the kids will love.

Proposal to refurbish and expand the Gamache Playground at Ted Williams Camp From the Park Commission

Location: 52.5 X 48 square feet to be located at the back of the existing playground so as to not interfere with existing fields and open space. **

Age: 5-12 (Any age is able to use the playground, the minimum age is what the playground is made for. If you have 2-5 equipment everything would need to be completed by a 2 year old.)

Fall Height: maximum fall height of 9 feet, requiring at least 9-12 inches of approved material.

Playground Surfacing: \$4,800 for 180 cubic yards ADA accessible EWF (engineered wood fiber) to cover existing and new areas delivered.
(Poured in Place rubber surfacing @\$75,000 for new play area only)

Installation of EWF: \$2,480

Equipment: \$70,230

Needs to be inclusive, not segregating and inviting.

Includes: Transfer station with steps, 3 'double slide with textures, 6' full circle curved slide, 3 different climbers, 3 interactive panels including 1 music, 7' tall x 15' Dome climber with inclusive center access and tactile panels, Freestanding: interactive Bell & Drum panels, Inclusive Basket Swing, Inclusive spinning tactile pod, Accessible roller coaster style swing seat with chains (750 pound capacity)

Installation: \$16,700 (Estimated at prevailing wage)

Delivery: \$5,125

Existing Swing Set: \$4,500 to replace, ship & install bent top post. This must come from the original manufacturer but can be installed by the penultimate play space vendor.

Timeline: 4-6 months from placing order

Site Preparation: Excavate 12 inches of material from the new playground area, excavate existing equipment areas so they can accommodate 12 inches of EWF, as well as install new walkways to connect the old and new playgrounds. \$25,000.**

Existing memorials: Sanding & painting metal bench, repositioning benches, adding new placards to memorials & creating past donor sign

Fencing: 358 feet of black commercial grade 4 foot high fencing to match existing fencing \$13,000**

Playground Cost

Equipment:	70,230
Shipping :	5,125
EWF:	4,800
Installation:	16,700
EWF Install:	2,480
Total playground	99,335
Swing Repair:	4,500
Site preparation:	30,000
Fence:	13,000
Mem. Refurb.	<u>2,500</u>
Total	\$149,335
**Misc.	<u>20,665</u>
	\$170,000

**If the new playground location isn't feasible due to impenetrable soil, the back up area will cost more in site prep and fencing. These figures are taken from the quotes received from the playground vendors, the exact figures won't be known until the playground goes through procurement. We added a 12% Misc. cost to the playground to make sure anything that comes up including overruns and increases would be covered, to be certain that we wouldn't have to come up with more money delaying the project.

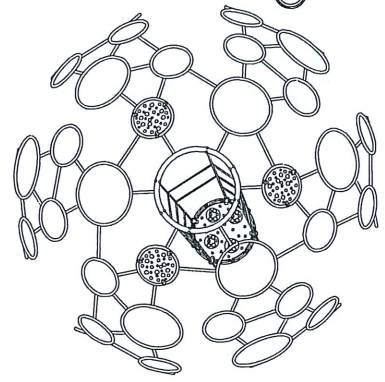


52'-1"

47'-7"



UNITY DOME



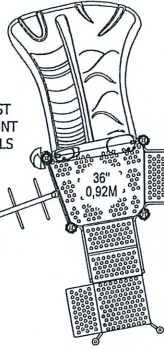
HORIZ. LOOP LADDER W/ ACCESS LADDER



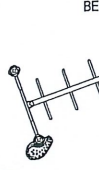
UNITY STEPPERS



NUVO DOUBLE SLIDE



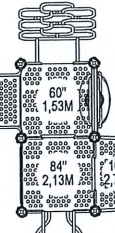
POST MOUNT BELLS



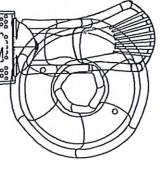
TRANSFER STATION W/ STEP



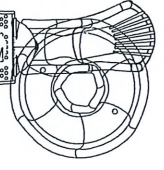
HOPSCOTCH CLIMBER



BUBBLE PANEL STOREFRONT (ground)



360° SLITHER SLIDE



GEO BARRIER



TOWER CLIMBER



CLOUD 9



*PLAYGROUND SUPERVISION REQUIRED



Ted Williams Camp



Ted Williams Camp



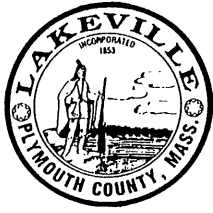
Ted Williams Camp

**AGENDA ITEM #7
JANUARY 9, 2023**

**DISCUSS AND POSSIBLE VOTE TO APPROVE LEASE
AGREEMENT WITH SBA TOWERS II, LLC FOR THE WIRELESS
TOWER FACILITY AT 100 FERN AVENUE**

Attached is a memo from the Town Administrator regarding the Fern Avenue Cell Tower Lease.

Also attached is the proposed lease that has been prepared by Town Counsel.




TOWN OF LAKEVILLE

Town Administrator's Office

346 Bedford Street
Lakeville, MA 02347
(508) 946-8803

January 5, 2023

TO: Select Board

FROM: Ari J. Sky, Town Administrator 

SUBJECT: Fern Street Cell Tower Lease

As you know, the Town owns a monopole site at 100 Fern Avenue. The initial lease for the site lapsed in 2017, although the tenant continued to receive lease payments from the existing tenant totaling about \$45,000 per year.

The Town issued a Request for Proposals on the site in March 2022 and received two proposals. It was determined that the most favorable proposal for purposes of operational continuity and financial benefit came from SBA Communications, which is the existing tenant. Working with Town Counsel, we negotiated a favorable arrangement where the lease will be renewed for a 20 year period in exchange for a single up-front payment of \$2,150,000, which substantially exceeds anticipated revenue on the site over the same period under the existing lease.

A copy of the draft lease is attached for your consideration. Once executed, the document requires SBA to pay in full on the commencement date. Thank you for your consideration, and please let me know if you have any questions.

Attachment

LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Lease”) is entered into as of this _____ day of January, 2023 (the “Commencement Date”), by and between the **Town of Lakeville**, a Massachusetts municipal corporation acting by and through its Select Board, having an address of 346 Bedford Street, Lakeville, Massachusetts 02347 (“Landlord”) and **SBA Towers II LLC**, a Florida limited liability company, having an address of 8051 Congress Avenue, Boca Raton, FL 33487 (“Tenant”).

Recitals

Whereas, Landlord is the owner of a certain parcel of land located at 100 Fern Avenue (Assessors Map 27, Block 2, Lot 30), Lakeville, MA, and described in a deed recorded with the Plymouth County Registry of Deeds in Book 3684, Page 790 (the “Property”) as further described on **Exhibit “A”** attached hereto and incorporated herein;

Whereas, Landlord issued a Request for Proposals on March 16, 2022, soliciting proposals for the lease of a portion of the Property for the installation and operation of a wireless telecommunications facility;

Whereas, Tenant submitted a proposal in response to the request for proposals, offering to lease a portion of the Property; and

Whereas, Landlord has selected Tenant as the successful proposer, and Landlord and Tenant wish to set forth herein the terms and conditions governing Tenant’s use of a portion of the Property.

Now, therefore, for good and valuable consideration, Landlord and Tenant agree as follows:

Agreement

1. LEASE OF PREMISES.

1.1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord a portion of the Property containing ten thousand (10,000) square feet, more or less (the “Premises”) as shown on and further described on **Exhibit “B”** attached hereto and incorporated herein.

The Premises are leased together with the rights described below:

- (a) The exclusive right to install, operate, maintain, repair, upgrade, and replace on the Premises the existing one hundred ninety-one foot (191’) high monopole telecommunications tower with a suitable support structure for the transmission and reception of communications signals (the “Tower”);
- (b) The right to install, operate, maintain, repair and replace on the Premises any equipment buildings, sheds, and/or shelters, communications rooms, cabinets, fixtures and related

equipment, cables, accessories and related improvements, subject to the Town's rights as set forth herein;

- (c) The right to locate on the Tower antennas, transmission cables, and other appurtenances;
- (d) The right to install, maintain, repair, and replace: transmission cables from the equipment room, building, or cabinet to the antennas; electric lines from a main feed or off-site power source to the equipment room; and telephone lines from a main or off-site telephone entry point to the equipment room, and to make other reasonably appropriate improvements and alternations to the Premises as is reasonably necessary for the Permitted Uses (defined in Section 2.1);
- (e) A non-exclusive easement over, under, and upon a twenty-foot (20') wide portion of the Property shown as "Access & Utility Easement" (the "Access Way") on and as further described on **Exhibit "C"** attached hereto and incorporated herein, for pedestrian and vehicular access to the Premises and for the construction, installation, location, maintenance, relocation and repair of overhead and/or underground utility connections, including electric, telephone, gas, water, sewer, and any other utility connections to serve the Premises. To the extent the Access Way cannot, does not, or will not fully accommodate the access and/or utility needs of the Premises at any time, is taken by eminent domain, or a relocation is required by law, Landlord agrees to grant and convey unto Tenant, its tenants, lessees, sublessees, licensees, agents, successors and assigns, full, complete, uninterrupted, and unconditional access to and from the Premises, seven (7) days a week, 24 hours a day, over and across a different portion of the Property mutually acceptable to Landlord and Tenant, for the foregoing purposes. Tenant shall repair any damages to the Property caused by such access and/or use. This easement, and the rights granted herein, shall be assignable by Tenant to any public or private utility company to further effect this provision. Tenant agrees to maintain the Access Way and all access roadways from the nearest public right of way to the Premises in a manner sufficient to allow for pedestrian and vehicular access to the Premises at all times. Landlord will have the right to relocate the Access Way or any part thereof, to an alternate ground location on the Property, if the Access Way unreasonably interferes with Landlord's current or proposed use of the Property, in Landlord's reasonable discretion, to a different portion of the Property reasonably acceptable to Tenant, not to be unreasonably delayed, conditioned, or withheld; provided, however, that the relocation will: (a) be at Landlord's sole cost and expense; (b) be performed exclusively by Landlord, to a condition equal or better (in the reasonable discretion of Tenant) than the existing Access Way; (c) not result in any interruption of the existing access by Tenant or existing utility service to Tenant; (d) not impair, interrupt or in any manner alter the quality of communication service provided by Tenant or Tenant's tenants. Landlord will exercise its relocation right above by delivering written notice to Tenant at least six (6) months prior to the proposed relocation date, in which Landlord will propose alternate easement locations on Landlord's Property to which Tenant may relocate its access/utility easements. Tenant will have thirty (30) days from the date it receives the Access/Utility Easement Relocation Notice to evaluate and approve Landlord's proposed relocation easements,

during which period Tenant and the servicing utilities will have the right to inspect any proposed easements to determine the feasibility of their placement. Landlord and Tenant agree to cooperate in a reasonable manner to accommodate the relocation needs of Tenant and Landlord. Upon relocation the Access Way or any part thereof, all references to the Access and Way in this Lease will be deemed to reference the relocated Access Way. Landlord and Tenant agree that the relocated Access Way will be surveyed by a licensed surveyor and shall be at the expense of the party who requested the relocation, and will replace **Exhibit "C"** of this Lease. If it is reasonably determined by Landlord or Tenant that any utilities that currently serve the Premises are not encompassed within the description of the Access Way set forth herein, then Landlord and Tenant agree to amend the description of the Access Way set forth herein to include the description of such areas. If it becomes necessary to relocate any of the utility lines that serve the Premises, Tenant will provide notice to Landlord and Landlord hereby consents to the reasonable relocation for such utility lines upon the Property for no additional consideration, and hereby agrees to reasonably cooperate with Tenant to create a revised legal description for Access and Utility Easement that will reflect such relocation.

- (f) Such reasonable easements in the Access Way as may reasonably be required by electric, telephone and other utility companies for the purpose of servicing the equipment on the Premises, subject to Town Meeting authorization.

1.2. Condition of Premises. The Premises are delivered to Tenant, and Tenant accepts the Property, including the Premises and the Access Way, in its present condition, "AS IS," it being agreed that Landlord has made no representations or warranties of any kind with respect thereto, and that Landlord shall have no obligation to maintain, do any work on, or make any improvements to or provide utilities to the Property, including the Premises, unless such maintenance and/or improvement work is required as a result of Landlord's negligence and/or willful misconduct.

1.3 Utilities. Tenant shall be solely responsible for bringing onto the Premises, providing, and paying for all electrical and other utilities of sufficient capacity to serve Tenant's use of the Premises for the purposes set forth in Section 2.1, which shall be installed in accordance with the reasonable requirements of Landlord and in a manner that avoids unnecessary interference to other activities on the Property and is reasonable in appearance, in Landlord's reasonable judgment.

2. USE OF PREMISES

2.1 Permitted Uses. Tenant may erect and maintain on the Premises, improvements, personal property, and facilities, including, but not limited to, a communications facility, and any and all uses identical thereto, which may include a suitable support structure, including without limitation the Tower, radio transmitting and receiving antennas, communications equipment, equipment cabinets and/or shelters, and related facilities for the transmission and reception of communications signals and the installation, maintenance, operation, repair and replacement of its communications fixtures and related equipment, cables, accessories and improvements as well as any and all pipes, conduits, and wires related to the utility infrastructure (collectively, the

“Communication Facility”). Landlord and Tenant agree that said Exhibits do not limit Tenant’s rights under this Lease to improve, modify, replace, supplement, upgrade or remove the Communication Facility or any part thereof during the Term of this Lease, provided that Tenant complies with the provisions of this Lease. During the term of this Lease, Tenant has the right to install and operate transmission cables from the equipment shelter or cabinets to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the main entry point to the equipment shelter or cabinets, and to make reasonable improvements, alterations, modifications, replacements or additions appropriate for Tenant’s or subtenants’ use within the Premises, subject to the provisions set forth herein.

