



SUDBURY SELECT BOARD
TUESDAY OCTOBER 5, 2021
6:15 PM, ZOOM

Item #	Time	Action	Item
	6:15 PM		CALL TO ORDER
EXECUTIVE SESSION			
1.		<i>VOTE</i>	Open in regular session, and vote to immediately enter Executive Session pursuant to Exemption 3 (G.L. c. 30A, §21(a)(3)) - To discuss strategy with respect to litigation (Eversource) Sudbury v EFSB, SJC No. 12997; Sudbury v Secretary EOEEA, Suffolk Superior Court No. 2084CV00151.
2.		<i>VOTE</i>	Vote to close executive session and resume open session.
	7:00 PM		Opening remarks by Chair
			Reports from Town Manager
			Reports from Select Board
			Citizen's comments on items not on agenda
MISCELLANEOUS			
3.		<i>VOTE</i>	Discussion and possible vote regarding Bruce Freeman Rail Trail (BFRT) update from Town Counsel related to draft lease agreement. (~25 min.)
4.		<i>VOTE</i>	Discussion on solar power options for the future at several Town locations and possible vote to authorize the Town Manager to sign Letter of Intent to express the desire to enter into a Power Purchase Agreement (PPA) and Lease Agreement or grant of Easement ("Site Control") for electricity to be produced by a solar power electric generating project, potentially including energy storage. (~20 min.)
5.			Fairbank discussion with Permanent Building Committee. Attending will be Craig Blake and Jennifer Pincus from PBC, and Bill Barletta Facilities Director. (~45 min.)
6.			FY21 Financial Recap by Finance Director Dennis Keohane. (~35 min.)
7.		<i>VOTE</i>	Discussion on Sewataro Use Policy Document and discussion on other Sewataro goals. (~40 min.)

These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Some items may be taken out of order or not be taken up at all. The Chair will strive to honor timed items as best as possible, however, the estimated timing may occasionally be inaccurate.

Item #	Time	Action	Item
8.			Discussion on Town Counsel Policy and use of Town Counsel (~20 min.)
9.		<i>VOTE</i>	Discussion and vote whether to approve the Select Board office hours schedule for remainder of 2021. (~10 min.)
10.			Discuss topics to be assigned for Fall 2021 - Select Board newsletter (~10 min).
11.			Citizen's Comments (cont)
12.		<i>VOTE</i>	Review open session minutes of 9/13/21 and possibly vote to approve minutes.
13.			Upcoming Agenda Items
CONSENT CALENDAR			
14.		<i>VOTE</i>	Vote to approve execution by the Town Manager of an Agreement between the Town of Sudbury and Kimley-Horn and Associates, Inc. for professional consulting services for development of a pavement management program, and any documents relative thereto.
15.		<i>VOTE</i>	Vote to extend the Town's Uber For Business Dashboard Access Agreement with Uber Technologies, Inc. for one (1) year per the terms of the existing agreement.

These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Some items may be taken out of order or not be taken up at all. The Chair will strive to honor timed items as best as possible, however, the estimated timing may occasionally be inaccurate.

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

EXECUTIVE SESSION**1: Eversource discussion****REQUESTOR SECTION**

Date of request:

Requested by: Patty Golden

Formal Title: Open in regular session, and vote to immediately enter Executive Session pursuant to Exemption 3 (G.L. c. 30A, §21(a)(3)) - To discuss strategy with respect to litigation (Eversource) Sudbury v EFSB, SJC No. 12997; Sudbury v Secretary EOEEA, Suffolk Superior Court No. 2084CV00151.

Recommendations/Suggested Motion/Vote: Open in regular session, and vote to immediately enter Executive Session pursuant to Exemption 3 (G.L. c. 30A, §21(a)(3)) - To discuss strategy with respect to litigation (Eversource) Sudbury v EFSB, SJC No. 12997; Sudbury v Secretary EOEEA, Suffolk Superior Court No. 2084CV00151.

Background Information:
NITU letter (continuation from 9/14 meeting)

Financial impact expected:n/a

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM

Dear Governor Baker,

The Sudbury Select Board wishes to update you concerning the Eversource Sudbury to Hudson 115kV Transmission Reliability Project and requests a reexamination of its claimed reliability benefit versus cost in the current energy landscape. The project is still in the permitting stage, with unanswered questions of whether the transmission line can legally¹, feasibly, and safely² be constructed and operated in the narrow, dormant rail right-of-way. Before construction can begin through Sudbury and Hudson's drinking water supply, federal, state, and local conservation areas, and valuable natural and historic resources, we ask again: is this \$100M+ project needed?

It is now five years and seven months since the project was first presented to our Board in 2016, and thirteen years since the ISO New England (ISO-NE) 2008 Greater Boston Reliability Study gave rise to the project, using forecasts of increasing electric demand that turned out to be wrong. Throughout this time, our region's declining electric demand continues to be reliably served by existing transmission infrastructure in the Metro West ("Marlborough sub-area").

Energy efficiency and behind-the-meter solar have caused net electric demand trend to reverse course downwards after 2007, contrary to ISO-NE's assumptions at the time. Peak demand has never approached the 32,000MW which the 2008 ISO-NE Regional Outlook³ anticipated, as plainly illustrated in Figure 1. Eversource's updated analysis⁴ in 2017 reflected worst case ("90/10") load conditions of 33,777MW for New England and 7,094MW for Boston subarea in the Year 2023. The latest ISO-NE RSP lowers forecasts⁵ of Year 2023 gross peak loads to 30,588MW (New England) and 6,796MW (Boston). The **net** demand forecast, accounting for efficiency (EE) and solar (PV), is reduced to 26,650 (New England) and 5,923MW (Boston) in Year 2023.

Actual peak load the past 4 summers in New England (from ISO-NE website⁶):

June 29, 2021: 25,277MW

July 27, 2020: 24,907MW

July 20, 2019: 23,931MW

August 28, 2018: 25,467MW

These are real numbers, at the peak hour of the hottest days we've experienced, with energy efficiency and behind-the-meter solar functioning to remove load from the transmission grid.

To summarize, if Eversource's new transmission line went into service in the year 2023, even worst case peak load conditions in New England would be more than 20% lower than ISO New England's 2008 study and Eversource's 2017 analysis planned for. ISO-NE continues to revise its forecasting methodology to account for efficiency and solar, which have particularly high adoption rates in the Metro West. Efficiency (EE) and solar (PV) have already changed the game, as shown in Figure 2. The anticipated effect of active demand response on 'shaving the peak' is not yet accounted for. This will include smart

¹ Surface Transportation Board docket FD_36493

² Sudbury Grant of Location, Sudbury Conservation Commission, and Earth Removal Board permit conditions

³ https://www.iso-ne.com/static-assets/documents/aboutiso/fin/annl_reports/2000/isonar_2008.pdf "The region's summer peak is now more than 28,000 MW, while average electricity use the rest of the year is around 18,000 MW. With peak demand rising at about 400 MW per year"

⁴ EFSB17-02 Vol I Section 2.7 <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/9183976>

⁵ https://www.iso-ne.com/static-assets/documents/2021/04/forecast_data_2021.xlsx

⁶ <https://www.iso-ne.com/isoexpress/> System Load Graph

thermostats which customers are opting to let utilities adjust during peak load events, further diminishing the need for this project.

As newer forecasts show significant reductions in net load to be served, it is appropriate to avoid moving forward solutions for obsolete reliability concerns and to ensure that ratepayers' money is not spent unnecessarily, and that the environment is not harmed unnecessarily.

We urge you to stop this new transmission project and advocate for the No Build alternative, given the current energy landscape. New England, and Massachusetts in particular, remains a leader in successfully adopting energy efficiency, and integrating wind, solar, storage, and demand response. Last century approaches, such as creating unnecessary new transmission corridors, are no longer appropriate. Stopping this transmission project, once called 'urgent' but now over thirteen years in the making, will save electric ratepayers in Massachusetts over \$100M in unnecessary capital costs, plus ongoing carrying charges and operating costs.

The transmission grid has not been the source of reliability issues in the Metro West region. The overwhelming source of outages continues to be the fragile distribution grid, wires and old transformers dangling on 'telephone poles'. Overhead distribution infrastructure is particularly vulnerable to weather events. Sudbury has participated in your Municipal Vulnerability Preparedness (MVP) program, and we encourage you to advocate for the undergrounding and modernization of aging distribution infrastructure to address resiliency and enable microgrids connecting local clean distributed energy resources (DER) in the face of climate change.

Should the perceived reliability need still justify a new 115kV transmission line into Hudson, we remind you that there are much less environmentally damaging alternatives available. The currently proposed route along the dormant rail corridor through our drinking water supply is unquestionably the most environmentally damaging of the options considered. The excavation and handling of contaminants along the MBTA right of way poses risks to sensitive wetlands and wells serving Sudbury and Hudson. The removal of significant acreage of trees means the loss of valuable stormwater storage, a critical resource for resiliency against flooding.

Testimony before the Energy Facilities Siting Board exposed basic mathematical flaws in the scoring of alternative routes. When corrected, the current project approach would be ranked near the bottom of the list. If the reliability need still exists, the Town of Sudbury remains willing to work with Eversource on a solution that does not cause permanent, negative environmental impacts and public health concerns.

Furthermore, if the transmission line is not constructed on the MBTA right of way, the Town of Sudbury would work cooperatively with the Department of Conservation and Recreation to advance the Mass Central Rail Trail.

The Sudbury Select Board respectfully requests that your office reexamine the claimed reliability benefit of the Eversource transmission project versus its cost in the current energy landscape. We urge you to stop this outdated and unnecessary project, and support more environmentally appropriate approaches to resiliency.

Sincerely,

Sudbury Select Board

Cc:

Maura Healey, Attorney General

Kathleen Theoharides, Secretary of Energy and Environmental Affairs

Ed Markey, US Senator, Massachusetts

Elizabeth Warren, US Senator, Massachusetts

Katherine Clark, US Representative 5th District of Massachusetts

Lori Trahan, US Representative 3rd District of Massachusetts

Mike Barrett, MA Senator, Third Middlesex District

Jamie Eldridge, MA Senator, Middlesex and Worcester District

Carmine Gentile MA Representative, Thirteenth Middlesex District

Jon Chesto, Boston Globe

Figures

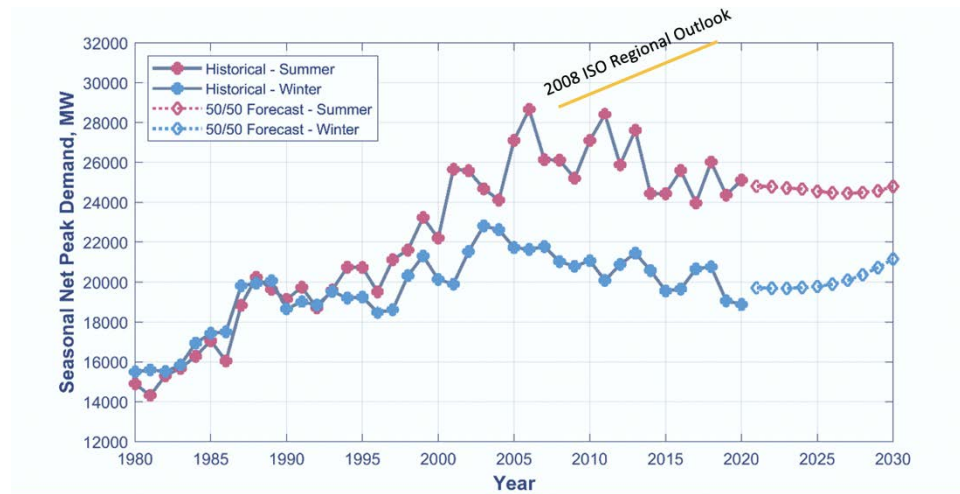


Figure 1: Historical and forecasted summer/winter seasonal net peak demand, 1980-2030⁷. Superimposed yellow line indicates the ISO-NE Regional Outlook in 2008 which predicted peak demand would continue to increase by 400MW per year⁸.

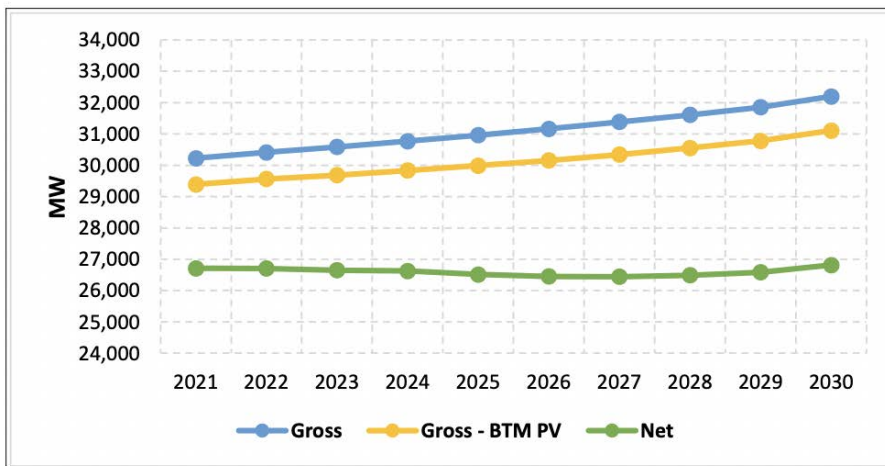


Figure 2: ISO-NE RSP RSP21 gross summer peak demand forecast (90/10) (blue); gross demand forecast minus BTM PV (orange); and net of EE and BTM PV demand forecast (green) for 2021 to 2030 (MW)

⁷ Source: ISO-NE 2021 Regional System Plan https://www.iso-ne.com/static-assets/documents/2021/09/draft_rsp21_report.docx

⁸ From 2008 ISO-NE Regional Outlook: https://www.iso-ne.com/static-assets/documents/aboutiso/fin/annl_reports/2000/isonr_ar_2008.pdf "The region's summer peak is now more than 28,000 MW, while average electricity use the rest of the year is around 18,000 MW. With peak demand rising at about 400 MW per year"



SUDBURY SELECT BOARD

Tuesday, October 5, 2021

2

EXECUTIVE SESSION

2: Close executive and resume open session

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to close executive session and resume open session.

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM



SUDBURY SELECT BOARD

Tuesday, October 5, 2021

3

MISCELLANEOUS (UNTIMED)

3: BFRT update re: draft lease agreement

REQUESTOR SECTION

Date of request:

Requestor: Chair Roberts

Formal Title: Discussion and possible vote regarding Bruce Freeman Rail Trail (BFRT) update from Town Counsel related to draft lease agreement. (~25 min.)

Recommendations/Suggested Motion/Vote: Discussion and possible vote regarding Bruce Freeman Rail Trail (BFRT) update from Town Counsel related to draft lease agreement. (~25 min.)