2.2 Installation of Town’s Equipment. Landlord reserves the right to collocate on the Tower solely for use in connection with police, fire, rescue, emergency broadcasting systems and other municipal purposes (including cabinets, structures, cables and other facilities for the transmission and reception of communications signals, the “Municipal Antennas and Equipment”), and the right to install, maintain, repair, replace and upgrade the Municipal Antennas and Equipment. Tenant agrees to install the Municipal Antennas and Equipment on the Tower and/or the Premises at Tenant’s sole cost and that Landlord shall be entitled to utilize the Tower and/or the Premises without paying a fee. Landlord shall not assign or sub-license any of its rights hereunder and shall not use the Municipal Antennas and Equipment for non-public purposes; nor charge a fee for the use thereof. If the Municipal Antennas and Equipment are not already installed on the Premises, then the location of the Municipal Antennas and Equipment shall be determined prior to the Commencement Date and will be coordinated with the Police Chief, Fire Chief, and Director of Public Works, and will be installed by Tenant at Tenant’s expense. After installation, all associated maintenance and repairs to the Municipal Antennas and Equipment and cabling and any obligation to maintain or comply with any approvals, permits or licenses shall be the responsibility of Landlord. Tenant shall provide Landlord reasonable access to the Premises, including the Tower, to perform such maintenance and repairs, provided that Landlord does not unreasonably interfere with Tenant’s use of the Premises or the operation of the Communications Facility. Landlord and Tenant agree that the Landlord’s rights to Tower space hereunder shall terminate upon the termination of this Lease. Upon such termination, Landlord shall at its expense promptly remove the Municipal Antennas and Equipment and associated cables in a good and workmanlike manner.

2.3 Hours of Use. Tenant and its subtenants, employees, agents, and subcontractors, will have twenty-four (24) hour, seven (7) day access to and over the Premises for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises.

2.4 Non-Disturbance. During the Term of this Lease, Landlord will not grant any other easement, ground lease, lease, license, sale, or other similar interest in or upon the Property for telecommunications purposes that would unreasonably interfere with Tenant’s use of the Premises. Landlord and Tenant recognize that Tenant’s use of the Premises set forth in this Lease would be frustrated if the telecommunications signals were blocked, if an obstruction were built that would cause material interference with such transmission, if access to and/or utilities serving the Communications Facility were materially and/or completely inhibited, or if Tenant’s use of the Premises was otherwise materially interfered with or prevented. Landlord, for itself, its successors and assigns, hereby agrees not to construct any improvements on or grant any rights in the Property to others for the Permitted Uses that would cause such interference. Tenant shall have the express

right to seek an injunction to prevent any of the activity prohibited by this Section 2.4 provided that Tenant complies with the provisions of Section 14.

3. **TERM.**

The term of this Lease shall commence on the Commencement Date for a term of twenty (20) years, and shall terminate twenty (20) years from the Commencement Date (the "Term").

4. **RENT.**

4.1 Rent Commencement Date. Tenant's obligation to pay Rent shall commence on the Commencement Date.

4.2 Prepaid Rent. Tenant shall pay to Landlord a lump-sum of Two Million One Hundred Fifty Thousand Dollars (\$2,150,000.00) for the Term of this Lease, in advance, on the Commencement Date ("Prepaid Rent"). Accordingly, no additional consideration shall be due during the Term of this Lease.

4.3 Intentionally Omitted.

4.4 Taxes. From the Commencement Date and throughout the Term of this Lease, Tenant agrees pay any real and personal property taxes, levies, betterments or assessments, fees, or charges that are assessed or chargeable during the Term of this Lease which are directly attributable to the Premises, the Communications Facility, and/or Tenant's use thereof, directly to the assessing authority. If Tenant fails to pay when due any such taxes, fees, or assessments, Landlord shall have the right but not the obligation to pay the same and demand payment therefor from Tenant, which payment Tenant shall make within ten (10) days of such demand by Landlord. Landlord's right to receive and Tenant's obligation to make such payment set forth in the foregoing sentence shall survive the termination or expiration of this Lease.

4.5 Manner of Payment. All payments required to be made by Tenant to Landlord under this Lease shall be paid without demand or off-set, by check made payable to the "Town of Lakeville," and delivered to Landlord at the address set forth above, Attention: Select Board Office, or at such other place as Landlord may from time to time direct by written notice to Tenant.

4.6 Late Payments. All payments becoming due under this Lease and not paid when due shall bear interest from the applicable due date until received by Landlord at an annual rate equal to the prime rate of interest charged from time to time by Bank of America or its successor or similar entity.

4.7 Rent Adjustment. If this Lease is terminated prior to the expiration date stated in this Lease for any reason other than a Landlord default, Landlord shall have no obligation to repay any Prepaid Rent paid by Tenant to Landlord under this Lease, provided, however, that if Tenant owes Landlord any payments under this Lease, Landlord shall have the right to deduct such amounts from the Prepaid Rent. Nothing herein shall affect Landlord's rights to collect the balance of any amounts owed to Landlord hereunder.

5. Intentionally Omitted.

6. INSTALLATION OF COMMUNICATIONS FACILITY; USE; MAINTENANCE.

6.1. Governmental Requirements. Tenant agrees to continue to comply with all applicable federal, state, and local laws, rules, regulations, permits, and approvals, including, without limitation, those required by the Federal Communications Commission (“FCC”), if applicable, the Federal Aviation Administration (“FAA”), the Town of Lakeville’s Zoning Bylaws, and the standards and requirements set forth therein for the installation of wireless communications facilities in the Town of Lakeville, and federal, state and local noise and environmental regulations, as the same may be amended from time to time, relating to Premises, the Communication Facility, and/or the use and operation of the Communications Facility on the Premises (the “Governmental Requirements”).

Notwithstanding the foregoing, Tenant agrees that:

- (a) There shall be no services, equipment or storage at the Premises other than what is necessary for Tenant and its subtenants to provide wireless services from the Premises. Tenant and any subtenant’s use of the Premises shall be unmanned (other than periodic visits required to install, inspect, maintain or repair any equipment);
- (b) Tenant shall place a fence around the Premises. Tenant shall screen and landscape the Premises and shall be in compliance with all Governmental Requirements;
- (c) Any proposed external lighting of the Communications Facility on the Premises shall comply with all Governmental Requirements, including the Town of Lakeville Bylaws;
- (d) Tenant, and not Landlord, shall be responsible for all signs at the Premises that are required by governmental authorities with applicable jurisdiction over the Premises and Tenant’s operations.
- (e) Testing of any generator at the Premises shall occur between 10:00 am and 4:30 pm, Monday through Friday; and
- (f) To the extent commercially reasonable, all equipment located at the Premises by Tenant or subtenants shall incorporate technology to achieve the quietest operation reasonably attainable.

6.2 Plans and Specifications. Tenant shall have the right to construct, erect, maintain, repair, replace, or upgrade equipment and any and all improvements on the Premises, and may make such alterations on the Premises as are related to the Permitted Use without Landlord’s consent. Tenant shall submit to Landlord copies of the proposed plans (the “Plans and Specifications”) for Landlord’s comments. Landlord shall have fifteen (15) days to provide their comments to the Plans and Specifications to Tenant. If Tenant has not received comments from Landlord by the end of the fifteenth (15th) day, Tenant may proceed. Nothing herein shall relieve Tenant of its obligations to obtain permits, licenses, and/or other approvals required under

applicable laws, rules, regulations, and bylaws, including zoning bylaws, related to and/or governing Tenant's use and/or alteration of the Premises.

6.3 Intentionally Omitted.

6.4 Intentionally Omitted.

6.5 Construction Standards. Any and all improvements to be constructed, erected or maintained on or at the Premises shall be constructed, erected and maintained in accordance with the Approved Plans and Specifications, in good and workmanlike manner, and in accordance with local building permits. Tenant's construction, operation, use and maintenance of the Communication Facility and any and all other improvements on or at the Premises shall at all times comply with all applicable Governmental Requirements. Tenant will be responsible for obtaining and maintaining, at its sole cost and expense, all approvals, and permits necessary for the construction of the Communications Facility and any and all other improvements on or at the Premises. Tenant shall have access to the Premises twenty-four (24) hours a day, seven (7) days a week for purposes of maintenance and repair but Tenant shall give Landlord at least five (5) days' notice prior to commencement of construction.

6.6 Maintenance and Operation Costs. Tenant will pay all costs and expenses incurred in connection with the construction, maintenance, and operation of the Communication Facility and any and all related improvements on or at the Premises, including utility connections and the cost of electricity and other utilities Tenant consumes in its construction, maintenance and operational activities at the rate charged by the servicing utility company, for which Tenant will make payments directly to said company. Tenant shall repair, at its sole cost and expense, any damage caused to the Property as a result of any act or omission of Tenant or its employees, agents, contractors, or invitees.

6.7 Mechanics Liens. Tenant shall not permit any mechanics' liens, or similar liens, to remain upon the Premises for labor and material furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed at the direction of Tenant, and shall cause any such lien to be released of record without cost to Landlord within thirty (30) days after Tenant receives notice of filing of same. In connection with the foregoing, Tenant agrees to indemnify, save, defend, and hold harmless the Landlord against, of and from all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting therefrom.

6.8 Removal. Tenant shall be responsible for removal of all portions of the Communications Facility in accordance with Section 12 of this Lease.

6.9 Removal Bond. Tenant shall continue to maintain a removal bond in the amount the greater of (a) Sixty-Five Thousand and No/100 (\$65,000.00) and (b) such amounts as are required under local general or zoning bylaws and any applicable permits, licenses, and/or approvals, in favor of Landlord from a bond company authorized to issue such bonds in the Commonwealth of Massachusetts and reasonably satisfactory to Landlord (the "Removal Bond") to secure the removal of the Communication Facility at the expiration or earlier termination of this Lease. The Removal Bond shall be maintained during the Term of this Lease, and the amount of

said bond shall be recalculated by Tenant at least every five (5) years and adjusted accordingly based upon the costs of removal of the Communication Facility. Tenant shall provide such calculations to Landlord for its review. The Removal Bond shall not be cancelled, materially changed, or reduced without first giving written notice to Landlord and Tenant at least thirty (30) days in advance and obtaining Landlord's prior written consent.

6.10 Intentionally omitted.

6.11 Maintenance of Premises. Tenant shall keep the Premises in good and safe order and condition, reasonable wear and tear and damage by fire or other casualty only excepted, and shall not commit or permit its agents, employees, representatives or invitees to commit waste to the Premises. If Tenant or its agents, employees, representatives or invitees (including sublessees) damage the Property or any property (including any wireless facility or equipment) of Landlord or any other tenant on the Property, Tenant shall, at its sole cost and expense, promptly repair and restore the Property and/or any property of the Town or of other tenants. Tenant shall be responsible for the removal of all of its trash and waste. Landlord shall have no obligation to maintain the Premises or to remove snow or ice from the Property.

6.12 Maintenance of Communication Facility. Tenant shall maintain and repair the Communication Facility in good order and condition, reasonable wear and tear and damage by casualty excepted, and shall maintain the Communication Facility and related equipment so as to keep it safe, sanitary, and in good working order and condition.

6.13 Changes, Alterations. Intentionally omitted.

6.14 Utilities. Tenant will be solely responsible for and promptly pay all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. Landlord will cooperate with any utility company requesting an easement over, under and across the Premises in order for the utility company to provide service to the Tenant, subject to Town Meeting approval and any other applicable approvals.

6.15 Contact. Both Tenant and Landlord shall provide each other with the name and telephone number of a primary contact and a secondary contact, one of which shall be reachable and responsive in the event of an emergency, twenty-four (24) hours per day, seven (7) days per week. Tenant shall also cooperate with Landlord with respect to public safety matters, including access needed for fire protection and safety.

7. TERMINATION.

Tenant may terminate the Lease at any time upon sixty (60) days prior written notice to Landlord, provided that Tenant complies with the provisions of Section 12.

8. INTERFERENCE; ENERGY SAFETY COMPLIANCE.

8.1 Interference. Tenant shall be responsible for taking reasonable measures to ensure that its use of the Premises will not cause "measurable interference," as defined by the FCC, to any present or future Municipal Antennas and Equipment installed on the Premises from time to time,

to local radio, television, police, public safety, national defense or other similar operations, and to any equipment of any other lessees of the Property which existed on the Property prior to February 14, 2005. In the event that Tenant's equipment causes such interference, Tenant shall take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at Tenant's option, powering down such equipment and later powering up such equipment for intermittent testing, within thirty (30) days of written notification from Landlord, unless such interference is with the Municipal Antennas and Equipment, in which event Tenant shall use any and all means to immediately cease such interference.

8.2 Radio Frequency Energy Safety Compliance. The Communication Facility and any other equipment or structures placed on the Premises by Tenant or its subtenants or licensees shall comply with applicable state and federal laws and regulations regarding human exposure to radio frequency energy. Landlord, at its discretion, may reasonably request verification of such compliance no more than once a Lease Year. Upon such request, Tenant and its subtenants shall provide the necessary documentation and shall cooperate with Landlord to demonstrate such compliance. Compliance may be determined by computation, visual inspection, and/or measurement as conditions warrant. The compliance analysis shall employ currently accepted evaluation methods, such as those contained in FCC Office of Engineering and Technology Bulletin 65. Before making any changes in the Communication Facility or operating parameters that materially affect its radio frequency emissions, Tenant shall inform Landlord in writing of its plans to make such changes. Landlord may require Tenant to supply information about the radio frequency emissions of its equipment one (1) time per year if Landlord has reason to believe a material change in emissions has occurred.

9. ENVIRONMENTAL.

9.1 Use of Hazardous Materials. Tenant agrees that it will not, and will not permit the other Tenant Parties use, generate, store or dispose of any Hazardous Materials on, under, about or within the Premises in violation of any law or regulation. Tenant shall inform the Lakeville Fire Chief in writing of any Hazardous Materials to be used, present or brought upon the Premises, and shall provide updates if any of the information changes during the term of this Agreement. Tenant shall be permitted to use and store on the Premises back-up power batteries (e.g. lead-acid batteries) and reasonable quantities of common materials used in telecommunications operations (e.g. cleaning solvents), generators, propane tanks, and gasoline to the extent that such batteries, materials, generators, propane tanks, are properly handled and stored in accordance with all local, state, and federal laws and regulations, so as to prevent a release of hazardous materials in and on the Premises.

9.2 Hazardous Materials. "Hazardous Materials" are any hazardous, toxic or radioactive materials, substances or waste, as defined in federal or state law regulating or addressing the generation, storage, use, or transportation of such materials, including but not limited to Massachusetts General Laws, Chapter 21E; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §1801, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Clean Water Act, 33 U.S.C. §1251, et seq.; the Clean Air Act, 42 U.S.C. §7401, et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Emergency Planning and Community

Right to Know Act (SARA Title III), 42 U.S.C. §11001, et seq.; and any rules, regulations or orders promulgated pursuant thereto (the “Environmental Laws”).

9.3 Indemnity. Tenant agrees to defend, indemnify, and hold Landlord harmless from Tenant’s failure to comply with any Environmental Laws, including without limitation, any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental conditions or matters as may now or hereafter be in effect, and for any Hazardous Materials brought onto, released, or discharged on or about the Property and/or the Premises by Tenant or any of the other Tenant Parties, as defined below, (the “Tenant Environmental Covenants”), and to assume all duties, responsibilities, and liabilities at its sole cost and expense, for all duties, responsibilities and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages, including attorneys’ fees) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding arising out of or related to a breach of Tenant Environmental Covenants. The indemnification of this Section specifically includes all costs, expenses and fees incurred in connection with any investigation of the condition of the Premises or the Property, as applicable, or any clean-up, remedial, removal or restoration work required by any governmental authority. Tenant shall not be obligated to indemnify Landlord for environmental conditions existing on the Premises prior to February 14, 2005 unless caused or exacerbated by any of the Tenant Parties (defined in Section 10.1) or for any Hazardous Materials present on the Premises because of the negligence of Landlord.

9.4 Costs. The indemnifications of this Section 9 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remedial, removal or restoration work required by any governmental authority.

9.5 Survival. The provisions of this Section 9 will survive the expiration or termination of this Lease.

10. INDEMNIFICATION; RELEASE.

10.1 Tenant Indemnity. In addition to Tenant’s obligations under Section 9.3, Tenant shall indemnify, hold harmless, release and defend Landlord, and its officers, agents, and employees against and from all claims, expenses, or liabilities (a) arising directly or indirectly from the failure of Tenant to comply with the terms of this Lease or with any applicable laws, codes, bylaws, rules, orders, regulations, or lawful direction now or hereafter in force of any public authority; and (b) to the extent caused by the act, omission, or negligence on the part of Tenant’s or subtenant’s, agents, employees, contractors, invitees, or anyone else claiming by, through or under Tenant and/or subtenant (collectively with Tenant, the “Tenant Parties”). However, in no event shall Tenant be obligated to indemnify Landlord to the extent such claim, expense, or liability results directly from the negligence or willful misconduct of Landlord or its agents, employees, or contractors. Any obligations of Tenant under this Lease shall be binding on all the other Tenant Parties, and Tenant shall be responsible for such other Tenant Parties.

10.2 Release. To the maximum extent permissible by law, Tenant agrees to use and occupy the Premises at Tenant’s own risk, and Landlord shall have no responsibility or liability

for any loss or damage to the personal property of Tenant or any Tenant Parties unless caused by the negligence or willful misconduct of Landlord or its officers, agents, or employees.

10.3 Landlord Indemnity. To the extent permitted by law, Landlord shall hold Tenant harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), arising directly from the negligent or willful actions or failure to act of Landlord or its agents, employees, contractors, or invitees, or the breach of any provision of this Lease, except to the extent attributable to the negligence or willful misconduct of any Tenant Parties.

10.4 No Personal Liability. To the fullest extent permitted by law, no official, employee, agent or representative of Landlord shall be individually or personally liable for any obligation or liability of Landlord under this Lease.

10.5 Survival. The provisions of this Section shall survive the termination or expiration of this Lease.

11. INSURANCE.

11.1 Required Insurance. Tenant and any subtenant shall carry during the Term, at its own cost and expense, the following insurance:

- (a) Commercial general liability with a minimum coverage amount of One Million Dollars (\$1,000,000) per occurrence and Three Million and no/100 Dollars (\$3,000,000) aggregate limit. The policy shall include blanket contractual liability insurance for all written contracts, and shall include coverage for products and completed operations liability and independent contractor's liability, coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.
- (b) All-risk property damage insurance for replacement of the Communication Facility and Tenant's property. Said insurance shall include coverage for all natural disasters, including earthquakes, hurricanes, tornadoes, and floods.
- (c) Automobile liability insurance for owned automobiles and trucks, non-owned automobiles and trucks, and/or rented automobiles and trucks, in the amount of (i) One Million and no/100 Dollars (\$1,000,000) for bodily injury and consequent death per occurrence, and Five Hundred Thousand Dollars (\$500,000) for property damage per occurrence, or One Million Dollars (\$1,000,000) combined single limit.
- (d) Workers Compensation in the minimum amount of the statutory limit.
- (e) Umbrella liability in the minimum amount of Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate over all other insurance required by this Lease.

11.2 General Requirements. The following conditions shall apply to the insurance policies required herein:

- (a) All insurance shall commence no later than the Commencement Date. Tenant shall provide Landlord with copies of the certificate of insurance or insurance policies meeting the requirements set forth herein and naming Landlord as an additional insured.
- (b) All insurance of Tenant shall be primary with respect to any insurance maintained by Landlord with respect to claims resulting from the Tenant's negligence and shall not call on Landlord's insurance for contributions.
- (c) All insurance shall be issued through valid and enforceable policies issued by insurers authorized to transact insurance business in the Commonwealth of Massachusetts and having an A or better financial rating from a recognized insurance accreditation institution (such as A.M. Best Company).
- (d) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as the limits in combination equal or exceed those required herein.
- (e) All insurance policies and certificates shall include a provision requiring thirty (30) day's written notice to Landlord of cancellation or reduction. On each anniversary of the Commencement Date, and at Landlord's reasonable request, Tenant shall provide Landlord with a certificate evidencing the coverages required hereunder.
- (f) Tenant's failure to obtain, procure or maintain the required insurance shall constitute a material breach of this Lease under which Landlord may in its sole discretion take immediate and unilateral action to suspend the rights of Tenant to operate pursuant to this Lease until said breach is corrected and/or to exercise such other rights and remedies available to Landlord.
- (g) Tenant's obligation to hold harmless and indemnify Landlord shall not be limited by the requirement for, or existence of, insurance coverage.
- (h) Landlord shall have the right to require Tenant to increase such limits at least every five (5) years when, during the term of this Lease, minimum limits of liability insurance commonly and customarily carried on properties comparable to the Premises by responsible owners or tenants are more or less generally increased, it being the intention of this sentence to require Tenant to take account of inflation in establishing minimum limits of liability insurance maintained from time to time on the Premises.

12. REMOVAL.

12.1 Waiver of Liens. All portions of the Communication Facility and other equipment or materials brought onto the Property by Tenant or its subtenants (except any equipment, facilities or materials of Landlord) will be and remain Tenant's personal property and may, at Tenant's option, be removed by Tenant at any time during the Term. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant

will become, or be considered as being affixed to or a part of, the Property, it being acknowledged by Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed at any time during the Term provided that Tenant restores the Premises in accordance with the provisions of Section 12.2.

12.2 Removal. Within sixty (60) days of the expiration or termination of this Lease, Tenant shall remove the Communication Facility and other equipment or materials brought onto the Property by Tenant or its subtenants. Tenant shall restore the Premises as close as is reasonably possible to its original condition, normal wear and tear and damage by fire or other casualty excepted. In the event that Tenant fails to remove the Communication Facility within said sixty (60) day period and/or to restore the Premises to the condition required herein, title to the Communications Facility shall automatically vest in the Landlord and Landlord shall be deemed the owner thereof without payment of any kind and/or Landlord may use the Removal Bond to effectuate the removal and/or restoration.

12.3 Survival. The provisions of this Section 12 shall survive the expiration or earlier termination of this Lease.

13. ASSIGNMENT AND SUBLETTING.

13.1 Assignment. Tenant may assign or transfer this Lease without Landlord's written consent. However, Tenant shall provide written notice to Landlord of such assignment at least thirty (30) days following the assignment. Upon such assignment, Tenant shall be relieved of all liabilities and obligations under this Lease from and after the date of assignment.

13.2 Sublease. Tenant may, without Landlord's consent, sublet or license a portion or portions of the Premises for collocation to another entity or person.

14. DEFAULT AND RIGHT TO CURE.

14.1 Default by Tenant

It shall be an event of default if:

- (a) Tenant fails to pay Rent or any other amounts due to Landlord under this Lease when due hereunder, or maintain the insurance required hereunder, and such failure continues for thirty (30) days after written notice from Landlord that the same is due;
- (b) Tenant fails to perform or observe any other term or condition contained in this Lease and such failure is not cured within sixty (60) days after written notice from Landlord, provided, however, that if such failure is of such a nature that Tenant cannot reasonably remedy the same within such sixty (60) day period, no such failure will be deemed to exist if Tenant commences to cure the default within such sixty (60) day period and thereafter prosecutes the same to completion with reasonable diligence (but in no event later than ninety (90) days from the date of the notice from Landlord);

If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity, but in no event will Landlord be permitted to terminate this Lease except if the termination is ordered by a court of competent jurisdiction as an equitable remedy.

The provisions of this Section shall survive the expiration or earlier termination of this Lease.

14.2 Default by Landlord. It shall be an event of default under this Lease if Landlord fails to perform any material term or condition under this Lease within sixty (60) days after receipt of written notice from Tenant specifying the failure, provided, however, that no such failure will be deemed to exist if Landlord commences to cure the default within such sixty (60) day period and thereafter prosecutes the same to completion with reasonable diligence. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights available to it under law and equity.

15. NOTICES.

Any notice required or permitted to be given in writing under this Lease shall be (a) mailed by certified mail, postage prepaid, return receipt requested, (b) sent by overnight air courier service, (c) personally delivered to a representative of the receiving party, or (d) sent by facsimile (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section). Notice will be addressed to the parties at the addresses set forth below. Either party hereto may change the place for the giving of notice to it by thirty (30) days written notice to the other as provided herein.

If to Tenant, to:

SBA Towers II LLC
8051 Congress Avenue
Boca Raton, FL 33487
Attn: Site Administration
RE: MA12214-A/Lakeville 5, MA

With a copy to:

SBA Towers II LLC
8051 Congress Avenue
Boca Raton, FL 33487
Attn: Legal Operations
RE: MA12214-A/Lakeville 5, MA

If to Landlord, to:

Town of Lakeville
346 Bedford Street
Lakeville, MA 02347
Attention: Select Board

With a copy to:

KP Law, P.C.
Town Counsel
101 Arch Street
Boston, MA 02110
Attention: Shirin Everett, Esq.

16. CONDEMNATION.

In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide prompt notice of the proceeding to Tenant. If a condemning

authority takes all of the Property, or a substantial portion of the Premises sufficient, in Tenant's reasonable determination, to render the Premises substantially unsuitable for Tenant's use, Tenant may terminate this Lease, by written notice thereof to Landlord, and this Lease will immediately terminate. Upon such termination, this Lease shall become null and void, and Landlord and Tenant shall have no other further obligations to each other hereunder, other than Tenant's obligation to remove its property as herein provided and such other provisions that are stated herein to survive said termination. The parties will be entitled to share in the condemnation proceeds in proportion to the values of their respective interests in the Property, which for Tenant will include, where applicable, the unamortized value of its Communication Facility.

17. CASUALTY.

Landlord will provide notice to Tenant of any casualty affecting the Property within forty-eight (48) hours of Landlord becoming aware of the casualty. If Tenant's Communication Facility or improvements are substantially damaged or destroyed, Tenant may terminate this Lease upon written notice to Landlord. Termination shall be effective immediately after such notice is given. Upon such termination, this Lease shall become null and void, and Landlord and Tenant shall have no other further obligations to each other hereunder, other than Tenant's obligation to remove its property as herein provided and such other provisions that are stated herein to survive said termination. If Tenant elects to continue this Lease, Tenant shall restore the Premises and/or Communication Facility to the condition existing immediately prior to such damage or destruction. Tenant shall not unreasonably or unnecessarily delay restoration of its Communications Facility.

18. MISCELLANEOUS.

18.1 Landlord's Access Rights. Landlord shall have a right of access to the Premises at all times, to inspect the Communication Facility and/or the Municipal Antennas and Equipment, to take necessary actions to protect the Municipal Antennas and Equipment and/or the property or persons on the Property, to enforce the terms of this Lease, or for any other purpose. Except in cases of emergency, Landlord must give Tenant at least twenty-four (24) hours notice of any request for access to the Premises. In the event of an emergency, Landlord shall give Tenant notice of any access as soon thereafter as practical. If Landlord needs to alter the Municipal Antennas and Equipment located on the Tower, Landlord shall give Tenant at least forty-eight (48) prior notice thereof, and shall comply with any reasonable rules and regulations of Tenant to ensure that Landlord does not damage the Tower or any antennas or other equipment installed on the Tower.

18.2 Landlord's Responsibilities. Upon the payment of Rent and the performance of all applicable terms of this Lease, Tenant shall have the right to quiet use and enjoyment of the Premises for the purposes provided for in this Lease only, recognizing, however, that the Property shall continue to be used by the Town of Lakeville, and that the Town shall, as owner, have unimpeded access to the Property, including the Premises, at all times (subject to the notice provision).

18.3 No Indirect/Consequential Damages. Neither Landlord nor Tenant shall have liability to the other or to their prospective subtenants or licensees for any interruption of Tenant's/subtenant's/licensee's business due to casualty or any other reason. In no event shall Landlord or Tenant incur liability hereunder with respect to indirect or consequential damages

incurred by the other party or any person acting by or through that party due to any act or omission by Landlord or Tenant.

18.4 Amendment; Waiver. This Lease cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties.

18.5 Short Form Lease. Either party will, at any time upon thirty (30) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease attached hereto and incorporated herein as **Exhibit "D"**. Either party may record this memorandum at any time, in its absolute discretion.