Background Information:

Financial impact expected:

Approximate agenda time requested: 25 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

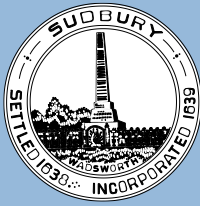
10/05/2021 6:15 PM

SELECTED CLAUSE IN DRAFT LEASE BETWEEN MassDOT AND TOWN OF SUDBURY FOR
RIGHT OF WAY FOR BRUCE FREEMAN RAIL TRAIL

Landlord Reservation of Rights

Notwithstanding anything to the contrary contained herein, Landlord hereby reserves and retains the following rights and easements in and with respect to the Premises:

Landlord reserves the right to use, or to allow any party to use the Premises, or to grant and relocate licenses, leases or easements for any use so long as such use does not materially interfere with the Permitted Uses of the Premises. Tenant shall cooperate with Landlord in this regard to accommodate any such use by Landlord or such other party, provided Tenant shall incur no monetary obligations with respect thereto. Without limitation, such other uses may include utilities, wireless telephone facilities (including, without limitation, cellular and PCS), fiber optic lines and communications facilities, microwave and other antennas, and all types of cable communications, and any other uses that do not materially interfere with the permitted uses of the Premises. Without limitation, the foregoing reservation by Landlord includes, whether the same now exist or are hereafter installed or used after the date of this Lease, the right to locate any or all such facilities (including, without limitation, towers, antennas, cables, fiber, above-ground, below-ground, indoor and outdoor equipment) and other improvements on and within the Premises so long as such use does not materially interfere with the Permitted Uses of the Premises. All rights (including, without limitation, revenue therefrom) pertaining to all such other uses are specifically reserved to, and shall be the sole property of, Landlord. Tenant agrees to cooperate with Landlord and any designated party in connection with any exercise by Landlord of its rights hereunder. Throughout any such use, Landlord shall maintain and/or require its grantees and their contractors to maintain insurance as required by, and in accordance with, the terms and conditions of Section 9.6 herein, and Landlord may require its grantees and their contractors to maintain such additional coverages deemed necessary by Landlord.

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**4: Potential Solar Opportunities****REQUESTOR SECTION**

Date of request:

Requestor: Bill Barletta, Combined Facilities Director

Formal Title: Discussion on solar power options for the future at several Town locations and possible vote to authorize the Town Manager to sign Letter of Intent to express the desire to enter into a Power Purchase Agreement (PPA) and Lease Agreement or grant of Easement ("Site Control") for electricity to be produced by a solar power electric generating project, potentially including energy storage. (~20 min.)

Recommendations/Suggested Motion/Vote: Discussion on solar power options for the future at several Town locations and possible vote to authorize the Town Manager to sign Letter of Intent to express the desire to enter into a Power Purchase Agreement (PPA) and Lease Agreement or grant of Easement ("Site Control") for electricity to be produced by a solar power electric generating project, potentially including energy storage. (~20 min.)

Background Information:

Attending will be:

Solar Power Presentation (Bill Barletta, Facilities Director; Rami Alwan, Chair of the Energy and Sustainability Committee; Byron Woodman, Senior Director of Business Development, Solect Energy; and Walter Gray from Power Options

Financial impact expected:

Approximate agenda time requested: 20 minutes

Representative(s) expected to attend meeting: Rami Alwan, Chair of Energy and Sustainability Committee; Byron Woodman, Senior Director of Business Development, Solect Energy

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM

Town of Sudbury Solar Energy Presentation

October 4, 2021



Agenda

- Review PowerOptions' Solect Solar & Storage program
- Sudbury Engagement to Date
- Review Sudbury Projects
- Discuss Project Designs, Economics
- Next Steps





- Founded in 2009, Headquarters in Hopkinton, MA
- Develop, Finance, Design, Build, Operate, Service Solar and Energy Storage in MA, RI, CT
- 70 MA employees
- 600+ commercial projects, 130MW to date
- Solect Services manages 650 projects in MA, RI, CT
- 100+ PPAs completed with Public and Not for Profit clients under the PowerOptions RFP Award and Standard Contracts
- DCAMM Certified
- Solect.com



PowerOptions

- PowerOptions is the largest energy buying consortium in New England for public entities and non profits
- PowerOptions performs competitive RFPs for its members, to provide energy solutions including: Electricity, Natural Gas, Solar & Energy Storage, and EV charging. Solect has been awarded the solar and storage program.
- Public entities can leverage the PowerOptions RFP in lieu of conducting individual solicitations, and comply with state regulations (M.G.L. Ch. 164 S. 137). MA Clean Energy Center (MassCEC) Board of Directors authorized PowerOptions to conduct energy procurements on its behalf.
- PowerOptions delivers cost savings and predictability to nonprofits and the public sector in Massachusetts, Connecticut and Rhode Island.
- PowerOptions' Solar Program Manager serves as the advocate and advisor to support members' decisions on contracting with providers under its programs.
- PowerOptions audits proposals, project pro formae, and contracts for every project.



Town of Sudbury - Solar Savings

Town of Sudbury - Solar Summary Table										
Building Location	System Type	System Size kW (DC)	Year 1 - Production	PPA Term (Years)	Block 5			Block 6		
					SMART Incentive Amount	PPA Rate	Est. Savings	SMART Incentive Amount	PPA Rate	Est. Savings
Noyes School	Rooftop	351.9	393,000	20	0.12098	0.075	\$738,556	0.12041	0.084	\$671,327
Nixon Elementary School	Solar Canopy	367.2	371,000	25	0.17969	0.135	\$235,207	0.17103	0.147	\$150,632
Total		719.1	764,000				\$973,763			\$821,959
Ephaim Curtis Middle School	Solar Canopy	293.3	344,000	25	0.18753	0.113	\$393,457	0.17887	0.123	\$312,980
Ephaim Curtis Middle School	Rooftop + Up Front Lease	373.2	444,000	25	0.14673	0.174	\$636,584	0.13807	0.182	\$553,403
Total		666.4	788,000				\$1,030,041			\$866,383
Department of Public Works	Rooftop + Up Front Lease	278.8	309,000	25	0.13889	0.135	\$607,711	0.13023	0.143	\$560,641
Josiah Haynes	Rooftop + Up Front Lease	358.7	401,000	25	0.14673	0.185	\$512,974	0.13807	0.193	\$437,799
Total		637.5	710,000				\$1,120,685			\$998,440
Combined Total		2,023	2,262,000				\$3,124,489			\$2,686,782

Assumptions

System sizes subject to final engineering based on utility review and/or specifications of confirmed roof system

Open shop labor (3rd party owned)

Rates assume a PILOT of \$5.00 per kW

Rates do not include utility network upgrade or study costs

Bonding not included as system is 3rd party owned

Assumes Block 5 or Block 6 SMART Incentives

Utility electric rates escalate at 2.0%






PILOT Amounts for Sudbury Projects

Town of Sudbury - Solar PILOT Table							
Building Location	System Type	System Size kW (DC)	PPA Term (Years)	PILOT \$/kW	Escalation Rate	PILOT Payment Year 1	Total PILOT Payment
Noyes School	Rooftop	352	20	\$5.00	-3%	\$1,760	\$26,756
Nixon Elementary School	Solar Canopy	367	25	\$5.00	-3%	\$1,836	\$27,920
Ephaim Curtis Middle School	Solar Canopy	293	25	\$5.00	-3%	\$1,466	\$26,052
Ephaim Curtis Middle School	Rooftop + Up Front Lease	373	25	\$5.00	-3%	\$1,866	\$33,150
Department of Public Works	Rooftop + Up Front Lease	279	25	\$5.00	-3%	\$1,394	\$21,198
Josiah Haynes	Rooftop + Up Front Lease	359	25	\$5.00	-3%	\$1,794	\$31,866
Combined Total		2,023				\$10,116	\$166,942

Discussion Points:

- 2021 Climate Bill Exempted Certain projects
- Sudbury's confirmation and approval of PILOT Values


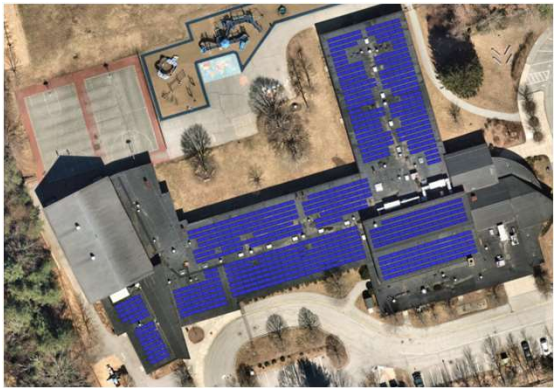

Sudbury's Solar-Ready locations

Noyes School – Rooftop	Ephraim Curtis – Canopy	Nixon School – Canopy
Solar 351.9kW (DC) Generation: 393,000kWh/Yr	Solar 293.25kW (DC) Generation: 344,000kWh/Yr	Solar 367.2kW (DC) Generation: 371,000kWh/Yr
		

Assumptions

System sizes subject to final engineering based on utility review and/or specifications of confirmed roof system

Sudbury's Locations for Rooftop Solar + Upfront Lease

Department of Public Works	Josiah Haynes	Ephraim Curtis
Solar 278.8kW (DC) Generation: 309,000kWh/Yr	Solar 358.7kW (DC) Generation: 401,000kWh/Yr	Solar 373.15kW (DC) Generation: 444,00kWh/Yr
		

Assumptions

System sizes subject to final engineering based on utility review and/or specifications of confirmed roof system

Recommendation to secure IA & SMART Incentives for Solar-Ready locations

To secure the incentive and protect the projects' savings, Solect recommends that sign the LOI needed we proceed with the solar system to be located at The Noyes School (Roof), Ephraim Curtis Middle School (Canopy), and Nixon School (Canopy)

- INTERCONNECTION AND INCENTIVE PROCESS
 - Prepare electric engineering, submit SMART incentive applications and interconnection applications for each site. Utility response may require engineering studies.
 - Letter of Intent. This is required by DOER in order to assign the SMART incentives
- STRUCTURAL AND SITE FEASIBILITY AND PERMITTING
 - Confirm structural feasibility & weight-loading capacity for each building based on the systems ballast plan.
 - For canopies, conduct civil engineering and engage the Planning board to gain project approvals.
- PILOT CONFIRMATION:
 - Execute PILOT agreements



Recommendation to engage Procurement to confirm Sudbury's process for including the new roofs

Subject to Sudbury's approval, Solect proposes to evaluate the following process for paying for the roof replacement at The DPW Facility, Josiah Haynes School, and Ephraim Curtis School.

- Solect proposes to make an up-front lease payment to Sudbury.
- Solect will provide input to Sudbury to ensure that the new roofs will be solar-ready
- Sudbury will then issue an RFP for the roofs and hire with the roofing contractor and replace the roofs
- Once the roofs are installed, Solect will install the solar projects.



Discussion, Questions Thank you!

Byron Woodman, Sr. Director Business Development

bwoodman@solect.com

339-203-5530





**Letter of Intent for Solar Power Purchase Agreement
Town of Sudbury
SED - PO PPA - Nixon School (Canopy)**

September 30, 2021

To: William Barletta, Director of Combined Facilities
Town of Sudbury
275 Old Lancaster Rd
Sudbury, MA 01776

Solect Energy Development LLC (“Solect” or “Provider”) and Town of Sudbury (“Host”), desire to enter into a Power Purchase Agreement (PPA) and Lease Agreement or grant of Easement (“Site Control”) for electricity to be produced by a solar power electric generating project, potentially including energy storage, to be located at 472 Concord Rd., Sudbury, MA 01776 (the “Project”), but recognize that the Massachusetts Department of Energy Resources’ SMART Incentive Program awards incentives on a first come first served basis, and therefore, Host’s power purchase rate is subject to the approved incentive for each Project. The PPA rates for each Incentive Award are presented in Attachment 1.

This Letter of Intent (the “Letter”) is intended to formalize both Parties willingness and intent to enter into good faith negotiations to execute a PPA, and Site Control pursuant to which Solect will develop the Project under the PowerOptions Solar Program.

1. Project Development Activities

Solect seeks to develop, design, construct, finance and operate the Project presented in Attachment 2 and sell to Host the electric energy produced by the Project.

Host owns or is the beneficial leaseholder of the site listed in Attachment 2 and seeks to make a portion of such site available to Provider for constructing, operating and maintaining a solar powered electric generating and energy storage Project. Host will allow Provider reasonable access to the site to perform pre-development and design work as described below, at no cost to Host. Provider shall, during the term of this Letter, maintain the insurance set forth in the Attachment 3 to this Letter. Provider shall enter upon the site only in the company of a representative of Host.

Solect may, at its expense, assess the suitability of Host’s premises for the Project. To do so, Solect may perform engineering, design, site or structural analysis (excluding intrusive or destructive tests or inspections without Host’s prior approval, and Solect shall repair any such intrusions), and may submit applications for SMART incentives, and utility interconnection of the Host’s site to determine feasibility, safety, and to ensure the proper installation, maintenance, and operation of the solar system. If during the performance of such assessment, Solect discovers any conditions that in Solect’s reasonable judgment would prevent the successful completion of the Project, Solect shall promptly advise Host of the same, and if the Parties are unable to reach agreement on how to address such conditions in the PPA to enable successful completion of the Project, Solect may terminate this Letter, and the Parties will have no further obligations hereunder.

2. Agreements

508.598.3511 • 89 Hayden Rowe Street • Hopkinton, MA 01748

solect.com



Subject to the conditions in this letter, Host and Solect agree to undertake good faith negotiations to enter into a PPA, and Site Control document. Within two hundred seventy (270) days of the issuance of a Preliminary Statement of Qualification from the SMART Program Administrator, Solect shall confirm the PPA rate that it will offer to the Host for the Project. Initial proposed rates are shown in Attachment 1. The Parties recognize that the pricing for the Project is subject to SMART Program incentives, the execution by Solect and the taxing authority of an agreement for payment in lieu of taxes (“PILOT”), and that the final PPA rates must be agreed to by both Parties and may differ from those shown in Attachment 1. Subject to the Parties’ agreement, Host agrees to execute the PowerOptions program PPA, and Site Control document as soon as reasonably practicable. The parties may extend this Letter upon mutual written agreement.

This Letter is contingent upon successful receipt of the SMART Program qualification, and subject to Solect achieving the PPA rates for each location as presented in Attachment 1, the Parties’ mutual satisfaction with PPA rates and agreement regarding site-specific upgrades (if any).

This Letter expresses the desire of both Parties to enter into negotiations to undertake and complete the Project as outlined above, and to complete all necessary documents, and processes to meet the associated timeline. If the Parties are unable to reach agreement on any adjustments to the PowerOptions PPA and Site Control document, or other agreement to address site-specific upgrades, then this Letter shall terminate. This Letter shall be governed by Massachusetts law.

This Letter shall expire 360 days after the date of Host’s countersignature below, unless the parties agree, in writing, to extend the term.



Sincerely,

Solect Energy Development LLC

By: _____

Name: James Dumas

Title: CFO

ACCEPTED AND AGREED TO AS OF THE DATE SET FORTH BELOW BY AUTHORIZED
REPRESENTATIVE OF HOST

Town of Sudbury

By: _____

Name:

Title:

Date: _____

(signature page – Letter of Intent – Town of Sudbury)

ATTACHMENT 1

Solar Locations & System Sizes							
System Type	Building Location	Street Address	System Size kW (DC)	Block 5		Block 6	
				SMART Incentive Amount	PPA Rate	SMART Incentive Amount	PPA Rate
Solar Canopies	Nixon Elementary School	472 Concord Rd.	367.20	0.17141	0.135	0.16275	0.1440

Design & Pricing notes:

- The system design and PPA rate is subject to confirmation based on the final building design, utility approval and incentive award.
- Assumes calendar year 2022 contract and corresponding tax credit value
- SMART Incentive assumes Eversource G-2 electric rate.
- PPA rates excludes any costs from local utility engineering studies or system upgrade charges



ATTACHMENT 2

Project Site Information

General John Nixon Elementary School
Solar Canopies – 367.2
kW (DC)



Attachment 4.b: Solect PO PPA LOI Sudbury Nixon School (Canopy) - 9-13-21 (4855 : Potential Solar Opportunities)



ATTACHMENT 3

Insurance Requirements

Provider will have valid commercial general liability, workers compensation, and business auto insurance as follows:

- Commercial general liability insurance will be in the following amounts: \$1,000,000 for each occurrence and \$2,000,000 aggregate.
- Workers compensation insurance or self-insurance indicating compliance with any applicable labor codes, laws or statutes, state or federal, where Installer performs work.
- Auto coverage not less than 1 million dollars (\$1,000,000) each accident for bodily injury and property damage, and 1 million dollars (\$1,000,000) in the aggregate.