18.6 Bind And Benefit. The terms and conditions contained in this Lease will run with the Premises and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

18.7 Severability. If any term or condition of this Lease is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein.

18.8 Intentionally omitted.

18.9 Interpretation. Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Lease, except as otherwise stated in the Lease or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of this Lease and are incorporated by reference into this Lease; (v) use of the terms "termination" or "expiration" are interchangeable, (vi) reference to a default will take into consideration any applicable notice, grace and cure periods, and (vii) references to "Tenant" shall, where appropriate, include the other Tenant Parties.

18.10 Estoppel. Either party will, at any time upon thirty (30) days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Lease, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Premises.

18.11 No Option. The submission of this Lease for examination or consideration does not constitute a reservation of or option for the Premises. This Lease will become effective as an agreement only upon the legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

18.12 No Limitation of Regulatory Authority. The parties acknowledge that nothing in this Lease shall be deemed to be an agreement by Landlord to issue or cause the issuance of any approval or permit, or to limit or otherwise affect the ability of Landlord or any regulatory authority of Landlord to fulfill its regulatory mandate or execute its regulatory powers consistent with all applicable legal requirements.

18.13 No Presumptions Regarding Preparation of Lease Agreement. The parties acknowledge and agree that each of the parties has been represented by counsel or has had full opportunity to consult with counsel and that each of the parties has participated in the negotiation and drafting of this Lease. Accordingly it is the intention and agreement of the parties that the language, terms and conditions of this Lease are not to be construed in any way against or in favor of any party hereto by reason of the roles and responsibilities of the parties or their counsel in connection with the preparation of this Lease.

18.14 Survival. Terms and conditions of this Lease which by their sense and context survive the termination, cancellation or expiration of this Lease shall so survive.

18.15 Governing Law. This Lease shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and Tenant submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Lease.

18.16 Mortgagees' Continuation Rights and Notice and Cure. Tenant may from time-to-time grant to certain lenders selected by Tenant and its affiliates (the "Lender") a lien on and security interest in Tenant's interest in this Lease and all assets and personal property of Tenant located on the Premises, including, but not limited to, all accounts receivable, inventory, goods, machinery and equipment owned by Tenant (the "Personal Property") as collateral security for the repayment of any indebtedness to the Lender. Should Lender exercise any rights of Tenant under this Lease, Landlord agrees to accept such exercise of rights by Lender as if same had been exercised by Tenant. If there shall be a monetary default by Tenant under the Lease, Landlord shall accept the cure thereof by Lender within fifteen (15) days after the expiration of any grace period provided to Tenant under this Lease to cure such default, prior to terminating this Lease (if permitted by the terms hereof). If there shall be a non-monetary default by Tenant under this Lease, Landlord shall accept the cure thereof by Lender within thirty (30) days after the expiration of any grace period provided to Tenant under this Lease to cure such default, prior to terminating this Lease (if permitted by the terms hereof). Hereafter, this Lease may not be amended in any respect which would be reasonably likely to have a material adverse effect on Lender's interest therein or surrendered, terminated, or cancelled, without the prior written consent of Lender. If the Lease is terminated or is rejected in any bankruptcy proceeding, Landlord will enter into a new lease with Lender or its designee for the remainder of the Term hereof on the same terms as this Lease within fifteen (15) days of Lender's request made within thirty (30) days of notice of such termination or rejection, provided Lender pays all past due amounts under the Lease, if any. The foregoing is not applicable to normal expirations of this Lease. Landlord hereby agrees to subordinate any security interest, lien, claim or other similar right, including, without limitation, rights of levy or distraint for rent, Landlord may have in or on the Personal Property, except any liens arising by law, to the

liens and/or security interests in favor of the Lender, whether currently existing or arising in the future. Nothing contained herein shall be construed to grant a lien upon or security interest in any of Landlord's assets. Simultaneous with any notice of default given to Tenant under the terms of this Lease, Landlord shall deliver of copy of such notice to Lender at an address provided by Tenant. Landlord shall have no obligation to provide notice to any Lender whose address has not been provided by Tenant.

[signature page follows]

In Witness Whereof, the parties hereto have caused this Lease Agreement to be executed on this _____ day of January, 2023.

LANDLORD:

TOWN OF LAKEVILLE,
By its Select Board

Richard LaCamera

Lorraine Carboni

Evagelia Fabian

842944/LAKE/0001

WITNESSES:

TENANT:

SBA TOWERS II LLC, a Florida limited liability company

Print Name: _____

By: _____
Martin Aljovin
Vice President – Asset Optimization

Print Name: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 202__, by Martin Aljovin, Vice President – Asset Optimization of SBA Towers II LLC, a Florida limited liability company, on behalf of said company, who is personally known to me and did not take an oath.

Notary Public _____
My Commission Expires _____

(NOTARY SEAL)

EXHIBIT "A"

Legal Description of the Property

PARENT PARCEL (AS PROVIDED)

THE LAND IN LAKEVILLE, PLYMOUTH COUNTY, MASSACHUSETTS SITUATED EAST OF THE PRECINCT STREET AND SOUTH OF RHODE ISLAND ROAD, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY SIDE LINE OF THE PARCEL HEREIN CONVEYED WHICH POINT IS NORTH 31° 20' WEST 383 FEET FROM A STONE BOUND MARKING THE NORTHEAST CORNER OF LAND FORMERLY OF ROGERS, AND THE SOUTHEAST CORNER OF LAND FORMERLY OF SCANLON, NOW OWNED BY THE GRANTORS;

THENCE IN THE FOLLOWING COURSES ALL BY LAND OF THE GRANTORS, NORTH 58° 40' EAST 509 FEET; NORTH 31° 20' WEST 800 FEET; SOUTH 58° 40' WEST 800 FEET; SOUTH 31° 20' EAST 800 FEET; AND NORTH 58° 40' EAST 291 FEET TO THE POINT OF BEGINNING. CONTAINING 14.7 ACRES.

BEING A PART OF THE SO-CALLED SCANLON LOT AND THE SO-CALLED MONTROND LAND NOW OWNED BY KENNETH B. ERICKSON, ET UX AND ROGER E. BEECH, ET UX, AND PART OF THE KING LOT, SO-CALLED, OWNED BY LAKEVILLE SAND & GRAVEL, INC., ALL AS SHOWN ON A PLAN FILED IN THE LAKEVILLE TOWN CLERK'S OFFICE ENTITLED "PLAN OF LAND IN LAKEVILLE, MASS. BELONGING TO KENNETH ERICKSON AND ROGER E. BEECH ET ALS TO BE CONVEYED TO THE TOWN OF LAKEVILLE FOR LOCATION OF WELL FOR TOWN WATER SCALE 1" = 200' OCT. 14, 1970".

TOGETHER WITH RIGHTS DESCRIBED IN EASEMENT AGREEMENT BY AND BETWEEN LEBARON RESIDENTIAL, LLC, A MASSACHUSETTS LIMITED LIABILITY COMPANY AND THE TOWN OF LAKEVILLE, A MASSACHUSETTS MUNICIPAL CORPORATION, RECORDED 10/18/2005 IN BOOK 31545, PAGE 123 OF THE PLYMOUTH COUNTY RECORDS.

TAX ID: 027-002-030

BEING THE SAME PROPERTY CONVEYED TO TOWN OF LAKEVILLE, GRANTEE, FROM ROGER E. BEECH, PEARL MARGARET BEECH, KENNETH E. ERICKSON, AND ALICE A. ERICKSON; AND LAKEVILLE SAND & GRAVEL, INC., GRANTOR, BY DEED RECORDED 07/01/1971, IN BOOK 3684, PAGE 790 OF THE PLYMOUTH COUNTY RECORDS.

EXHIBIT "B"

Legal Description of the Premises

Tenant's Community Facility is more particularly described and depicted as follows:

EXCLUSIVE LEASE AREA (AS SURVEYED)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF LAKEVILLE, COUNTY OF PLYMOUTH, STATE OF MASSACHUSETTS, DESCRIBED IN DEED BOOK 31545 PAGE 123, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING IRON PIN LOCATED ON AN ADJOINING PROPERTY CORNER HAVING MASSACHUSETTS MAIN LAND STATE PLANE COORDINATES E:802307.07 -AND- N:2773336.79;

THENCE, N 23° 08' 23" E FOR A DISTANCE OF 261.57 FEET TO THE POINT OF BEGINNING;

THENCE, N 44° 07' 11" W A DISTANCE OF 100.00 FEET TO A POINT;

THENCE, N 45° 52' 49" E FOR A DISTANCE OF 100.00 FEET TO A POINT;

THENCE, S 44° 07' 11" E FOR A DISTANCE OF 100.00 FEET TO A POINT;

THENCE, S 45° 52' 49" W FOR A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING CONTAINING 10,000 SQFT -OR- 0.23 ACRES.

SAID PREMISES BEING SHOWN AS "EXCLUSIVE LEASE AREA 10,000 SQFT" ON THE PLAN ENTITLED "AS-BUILT SURVEY" ATTACHED HERETO AND INCORPORATED HEREIN.

EXHIBIT "C"

Legal Description of the Access Way

NON-EXCLUSIVE VARIABLE WIDTH ACCESS AND UTILITY EASEMENT (AS SURVEYED)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF LAKEVILLE, COUNTY OF PLYMOUTH, STATE OF MASSACHUSETTS, DESCRIBED IN DEED BOOK 31545 PAGE 123, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING IRON PIN LOCATED ON AN ADJOINING PROPERTY CORNER HAVING MASSACHUSETTS MAIN LAND STATE PLANE COORDINATES E:802307.07 -AND- N:2773336.79;

THENCE, N 23° 08' 23" E FOR A DISTANCE OF 261.57 FEET TO A POINT;

THENCE, N 44° 07' 11" W FOR A DISTANCE OF 54.16 FEET TO THE POINT OF BEGINNING;

THENCE, S 46° 09' 42" W FOR A DISTANCE OF 107.08 FEET TO A POINT;

THENCE, S 52° 22' 12" W FOR A DISTANCE OF 83.34 FEET TO A POINT;

THENCE, S 18° 42' 30" E FOR A DISTANCE OF 42.54 FEET TO A POINT;

THENCE, S 46° 06' 56" E FOR A DISTANCE OF 87.57 FEET TO A POINT;

THENCE, S 09° 20' 52" W FOR A DISTANCE OF 51.78 FEET TO A POINT;

THENCE, S 54° 36' 54" W FOR A DISTANCE OF 95.40 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE,

SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 18° 38' 33.6", HAVING A RADIUS OF 62.00 FEET, AND WHOSE LONG CHORD BEARS N 30° 07' 45" W FOR A DISTANCE OF 20.08 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE.

THENCE, N 54° 36' 54" E FOR A DISTANCE OF 85.22 FEET TO A POINT;

THENCE, N 09° 20' 52" E FOR A DISTANCE OF 32.92 FEET TO A POINT;

THENCE, N 46° 06' 56" W FOR A DISTANCE OF 81.94 FEET TO A POINT;

THENCE, N 18° 42' 30" W FOR A DISTANCE OF 25.56 FEET TO A POINT;

THENCE, S 71° 17' 30" W FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 18° 42' 30" W FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 71° 17' 30" E FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 18° 42' 30" W FOR A DISTANCE OF 16.14 FEET TO A POINT;

THENCE, N 52° 22' 12" E FOR A DISTANCE OF 96.55 FEET TO A POINT;

THENCE, N 46° 09' 42" E FOR A DISTANCE OF 105.90 FEET TO A POINT;

THENCE, S 44° 07' 11" E FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING CONTAINING 9708 SQFT -OR- 0.22 ACRES.

TOGETHER WITH RIGHTS DESCRIBED IN EASEMENT AGREEMENT BY AND BETWEEN LEBARON RESIDENTIAL, LLC, A MASSACHUSETTS LIMITED LIABILITY COMPANY AND THE TOWN OF LAKEVILLE, A MASSACHUSETTS MUNICIPAL CORPORATION, RECORDED 10/18/2005 IN BOOK 31545, PAGE 123 OF THE PLYMOUTH COUNTY RECORDS.

SAID ACCESS WAY BEING SHOWN AS “NON-EXCLUSIVE VARIABLE WIDTH ACCESS AND UTILITY EASEMENT 9,708 SQFT” ON THE PLAN ENTITLED “AS-BUILT SURVEY” ATTACHED HERETO AND INCORPORATED HEREIN.

EXHIBIT "D"

Memorandum of Lease Agreement

Prepared by: Catherine Hutchison
After recording return to: Rita Drinkwater
SBA Network Services, Inc.
8051 Congress Avenue
Boca Raton, FL 33487
Ph: 1-800-487-7483 ext. 7872

MEMORANDUM OF LEASE AGREEMENT

IN ACCORDANCE WITH G.L. c.183, §4, THIS MEMORANDUM OF LEASE AGREEMENT (herein "Memorandum") is entered into as of this _____ day of _____, 2023 ("Commencement Date") by and between **TOWN OF LAKEVILLE**, a Massachusetts municipal corporation acting by and through its Select Board, having an address at 346 Bedford Street, Lakeville, Massachusetts 02347 ("Landlord") and **SBA Towers II LLC, a Florida limited liability company**, having a principal office located at 8051 Congress Avenue, Boca Raton, Florida 33487-1307 ("Tenant").

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement dated _____, 2023 ("Lease") whereby, Landlord leases to Tenant approximately Ten Thousand (10,000) square feet ("Premises") of a certain parcel of land located at 100 Fern Avenue (Accessor's Map 27, Block 2, Lot 30), Lakeville, Massachusetts and described in an instrument recorded with the Plymouth County Registry of Deeds in Book 3684, Page 790 ("Property") and further described in **Exhibit "A"** attached hereto and made a part hereof. All terms used but not defined herein shall have the meaning ascribed to them in the Lease Agreement.