SUDBURY SELECT BOARD

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**5: Fairbank discussion with PBC and Facilities**REQUESTOR SECTION

Date of request:

Requestor: Chair Roberts

Formal Title: Fairbank discussion with Permanent Building Committee. Attending will be Craig Blake and Jennifer Pincus from PBC, and Bill Barletta Facilities Director. (~45 min.)

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

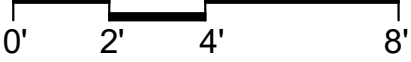
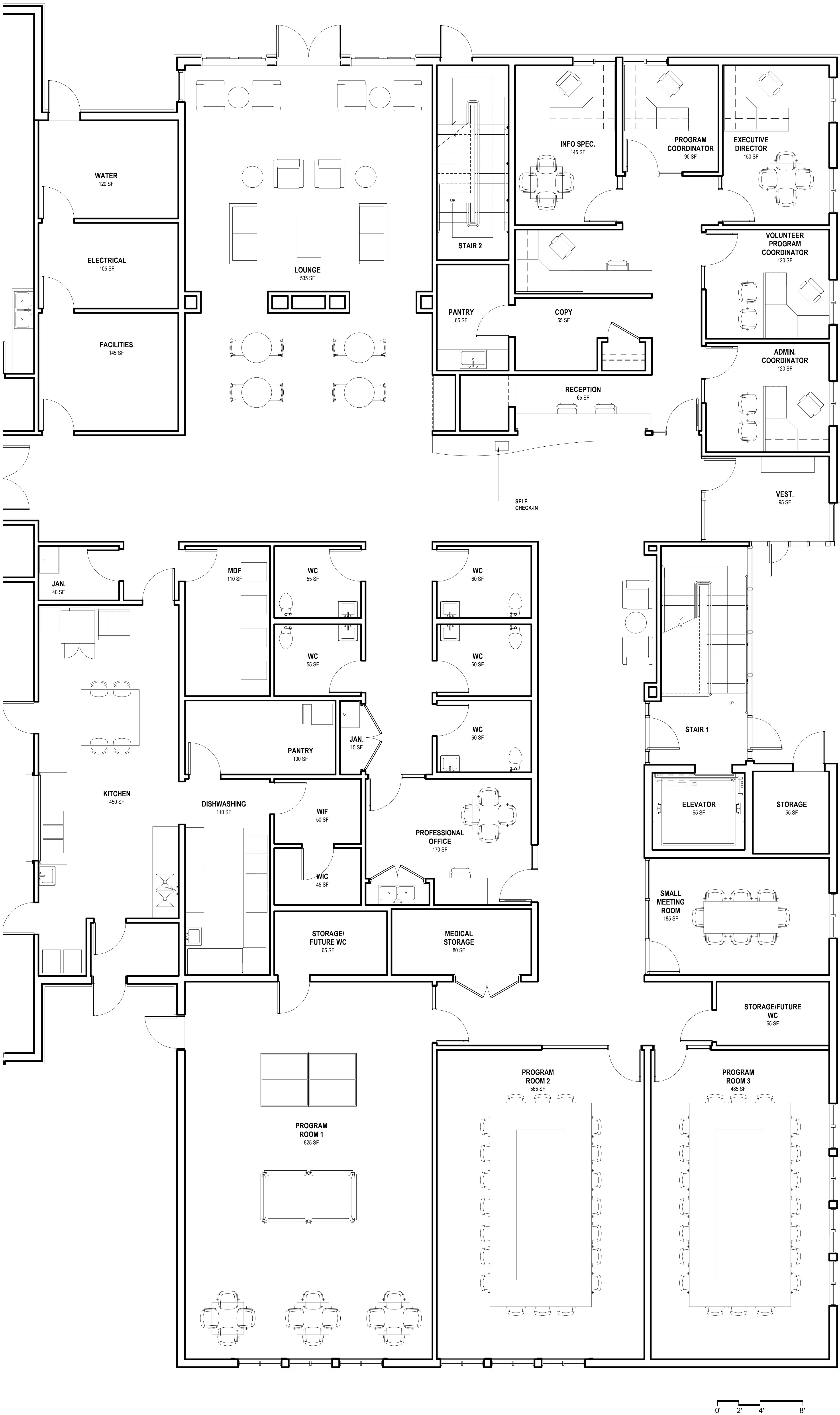
Approximate agenda time requested: 45 minutes

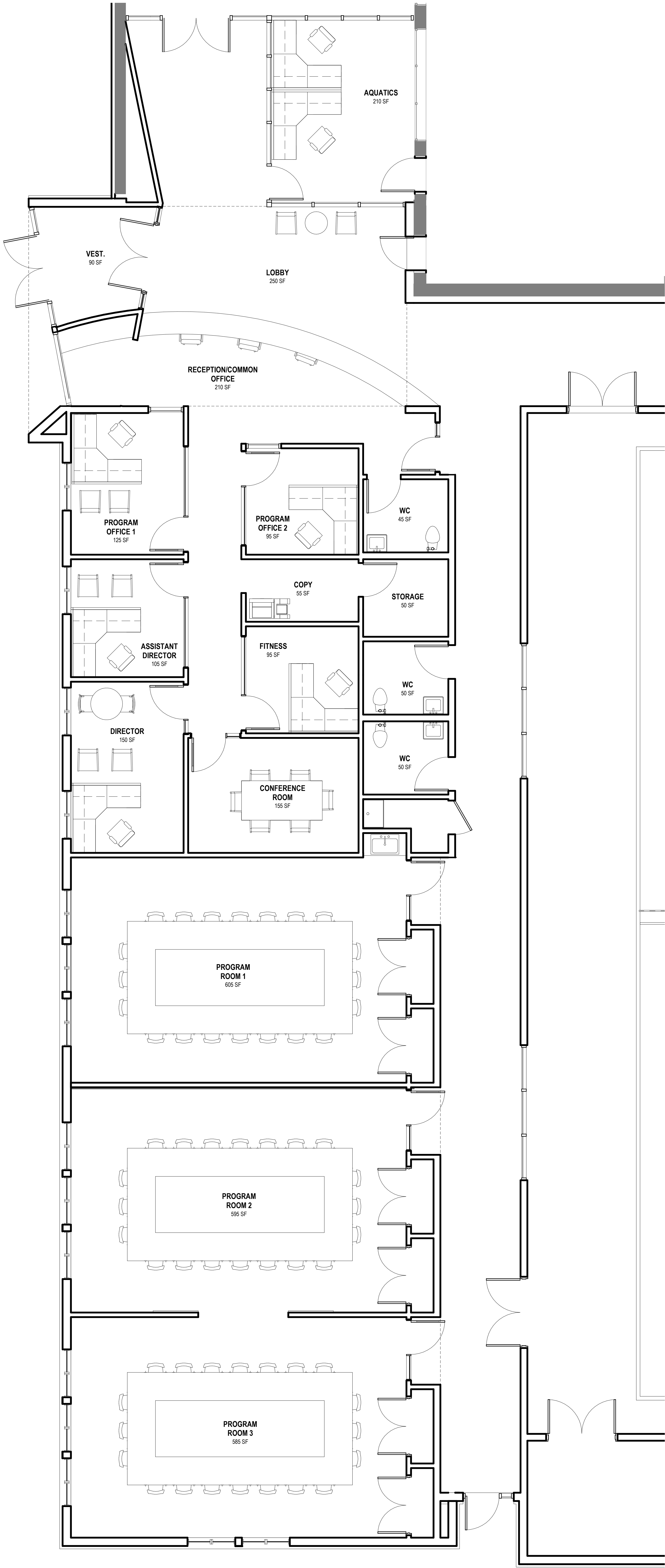
Representative(s) expected to attend meeting:

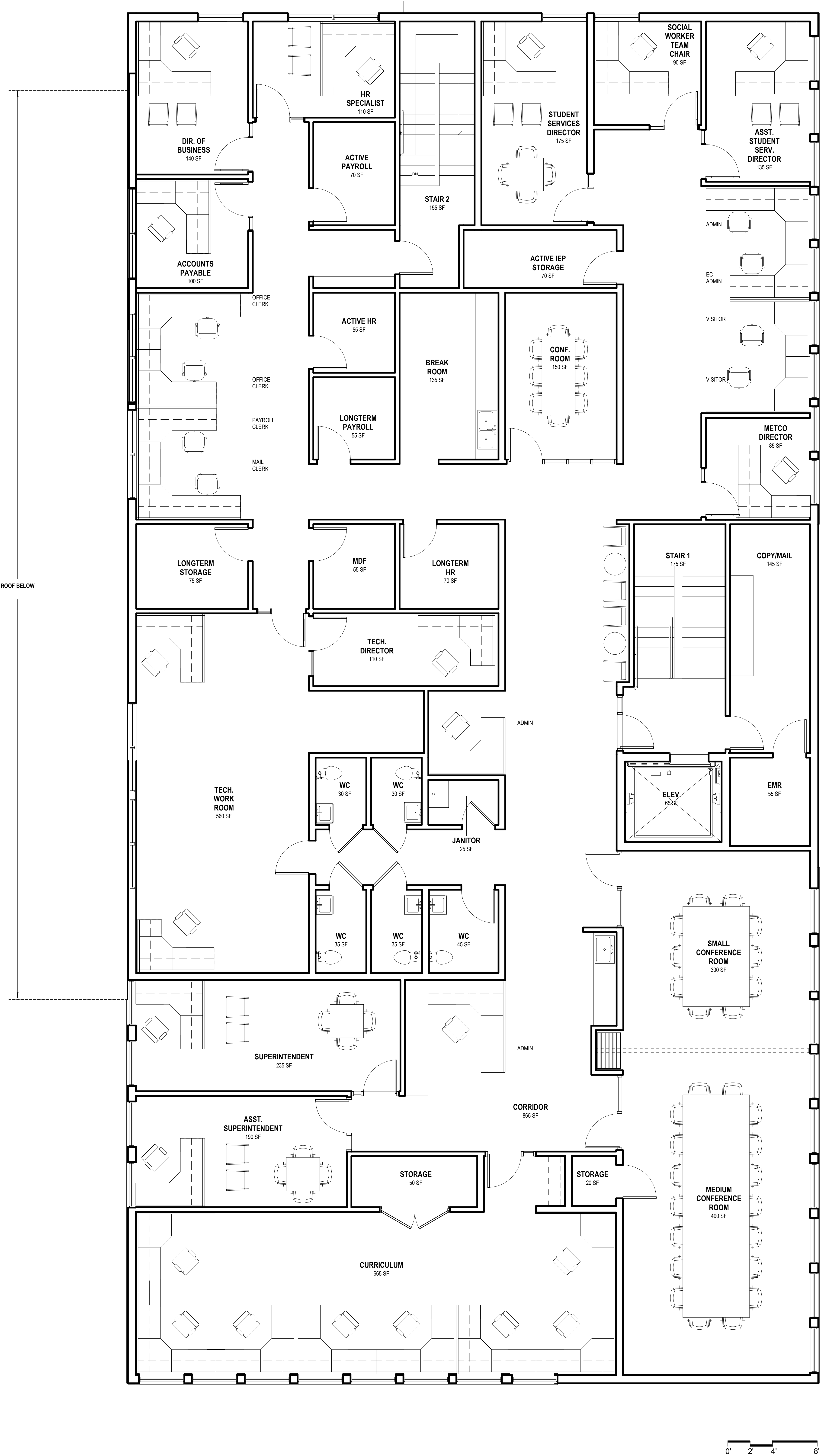
Review:

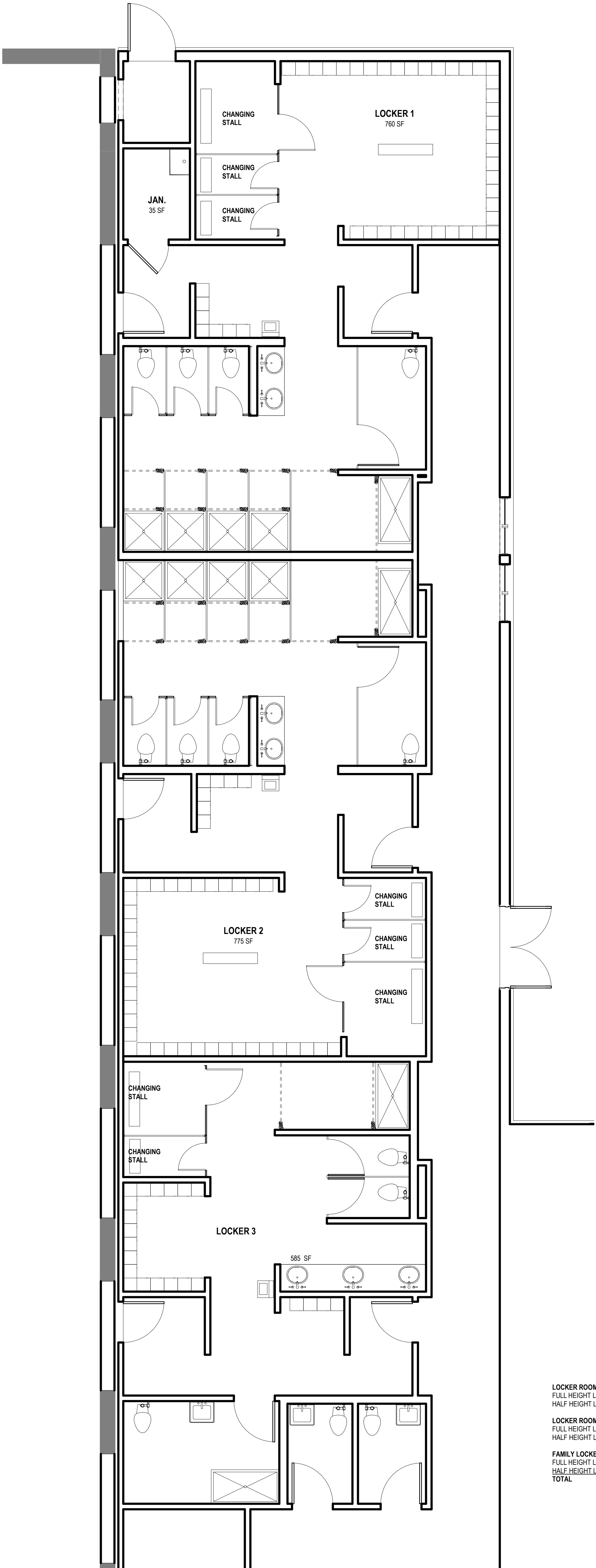
Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM









	EXISTING	PROPOSED	DELTA
LOCKER ROOM 1			
FULL HEIGHT LOCKERS	17	0	-17
HALF HEIGHT LOCKERS	72	82	+10
LOCKER ROOM 2			
FULL HEIGHT LOCKERS	22	0	-22
HALF HEIGHT LOCKERS	92	82	-10
FAMILY LOCKER ROOM			
FULL HEIGHT LOCKERS	0	0	0
HALF HEIGHT LOCKERS	0	40	+40
TOTAL			+1

ARCHITECT

bh+a

Bargmann Hendrie + Archetype, Inc.
9 Channel Center Street, Suite 300
Boston, MA 02210
(617) 350 0450

PROJECT NAME

**Fairbank
Community Center**
40 Fairbank Road
Sudbury, MA 01776

CLIENT

Town of Sudbury
Town Hall
278 Old Sudbury Road
Sudbury, MA 01776

NOT FOR
CONSTRUCTION

PROJECT TEAM

Civil Engineer

Bohler Engineering
352 Turnpike Road
Southborough, MA 01772
(508) 480 9900

Landscape Architect

KZLA
36 Broomfield Street Suite 202
Boston, MA 02108
(617) 451 1018

Structural Engineer

Foley Buhl Roberts & Associates
2150 Washington Street
Newton, MA 02462
(617) 527 9600

MEP/FP Engineer

Allied Engineering Inc.
235 Littleton Road
Westford, MA 01886
(978) 446 7888

REVISIONS

1 Revision 1 Date 1

DRAWING TITLE

**Phase 1A/1B Site
Phasing Diagram**

DRAWING INFORMATION

9/22/2021

DATE OF ISSUE

Owner Review

DESCRIPTION

1" = 40'-0"

SCALE

3452_00

PROJECT #

Author

DRAWN BY

revit.rtd

FILE NAME

DRAWING NUMBER

A004

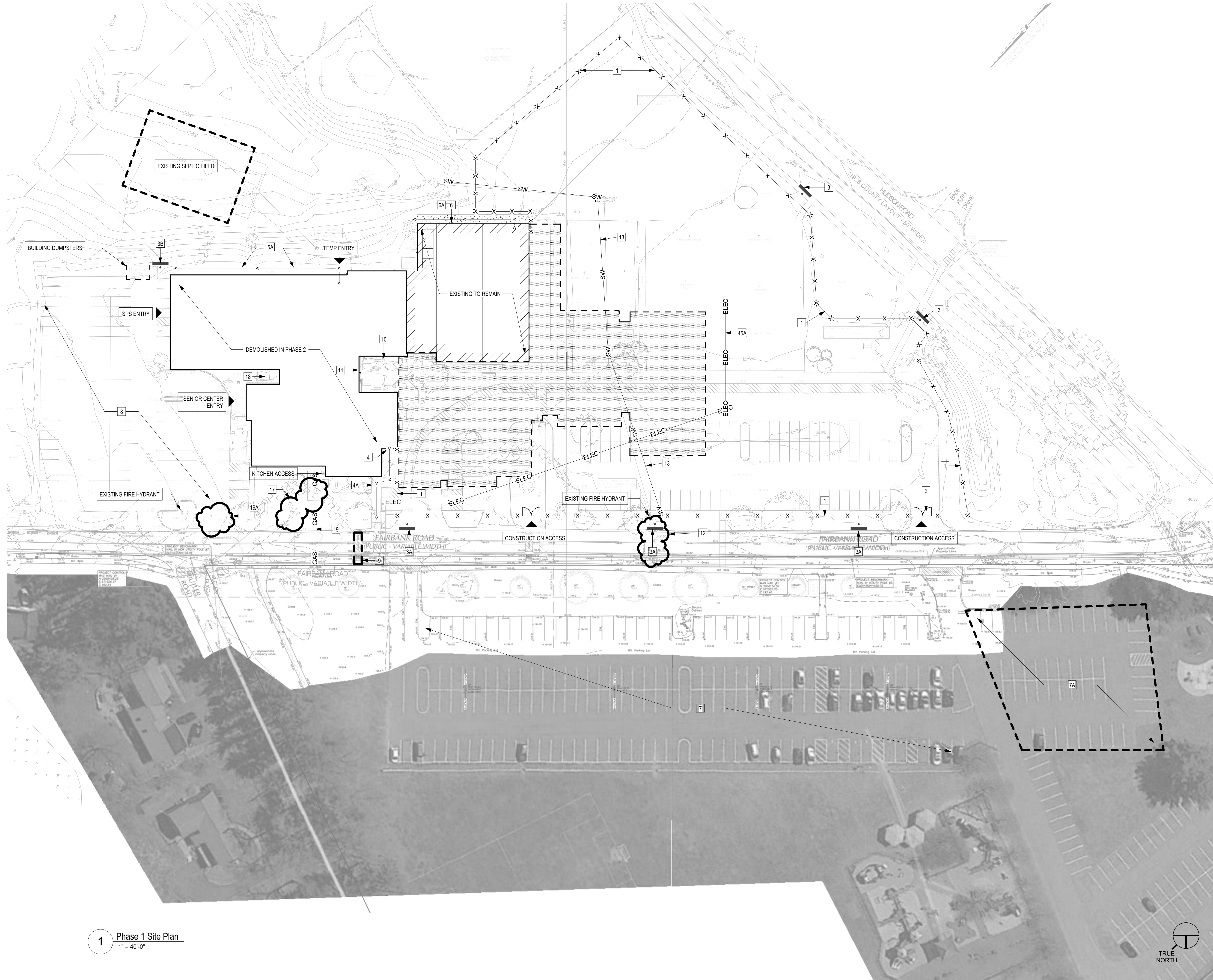
Copyright BH+A, Inc.

V.2.1

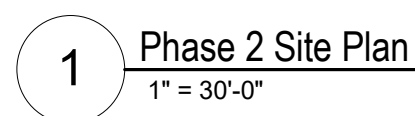
Packet Pg. 36

PHASING NOTES

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- 11 EXISTING SOLAR PANEL DISCONNECT
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- 43 DEMOLITION OF EXISTING BUILDING INCLUDING FOUNDATIONS AND FOOTINGS
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- 46 PROVIDE UNDERGROUND FEEDS TO PHASE 2
- 47 SITE LIGHTING
- 47A TEMPORARY RECREATION/ POOL ENTRANCE
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1 Phase 1 Site Plan
1" = 40'-0"



**NOT FOR
CONSTRUCTION**

V.2.1

ARCHITECT

bh+a

Bargmann Hendrie + Archetype, Inc.
9 Channel Center Street, Suite 300
Boston, MA 02210
(617) 350 0450

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352 Turnpike Road
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Landscape Architect

KZLA
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Boston, MA 02108
(617) 451 1018

Structural Engineer

Foley Buhl Roberts & Associates
2150 Washington Street
Newton, MA 02462
(617) 527 9600

MEP/FP Engineer

Allied Engineering Inc.
235 Littleton Road
Westford, MA 01886
(978) 446 7888

REVISIONS

NO.	DESCRIPTION	DATE

DRAWING TITLE

**Phase 2A/2B New &
Existing Building
Phasing Plan
Diagram**

DRAWING INFORMATION

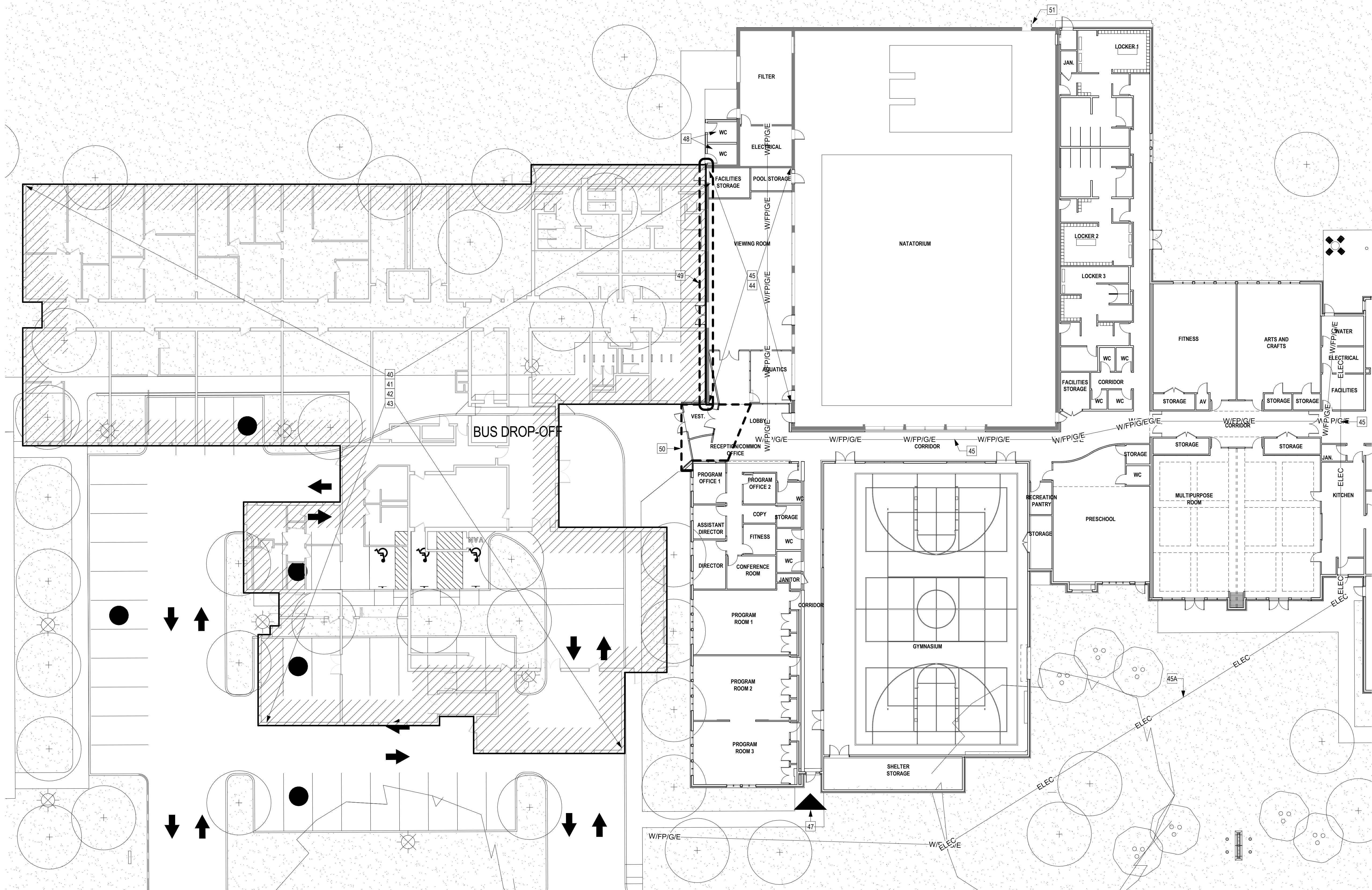
9/22/2021	DATE OF ISSUE
Owner Review	DESCRIPTION
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3452.00	PROJECT #
revit.rvt	FILE NAME

DRAWING NUMBER

A007

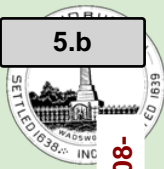
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1 Phase 2A/2B Plan
1/16" = 1'-0"

Fairbank Community Center



5.b

Goal: Replacement of current building

Risk		Controls (Options)
Secure OPM, take from feasibility to design phases	Low	● RFQ clearly states deadline.
Final Design to Construction	Low	● This project has an aggressive timeline, delays on decisions may impact timeline and costs based on rates at any given time.

Original Target	Current Target
2024	2024

Original Plan	Current Budget
\$28,832,000	\$28,832,000

Milestone	Original	Current (Actual)	Notes
Interview and select OPM	2021-01-29	Completed	Compass. 14 RFQ proposals rcv'd 2021 Jan 14 NLT 2 PM, Interviews 2021 Jan 28. Compass selected to enter negotiations.
Architect / Designer Selection	2021 FEB	Completed 2021 April	BH+A. Contact for Site Survey in place with Town, site survey work begun 4/14/21. Draft Survey due 6/8/21 and Final on 7/22/21. OPM has contracted for GeoTech exploration, to be incorporated with Site Survey for use by architect in design. 12 submissions, 3 interviews scheduled 2021 April 15. responses due/18 Mar. Walk through/11 Mar. RFQ/25 Feb.
SD/DD/CD/100% CD	2021 JAN	In Process 2021 July	Geo Tech and Site Survey work complete. Schematic Design very nearly complete. Next step is Design Development.
CMR Selection (if required)	2021 SUMMER		Design/Bid/ Build process selected over Construction Manager at Risk.
Early Bid packages (if needed)	2021 FALL		
Bidding	2022 FEB		
Construction	2022 MAY thru 2023 DEC		Construction to begin, duration of 20 months.
Demolition			
Project completion	2024	2024	

Funding Source	Appropriated	Unspent	Contracts
2020 Annual Town Meeting (passed Nov 2020 Ballot)	\$28,832,000	\$28,818,870	
	\$	\$153,520	OPM: Compass Project Management Samiotes Consultants, Inc. (thru 6/26/21) Architect: Bargmann Hendrie+Archetype, Inc. (thru 5/31
	\$		
	\$	\$	
	\$	\$0	
	\$	\$	
TOTAL	\$28,832,000	\$28,678,480	

Attachment 5.b: KPI - Fairbank SB Project Status Update 21-08-

From: Roberts, Jennifer
Sent: Monday, September 13, 2021 10:11 AM
To: Hayes, Henry; Barletta, William; Jenkpincus@gmail.com
Cc: Russo, Charlie
Subject: Fairbank Project

Good morning,

I am writing regarding the Fairbank Community Center project. Recently, the Select Board had a brief update on the project and a number of questions were raised. I was able to view the recent (9/9) PBC Meeting and learn more about the work around value engineering. I also heard the conversation about Rep Carmine Gentile's offer to pursue State funding to bring the community center closer to Net Zero. Rep Gentile and I had previously discussed this possibility, and I am very interested - but also interested to know "how" this could work given where the project is.

As you know, the plan for the Fairbank Community was to build an environmentally efficient building. ICON Architecture and the Town also included information on the Passive House concept in the presentations to the residents. Pg. 22 and 23 from the 2020 Town Meeting presentation. <https://s3.amazonaws.com/documents.sudbury.ma/Presentation/TM-2020%20Article%2018%20Dretler%2C%20Janie.pdf?1599864233969&AWSAccessKeyId=AKIAJYVIGYK2PGOS2ZKA&Expires=1631539577&Signature=FCeDVLfHaxXVR5eiGB08un6fl5o%3D>

At what point does such environmental design get incorporated into the existing project? Are plans underway to achieve this Passive House goal? Have any of the Value Engineering decisions affected this outcome negatively? For example, what about the change from steel to wood framing? (I am also interested to understand the impact of this on longer-term operational and maintenance costs.) Could a full list of the value engineering changes please be shared?

I understand the project is following a clear timeline and that each month generates cost. At the same time, we do need to consider the longer-term success of this building (again operational, energy, and maintenance costs, and alignment with State Climate Change goals). Therefore, I am seeking to reconcile how we might be able to take advantage of (likely?) State funding given where we are. Bill, I heard similar questions from you in the PBC meeting, and there was some discussion. However, it is not clear to me what the next steps are.

Is there a way to design the building such that if this funding becomes available, the building can be built closer to Net Zero at a later point? For example, I heard mention of the window type, but are there more ways? Or does it require two designs at this stage?

Thank you for all your work on this important project. I will likely be putting a Fairbank update on an upcoming Select Board agenda, and I envision these topics will be discussed. I also saw

Attachment5.c: Roberts_email (4858 : Fairbank discussion with PBC and Facilities)

you have the Fairbank project on your PBC agenda tomorrow evening. Unfortunately, there is a Select Board meeting at the same time, but I will view the video later.

I understand that Jennifer and Nancy are project managers on this project. I have copied Jennifer. I do not have Nancy's email address, but please feel free to share.

Regards,

Jen

Jennifer Roberts

Chair, Sudbury Select Board

ADD TOWN OF SUDBURY MUNICIPAL LETTERHEAD

September 28, 2021

Representative Carmine Gentile

State Representative, 13th Middlesex

24 Beacon Street, Room 167

Boston, MA 02133

Dear Representative Gentile,

As you know, Sudbury is in the process of designing and building two significant structures in town – a replacement for the Fairbank Community Center and a major renovation and replacement of Fire Station #2, on Route 20. Each of these buildings is more than 60 years old, and we hope their replacements will give similar lengths of service. As Winston Churchill said, “We shape our buildings; thereafter they shape us.”