WHEREAS, Landlord and Tenant desire to enter into this Memorandum to give notice of said Lease and all of its terms, covenants and conditions to the same extent as if the same were fully set forth herein.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration including the rents reserved and the covenants and conditions more particularly set forth in the Lease, Landlord and Tenant do hereby covenant, promise and agree as follows:

1. Tenant shall lease the Premises from Landlord, together with all easements for ingress, egress and utilities as more particularly described on **Exhibit "B"** attached hereto, all upon the terms and conditions more particularly set forth in the Lease for a term of twenty (20) years, commencing on the Commencement Date and shall terminate twenty (20) years from the Commencement Date.
2. The sole purpose of this instrument is to give notice of said Lease and all its terms, covenants and conditions to the same extent as if the same were fully set forth herein. The Lease contains certain other rights and obligations in favor of Landlord and Tenant which are more fully set forth therein.
3. The conditions, covenants and agreements contained in this instrument shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators,

successors and assigns for the term of the Lease and any extensions thereof. All covenants and agreements of this Lease shall run with the land described in **Exhibit "A"**.

[The remainder of this page is intentionally left blank. Signatures to follow.]

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year first above written.

LANDLORD:
TOWN OF LAKEVILLE, a
Massachusetts municipal corporation
acting by and through its Select Board

Richard LaCamera

Lorraine Carboni

Evagelia Fabian

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF ESSEX, SS.

On this ____ of _____, 2023, before me, the undersigned notary public, personally appeared _____, member of the Lakeville Select Board, as aforesaid, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is sed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose on behalf of the Town of Lakeville.

Notary Public
My Commission Expires _____

(NOTARY SEAL)

WITNESSES:

TENANT:

SBA TOWERS II LLC, a Florida limited liability company

Print Name: _____

By: _____
Martin Aljovin
Vice President – Asset Optimization

Print Name: _____

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 202____, by Martin Aljovin, Vice President – Asset Optimization of SBA Towers II LLC, a Florida limited liability company, on behalf of said company, who is personally known to me and did not take an oath.

Notary Public _____
My Commission Expires _____

(NOTARY SEAL)

EXHIBIT "A"

Legal Description of the Property

PARENT PARCEL (AS PROVIDED)

THE LAND IN LAKEVILLE, PLYMOUTH COUNTY, MASSACHUSETTS SITUATED EAST OF THE PRECINCT STREET AND SOUTH OF RHODE ISLAND ROAD, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY SIDE LINE OF THE PARCEL HEREIN CONVEYED WHICH POINT IS NORTH 31° 20' WEST 383 FEET FROM A STONE BOUND MARKING THE NORTHEAST CORNER OF LAND FORMERLY OF ROGERS, AND THE SOUTHEAST CORNER OF LAND FORMERLY OF SCANLON, NOW OWNED BY THE GRANTORS;

THENCE IN THE FOLLOWING COURSES ALL BY LAND OF THE GRANTORS, NORTH 58° 40' EAST 509 FEET; NORTH 31° 20' WEST 800 FEET; SOUTH 58° 40' WEST 800 FEET; SOUTH 31° 20' EAST 800 FEET; AND NORTH 58° 40' EAST 291 FEET TO THE POINT OF BEGINNING. CONTAINING 14.7 ACRES.

BEING A PART OF THE SO-CALLED SCANLON LOT AND THE SO-CALLED MONTROND LAND NOW OWNED BY KENNETH B. ERICKSON, ET UX AND ROGER E. BEECH, ET UX, AND PART OF THE KING LOT, SO-CALLED, OWNED BY LAKEVILLE SAND & GRAVEL, INC., ALL AS SHOWN ON A PLAN FILED IN THE LAKEVILLE TOWN CLERK'S OFFICE ENTITLED "PLAN OF LAND IN LAKEVILLE, MASS. BELONGING TO KENNETH ERICKSON AND ROGER E. BEECH ET ALS TO BE CONVEYED TO THE TOWN OF LAKEVILLE FOR LOCATION OF WELL FOR TOWN WATER SCALE 1" = 200' OCT. 14, 1970".

TOGETHER WITH RIGHTS DESCRIBED IN EASEMENT AGREEMENT BY AND BETWEEN LEBARON RESIDENTIAL, LLC, A MASSACHUSETTS LIMITED LIABILITY COMPANY AND THE TOWN OF LAKEVILLE, A MASSACHUSETTS MUNICIPAL CORPORATION, RECORDED 10/18/2005 IN BOOK 31545, PAGE 123 OF THE PLYMOUTH COUNTY RECORDS.

TAX ID: 027-002-030

BEING THE SAME PROPERTY CONVEYED TO TOWN OF LAKEVILLE, GRANTEE, FROM ROGER E. BEECH, PEARL MARGARET BEECH, KENNETH E. ERICKSON, AND ALICE A. ERICKSON; AND LAKEVILLE SAND & GRAVEL, INC., GRANTOR, BY DEED RECORDED 07/01/1971, IN BOOK 3684, PAGE 790 OF THE PLYMOUTH COUNTY RECORDS.

EXHIBIT "B"

Legal Description of the Premises

EXCLUSIVE LEASE AREA (AS SURVEYED)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF LAKEVILLE, COUNTY OF PLYMOUTH, STATE OF MASSACHUSETTS, DESCRIBED IN DEED BOOK 31545 PAGE 123, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING IRON PIN LOCATED ON AN ADJOINING PROPERTY CORNER HAVING MASSACHUSETTS MAIN LAND STATE PLANE COORDINATES E:802307.07 -AND- N:2773336.79;

THENCE, N 23° 08' 23" E FOR A DISTANCE OF 261.57 FEET TO THE POINT OF BEGINNING;

THENCE, N 44° 07' 11" W A DISTANCE OF 100.00 FEET TO A POINT;

THENCE, N 45° 52' 49" E FOR A DISTANCE OF 100.00 FEET TO A POINT;

THENCE, S 44° 07' 11" E FOR A DISTANCE OF 100.00 FEET TO A POINT;

THENCE, S 45° 52' 49" W FOR A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING CONTAINING 10,000 SQFT -OR- 0.23 ACRES.

NON-EXCLUSIVE VARIABLE WIDTH ACCESS AND UTILITY EASEMENT (AS SURVEYED)

A PORTION OF ALL THAT CERTAIN PARCEL OF LAND LYING IN THE TOWN OF LAKEVILLE, COUNTY OF PLYMOUTH, STATE OF MASSACHUSETTS, DESCRIBED IN DEED BOOK 31545 PAGE 123, FURTHER DESCRIBED AS:

COMMENCING FROM AN EXISTING IRON PIN LOCATED ON AN ADJOINING PROPERTY CORNER HAVING MASSACHUSETTS MAIN LAND STATE PLANE COORDINATES E:802307.07 -AND- N:2773336.79;

THENCE, N 23° 08' 23" E FOR A DISTANCE OF 261.57 FEET TO A POINT;

THENCE, N 44° 07' 11" W FOR A DISTANCE OF 54.16 FEET TO THE POINT OF BEGINNING;

THENCE, S 46° 09' 42" W FOR A DISTANCE OF 107.08 FEET TO A POINT;

THENCE, S 52° 22' 12" W FOR A DISTANCE OF 83.34 FEET TO A POINT;

THENCE, S 18° 42' 30" E FOR A DISTANCE OF 42.54 FEET TO A POINT;

THENCE, S 46° 06' 56" E FOR A DISTANCE OF 87.57 FEET TO A POINT;

THENCE, S 09° 20' 52" W FOR A DISTANCE OF 51.78 FEET TO A POINT;

THENCE, S 54° 36' 54" W FOR A DISTANCE OF 95.40 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE,

SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 18° 38' 33.6", HAVING A RADIUS OF 62.00 FEET, AND WHOSE LONG CHORD BEARS N 30° 07' 45" W FOR A DISTANCE OF 20.08 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE.

THENCE, N 54° 36' 54" E FOR A DISTANCE OF 85.22 FEET TO A POINT;

THENCE, N 09° 20' 52" E FOR A DISTANCE OF 32.92 FEET TO A POINT;

THENCE, N 46° 06' 56" W FOR A DISTANCE OF 81.94 FEET TO A POINT;

THENCE, N 18° 42' 30" W FOR A DISTANCE OF 25.56 FEET TO A POINT;

THENCE, S 71° 17' 30" W FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 18° 42' 30" W FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 71° 17' 30" E FOR A DISTANCE OF 20.00 FEET TO A POINT;

THENCE, N 18° 42' 30" W FOR A DISTANCE OF 16.14 FEET TO A POINT;

THENCE, N 52° 22' 12" E FOR A DISTANCE OF 96.55 FEET TO A POINT;

THENCE, N 46° 09' 42" E FOR A DISTANCE OF 105.90 FEET TO A POINT;

THENCE, S 44° 07' 11" E FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING CONTAINING 9708 SQFT -OR- 0.22 ACRES.

TOGETHER WITH RIGHTS DESCRIBED IN EASEMENT AGREEMENT BY AND BETWEEN LEBARON RESIDENTIAL, LLC, A MASSACHUSETTS LIMITED LIABILITY COMPANY AND THE TOWN OF LAKEVILLE, A MASSACHUSETTS MUNICIPAL CORPORATION, RECORDED 10/18/2005 IN BOOK 31545, PAGE 123 OF THE PLYMOUTH COUNTY RECORDS.

**AGENDA ITEM #8
JANUARY 9, 2023**

**DISCUSS AND POSSIBLE VOTE TO APPROVE LICENSE FOR
LAKEVILLE MARTIAL ARTS STUDIO**

Attached is an email from the Town Administrator regarding the draft license for the Martial Arts Studio at Ted Williams Camp. Also attached is a copy of the proposed license.

Tracie Craig-McGee

From: Ari Sky
Sent: Wednesday, December 21, 2022 3:09 PM
To: Lia Fabian; Lorraine Carboni; Richard LaCamera
Cc: Tracie Craig-McGee; Nathan Darling, Building Commissioner & Zoning Enforcement Officer; Paul Nee, Facilities Manager
Subject: License Agreement - Lakeville Martial Arts
Attachments: Martial Arts Studio 2022 Renewal FINAL.pdf

Boardmembers –

Attached is the draft license agreement for the Lakeville Martial Arts Club which, as you know, rents space at Ted Williams Camp. The agreement contains a number of refinements/adjustments in comparison with the existing agreement, which expired earlier this year:

- The term is set at three years, backdated to March 2022.
- The monthly fee has been increased to account for additional costs, mainly utilities, from \$525/month to \$725/month.
- While the previous agreement contained language requiring the lessee to keep the property in good order, the new agreement is more explicit regarding repairs.
- Termination language and procedures are defined more clearly and the indemnification language explicitly exempts the Town from any damage, injuries, etc.

The agreement has been reviewed by Town Counsel and our insurance agent, and signed off by John Marando. Scott Holmes approved the document at several steps, reviewed the document with the Parks Commission at their December 20 meeting, and gave his final sign off to me by email this morning. Thanks, and please let me know if you have any questions or comments.

Ari J. Sky, ICMA-CM
Town Administrator
Town of Lakeville
346 Bedford Street
Lakeville, Massachusetts 02347
asky@lakevillema.org
(508) 946-8803



**TOWN OF LAKEVILLE
LICENSE AGREEMENT**

1. PARTIES

Licensor, the Town of Lakeville acting by and through its Select Board having an address of 346 Bedford Street, Lakeville, MA 02347 and its successors, and assigns, where the context so admits, does hereby License to Licensee, the Lakeville Martial Arts Club having an address of 28 Precinct Street, Lakeville, MA 02347 and its successors where the contest so admits.

2. PREMISES

The Licensee hereby Licenses the following described premises: a portion of the Licensor's property located at 28 Precinct Street (Ted Williams Camp), Lakeville, MA 02347 (the "Property"), which portion (the "Licensed Premises") is the renovated function room attached to the garage, together with the right to use in common, with others entitled thereto, the hallways or stairways necessary to access said Licensed Premises, and lavatories nearest thereto.

3. TERM

The term of this License shall be for three (3) years commencing on March 1, 2022 and ending on February 28, 2025, unless sooner terminated in accordance with Section 14 below.

4. LICENSE FEE

The Licensee shall pay to the Licensor a fixed License Fee at the rate of Eight Thousand Seven Hundred (\$8,700.00) Dollars per year, payable in advance in monthly installments of Seven Hundred Twenty Five (\$725.00) Dollars on the first day of each month.

5. UTILITIES

The License Fee amount shall include electricity and heat. The Licensee shall be responsible for any other utilities and costs required in the operation of the Licensed Activity , including but not limited to, telephone, cable, communications, etc.

6. USE OF LICENSED PREMISES

The Licensee shall use the Licensed Premises only for the purposes of operating a Martial Arts Studio and Classroom and all of the activities that are consistent with this use ("Licensed Activity"). Other uses are prohibited, unless authorized by written permission of the Licensor.

7. HOURS OF OPERATION

The Licensee's allowed use of the Licensed Premises will be restricted to the following hours: Monday through Friday: 12:00 PM to 10:00 PM and Saturday: 8:00 AM to 5:00 PM. Any use of the premises outside of the above specified hours shall be prohibited, unless authorized by the Licensor after a request in writing from the Licensee.

8. COMPLIANCE WITH LAWS

The Licensee acknowledges that no trade or occupation shall be conducted in or on the Licensed Premises or use made thereof which will be unlawful, improper, noisy or offensive, or contrary to any law, including but not limited to the bylaws and regulations of the Town of Lakeville. Without limiting the generality of the foregoing (a) the Licensee shall not bring or permit to be brought or kept in or on Licensed Premises or elsewhere on the Licensor's property any hazardous, toxic, inflammable, combustible or explosive fluid, material, chemical or substance, including without limitation any item defined as hazardous pursuant to Chapter 21E of the Massachusetts General Laws; and (b) the Licensee shall be responsible for compliance with requirements imposed by the Americans with Disabilities Act relative to the layout of the Licensed Premises and any work performed by the Licensee therein.