With this in mind, we are writing to ask for your support in obtaining additional funding to ensure these building can meet not just today’s needs, but also those of the next 60 years. We aspire for these buildings to meet not just Sudbury’s existing Stretch Energy Code standards, but also net zero ready, passive house, and similar standards to ensure the efficiency of the operations, longevity of service, impact on our community, and standard of comfort to residents. We are monitoring the Commonwealth’s allocation of its share of federal ARPA and AJP funding, as well as the Commonwealth’s budget surplus funds, and look to you to help identify and obtain appropriate funding.

In addition, we request your support for the funding of a Sustainability Director position in town. This person would assist the town in drafting a baseline report on the town’s environmental impact, planning for ways to improve the town’s sustainability, and helping the town operate in a manner that considers the effective use of resources.

In 1987, the United Nations Brundtland Commission defined sustainability as “meeting the needs of the present without compromising the ability of future generations to meet their own needs.” Adding a Sustainability Director position will help ensure we achieve that goal.

Sudbury has a demonstrated history of leadership in environmental issues, from the passage of the Sudbury Wetlands Administration Bylaw, to its early membership in the Green Communities and Community Preservation Act programs, and most recently with Sudbury's participation in the Municipal Joint Comments on the State's 2030 Clean Energy Plan.

We are asking today that you help Sudbury continue this environmental leadership, and demonstrate your own, by helping our town obtain state and federal funding to enable the construction of the 21st Century buildings that today’s residents want, and future residents need.

SIGNED:

Sudbury Fairbank Community Center
August 16, 2021 updated September 9, 2021

PROJECT COST RECONCILIATION WITH FUNDED AMOUNT

PM&C

schematic design estimated construction cost	\$25,266,251
funded amount	\$23,000,500
budget overage	\$2,265,751

1) PBC Accepted Items

1	Delete Master Clock which was added as a suggestion by the estimator but not required.	\$6,565	\$6,565
2	Maintain all existing switches, servers and IT head end.	-	-
3	Convert 60% of concrete sidewalks to asphalt and substitute granite curb for asphalt in those locations	\$117,114	\$117,114
4	Delete Trellis on back side of existing blank pool viewing exterior wall	\$55,146	\$55,146
5	Single rest room in preschool (create a closet and add toilet later)	\$16,441	\$16,441
6	Eliminate electric charging stations (potential planning board requirement)	\$26,260	\$26,260
7	Eliminate exterior patio at multipurpose space. Lawn only.	\$17,913	\$17,913
8	Eliminate lighting at 1 Basketball Court	\$39,390	\$39,390
9	Defer 1 Basketball Court	\$34,038	\$34,038
10	Replace picnic table area with lawn	\$28,420	\$28,420
12	Reduce the building area by 2,006 sf	\$531,353	\$531,353
13	Wood Framed Structure in lieu of steel and light gauge metal framing	\$212,162	\$212,162
14	Second fire stair to be wood in lieu of steel if structure is changed to wood	\$20,840	\$20,840
17	Eliminate staff toilets on senior center side (in office area)	\$65,766	\$65,766
18	Reduced bay window size at preschool	\$3,227	\$3,227
19	Defer sidewalk at Fairbank Road, retains sidewalk connections to crosswalks. (it may be a Planning Board requirement)	\$31,322	\$31,322

recommended

recommended

recommended

recommended

use party wall plumbing
funde by Sustainability
Committee

recommended

recommended

recommended

recommended

recommended

recommended

gym, corridor, MPR bay window

recommended

recommended

recommended

verify scope

recommended

Recommend

total PB accepted savings	\$1,205,957	\$1,205,957
remaining overage after acceptance of savings	\$1,059,794	\$1,059,794

2) PBC Recommends acceptance pending User Group Confirmation

22	Defer Kitchen Equipment (this becomes a fundraising effort)	\$164,125	\$164,125
23	Defer Kitchenette Equipment (this becomes a fundraising effort)	\$4,202	\$4,202
24	Defer provisions & lighting at 2nd Basketball Court	\$59,085	\$59,085
26	Reduce parking lots by 33% (-48 parking spaces); does not expand impact area in the water resource zone	\$297,208	\$297,208
28	Deduct 1 operable partition at program room - rec department. Replace with fixed wall partition	\$44,077	\$44,077

Refer to users, PBC
Recommends

Concern from SFD, alternate
funding would be needed for
shelter to open

Refer to users, PBC
Recommends

reuse existing equip

Refer to users, PBC
Recommends

includes conduits

PBC recommends vs loss of
~1,100sf program loss,
Conditioned on parking study
allows required parking based on
scheduled use
PBC Recommended

Concern from Users, Request
to verify remaining parking
count and layout

total savings	\$568,697	\$568,697
remaining overage after acceptance of savings	\$491,097	\$491,097

Sudbury Fairbank Community Center
August 16, 2021 updated September 9, 2021

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funded amount	\$23,000,500
budget overage	\$2,265,751

3) Additional Cost Saving Options (using PM&C estimate values)

Target Saving

32	Defer the pool filtration equipment	\$140,000	\$140,000	Reviewed with Users	
40	Single door elevator.	\$10,000	\$10,000	Reviewed with Users	
41	Hydraulic elevator.	\$5,000	\$5,000	Reviewed with Users	
42	Change window specification (triple glazing is a sustainability option)	\$20,000	\$20,000	Reviewed with Users	
44	Reduce glass sidelights and doors inserted for transparency, spatial zoning and safety	\$20,000	\$20,000	Reviewed with Users	
45	Delete Corridor Bench	\$2,200	\$2,200	Reviewed with Users	
46	Delete Dedication Plaque	\$3,000	\$3,000	Reviewed with Users	
47	Delete Fireplace at Senior Lounge including gas line and mantle	\$15,000	\$15,000	Reviewed with Users	
48	Delete Roof Hatch and Ladder for roof access	\$4,200	\$4,200	Reviewed with Users	
49	MPR wood wall finishes	\$40,000	\$20,000	Reviewed with Users	Reduced to Half
50	Senior Lounge wood wall finishes	\$24,000	\$12,000	Reviewed with Users	Reduced to Half
51	Fitness Mirrors	\$10,000	\$10,000	Reviewed with Users	
52	Change tile floor in locker room to Epoxy	\$40,000	\$40,000	Reviewed with Users	
53	Reduce grade of SPS carpet	\$5,000	\$5,000	Reviewed with Users	
55	MPR cabinets	\$5,000	\$5,000	Reviewed with Users	
56	Lounge Desk	\$20,000	\$20,000	Reviewed with Users	
58	Large Program Room Cabinet	\$6,000	\$6,000	Reviewed with Users	
60	HVAC Savings for individual heat pumps in lieu of central heat pumps (a sustainability issue)	\$40,000	\$40,000	Reviewed with Users	
61	Electrical light fixture savings	\$20,000	\$20,000	Reviewed with Users	
62	Obtain Light Fixture & other Utility Company Rebates	\$25,000	\$25,000	Reviewed with Users	
63	Replace concrete unit pavers at building entrances and terraces with concrete pavement	\$30,000	\$30,000	Reviewed with Users	
64	Reduce shrubs/perennials by 35%	\$35,000	\$35,000	Reviewed with Users	
total potential savings		\$519,400	\$487,400		
overage after acceptance of savings		-\$28,303	\$3,697		

Sudbury Fairbank Community Center
August 16, 2021 updated September 9, 2021

PROJECT COST RECONCILIATION WITH FUNDED AMOUNT

PM&C

schematic design estimated construction cost	\$25,266,251
funded amount	\$23,000,500
budget overage	\$2,265,751

4) Items discussed with the Users, but tabled from the VE discussion					
11	Defer pool tank tile repairs (pool draining to be scheduled during pool down time)	\$39,390	Not Included		
20	Reduction of 8 parking spaces	\$10,420	Not Included	Not Recommended (reference)	no change to Storm water
21	Use a sports flooring rather than wood in the gym	\$59,831	Not Included	PBC Recommend	confirm with P&R
25	Defer 2nd Basketball Court	\$53,694	Not Included	Refer to users, PBC	
27	Eliminate both exterior camp toilets near pool viewing	\$79,808	Not Included	Recommends	
29	Eliminate 1 movable partition at SPS conference rooms	\$27,238	Not Included	PBC Recommended	Revisit program compromise
30	Reduce overall kitchen size by 30%	\$8,444	Not Included	PBC Recommended	Revisit program compromise
32	Reduce Senior program by 1 program room	\$185,500	Not Included	PBC Recommended	Revisit program compromise
33	Reduce recreation by 1 program room	\$185,500	Not Included		
37	Eliminate the fitness room and add an additional curtain to subdivide the gym.	\$190,000	Not Included		
39	Eliminate the small SPS conference room. (has to match area reduction from SC below)	\$79,500	Not Included		
43	Eliminate clerestory windows at gym	\$30,000	Not Included	panels replaced with siding & wall	
54	Volleyball sleeves in gym floor	\$3,200	Not Included		
57	Arts & Crafts Cabinet	\$7,000	Not Included		
59	Preschool Cabinets	\$12,000	Not Included		
64A	Reduce entire landscape scope including balances shrubs/perennials by 65%	\$65,000	Not Included	Not recommended by project team	
15	Reduce plumbing fixtures to code minimum.	-			TBC
65	Reuse gravel base and pavement for existing parking as possible	tbd	Not Included		
66	Basketball courts fall within existing parking footprint; overlay the existing parking to make courts	tbd	Not Included	still need fencing, and hoops	
67	Simplify Gym Roof (reduce overhang and details)	\$20,000	Not Included	PBC previously Rejected	
68	Flat Roof at Two Story SPS	\$142,793	Not Included	PBC previously Rejected	
total potential savings		\$1,199,318		\$0	
overage after acceptance of savings		-\$1,227,621		\$3,697	

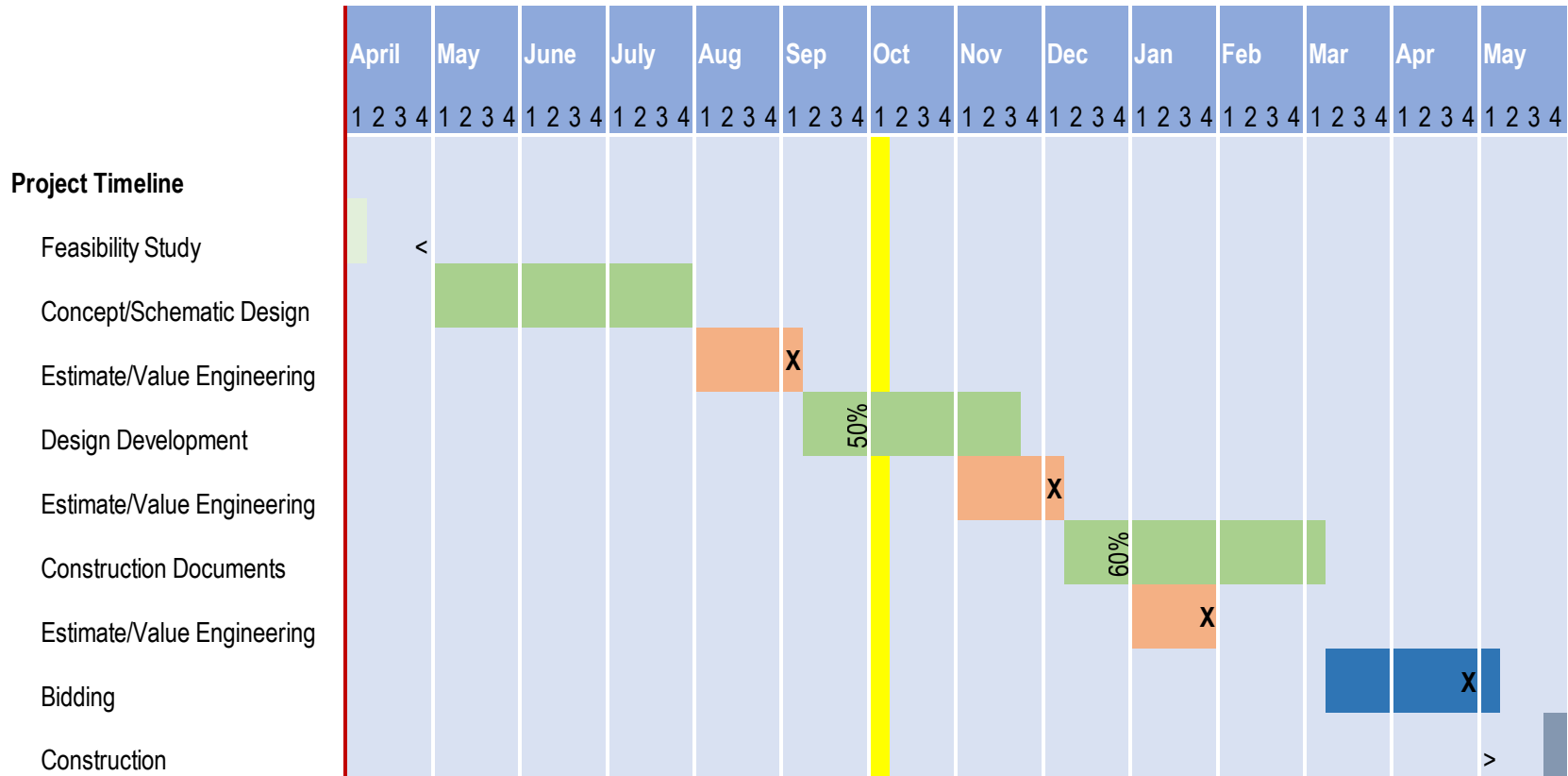
Sudbury Fairbank Community Center

- Agenda

- Overview of Process and Schedule
- Sustainability
- Value Engineering Process
- Phasing

Overview of the Process

Sudbury Fairbank Community Center
October 5, 2021



Overview of the Process



Feasibility Study

“Establish Budget”

- Identify The Requirements
- Identify The Adjacencies
- Identify The Impacts
- Test Fit On The Site
- Develop Cost Estimate Budget From General Area Of Requirements To Determine Project Feasible



Schematic Design

“Confirm The Scope”

- Verify The Assumptions Of The Feasibility Study
- Develop A Concept For The Building Including Plans, Elevations, Initial Engineering Narratives
- Confirm The Budget Based On Detailed Estimate Of Concept

Overview of the Process

Design Development

“Develop The Scope”

- Develop Building Based Upon The Accepted Scope
- Develop Engineering Of The Chosen Building Systems
- Develop Spaces Based On Use
- Develop Furniture, AV And Technology Requirements
- Develop Phasing Impacts
- Develop Cost Estimate Budget From Developed Plan To Confirm Project Within Budget

Construction Documents

“Document The Scope”

- Detailed Design Of The Building And Systems
- Finalize Engineering
- Specific Selection Of The Parts And Pieces Of Building
- Development Of Biddable Documents Based Requirements For Public Work
- 60% Estimate To Confirm Within Budget

Sustainability

Integrated Design

- Comprehensive Holistic Approach To Design Where Various Aspects Of Project Are Considered For Sustainability
- Design Meets MA Stretch Energy Code
- Project Is Not Pursuing Independent 3rd Party Certification
- The Following Sustainability Principles Guidelines Are Included In FCC:
 - Right Sizing
 - Design For Efficiency
 - Daylighting
 - Carbon Sequestration
 - Low Carbon Alternatives
 - Reduce Fossil Fuel Usage
 - Majority HVAC Systems will be Electric
 - Room Zoning
 - Energy Recovery
 - Site Design
 - Cool Pavement, Roof, Walls
 - Building Sized for future Photovoltaic Array on Roof To Assist Net Zero Ready

Sustainability In FCC

- Pursuing Integrated Design, But Not Certification Plaque
- Green Building Workshop - May 13, 2021
 - Reviewed Project Vision
 - Net Zero Opportunities And Challenges
 - Discussed Sustainable Goals
 - Included Energy Committee Chair
- Will Follow-up With Workshop In The Future
- Meeting With Eversource To Discuss Utility Incentive Programs
- Currently In Design Development Phase:
 - Development Of Building Systems From Schematic Narratives
 - Developing Building Envelope
 - Model Building Energy Use Intensity (EUI) At End of DD Phase

Sustainability – FCC Energy Considerations

- HVAC Proposed - All Electric VRF Heat Pump System
- Flat And Low Slope Roofs Provide Opportunities For Photovoltaic Panels
- Pool Energy Use Challenge For Eliminating Fossil Fuels
- Generator Required For Shelter Use Requires Fossil Fuels
- Roof Mounted Solar And Solar Parking Canopies Will Help Offset Building EUI

Value Engineering

- Project Team Tasked With Design To Appropriated Funds
- August Consumer Price Index Rose 5.3% Compared To August 2020
- Construction Bidding Market Remains Volatile With Spikes In Metals, Wood And Supply Chain Issues
- Feasibility Study Estimate From March 2020 Assumed 2.1% Escalation To Midpoint Of 2021
- SD Estimate Was \$2,265,751 Over Construction Budget
- Cost Pressure Remain And Value Engineering At Subsequent Estimates Likely

Value Engineering

- Design Effort And VE Decisions Focused On Preserving Base Function, Not Feasibility Study Square Footage
- Accepted Floor Plan At VE Improved Efficiency To 80%, Compared To 70% Efficient At The Feasibility Study
- Square Footage Cuts Proposed In VE Focused On Circulation Spaces And Secondary Spaces
- Team Identified Opportunities To Preserve Needs Identified In SD, By Offsetting Other Scope

Value Engineering

- Value Engineering Identified Items That Could Be Deferred (Built As Funds Allowed):
 - Pool Filtration Equipment
 - Second Outdoor Basketball Court
 - Kitchen And Kitchenette Equipment
 - Additional Exterior Site Walkways
 - Outdoor Basketball Court Lighting
- Value Engineering At End Of SD Effecting Sustainable Items:
 - Eliminated Electric Vehicle Charging Stations (Potential For Energy/Sustainability Committee Consideration)
 - Reduction From Triple To Double Glazing (Potential For Alternate Manufacturers Or Products)

Phasing

- Existing FCC Is Expected To Remain Operational During Construction
- Modifications To Operations, Building Access And Spaces Will Be Required
- Limited Planned Shutdowns Will Be Required And Coordinated With Departments, Such As:
 - Initial Phasing Related Building Modifications
 - Transition From Old Building To New Building
 - Work Related To The Existing Pool Facilities To Remain
- Draft Phasing Plans Presented At PBC Will Evolve

Fairbank Community Center

Additional Received Questions:

- Feasibility Vs. Current Design
- Program Development Questions
- Additional Potential Funding Sources



SUDBURY SELECT BOARD

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**6: FY21 Financial Recap**REQUESTOR SECTION

Date of request:

Requestor: Member Dretler

Formal Title: FY21 Financial Recap by Finance Director Dennis Keohane. (~35 min.)

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested: 35 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

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EXPENDITURES	FY21 Budgeted	FY21 Additional Appropriation	FY21 Adjusted Budget	FY21 Expended	FY21 Encumbered	FY21 Total Expended & Encumbered	FY21 Surplus/ (Deficit)
Education - Sudbury Public Schools (SPS)	39,608,834	-	39,608,834	38,528,787	682,571	39,211,358	397,476
Education - LS Regional High School (LS)	26,712,280	-	26,712,280	26,712,280	-	26,712,280	-
Education - Vocational	550,000	-	550,000	297,813	116,893	414,706	135,294
General Government	3,180,614	-	3,180,614	3,098,215	42,561	3,140,776	39,838
Public Safety	9,199,461	-	9,199,461	9,156,357	34,803	9,191,160	8,301
Public Works	5,607,520	349,264	5,956,784	5,565,375	140,223	5,705,598	251,186
Human Services	937,995	-	937,995	903,655	10,504	914,159	23,836
Culture & Recreation	1,515,936	-	1,515,936	1,401,602	12,096	1,413,698	102,238
Town-Wide Operating and Transfers	683,352	-	683,352	358,924	19,414	378,338	305,014
Total Town Departments	87,995,992	349,264	88,345,256	86,023,008	1,059,065	87,082,073	1,263,183
Town Debt Service	3,476,446	-	3,476,446	3,470,195	-	3,470,195	6,251
Employee Benefits (Town and SPS)	13,672,255	-	13,672,255	13,343,114	52,674	13,395,788	276,467
OPEB Trust Contribution (Town and SPS)	468,382	-	468,382	468,382	-	468,382	-
Total Operating Budget	17,617,083	-	17,617,083	17,281,691	52,674	17,334,365	282,718
TOTAL EXPENDITURES:	105,613,075	349,264	105,962,339	103,304,699	1,111,739	104,416,438	1,545,901

REVENUES & AVAILABLE FUNDS	FY21 Budgeted	FY21 Additional Appropriation	FY21 Adjusted Budget	FY21 Receipts	FY21 Encumbered	FY21 Total	FY21 Surplus/ (Deficit)
Real Estate and Personal Property Taxes	91,936,403	-	91,936,403	93,162,052	-	93,162,052	1,225,649
State Aid	6,346,193	-	6,346,193	6,367,208	-	6,367,208	21,015
MSBA Reimbursement	1,605,767	-	1,605,767	1,605,767	-	1,605,767	-
Federal Grants	-	-	-	23,898	-	23,898	23,898
SAFER Grant	180,000	-	180,000	276,228	-	276,228	96,228
Local Receipts	4,216,330	-	4,216,330	6,384,242	-	6,384,242	2,167,912
Other Available	660,000	-	660,000	738,260	-	738,260	78,260
Free Cash	668,382	349,264	1,017,646	-	-	-	-
TOTAL REVENUES & AVAILABLE FUNDS:	105,613,075	349,264	105,962,339	108,557,655	-	108,557,655	3,612,962

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**7: Sewataro discussion on Use Policy Document and Goals****REQUESTOR SECTION**

Date of request:

Requestor: Chair Roberts

Formal Title: Discussion on Sewataro Use Policy Document and discussion on other Sewataro goals.
(~40 min.)

Recommendations/Suggested Motion/Vote: Discussion on Sewataro Use Policy Document and discussion on other Sewataro goals. (~40 min.)

Background Information:
attached documents

Financial impact expected:

Approximate agenda time requested: 45 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

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Town of Sudbury

Sewataro Use Policy

V2.0 Updated August 19, 2021

1. Intent

It is the Town of Sudbury's desire that all residents of Sudbury enjoy safe and appropriate use of Town property, including Sewataro. This use should take place with proper regard to accessibility for all residents, safety of participants, and with respect for the preservation of the property for future Town use. The intent of this document is to be consistent with the Contract for Day Camp Operator and Management of Real Property agreement, dated Sept. 10, 2019, and its subsequent Amendments between the Town and the camp Operator and with existing Town policies regarding Town facilities.

2. Public Access Times

While Camp Sewataro is operating, public access of the grounds is allowed for recreational purposes only during designated times in order to avoid conflicts. These designated public access times are:

Camp Season Public Access (June 1 – August 31)

- Monday-Friday: 6pm-Dusk in the front section of the property
- Saturdays, Sundays and Federal holidays: 9am-Dusk in the front section of the property

Note: During camp season, public access is available only to the front section of the property to ensure the security of Town, Camp, and camper property.

"Off" season Public Access (September 1 – May 31)

- Monday-Sunday: 9am – Dusk

3. Permitting Authority

The permitting authority for the use of the Sewataro property shall be the Town Manager. Larger events involving food trucks, electrical equipment, or stage work may require additional inspections, approvals, or fees from the Town Manager, Health Department, Building Department, or other Town departments.

First-time reservations for exclusive use of property facilities (e.g., lodges and pavilions as listed below) by organized groups is not allowed without permission from the Town Manager or his/her delegate, which may be the Sewataro Community Liaison. Use of Sewataro is not allowed for for-profit, religious, or lobbying purposes without permission from the Town Manager or his/her delegate. In certain circumstances Town Manager may seek input from the Select Board in its role as policy-making body in Town. No applicant is guaranteed to receive permission.

4. Facility Reservations

For organized events and meetings, specific spaces can be reserved during designated times.

The scheduling of reservations shall be the responsibility of the Camp Sewataro community liaison.

As of August 2021, contact Kristen Drummey, Camp Sewataro Community liaison, at kristen@sewataro.com with questions or to book. A calendar depicting Sewataro reservations is available here:

<https://sudbury.ma.us/townmanager/2021/03/15/sewataro-resident-event-calendar/>

Reservations should be made at least forty-eight (48) hours, excluding Saturdays, Sundays and legal holidays, in advance prior to the event. In the event of extenuating circumstances, the 48-hour advance notice requirement may be waived by the Town Manager. Larger events involving food trucks, electrical equipment, or stage work may require additional inspections and several weeks' notice is recommended.

Written reservations must include:

- Name of the group requesting the reservation
- The primary contact person for the group, along with their phone number and email address
- Additional information as required by the Sewataro Reservation Form.

5. Group Reservation Responsibilities

A group's primary contact person is responsible for coordinating the event and shall be responsible for ensuring:

- That the space, facility, and/or general location used is kept in clean condition and proper order following the conclusion of the meeting, including removal of all garbage or waste materials, removal of all decorations, and return of any furniture or equipment to their original locations at the conclusion of the event.
- All restrictions are adhered to.
- Completion of the Sewataro Reservation Form in advance of the meeting.

6. Reservation Priority

Reservations shall be made on a first-come, first-served basis. However, when in conflict, priority shall be given to local government organizations, then local residents, then local groups, and then non-Sudbury organizations or individuals.

There may be times when a site plan and additional equipment may be required, this coordination will begin with the reservation process. If additional toilets are needed to complement the event, at least one shall be in compliance with Americans with Disabilities Act (ADA) requirements.

7. Available spaces and Fees

The spaces available to reserve include:

Facility	Maximum Occupancy	Attributes	Municipal Committees and Depts. and Sudbury-based 501c3 (e.g., Scouts)	Sudbury Groups (e.g. resident groups, LS adult ed)	Non-Resident / Corporate / Private Groups (e.g. wedding)
Liberty Lodge	150	4000 sq. ft. Covered roof	0	\$25/hr	\$50/hr
Meeting Hall	50	1200 sq. ft. Covered Roof	0	\$15/hr	\$30/hr
Tree House	TBD	Covered roof	0	\$10/hr	\$20/hr
Craft Deck	TBD	Tented Roof (usually seasonally available in the summer)	0	\$10/hr	\$20/hr
Tennis Courts*	4 players	two available	\$18.40/hr	\$18.40/hr	\$24.15/hr
Basketball Court*	10 players		\$18.40/hr	\$18.40/hr	\$24.15/hr

* Court fees to be kept consistent with Park & Rec Tennis Court Field Request Form fees.

Groups that leave garbage will be charged double the normal fee.

Additional permit application fees may apply (example, food permit, building inspection (structural/electrical)).

Deposits / Cancellations: At this time, any deposits are fully refundable upon event cancellation.

The Select Board shall set the amount of the fee so as to recover a reasonable approximation of the costs to the Town in processing the requested item, and to recoup reasonable maintenance and repair costs of the property. Fees shall be paid to the Town in the same account as the Management Fee per Article 3 of Contract for Day Camp Operator and Management of Real Property agreement, dated Sept. 10, 2019.

(1) Facilities may be reserved without a rental fee by the following groups:

- a. Town departments and committees.
- b. Non-profit organizations based in Sudbury whose functions are charitable, civic, or patriotic, such as community service groups.

(2) Facilities may be reserved with rental fee by:

- a. Sudbury groups and any Non-Resident, Corporate, or Private group.

(3) Rental fee Schedule – per hour: Shall be in accordance with the Fee Schedule in Section 7.

Any revenue from fees charged for use of programming/meetings held at the Sewataro property during “public access hours” shall remain with the Town. Any revenues generated from Town-organized programming/meetings shall remain with the Town.

8. Insurance Requirements

Insurance requirements shall be in accordance with Town Park & Recreation Department policies (<https://sudbury.ma.us/recreation/wp-content/uploads/sites/335/2014/08/TownofSudburyFacilityusepolicyJune12012update.pdf>). Proof of insurance coverage may be required of any organized group requesting reservations at Sewataro and requested at any time. Groups and/or individuals that carry liability insurance should add the property to their policies and share a copy with the camp operator for file.

The Town or its representative shall request an event’s group’s primary contact person should obtain a special event policy listing the camp and the town as additional insured. In the event this special event policy cannot be obtained, a liability waiver or deposit will suffice.



Liability Waiver
Town of Sudbury.pc

9. Acceptable Use

Any use of the Sewataro property shall adhere to acceptable use guidelines as put forth by the Town Park & Recreation Department. Refreshments shall be allowed, but all garbage must be cleaned up and disposed of in appropriate receptacles.

10. Maximum Occupancy

Maximum Occupancy of each structure shall be in accordance with Town Fire Department regulations. Maximum occupancy is listed in the table above.

11. Restrictions

- All use of facilities is at your own risk.
- Residents are required to “carry in and carry out” anything brought onto the property, including trash.
- Smoking or vaping is not permitted in Sewataro.
- Vehicles are prohibited from driving on interior roadway, walkways, and any grassed area without express permission.
- Parking is permitted only in the designated lower and upper parking lots.
- No alcoholic beverages are allowed at Sewataro without express permission from the licensing authority.
- Sledding: Sledding is at your own risk. It is recommended that any sledding be done on the hill towards the fields.
- No dogs or large pets allowed, leashed or otherwise.
- No ice skating on the ponds in the winter.
- No swimming in the ponds.
- Any fishing in the ponds should be catch-and-release. These fish should not be eaten.
- No open fires or grills without a special permit issued by the Select Board, with review by the Fire Department required.

12. Exclusive Use

Under no circumstances will exclusive use of the Sewataro property be granted to one group during the public access hours as described in Section 2.0 Public Access Hours.

13. Emergency Contact

In case of an emergency, user is to call 911.

14. Postings

Any posting at the Sewataro property shall be consistent with the Town’s policy on Advertising and Directional Signs; no “signs of an advertising nature” on behalf of for-profit organizations shall be allowed. Public postings shall be allowed only at the informational kiosks located at the front and back entrances to Sewataro.

16. Restrooms

There are two (2) Port-a-Potties available, an ADA-accessible one located near Liberty Lodge and a general use one available near the lower parking lot, available for use as restrooms during public access times.

For events with 100+ people, the user will be required to contract for its own port-a-pottie services.

17. Traffic Management

Should the event be large enough, the Police Department may require a police detail or other arrangements to appropriately direct traffic.

18. Parking Spaces

Parking is permitted only in the designated lower and upper parking lots. There are 10 parking spaces in the upper lot, with XYZ# ADA compliant handicapped accessible spaces, with 90 parking spaces in the lower lot, with XYZ# ADA compliant handicapped accessible spaces, and approximately 30 additional overflow parking spaces in the front field. Event organizers shall consider the number of required parking spaces when making reservations.

Lower parking lot has more spaces available, but requires travel up an uphill slope to reach most activity areas. The upper lot has fewer spaces available, but is closer to and level with Liberty Lodge. Some path areas are not entirely smooth, but are navigable. Accommodations are available upon request.