9. FIRE INSURANCE

The Licensee shall not permit any use of the Licensed Premises which will make voidable any insurance on the Property or on the contents of said Property or which shall be contrary to any law or regulation from time to time established by the New England Fire Insurance Rating Association or any similar body succeeding its powers. The Licensee shall, on demand, reimburse the Licensor and all other tenants, all extra insurance premiums caused by the Licensee's use of the premises.

10. MAINTENANCE

A. Licensee's Obligations

The Licensee agrees, at its sole expense, to maintain the Licensed Premises in good condition, damage by fire and other casualty only excepted, and whenever necessary, to repair any damage caused by the Licensee or its invitees, including but not limited to replacing plate glass and other glass therein, acknowledging that the Licensed Premises are now in good order and the glass whole. The Licensee shall not permit the Licensed Premises to be overloaded, damaged, stripped or defaced, nor suffer any waste. Licensee shall obtain written consent of Licensor before erecting any sign on the Licensed Premises or the Property.

B. Licensor's Obligations

The Licensor agrees to maintain the structure of the building, including all outdoor restrooms, of which the Licensed Premises are a part in the same condition as it is at the commencement of the term or as it may be put in during the term of this License, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance is required because of the act or omission of the Licensee and/or of those for whose conduct the Licensee is legally responsible, in which case the Licensee's obligation to repair as set forth above shall apply.

11. ALTERATIONS-ADDITIONS

The Licensee shall not make structural alterations or additions to the Licensed Premises, but may make non-structural alterations provided the Licensor consents thereto in writing, which consent shall not be unreasonably withheld or delayed. All such allowed alterations shall be at the Licensee's sole expense and shall be in quality at least equal to the present construction. Licensee shall not permit any mechanics' liens or similar liens to remain upon the Licensed Premises for labor and material furnished to Licensee or claimed to have been furnished to Licensee in connection with work of any character performed or claimed to have been performed at the direction of Licensee and shall cause any such lien to be released of record forthwith without cost to Licensor.

Any alterations or improvements made by the Licensee shall become the property of the Licensor at the termination of occupancy as provided herein.

12. ASSIGNMENT-SUBLEASING

The Licensee shall not assign or sublet the whole or any part of the Licensed Premises without Licensor's prior written consent. Notwithstanding such consent, Licensee shall remain liable to Licensor for the payment of all License Fees and for the full performance of the covenants of this License.

13. SUBORDINATION

This License shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter, a lien or liens on the Property and the Licensee shall, when requested, promptly execute and deliver such written instruments as shall be necessary to show the subordination of this License to said mortgages, deeds of trust or other such instruments in the nature of a mortgage, deeds of trust or other such instruments in the nature of a mortgage.

14. TERMINATION

This License may be terminated at will by either party upon written notice of termination at least sixty (60) days prior to the termination date stated in said notice. The License shall be considered terminated as of the date in said notice and the Licensee shall thereafter be relieved of making monthly Licensee Fee Payments. Upon the termination date, the Licensee shall surrender the Licensed Premises as set forth herein.

15. LICENSOR'S ACCESS

The Licensor or agents of the Licensor may, at reasonable times, enter to view the Licensed Premises and may remove placards and signs not approved and affixed as herein provided, and make repairs and alterations as Licensor should elect to do and may show the Licensed Premises to others, and at any time within three (3) months before the expiration of the term, may affix to any suitable part of the Licensed Premises a notice for letting or selling the Licensed Premises or Property and keep the same so affixed without hindrance or molestation.

16. INDEMNIFICATION AND LIABILITY

Licensee agrees that it shall use and occupy the Premises at its own risk, and the Licensor shall not be liable to Licensee for any injury or death to persons entering the Premises pursuant to the License, or loss or damage to vehicles, equipment, structures or other personal property of any nature whatsoever of the Licensee, or of anyone claiming by or through any of them, that are brought upon the Premises pursuant to the License, except if such injury, death, loss or damages is caused by the willful act or gross negligence of Licensor, or its employees, agents, contractors or invitees.

The Licensee, on behalf of itself, its employees, representatives, customers and invitees, successors and assigns, shall, during the term of this License and thereafter so long as Licensee or anyone claiming under the Licensee is in occupancy of the Licensed Premises at the property, defined, indemnify and hold the Licensor harmless from all loss and damage occasioned by anything occurring on the Licensed Premises unless caused by the gross negligence or misconduct of the Licensor, including but not limited to from all loss damage wherever occurring occasioned by any omission, fault, neglect or other misconduct of the Licensee, its employees, representatives, customers and invitees. The removal of snow and ice from the sidewalks bordering upon the Licensed Premises shall be the Licensee's responsibility. The provisions of this section relative to indemnification shall survive the termination of the License.

17. LICENSEE'S LIABILITY INSURANCE

The Licensee shall maintain, with respect to the Licensed Premises and the property, comprehensive public liability insurance in the amount of \$1,000,000/occurrence or \$2,000,000/aggregate and property damage insurance limits of \$1,000,000/occurrence or \$2,000,000/aggregate in responsible companies qualified to do business in Massachusetts and in good standing therein insurance the Licensor, as well as, Licensee against injury to persons or damage to property as provided. The Licensee shall deposit with the Licensor certificates of such insurance at or prior to the commencement of the term, and thereafter within 30 days prior to the expiration of any such policies. All such insurance certificates shall name the Licensor as additional insured and provide that such policies shall not be cancelled without at least ten (10) days prior written notice to each insured named therein.

The Licensee agrees that it shall continuously keep its equipment and other personal property insured against loss or damage by fire or other casualty, and that the Licensee waives any and all rights it may have against the Licensor for loss or damage to the Licensee's property, notwithstanding that the damage or loss may result from the negligent act of the Licensor and its agents, employees, contractors and for those for whom the Licensor is responsible.

18. NOTICE

Any notice from the Licensor to the Licensee relating to the Licensed Premises or to the occupancy thereof shall be deemed duly served, if left at the Licensed Premises addressed to the Licensee, or if mailed to the Licensed Premises, registered or certified mail, return receipt requested, postage prepaid, addressed to the Licensee. Any notice from the Licensee to the Licensor relating to the Licensed Premises or to the occupancy thereof, shall be deemed duly

served if mailed to the Licensor by registered or certified mail, return receipt requested postage prepaid, addressed to the Licensor at such address as the Licensor may from time to time advise in writing. All rent notices shall be paid and sent to the Licensor at 346 Bedford Street, Lakeville, MA 02347.

19. SURRENDER

The Licensee shall, at the expiration of any other termination of this License, remove all Licensee's goods and effects from the Licensed Premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the Licensee, either inside or outside the Licensed Premises). Licensee shall deliver to the Licensor the Licensed Premises and all keys, locks thereto, and other fixtures connected therewith and all alternations and additions made to or upon the Licensed Premises, in good condition, damage by fire other casualty only excepted. In the event of the Licensee's failure to remove any of the Licensee's property from the Premises, Licensor is hereby authorized, without liability to Licensee for loss or damage thereto, and at the sole risk of Licensee, to remove and store any of the property at the Licensee's expense, or to retain same under Licensor's control or to sell at public or private sale without notice any or all of the property not so removed and to apply to the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property.

20. CONDITION OF PREMISES

Except as may be otherwise expressly set forth herein, the Licensee shall accept the Licensed Premises "as is" in their condition as of the commencement of the term of this License, and the Licensor shall be obliged to perform no work whatsoever in order to prepare the Licensed Premises for occupancy by the Licensee.

21. FORCE MAJEURE

In the event that the Licensor is prevented or delayed from making any repairs or performing any other covenant hereunder by reason of any cause reasonably beyond the control of the Licensor, the Licensor shall not be liable to the Licensee therefore nor, shall the Licensees be entitled to any abatement or reduction of License Fee by reason thereof, nor shall the same give rise to a claim by the Licensee that such failure constitutes actual or constructive eviction from the Licensed Premises or any part thereof.

22. LIABILITY OF LICENSOR

No employee, agent or officer of the Licensor shall be personally liable for performance of the Licensor's obligations hereunder.

23. MISCELLANEOUS

1. This License shall not be construed as creating or vesting in Licensee any estate in the Premises or Property or any interest in real property.
2. This License may not be modified except in writing, duly executed by both parties.

3. This License contains the entire agreement of the parties and there are no other agreements or understandings between the parties regarding the subject matter of the License.
4. The Licensee is not authorized to bind or involve the Licensor in any contract or to incur any liability for or on the part of the Licensor; likewise, the Licensor, its employees, agents, contractors or invitees, is not authorized to bind or involve the Licensee in any contract or to incur any liability for or on the part of the Licensee.
5. If any portion of this License is declared to be illegal, unenforceable or void, then all parties to this License shall be relieved of all obligations under that portion; provided, however, that the remainder of this License shall be enforced to the fullest extent permitted by law.
6. The captions in this License are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this License or any of the provisions thereof.
7. This License shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and any and all legal actions brought in connection with this License shall be brought in courts within the Commonwealth of Massachusetts.
8. This License is to take effect as a sealed instrument.

IN WITNESS HEREOF, the said parties here come to set their hands and seals on this _____ day of _____, 2022.

LICENSEE

LICENSOR – TOWN OF LAKEVILLE
SELECT BOARD

John Marando

Evagelia Fabian, Vice Chair

Lorraine Carboni

Richard LaCamera

**AGENDA ITEM #9
JANUARY 9, 2023**

**DISCUSS SELECTION PROCESS FOR AT LARGE MEMBERS TO
THE FIRE STATION BUILDING COMMITTEE**

To date the Board has received 13 letters of interest to serve as an at large member on the Fire Station Building Committee.

**AGENDA ITEM #10
JANUARY 9, 2023**

DISCUSS COMMUNITY RECOGNITION PROGRAM CONCEPTS

Attached is information from the Town Administrator regarding a community recognition program.

Ari Sky

From: Ari Sky
Sent: Thursday, December 15, 2022 10:43 AM
To: Lia Fabian; Lorraine Carboni; Richard LaCamera
Subject: Community Recognition Idea

All -

Taking a look at the news from one of my earlier gigs yesterday, I was reminded about one of the Fauquier County Board of Supervisors' year end traditions, the "Citizen of the Year" awards. Each board member honors an individual or group for work they do to support the community. Seems like a program that could work in Lakeville. Here's a link to the article:

https://www.fauquier.com/lifestyles/county-supervisors-honor-citizens-of-the-year/article_0360a6c6-7b1a-11ed-b20d-03f14e1d44a1.html

I reached out to the county administrator in Fauquier to find out whether there are any written guidelines in place for this program. He told me there are not, but the program's traditional focus is on public service and that Fauquier's board members actively avoid political statements. If everyone is amenable, perhaps this would be a nice way to open the new year as we work to reinforce ties with the community. Thanks, and give me a call if you would like to discuss.

Ari J. Sky, ICMA-CM
Town Administrator
Town of Lakeville
346 Bedford Street
Lakeville, Massachusetts 02347
asky@lakevillema.org
(508) 946-8803



https://www.fauquier.com/lifestyles/county-supervisors-honor-citizens-of-the-year/article_0360a6c6-7b1a-11ed-b20d-03f14e1d44a1.html

County supervisors honor Citizens of the Year

Dec 14, 2022



Dona and Kurt Rodgers, Cedar Run District

Supervisor Rick Gerhardt named Dona and Kurt Rodgers, of Warrenton, as the Cedar Run District Citizens of the Year. The couple founded [Morgan's Message](#) to address the stigma of mental illness in the athletic community in memory of their daughter. Morgan Rodgers killed herself in 2019 after an injury derailed her college lacrosse career. "It is absolutely incredible what they have been able to accomplish locally, nationally and internationally," Gerhardt said.

Fauquier Times Staff Photo by Coy Ferrell

Each of the five members of the Fauquier County Board of Supervisors honored their district's "citizen of the year" last week, an annual tradition that takes place at the final regular meeting of the year.



Robert Rankin, Marshall District

Supervisor Mary Leigh McDaniel named Bob Rankin, an audio-visual specialist for the county government, as the Marshall District Citizen of the Year. McDaniel praised Rankin's efforts to make government meeting videos and other information accessible online during the pandemic when many physical offices were closed. Rankin, who lives in Marshall, is a Vietnam War veteran who spent most of his career at Bell Atlantic.

Fauquier Times Staff Photo by Coy Ferrell



The Clifton Institute, Scott District

Supervisor Holder Trumbo named The Clifton Institute, an environmental education nonprofit near Bethel, as the Scott District Citizen of the Year. Trumbo said that efforts to preserve the county's rural landscape "will not last without education — we need to educate future generations about what is so good in Fauquier County." About 2,000 children and 900 adults participated in Clifton programs this year, said Managing Director Eleanor Harris, who with board members Robert Lee and Anne Atherton, accepted the honor on behalf of the organization. "It continues to amaze me how many people want to come and learn about nature with us," Harris said.

Fauquier Times Staff Photo by Coy Ferrell



Stan and Jeanne Heaney, Lee District

Supervisor Chris Butler named Stan and Jeanne Heaney, owners of the Corner Deli in Remington, as the Lee District Citizens of the Year. The couple was joined at the ceremony by their son, Stan Heaney Jr. and his wife, Abby. "The Heaney family has made it their priority to stop what they are doing to take food to mourning families, to fire and rescue personnel ... and to support every fundraiser the fire department has had since they've been in town," Butler said. Heaney Sr. has also served on the Remington Town Council for 12 years.

Fauquier Times Staff Photo by Coy Ferrell



Marie Moore, Center District

Supervisor Kevin Carter named Marie Moore, who died in March at the age of 90, as the Center District Citizen of the Year. Moore, who retired to Warrenton in 1995 and held a master's degree in counseling, spent her career as a mental health professional, including as a coordinator for specialized services for the elderly at Rappahannock-Rapidan Community Services. "Every one of her interests revolved around serving this community and other communities," Carter said.

Photo Courtesy of Saint James' Episcopal Church

**AGENDA ITEM #11
JANUARY 9, 2023**

RESCHEDULE FEBRUARY 27TH SELECT BOARD MEETING DATE

Vice Chair Fabian would like to discuss rescheduling the Board's February 27th meeting date.