19. Park and Recreation Coordination

Sewataro event organizers shall confer with the Park and Recreation and other Town departments as appropriate to ensure there are no similar events scheduled for conflicting dates (e.g., the two contract community events per year). In the event of a conflict, the Town-organized event shall take precedence.

20. Hold Harmless Individual User Agreements

On behalf of myself and/or my minor child, (User), I understand that part of the facility and experience involves activities and group interactions that may be new to us, and that they come with uncertainties beyond what we may be used to dealing with at home, including but not limited to uneven terrain, collisions, being struck by thrown objects, insects, wild and domestic animals, inclement weather, remote locations, communicable diseases including but not limited to COVID-19, and other risks, including use of the facility by members of the public. I am aware of these risks and am assuming them on behalf of me and my child. We realize that no environment is risk-free, and understand and, if applicable, have instructed my child on the importance of abiding by the facility's rules, and we agree that we are familiar with these rules and will obey them.

To the fullest extent permissible by law, user agrees to save and hold harmless Camp Sewataro, LLC and the Town of Sudbury, including its owners, employees, trustees, agents or officers from and against any claim, suit, cause of action settlement or judgment brought against it by any party arising out of user's breach of its duty of reasonable care or intentional act arising out of user's use of the property or facilities, including attorneys fees and other costs of suit, and further to waive any and all claims or causes of action against Camp Sewataro, LLC and the Town of Sudbury, except those that are the result of their gross negligence or intentional acts.

21. Hold Harmless Group User Agreements

User understands that part of the facility and experience involves activities and group interactions that may be new to our participants, and that they come with uncertainties beyond what our participants may be used to dealing with at home, including but not limited to uneven terrain, collisions, being struck by thrown objects, insects, domestic and wild animals, inclement weather, remote locations, communicable diseases including but not limited to COVID-19, and other risks, including use of the facility by members of the public. We are aware of these risks, and we are assuming them on behalf of our participants. We realize that no environment is risk-free, and so we have instructed our participants on the importance of abiding by the facility's rules, and we agree that they are familiar with these rules and will obey them.

To the fullest extent permissible by law, user agrees to save and hold harmless Camp Sewataro, LLC and the Town of Sudbury, including its owners, employees, trustees, agents or officers from and against any claim, suit, cause of action settlement or judgment brought against it by any party arising out of user's breach of its duty of reasonable care or intentional act arising out of user's use of the property or facilities, including attorneys fees and other costs of suit, and further to waive any and all claims or causes of action against Camp Sewataro, LLC and the Town of Sudbury, except those that are the result of their gross negligence or intentional acts.

The undersigned represents that they are authorized to execute this agreement and to bind the group.

22. Accessibility

To the greatest extent practicable, organizers shall work with the Camp Operator and Town, as appropriate, to implement temporary adjustments that will offer access to the widest population use during the planned event. This

may require coordination with the fire, building, and combined facilities departments. This may also include things like ADA compliant ramp use, potable restrooms, protective surface enhancements, or other appropriate considerations.

23. Reportable

It is imperative to report any additional service or logistical items required by an event. These include:

- Food
- Electricity
- Noise
- Stage

BOS GOALS 2021						
Goal	Primary Category	Total Score	Priority Level	Board Liaison	Staff Liaison	2021 deliverable
Financial Policies and Capital Planning/ Funding	Financial Management & Economic Resilience	19	High	Roberts & Schineller	Town Manager/Treasurer	Complete rview of DLS Report; Finalize and publish Financial Policies ; identify gaps; select, prioritize and implement Capital planning improvements; transparency/communicate to the public ; identify what we mean by capital; secure funding sources;
LS Regional Agreement and Assessment Process	Effective Governance and Communication	16	High	Carty	Town Manager	Map out issues and process; coordinate with stakeholders / Lincoln leadership and LSRHS School Committee; evaluate Agreement review increments; examine vocational education responsibilities; define the perceived problems; budget timeline alignment; draft updates of the Agreement
Upgrade Fire Station 2 (Rte 20)	Town Services and Infrastructure	14	High	Dretler & Roberts	Fire Chief/Facilities	Conduct a forum for information on the project; accommodate 3rd ambulance; Warrant Article at May 2021 Annual Town Meeting and Special Election (if needed);
Bruce Freeman Rail	Open Space, Recreation & Historic Assets	9	High	Dretler & Russo	Planning	Re-establish Rail Trail Task Force; bid out final design; keep consultant on advertising date for construction
Sewataro	Open Space, Recreation & Historic Assets	5	High	Schineller & Russo	Town Manager/Facilities/PRP	Increase public use (swimming summer weekends); safeguard property; update Agreement; examine / evaluate best uses for the property; discover revenue generating opportunities; define strategic vision, options and next steps; formulate evaluation team; compare data from other communities; increase documentation of activities and uses; consider tax exempt debt option (lease vs management agreement);
Expand (Normalize) and Fund Transportation Option	Transportation, Mobility & Housing	4	High	Carty	Planning/Treasurer	Evaluate additional options; future vision development / employment and oversight methodology; examine sustainment of operations and funding sources; determine transportation gaps; align with Master Plan intent; track trend data to discover efficiencies and distractions; develop community survey; add Town employee(s)
Master Plan Implementation (Driven by PB - Support from SB)	Effective Governance and Communication	4			Planning/Town Manager	
Diversity, Equity and Inclusion Commision (underway)	Effective Governance and Communication	2				
Vocational Education	Town Services and Infrastructure	1				
Eversource llitagation	Environmental Health & Wellness	1			Town Counsel	
Customer Services for Municipal Facilities	Effective Governance and Communication	0			Town Manager	
Enhance Website (More Self Service)	Effective Governance and Communication	0			IT	
Remote Work Place Support	Effective Governance and Communication	0			IT	
Development Project Mgt and Reporting System (KPI report)	Effective Governance and Communication	0			Town Manager	
House Keeping - including transparency, minutes website)	Effective Governance and Communication	0			Town Manager/Treasurer	
Update Policies and Procedures	Effective Governance and Communication	0			Town Manager	
3 year Calendar for BOS	Effective Governance and Communication	0			Town Manager/Selectmen Office	
Town Meeting - Increasing Engagement, Efficiency, and Participation	Effective Governance and Communication	0			Town Manager/Selectmen Office	
Increase Civic Leadership and Engaged Citizenry	Effective Governance and Communication	0				
Preventative Maintenance for Capital Assets	Financial Management & Economic Resilience	0			Facilities/Treasurer	
Customer Services for Municipal Facilities	Financial Management & Economic Resilience	0			All	
Facilities Inventory	Financial Management & Economic Resilience	0			Facilities	
Staffing Plan for Future	Financial Management & Economic Resilience	0			Town Manager	

BOS GOALS 2021						
Goal	Primary Category	Total Score	Priority Level	Board Liaison	Staff Liaison	2021 deliverable
Fairbank Comm Ctr	Town Services and Infrastructure	0			Town Manager/Facilities/Sr Center/PRP/Treasurer	
Sidewalks and Crosswalks Priorities	Town Services and Infrastructure	0			DPW/Planning	
Pavement Management Plan	Town Services and Infrastructure	0			DPW	
Roadway (bridges, culverts, drains)	Town Services and Infrastructure	0			DPW	
Emergency Management and Response	Town Services and Infrastructure	0			Town Manager/Fire Chief	
Age Friendly and Dementia Friendly	Town Services and Infrastructure	0			Sr Center	

From: Janelle M. Austin <jaustin@k-plaw.com>
Sent: Friday, September 24, 2021 6:38 PM
To: Hayes, Henry <HayesH@sudbury.ma.us>
Cc: Bilodeau, Maryanne <BilodeauM@sudbury.ma.us>; Silverstein, Jonathan M. <jsilverstein@k-plaw.com>
Subject: Review of Sewataro Use Policy

CONFIDENTIAL- ATTORNEY-CLIENT PRIVILEGED

Henry,

As a follow up to our meeting yesterday on the attached draft Sewataro Policy, please see attached draft version with my recommended changes and comments, which has addressed the legal inquiries raised that we discussed, including with respect to permitting authorities, liability protection, limitations on use and grounds for denial and classification of groups' use of the property. I have attached an updated draft for the Town's consideration.

In addition, in response to the substantive inquiries raised with respect to access and liability, I provide the below opinions.

Legal Considerations

In my opinion, the Town has the discretion to permit or prohibit the use of municipal facilities by non-governmental entities. Lamb's Chapel v. Center Moriches Sch. Dist., 508 U.S. 384, 390 (1993). In Lamb's Chapel, the United States Supreme Court held that a school district may preserve its municipal property for its dedicated purpose. Id., at 390. However, once the Town makes its property available to a non-municipal entity, constitutional principles require that Town facilities be made available to such groups in an even-handed and content-neutral manner that does not discriminate between groups on the basis of race, political philosophy, religion, or message. In my further opinion, in making public facilities available to private groups, the same basic restrictions are applicable to municipalities as applied to other governmental action. As always, the Town should not discriminate among different groups, but should evenhandedly provide access to its facilities. Under applicable constitutional principles, a municipality should not support or align itself with any particular group or position. Limiting access to certain types of groups could raise issues as to whether a variety of different nonprofit or religious groups or even political groups should fall within the term "non-profit organizations." Accordingly, in my opinion, is important that the Town not appear to be favoring one group over another group because of the content of the ideas or beliefs of any particular group. Distinctions based on content could raise First Amendment, free speech and other constitutional objections to choices made in behalf of the Town. When choices are made solely within the discretion of a Town officer or employee and such choices have the potential to be based upon distinctions of ideas, beliefs, race, creed, color, or religion, the ability to exercise such discretion, without guidelines designed to guarantee equal access, may be subject to a facial constitutional challenge. A facial constitutional challenge is a challenge to the way a policy or regulation reads "on its face" without regard to how fairly the policy may actually be applied in practice. Facial challenges are allowed by the courts in First Amendment matters because of the sanctity with which courts view First Amendment rights.

Accordingly, to minimize potential liability, in my opinion, the Town's Use Policy for Sewataro should neutral and objective conditions for the grant and for use of public space. Such Policy should: (1) establish conditions on such grant and use so that grants of use are given when neutral criteria are met without undue exercise of Town discretion and so that the full responsibility for supervision of such events is that of the private organization; the presence of Town employees is certainly allowed, but care should be taken not to create the appearance that the Town is endorsing or sponsoring the ideas of any particular private group; (2) charge a fee for custodial and related costs; and (4) regulate private use so that all groups have equal and adequate access to such public facilities. The goal of such Policy is to

satisfy the Town's legal duty to administer the use of public facilities by private groups consistently and evenhandedly so that no group is favored or excluded in fact or in appearance.

In addition to legal matters related to equal access to public facilities, in my opinion, there can be potential liability from injury suffered by a participant or from injury resulting from the conduct of a participant in such use, either by way of personal injury to another participant or to a Town employee or by property damage to personal property or the public facility. A number of options are available to limit the Town's liability, including obtaining waivers as the Town does in other programs, as noted in the attached draft, and indemnification agreements from participants or requiring insurance by a group to cover its use of the property. The Policy in its current form contemplates that a waiver form will be executed by all users. If you would like me to review or finalize a waiver form once the Policy is finalized, please let me know.

Insurance Considerations

You will want to confirm with the Town's insurer whether the form of waiver is sufficient and whether any of the intended uses would affect the Town's premium or require additional insurance coverage.

If you have any questions or would like to discuss in further detail, please let me or Jonathan know.

Thank you.

Best,
Janelle

Janelle M. Austin, Esq.

KP | LAW

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Town of Sudbury

Sewataro Use Policy

V2.0 Updated August 19, 2021

1. Intent

It is the Town of Sudbury's desire that all residents of Sudbury enjoy safe and appropriate use of Town property, including Sewataro. Use of the property should take place with proper regard to accessibility for residents, safety of participants, and with respect for the preservation of the property for future Town use. The intent of this document is to be consistent with the Contract for Day Camp Operator and Management of Real Property agreement, dated September 10, 2019, and its subsequent Amendments between the Town and the camp Operator and with existing Town policies regarding Town facilities.

In the interest of providing a safe, welcoming, and inclusive property for the enjoyment of all visitors, the Town of Sudbury reserves the right to ask any person, group, or entity to leave the Sewataro property where that person, group, or entity violates this Policy and/or found to exhibit unlawful, abusive, harassing, threatening behavior, or creates a disturbance which interferes with other visitors.

Pursuant to the terms of this Policy, the Town of Sudbury does not discriminate on the basis of religion, race, age, color, creed, national origin, disability, gender identity, or sexual orientation.

2. Public Access Times

While Camp Sewataro is operating, public access of the grounds is allowed for recreational purposes only during designated times in order to avoid conflicts. These designated public access times are:

Camp Season Public Access (June 1 – August 31)

- Monday-Friday: 6pm-Dusk in the front section of the property
- Saturdays, Sundays and Federal holidays: 9am-Dusk in the front section of the property

Note: During camp season, public access is available only to the front section of the property to ensure the safety and security of the Town, Camp, and campers and camp property.

"Off" Season Public Access (September 1 – May 31)

- Monday-Sunday: 9am – Dusk

3. Permitting Authority

The permitting authority for the use of the Sewataro property shall be the Town Manager. Larger events involving food trucks, electrical equipment, or stage work may require additional inspections, approvals, or fees from the Town Manager, Health Department, Building Department, and/or other Town departments, as may be necessary, to ensure compliance with applicable local, state or federal legal requirements.

First-time reservations for exclusive use of property facilities (e.g., lodges and pavilions as listed below) by organized groups is not allowed without permission from the Town Manager or his/her designee, which may be the Sewataro Community Liaison. No user is guaranteed to receive permission.

4. Facility Reservations

For organized events and meetings, specific spaces can be reserved during designated times.

The scheduling of reservations shall be the responsibility of the Camp Sewataro Community Liaison.

As of August 2021, contact Kristen Drummey, Camp Sewataro Community Liaison, at kristen@sewataro.com with questions or to book. A calendar depicting Sewataro reservations is available here:

<https://sudbury.ma.us/townmanager/2021/03/15/sewataro-resident-event-calendar/>

Reservations should be made at least forty-eight (48) hours, in advance, excluding Saturdays, Sundays and legal holidays, prior to the scheduled event. In the event of extenuating circumstances, the 48-hour advance notice requirement may be waived by the Town Manager. Larger events involving food trucks, electrical equipment, or stage work may require additional inspections and several weeks' notice is recommended to ensure adequate permitting and/or preparation.

All written reservations must include:

- Name of the group requesting the reservation
- The primary contact person for the group, along with their phone number and email address
- Additional information as required by the Sewataro Reservation Form

5. Group Reservation Responsibilities

A group's primary contact person is responsible for coordinating the event and to ensure:

- That the space, facility, and/or general location used is kept in clean condition and proper order following the conclusion of the meeting, including removal of all garbage or waste materials, removal of all decorations, and return of any furniture or equipment to their original locations at the conclusion of the event.
- All restrictions are adhered to and there is compliance with this Policy.
- Completion of the Sewataro Reservation Form in advance of the meeting.

6. Reservation Priority

Reservations shall be granted on a first-come, first-served basis. However, when in conflict, reservations are issued based on the following priorities:

- Town of Sudbury municipal events, including recreation department programming
- Sudbury non-profit groups, including clubs, community groups, charities and organizations.
- Town of Sudbury Groups, excluding non-profits
- Non-resident groups using the space for private non-commercial and commercial purposes.

There may be times when a site plan and additional equipment and legal approvals may be required, this coordination will begin with the reservation process. Please ensure adequate time to obtain such approvals. The group/individual is solely responsible for obtaining all approvals. If additional toilets are needed for the event, at least one shall be in compliance with Americans with Disabilities Act (ADA) requirements.