**AGENDA ITEM #12
JANUARY 9, 2023**

**REVIEW AND POSSIBLE VOTE TO APPROVE SELECT BOARD
MEETING MINUTES OF DECEMBER 19, 2022**

TOWN OF LAKEVILLE
Select Board Meeting Minutes
December 19, 2022 – 6:30 PM
Lakeville Police Station Meeting Room
323 Bedford Street, Lakeville, MA

On December 19, 2022, the Select Board held a meeting at 6:30 PM at the Lakeville Police Station Meeting Room. The meeting was called to order at 6:30 PM by Vice Chair Fabian. Members present were Vice Chair Fabian, Member LaCamera and Member Carboni. Also present was Ari Sky, Town Administrator. Tracie Craig-McGee, Executive Assistant to the Select Board & Town Administrator was attending remotely. LakeCAM was recording the meeting for broadcast.

Select Board Announcements

Member Carboni read the Select Board announcements.

Town Administrator Announcements

Mr. Sky read the Town Administrator's announcements. Member LaCamera asked if the Park Commission has approved the license for the martial arts studio. Mr. Sky said the lease is under the Select Board's jurisdiction, however, Scott Holmes did sit in on the negotiations. Member LaCamera said he would like to see the terms well before the meeting to approve it.

Discuss status of Plymouth County ARPA application

Vice Chair Fabian said we have received a list from Plymouth County on what items have been approved for the ARPA funds. She reviewed the items that were approved or denied. Mr. Sky said that ARPA does not allow money for irrigation wells. Member Carboni asked about the criteria. Mr. Sky said we argued that these two (2) projects enhance the cost of water and quality of water by allowing us to run an irrigation well to the site. Jon Paun Park is similar, but that is to allow us to drill a clean water well. He has a positive reaction from the Treasurer regarding submitting the bathroom facility at the Town House in January for approval. Mr. O'Brien has offered to come January 9th to meet with the Board. We would have to modify the project to remove the Police Station and Town House irrigation. We could use our own ARPA money and fund the projects that way. Vice Chair Fabian said she would rather move ahead with Plymouth County. Member LaCamera asked why it took six (6) months to get the project approved; we lost six (6) months. It took us months to get reimbursed for COVID expenses, and we had to use our own money. Do we get paid now or do we need to front the money? This money was allocated to us and we should get it up front. We didn't know anything about revenue replacement. Mr. Sky said the County had not previously indicated that a revenue replacement round was happening. Member LaCamera said Mr. O'Brien was in Rochester last week and said they could get reimbursed for a feasibility study for a new police and fire station. If we had known that, we could have taken a different approach for our feasibility study for the fire station. There is \$10 million; how does it get allocated? Is it based on population or first come, first serve. Vice Chair Fabian said at the last Advisory Board Meeting the only money they reimbursed was Plymouth and

Marshfield. Member LaCamera said that happened with the CARES money. Mr. Sky said do you want to wait until the 9th or should he proceed with modifying the applications. Vice Chair Fabian said to go ahead and we will meet with the Treasurer on the 9th.

Discuss and possible vote on appointment of Fire Station Building Committee Members and approval of charge

Member Carboni said on the second page, membership, were you including three (3) members at large. Mr. Sky said it should have said XXX members at large. Member Carboni said on page 2, #7 regarding change orders, on building projects there are always a potential for change orders and they can be tricky. Mr. Sky said it was \$10,000 with the Police Station. Member Carboni said we need to be comfortable with the \$50,000 proposed. Change orders come more towards the end of the project, not so much the beginning. Maybe we can lower it from \$50,000, but more than \$10,000. If it meets that threshold, it needs to come back to the Board to vote. She would go with \$20,000. Member LaCamera said \$50,000 is too high. He is okay with \$20,000. Member Carboni said any change orders under \$20,000 would be signed by the Town Administrator. Anything over \$20,000 is submitted to the Select Board for approval. Member LaCamera said the number of committee members needs to be an odd number. Vice Chair Fabian asked about having 9 members. Member Carboni said it would either be 2 or 4 members at large for 9 members. Mr. Sky said we now have 7 applications for at large members. Vice Chair Fabian said she would go with 4 members at large for a 9 member board. Member LaCamera said that is okay. Mr. Sky said we can bring in staff members as needed.

Upon a motion made by Member Carboni and seconded by Member LaCamera, it was:

VOTED: To approve the charge for the Fire Station Building Committee with a change on the change order limit for Town Administrator approval of \$20,000 and a 9 member committee.
Unanimous in favor.

Vice Chair Fabian asked about a cutoff date for applications. Mr. Sky said two (2) weeks from today. Vice Chair Fabian asked Mr. Sky to forward the Board the letters of interest for at-large members prior to the meeting.

Discuss and possible vote to appoint Senior Center Addition Feasibility Study Committee

Vice Chair Fabian said the FY23 capital budget includes \$40,000 for a study to assess the feasibility of an addition to the Senior Center. The initial step would be to appoint a feasibility study committee. Members would include the Inspectional Services Director; a Select Board Member; Town Administrator; Senior Center Director; Facilities Manager, Finance Committee Member, and a Council on Aging representative. The Board Members were in approval of the membership.

Upon a motion made by Member Carboni and seconded by Member LaCamera, it was:

VOTED: To appoint the Inspectional Services Director; a Select Board Member; Town Administrator; Senior Center Director; Facilities Manager, Finance Committee Member, and a Council on Aging representative to the Senior Center Addition Feasibility Study Committee.
Unanimous in favor.

Upon a motion made by Member Carboni and seconded by Member LaCamera, it was:

VOTED: To appoint Vice Chair Fabian as the Select Board representative to the Senior Center Addition Feasibility Study Committee.
Unanimous in favor.

Member LaCamera asked about language regarding working with the Town on-call project manager. Mr. Sky said we have several Owner's Project Managers under contract on an on-call basis. Member LaCamera said there are some he would prefer not to use. Mr. Sky said there is another firm that we are looking to put under contract. He is working on a management agreement with them. Member LaCamera said he would like it to come to the Board for review. He wants a description on what they will do for the feasibility study. Mr. Sky will bring the scope back to the Board.

Discuss Betty's Neck facility needs

Member LaCamera said we have ARPA money that is available that we could use on the Betty's Neck building. It has been neglected and needs to be fixed. We need to discuss parking, road egress, and handicapped accessibility also. Windows need to be replaced; doors need to be fixed and the interior needs to be fixed. Vice Chair Fabian said she had toured the building with Nancy Yeatts and Marc Resnick. Mr. Resnick is looking at a couple of grants and they have been working on that. Member LaCamera asked if a list has been put together on the work to be done. Vice Chair Fabian said Mr. Resnick was putting together a list of work to be done. Member LaCamera said Ms. Yeatts was happy we were discussing this because nothing has been moving forward.

Member Carboni said we need to broaden the activities that occur there. We are putting money into the building, but when does it get used and for what activities. Maybe there is a subgroup that Ms. Yeatts can put together for activities. Vice Chair Fabian said she is not sure what type of programming has gone on before or will be planned. Mr. Resnick has said some of the grants will provide for different things. Member LaCamera said we need to discuss all of this. We should be utilizing the building more. Vice Chair Fabian said with the 20th celebration, we couldn't use the visitor center. She and Mr. Sky can speak to Ms. Yeatts about setting up a sub group. Member Carboni said the master plan speaks to the recreational aspect of the Town. We have the Community Preservation Committee and maybe some requests can go through them.

Possible vote to ratify the appointment of Select Board Member Carboni to the Freetown/Lakeville Region’s Safety Committee

Vice Chair Fabian said this vote was made under New Business on November 22, 2022 and needs to be ratified.

A motion was made by Member Carboni and seconded by Member LaCamera to ratify the vote to appoint Member Carboni to the F/L Regional School District Safety Committee.

Discussion: Member LaCamera asked if the School Committee formed this committee. Member Carboni said the Regional School Committee and the Superintendent of Schools did. Member LaCamera asked if it has been voted by the School Committee. If it is not a formal committee and Freetown and the School Committee have not voted their members, why are we doing this. Mr. Sky said they asked us to designate someone. It wasn’t a formal position. Vice Chair Fabian said Member Carboni attended the walk through. Member Carboni said they are looking to meet in January 2023. Member LaCamera said if this is a formal committee, it needs to be posted. If it is not formal, it can’t be posted to the public, but it should be. Member Carboni said she isn’t sure if this was voted on by the School Committee. Member LaCamera said they did not vote it. Vice Chair Fabian said we can wait on this and see what the School Committee’s direction is. Mr. Sky said he will follow up with the Superintendent on this.

The vote on the previous motion was Member LaCamera – abstained; Vice Chair Fabian – nay and Member Carboni – aye. The motion did not pass.

Discuss and possible vote to approve request from Department of Public Works Director to hire William Purcell as Emergency Snow and Ice Worker at Grade 6, Step 5

Vice Chair Fabian said there was a request from the Department of Public Works Director to hire William Purcell as Emergency Snow and Ice Worker at Grade 6, Step 5.

Upon a motion made by Member Carboni and seconded by Member LaCamera, it was:

VOTED: To approve the request to hire William Purcell as Emergency Snow and Ice Worker at Grade 6, Step 5.
Unanimous in favor.

Discuss and possible vote to approve City of Taunton Water Connection Application for 109 Bedford Street – North Bedford Crossing LLC

Jamie Bissonnette of Zenith Engineering was present for the discussion. Vice Chair Fabian said we had already given our comments on this application. They are now looking for an allocation of 3,960 gallons of water per day.

A motion was made by Member Carboni and seconded by Member LaCamera to approve the request to connect to Taunton Water for the property at 109 Bedford Street with a daily gallonage of 3,960 gallons.

Discussion: Member LaCamera said this is a significant change to the project. Has the Zoning Board of Appeals (ZBA) approved this yet? Mr. Bissonnette said no. MassHousing's approval is for 20 units or less. We just submitted the plans for update to the Town. We polled the ZBA on which way they wanted us to bring the project forward and they voted for us to move forward with 12 units. MassHousing realizes that there may be changes to projects. Member LaCamera said they are now single-family houses on 10,000 square foot lots; before they were duplexes. This should not be approved until the ZBA approves the project and MassHousing approves the change. Vice Chair Fabian said there is an approval from MassHousing of 20 units or less. Mr. Sky said the ZBA continued the hearing for the Select Board to weigh in on the water. Mr. Bissonnette said this has been sent out for outside review. Another question was about the water allocation. If we have to have to go back to the original plan we will. Member LaCamera said the Board had sent a comment letter that we would not approve the water until the water was approved. Member Carboni said she did not recall that.

The vote on the previous motion was Member Carboni – aye; Member LaCamera – nay and Vice Chair Fabian – aye.

Mr. Sky said he will notify the ZBA.

Discuss and possible vote to approve renewal of Lakeville Animal Shelter boarding contracts with the Towns of Acushnet; Berkley; Bridgewater; Carver; East Bridgewater; Freetown; Halifax; Hanson; Raynham; Rochester and Wareham

Vice Chair Fabian said the boarding contract was reviewed at the December 5th Select Board meeting.

A motion was made by Member Carboni and seconded by Member LaCamera to approve the renewal of the boarding contracts for the Lakeville Animal Shelter with the Towns of Acushnet; Berkley; Bridgewater; Carver; East Bridgewater; Freetown; Halifax; Hanson; Raynham; Rochester and Wareham.

Discussion: Member Carboni said this is a continuation of the previous Board discussion. There were questions with Item #10 regarding surrendering of animals and liability. Town Counsel has reviewed this and added language. Mr. Sky said when an animal is surrendered to the Town, the Town owns it. If the Town is boarding it, the Town is not liable. Member LaCamera asked that Item #10 be explained. Mr. Sky said that is an appropriation contingency paragraph and limits financial liability to funds available to pay for appropriated sources for the other Town. Member LaCamera they don't have a budget for an Animal Shelter. Mr. Sky said they have a budget for boarding. Member LaCamera said it doesn't cover us at all. They are paying a \$25 fee and that is all they are responsible for. Mr. Sky said it ties into #11. Member LaCamera said we have 11 towns and they pay \$25 per day for boarding. Since they don't have an animal shelter, they should pay a minimum fee to the Town for these services. Vice Chair Fabian said she did not disagree with that, but the Board just raised the rates. Maybe that can be done for next year so we can give the Town's some notice. Mr. Sky said in FY22, the collected revenue was \$8,500. The FY23 revenue is at \$9,500 midway through the year.

Vice Chair Fabian said we should put this on the calendar in September and review a minimum charge. Member Carboni agreed and thought this should be talked about during budget talks for FY24. Member Carboni would like this to align the contracts with our fiscal year budget. Mr. Sky said the next renewal would have to be an 18-month contract. Vice Chair Fabian said we can ask the Town Administrator to revisit this for an annual fee in August to give the Town's a few months' notice.

The vote on the previous motion was Member Carboni – aye; Vice Chair Fabian – aye and Member LaCamera – nay.

Discuss and possible vote to approve Annual Town Election for April 3, 2023

Vice Chair said the Town Clerk has requested that the Board approve the positions for the Annual Town Election on April 3, 2023.

Upon a motion made by Member Carboni and seconded by Member LaCamera it was:

VOTED: To approve the positions for the Annual Town Election on April 3, 2023 as follows:
One Year Term: One Moderator; Two Year Unexpired Terms: One Cemetery Commissioner; Two Park Commissioners; Three Year Term: One Select Board Member; One Board of Assessors Member; One Board of Health Member; One Cemetery Commissioner; One Finance Committee Member; Two Park Commissioners; One Library Trustee and Five Year Term: One Planning Board Member and Freetown-Lakeville Regional School District Committee – Lakeville - One Three Year Term and Freetown – Two Three Year Terms.
Unanimous in favor.

Meet with Aaron Polansky, Superintendent of Old Colony Regional Vocational Technical School District, to discuss the District's facilities plans

Aaron Polansky, Superintendent/Director from Old Colony Regional Vocational Technical High School and Robert Marshall from the Old Colony Regional Vocational Technical School District School Committee were present. Mr. Polansky said they were invited into the eligibility phase of the MSBA process, which began October 3, 2022. Old Colony was built in 1975 and while the exterior is well maintained, there are pieces of the operation that need attention. Coupled with the enrollments, we thought it was a good time to submit this. We are in the entry point with the MSBA. Vice Chair Fabian said there was a meeting last week and a tentative building committee was put together. Mr. Polansky said the eligibility phase consists of numerous pieces. We needed to submit an initial compliance certification and then establish a School Building Committee. That was due on December 2nd. He reviewed the members of the 22-member committee. A point person was identified for each community. He checked with the representatives from the communities on the School Committee on the point people and received their blessing. It was brought before the School Committee, and they had no objections. We delivered this document to all the Town Administrators and had conversations regarding our vision and asked people about any thoughts. They will need to move forward with their Chapter 74 Viability Document. It is an overview of where they would like to go with the Chapter 74 programming. They would like to add plumbing and HVAC. He said they were looking to offset

some of the male programming. If we add to Chapter 74 programs, we need to add to the academic side to address enrollment. The next step is to ask the member Towns for their support for a part of the feasibility study funding. We feel it will be between \$1 to \$2 million. We are asking for a placeholder on the Annual Town Meeting Warrant to address the feasibility study. We have a stabilization fund in place and will figure out what percentage should be used for the feasibility study so the onus is not strictly on the member towns.

Vice Chair Fabian said she was surprised with the way the committee got put together. Having heard you read the membership, they were specific positions. Mr. Polansky said we needed to fill all the different roles. Vice Chair Fabian said it would be nice to speak about this prior to Town Meeting. We need to receive information at the same time as other communities. Mr. Polansky said he will be sending information out regularly. There will be a webpage created so people can see what is going on. These are open meetings and everyone is invited to attend. He would be willing to meet with local groups. Vice Chair Fabian said warrant review usually happens a week before Town Meeting. It would be nice to get the information out sooner to residents than that. Member Carboni said it is important to be informed. The candidates identified to be on the building committee are good candidates, but she would like to be informed ahead of time that this was happening. Our budget is affected as a major stakeholder and it is good to be informed on what is happening in the future.

Member LaCamera said we should have been notified as to what was going on. Is this a feasibility study or a building committee? The MSBA has not approved a building committee. Mr. Polansky said for the eligibility process, they ask for you to assemble a Building Committee. Member LaCamera asked is this a building project or feasibility study. Mr. Polansky said we are in eligibility phase and they ask for names to be submitted for a building committee. We have not yet been invited into a feasibility stage yet. Member LaCamera asked why this is being called a building committee. Mr. Polansky said that is how the MSBA refers to it. The eligibility phase is a 270-day phase and runs from October 3rd. The feasibility study agreement is determined at the close of the eligibility phase, which ends June 30, 2023. Member LaCamera said this has to be approved by Town Meeting in all five (5) Towns, so there is no money available until at least May. How will you do anything between now and then. Mr. Polansky said no money is required between now and then. He wanted to speak with the member towns about a placeholder on the warrant for us to present a proposed number for a feasibility study if we are invited into the feasibility phase. We are in the early stages right now. There is a vote required to fund the feasibility study if we are invited in. Member LaCamera said you talk about new programs, but you are asking for the feasibility study, you need to know what vision you want. Mr. Polansky said he would come to the communities to discuss that. Member LaCamera said you also want to expand the other programs to have more students. Mr. Polansky said 1 program in particular from 10 students per class to 12 students for an increase of 8 students over 4 years. We would be looking at Chapter 74 programs; a maximum of 12 students for 4 programs for an increase of 48 students per year over a 4-year term. Member LaCamera said is this going to be a new building or addition. Mr. Polansky said we will receive the scenarios in the feasibility phase. We have a stabilization fund put asked and on Wednesday, the School Committee will discuss an offset for the \$1.2 million feasibility study and we will ask for the Towns to fund a portion of it. Mr. Polansky said there is \$933,000 right now. Mr. Sky asked if that includes the MSBA reimbursement. Mr. Polansky said we were quoted 54.16% for all eligible expenses. Discussion occurred regarding reimbursement

from MSBA. Member LaCamera said this could be a \$100 million project. We could be responsible for \$15-16 million. Then the cost of the operating budget to increase the enrollments and add staff. He would like to see the projected operating costs. Mr. Polansky said through the feasibility study it would help develop those. Member LaCamera said we need to know those going to Town Meeting. Mr. Polansky said \$100 million is probably a low number. Member LaCamera said this will be the largest capital expense for the Town of Lakeville ever. This will be an override vote.

Member LaCamera said there was an email about \$2 million. Mr. Polansky said we don't have fire suppression capacity and we were wondering about running a water line from Middleborough to Old Colony for \$2.1 million. One of the Towns said we might be able to contribute money from ARPA. All five (5) towns are not in the position to do that, so that is off the table. Member LaCamera said if we go ahead with a new building, the demolition is not covered. Mr. Polansky said he is aware of that.

Review and possible vote to renew Annual Liquor Licenses

Vice Chair said the Board needed to vote to approve the renewal of the annual Alcoholic Beverage Licenses that expire on December 31, 2022.

Upon a motion made by Member Carboni and seconded by Member LaCamera it was:

VOTED: To renew the following annual liquor licenses all with expiration dates of December 31, 2023 with addresses and hours of operation as listed in the packet: **Package Store Wine & Malt:** Gulf Resources, Inc.; **Package Store All Alcohol:** Mahant NE Sang Corp., dba Lakeville Liquors and Market; BBP, Inc., d/b/a Muckey's Liquors; Tamarack Wine & Spirits, Inc. and Aarav Liquors, Inc., dba Star Liquor Market; **Restaurant All Alcohol:** Hawaii Corp, d/b/a/ Orchid of Hawaii Restaurant; Poquoy Brook Golf Club, LLC, dba Poquoy Brook Pub; Lakeville Golf Club, Inc., dba Lakeville Golf Club; LeBaron Operating Company, LLC dba LeBaron Hills Country Club; The Back Nine Club, LLC, dba The Back Nine Club; Baldies Pizzeria, Inc. and Ken & L Inc., dba Saga Sushi; **Club All Alcohol:** Lakeville Fraternal Order of Eagles, Aerie No. 3994; **General On-Premise Wine & Malt:** Lakeville Virtual Entertainment Group, Inc., dba The Broken Tee Virtual Golf Club and **General on Premise All Alcoholic Beverages:** 58 East Grove Inc., dba Boston Tavern.
Unanimous in favor.

Review and vote to approve annual Class I and Class II License Renewals

Vice Chair Fabian said the Board needed vote to approve the six (6) Class II and two (2) Class I Dealer Licenses that expire on January 1, 2023.

Upon a motion made by Member Carboni and seconded by Member LaCamera it was:

VOTED: To approve To approve the following Class II Licenses: Chris Altieri, dba C&E Enterprises – 43 Freetown Street; Leonardo Solana, dba Solana auto Sales – 18 Staples Shore Road; Andrews Family Automotive – 79 Main Street; Linda Bury &

Jason Bury dba Elite Auto Sales – 431 Bedford Street; Grigis Automotive – 35 Bedford Street; and David Rose, dba Dave’s Auto – 67 Main Street and the renewal of the Class I Licenses for Rousseau’s Recreation Rentals – 150 Bedford Street and Route 44 Collision Center RV’s & Boats – 8 Harding Street, all with expiration dates of January 1, 2024 with all conditions on these licenses be the same as the previous year.

Unanimous in favor.

Review and vote to approve annual Common Victualler License Renewals

Vice Chair Fabian said the Board needed to vote to renew the annual Common Victualler License Renewals that expire on December 31, 2022.

Upon a motion made by Member Carboni and seconded by Member LaCamera, it was:

VOTED: To approve the renewal of the Common Victualler Licenses for the following, all having an expiration date of December 31, 2023: Baldies Pizzeria, Inc. – 40 Main Street; The Sunshine Café – 12 Harding Street; Aramark Educational Services, LLC For the F/L School System – 96, 100, and 112 Howland Road and 232 Main Street; Royal Pizza – 68 Main Street; Tand, Inc., d/b/a Subway – 330 Bedford Street; Nexdine, LLC (for Ocean Spray) – One Ocean Spray Drive; The Back Nine Club, LLC, dba The Back Nine Club – 17 Heritage Hill Road; Poquoy Brook Golf Club, LLC d/b/a Poquoy Brook Pub – 20 Leonard Street - Hawaii Corp., dba Orchid of Hawaii Restaurant – 201 Bedford Street; Lakeville Aerie #3994 Fraternal Order of Eagles, Inc. – 217 County Street; Lakeville Golf Club, Inc. dba Lakeville Golf Club – 44 Clear Pond Road; Assawompset Golf Company, LLC/dba LeBaron Hill Country Club – 183 Rhode Island Road; Ken & L Inc., dba Saga Sushi – 13 Harding Street; and Sandy LLC (Dunkin Donuts) – 330 Bedford Street. Unanimous in favor.

Review and possible vote to approve Select Board Meeting Minutes of December 5, 2022

Member Carboni said that when we open and close a hearing, she would like to have the times listed in the votes. Member Carboni said on Page 2 discussing the single tax rate vs. split tax rate, line 12, after beneficial, to include “**Member Carboni mentioned the section regarding shifting the tax burden within the document that was provided.**”

Upon a motion made by Member Carboni and seconded by Member LaCamera, it was:

VOTED: To approve the December 5, 2022 Select Board Meeting Minutes as amended. Unanimous in favor.

New Business

Member LaCamera said the Lakeville MBTA station is closing in December of 2023. He asked what are we doing with that station. The Governor Elect is discussing selling off State property

for affordable housing. That is a 1,000-parking space station. They already tried to lease it to a solar company. Vice Chair Fabian asked for an update from the Town Planner. The MBTA Advisory Board is not discussing closing stations. If they keep the station, do we maintain it. Mr. Sky said it's going to be a station for the Cape Flyer in phase 1 and in phase 2 it becomes an active station again. Member LaCamera said Middleboro only has 500 spaces. What kind of shuttle services are they going to provide for overflow parking to get to the new station. What about the people who live in those apartments; are they walking?

Old Business

Vice Chair Fabian said she may need to change a meeting date in February.

Adjournment

Upon a motion made by Member Carboni and seconded by Member LaCamera it was:

VOTED: To adjourn the Select Board Meeting at 8:18 PM.
Unanimous in favor.

List of documents provided at the Select Board Meeting of December 19, 2022

1. Agenda page
2. Agenda page
3. Agenda page; emails from the Town Administrator
4. Agenda page; memo from the Town Administrator; draft charge
5. Agenda page; memo from the Town Administrator
6. Agenda page
7. Agenda page
8. Agenda page; memo from DPW Director
9. Agenda page; City of Taunton Water Application; site plan
10. Agenda page; sample revised contract
11. Agenda page; memo from Town Clerk
12. Agenda page; letter from Aaron Polansky; presentation on plans for Old Colony Vocational
13. Agenda page
14. Agenda page; memo from Director of Inspectional Services
15. Agenda page
16. Agenda page; Select Board Meeting Minutes of December 5, 2022
17. Agenda page
18. Agenda page

**AGENDA ITEM #13
JANUARY 9, 2023**

NEW BUSINESS

**AGENDA ITEM #14
JANUARY 9, 2023**

OLD BUSINESS

**AGENDA ITEM #15
JANUARY 9, 2023**

POSSIBLE EXECUTIVE SESSION PURSUANT TO M.G.L. C.30A, §21A (3) TO DISCUSS STRATEGY WITH RESPECT TO COLLECTIVE BARGAINING, SPECIFICALLY WITH PBA LOCAL 185; IAFF LOCAL 3188 AND LABORER'S INTERNATIONAL UNION, IF AN OPEN MEETING MAY HAVE A DETRIMENTAL EFFECT ON THE BARGAINING POSITION OF THE PUBLIC BODY AND THE VICE CHAIR SO DECLARES AND PURSUANT TO M.G.L. C.30A, §21A (4) TO DISCUSS THE DEPLOYMENT OF OR STRATEGY REGARDING SECURITY PERSONNEL OR DEVICES AND PURSUANT TO M.G.L. C.30A, §21A (7) TO COMPLY WITH THE OPEN MEETING LAW, MGL CHAPTER 30A, §22(F): APPROVAL OF EXECUTIVE SESSION MINUTES FOR OCTOBER 13, 2022 AND DECEMBER 5, 2022 AND NOT TO RETURN TO OPEN SESSION.

OTHER ITEMS

1. Letter from Town Clerk regarding Heather Clark – Loon Pond Lodge



TOWN OF LAKEVILLE
OFFICE OF THE TOWN CLERK
346 Bedford Street
Lakeville, Massachusetts 02347
508-946-8814
ldrane@lakevillema.org

RECEIVED
JAN - 3 2023
SELECTMEN'S OFFICE

FROM THE OFFICE OF
LILLIAN M. DRANE
MMC/CMMC

December 30, 2022

Timothy Malinowsky
c/o Boston Tavern
58 East Grove Street
Middleboro, MA 02346

RE: Heather Clark- Loon Pond Lodge

Dear Mr. Malinowsky,

I would like to take this opportunity to share with you my pleasure of working this past year with Heather in regards to elections.

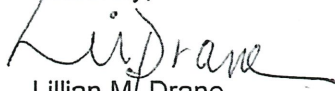
The Town had to oversee four (4) elections in 2022; Annual Town Election, April 4, 2022, Special Town Election, June 28, 2022, State Primary Election, September 6, 2022 and State General Election, November 8, 2022. Not only was she very accommodating, pleasant and helpful in the setup of these elections, but she made sure all our needs were met.

I truly enjoy working with her. I want you to know how much I appreciate Heather's professionalism, dedication and hard work.

2023 will be a quiet year for elections overseeing one (1) election, but we will be busy again in 2024 for another round of elections overseeing five (5) elections starting in March of 2024 and ending in November of 2024.

Thank you for providing us with a wonderful manager for Loon Pond Lodge.

Sincerely,


Lillian M. Drane,
Town Clerk

Cc: Lakeville Select Board