7. Available Spaces and Fees

The spaces available to reserve are outlined below along with the current fees:

Facility	Maximum Occupancy	Attributes	Local Government; Sudbury Non-Profit Groups	Sudbury Groups	Non-Resident, Corporate, and Private Groups
Liberty Lodge	150	4000 sq. ft. Covered roof	0	\$25/hr	\$50/hr
Meeting Hall	50	1200 sq. ft. Covered Roof	0	\$15/hr	\$30/hr
Tree House	TBD	Covered roof	0	\$10/hr	\$20/hr
Craft Deck	TBD	Tented Roof (usually seasonally available in the summer)	0	\$10/hr	\$20/hr
Tennis Courts*	4 players	two available	\$18.40/hr	\$18.40/hr	\$24.15/hr
Basketball Court*	10 players		\$18.40/hr	\$18.40/hr	\$24.15/hr

- Court fees to be kept consistent with Park & Rec Tennis Court Field Request Form fees.
- Groups that leave garbage will be charged double the normal fee.
- Additional permit application fees may apply (for example, food permit, building inspection (structural/electrical)).

Deposits / Cancellations: At this time, any deposits are fully refundable upon event cancellation.

The Select Board shall set the amount of the fee for administrative costs. Fees shall be paid to the Town in the same account as the Management Fee per Article 3 of Contract for Day Camp Operator and Management of Real Property agreement, dated September 10, 2019.

Any revenue from fees charged for use of programming/meetings held at the Sewataro property during “public access hours” shall remain with the Town. Any revenues generated from Town-organized programming/meetings shall remain with the Town.

8. Insurance Requirements JMA11

- Insurance requirements shall be in accordance with Town Park & Recreation Department policies (<https://sudbury.ma.us/recreation/wp-content/uploads/sites/335/2014/08/TownofSudburyFacilityusepolicyJune12012update.pdf>).
- Proof of insurance coverage may be required of any organized group requesting reservations at Sewataro and requested at any time. Groups and/or individuals that carry liability insurance should add the property to their policies and share a copy with the camp operator for file.

The Town or its representative shall request an event’s group’s primary contact person should obtain a special event policy listing the camp and the town as additional insured. In the event this special event policy cannot be obtained, a liability waiver or deposit will suffice.

9. Acceptable Use

Any use of the Sewataro property shall adhere to acceptable use guidelines as put forth by the Town Park & Recreation Department. Any use of the Refreshments shall be allowed, but all garbage must be cleaned up and disposed of in appropriate receptacles.

Should the user fail to remove any of their equipment, furniture or property from the property at the conclusion of the event, anything left behind shall be removed and disposed of by the Town, in its discretion, and the user surrenders any right it may have had in such equipment, furniture or property; and, any costs incurred by the Town in removing the user's furniture, equipment or property, and/or any costs incurred by the town in cleaning or repairing the site after the event shall be reimbursed by the user.

10. Maximum Occupancy

Maximum Occupancy of each structure shall be in accordance with Town Fire Department regulations. Maximum occupancy is listed in the table above.

11. Prohibited Activities and Restrictions

- Any prohibited activities posted on signage at the property, consumption/possession of drugs, the use of alcoholic beverages without the required license approved in advance by the licensing authority, and use of the property beyond authorized dates/times.
- All use of facilities is at your own risk.
- All users are required to "carry in and carry out" anything brought onto the property, including trash.
- Smoking or vaping is not permitted in Sewataro.
- Vehicles are prohibited from driving on interior roadway, walkways, and any grassed area without express permission.
- Parking is permitted only in the designated lower and upper parking lots.
- Sledding: Sledding is at your own risk.
- No dogs or large pets allowed, leashed or otherwise.
- No ice skating on the ponds in the winter.
- No swimming in the ponds.
- Any fishing in the ponds should be catch-and-release. These fish should not be eaten.
- No open fires or grills without a special permit issued by the Select Board, with advance review by the Fire Department required.

12. Exclusive Use

Under no circumstances will exclusive use of the Sewataro property be granted to one group during the public access hours as described in Section 2.0 Public Access Hours.

13. Emergency Contact

In case of an emergency, user is to call 911.

14. Postings

Any posting at the Sewataro property shall be consistent with the Town's policy on Advertising and Directional Signs; no "signs of an advertising nature" on behalf of for-profit organizations shall be allowed. Public postings shall be allowed only at the informational kiosks located at the front and back entrances to Sewataro.

16. Restrooms

There are two (2) Port-a-Potties available, an ADA-accessible one located near Liberty Lodge and a general use one available near the lower parking lot, available for use as restrooms during public access times.

For events with 100+ people, the user will be required to contract for its own port-a-pottie services.

17. Traffic Management

Should the event be large enough, the Police Department may require a police detail or other arrangements to appropriately direct traffic.

18. Parking Spaces

Parking is permitted only in the designated lower and upper parking lots. There are 10 parking spaces in the upper lot, with --- ADA compliant handicapped accessible spaces, with 90 parking spaces in the lower lot, with ---- ADA compliant handicapped accessible spaces, and approximately 30 additional overflow parking spaces in the front field. Event organizers shall consider the number of required parking spaces when making reservations.

Lower parking lot has more spaces available, but requires travel up an uphill slope to reach most activity areas. The upper lot has fewer spaces available, but is closer to and level with Liberty Lodge. Some path areas are not entirely smooth, but are navigable. Accommodations are available upon request.

19. Park and Recreation Coordination

Sewataro event organizers shall confer with the Park and Recreation Department and other Town departments as appropriate to ensure there are no similar events scheduled for conflicting dates (e.g., the two contract community events per year). In the event of a conflict, the Town-organized event(s) shall take precedence.

20. Accessibility

To the greatest extent practicable, organizers shall work with the Camp Operator and Town, as appropriate, to implement temporary adjustments that will offer access to the widest population use during the planned event. This may require coordination with the fire, building, and combined facilities departments. This may also include things like ADA compliant ramp use, potable restrooms, protective surface enhancements, or other appropriate considerations.

21. Inclement Weather/Emergencies.

In the event the Property closes due to inclement weather or other emergency, the Community Liaison will attempt to contact Meeting/ Event host to notify of closure. All events are cancelled if the Property is closed due to emergency or inclement weather

22. Reportable Events

It is imperative to report any additional service or logistical items required by an event. These include:

- Food
- Electricity
- Noise
- Stage

23. Release

The user agrees that they will sign the Town's liability waiver, that they shall use and occupy the site at their own risk, and by accepting the Town's approval, it agrees to release and not to sue the Town or any of its officers, employees, agents, volunteers based on any injury or death to persons entering the property pursuant to the approval, or loss or damage to vehicles, equipment, structures or other personal property of any nature whatsoever of the user, or of anyone claiming by or through any of them, that are brought upon the Property.

The user agrees to indemnify, defend and hold harmless the Town and all of its public officials, agents, volunteers and employees against any claim by any person for any injury or death to persons or loss or damage to or diminution in value of any property occurring upon the site or relating in any way to the exercise of rights under this approval.

The Town may impose such other conditions on its approval as are deemed necessary to protect public health, safety and welfare and to prevent unreasonable disturbance to the surrounding area.

This approval is terminable at any time by the Town for any violation of this Policy or any other applicable law.



Liability Waiver
Town of Sudbury.pc

GROUNDS FOR DENIAL OF USE

Although the Town acknowledges that the property should be open and available for public use for a wide variety of events and uses, applications for use of the Common may be denied for the following reasons:

1. The submission to use the property is incomplete or contains a material falsehood or misrepresentation.
2. The user has damaged public property on prior occasions and has not paid for the damage.
3. Permission has been granted to an earlier user for the same time and place; or the proposed date and time conflicts with an event planned by the Town.
4. The user has violated the terms of a prior permit.
5. The intended use would present an unreasonable danger to public health or safety. If the request is denied, the applicant will be provided with a written statement of the Town's reasons.

I, _____, hereby acknowledge that I have received and that I have read the foregoing Policy, that I am authorized to make binding agreements on behalf of the user and that I will comply with all requirements thereof.

ITEM	STATUS	ACTION	Assigned To	Select Board Comments
Short Term				
Increase public use (swimming summer weekends)	Not currently planned	<ul style="list-style-type: none"> FlashVote to gauge interest? <ul style="list-style-type: none"> \$100 annual fee? \$10 per visit fee? \$25 per family per visit fee? Check with Dennis M. Check with Bill Murphy on BoH concerns Get update – would this interfere with camp activities? 	Charlie R. Check with Dennis M. Bill S. dialog with Scott Brody	<u>Accelerate questions to Board of Health</u> <u>Request via Henry for 1. Town Counsel opinion whether Town has the ability to operate a public swimming facility in of hours at Sewataro 2. what additional liability might this incur (changing insurance requirements two scenarios: 1. As Town 2. As Camp Operator)</u> <u>Henry feedback: P&R workload is high. Challenge to accomplish with Town staff.</u>
Increase documentation of activities and uses	Incorporate into third party use agreement?	Review documentation being submitted by Sewataro. <u>Is this data we can track?</u>	First November update. March 5 request put in for monthly update. 2 newsletter/reports to date (March and April). To be submitted on the 15 th of each month. Calendar has been posted on Town website. Latest one on July 13 -Sept. 14	IN PROGRESS / COMPLETE
Safeguard property	Is this an issue? At least one full-time property manager lives on site to provide safeguarding services.	Fencing has been added. No action necessary at this time. Check with Bill Barletta		COMPLETE
Add policy	In process.		-	<u>Closing the back gate</u>

addendum regarding user fees	Compare with Park & Rec, Police Community Room, Goodnow Library, School spaces - Consistency across town			<u>p.m.? and during holic</u> <u>Desire to understand when/why gate is clos</u> <u>Comments from Drum</u> <u>back gate not part of t</u> <u>initial agreement, base</u> <u>resident feedback, got</u> <u>agreement with Henry</u> <u>keep open until 5 p.m.</u> <u>dusk). Holidays was th</u> <u>staff were unavailable</u> <u>open/close gates.</u>
Prior To June 2022				
Update Agreement	In process.			
Consider tax exempt debt option (lease vs management agreement)	Seek input from Dennis K., consider in advance of agreement update.			
Longer Term:				
Formulate evaluation team	Form a citizens committee on Sewataro?			
Define strategic vision, options and next steps	Sewataro as a Town forum?			
Compare data from other communities	Make a list: NARA Park, Acton Walden Pond area, Concord Everwood, Sharon Rec Park, Andover Stevens Estate, North Andover			
Examine / evaluate best uses for the property	Unsure what additional information has come in since taking ownership? What information do we need?			

Attachment 7.e: Sewataro Options Table_10.05.2021 (4866 : Sewataro discussion on Use Policy Document and Goals)

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**8: Discussion on Town Counsel Policy and use of Town Counsel****REQUESTOR SECTION**

Date of request:

Requestor: Member Carty

Formal Title: Discussion on Town Counsel Policy and use of Town Counsel (~20 min.)

Recommendations/Suggested Motion/Vote:

Background Information:

Attached policy updated April 2020.

Financial impact expected:

Approximate agenda time requested: 20 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM

Town Counsel Policy

It is the intent of this policy to set forth general guidelines and expectations on the accessibility of Town Counsel to Town boards, commissions and committees, and employees, consistent with the Town of Sudbury general bylaws, the Town charter (the Select Board-Town Manager Act) and state law. It is not the intent of this policy to explicitly or implicitly deny anyone access to Town Counsel but rather to control and monitor accessibility to Town Counsel, thereby understanding and controlling the cost of legal services.

A. Boards, commissions and committees of the Town of Sudbury excluding the Select Board

1. **Chairs of all boards**, commissions or committees, other than the Select Board, shall **request access to Town Counsel from the Town Manager** to obtain legal advice, including a request for a written opinion, or to request Town Counsel to attend a meeting of such board, committee or commission. Any member of a board, commission or committee may request a written opinion from Town Counsel, provided that said member obtains a majority vote of said board, committee or commission at a public meeting authorizing the request of such opinion. After obtaining a majority vote as set forth in the preceding sentence, said request shall be submitted to the Town Manager for approval.
2. The Town Manager will refer all **requests for opinions received from individual members** of boards, commissions or committee to the chair of said committee, who will schedule the request for a vote of the board, commission or committee on the matter of approving such a request at the next meeting of said committee, when feasible.
3. Boards, commissions or committees may vote to **authorize one member of the board, commission or committee to communicate directly with Town Counsel** on a specific matter they have explicitly voted for that member to have responsibility for. For example, if a board appoints one member of the board to work on a policy item to be considered by the board, the board may include in their designation that this includes the ability to seek an opinion from Town Counsel as part of the work to be undertaken by that board member. Such vote of the board, commission, or committee must clearly reflect an authorization for the Town Counsel to speak directly with less than a quorum of the board, commission or committee on the specific matter. Such access to Town Counsel must be approved by the Town Manager.
4. The chairs or vice-chairs of all boards, committees and commission shall have direct access to Town Counsel to request advice or assistance in **preparation of the agenda** for an upcoming meeting or for advice regarding chairing an upcoming meeting. They do not need to request access from the Town Manager on such inquiries.
5. The chairs or vice-chairs of boards, committees or commission with the Town shall have direct access prospectively to Town Counsel to request opinions, advice or information concerning the **Open Meeting Law** codified at G.L. c. 39, section 23B or to receive guidance with respect to the rules governing responses to public records requests. They do not need to request access from the Town Manager on such inquiries.

6. Officers of the Town, including all members of boards, commissions and committee requesting **Ethics Opinions** (Conflict of Interest Law) shall have direct access to Town Counsel. They do not need to request access from the Town Manager on such inquiries.
7. **The Moderator** shall have direct access to Town Counsel to obtain legal advice, including a request for a written opinion, in relation to her/his duties as Moderator.

B. Select Board and Town Manager

1. The chair of the Select Board shall have direct access to Town Counsel to obtain legal advice, including a request for a written opinion, or to request Town Counsel to attend a meeting of the board. Any member of the Select Board shall have direct access to Town Counsel to obtain legal advice or request a written opinion. Such requests shall be submitted in writing to Town Counsel with a copy to the Town Manager and the chair of the Select Board for notification purposes. The chair of the Board shall ensure that other Board members are informed of such requests and legal opinions.
2. The Town Manager shall have direct access to Town Counsel at all times in relation to her/his duties as Town Manager.
3. The chair of the Select Board shall have direct access to Town Counsel to request advice or assistance in **preparation of the agenda** for an upcoming meeting or for advice regarding chairing an upcoming meeting. The chair does not need to request access from the Town Manager on such inquiries.
4. The chair or vice-chair of the Select Board shall have direct access prospectively to Town Counsel to request opinions, advice or information concerning the **Open Meeting Law** codified at G.L. c. 39, section 23B or to receive guidance with respect to the rules governing responses to public records requests. They do not need to request access from the Town Manager on such inquiries.
5. All members of the Select Board requesting **Ethics Opinions** (Conflict of Interest Law) shall have direct access to Town Counsel. They do not need to request access from the Town Manager on such inquiries.

C. Town Meeting Issues

1. **Warrant articles** for the Annual Town Meeting or Special Town Meetings sponsored by Town boards, committees, commissions or employees shall be drafted by the Town Counsel's office.
2. Sponsors of warrant article(s), excluding petition articles, shall submit **draft wording for articles** or general background information that Town Counsel will use to write the article, and send it back to the sponsor for signature before submission to the Select Board's Office.
3. **Sponsors of petition articles** for Annual or Special Town Meeting may submit draft articles to Town Counsel for legal review and guidance. Town Counsel will not draft articles for

petitioners, but will be available for legal review and guidance. To obtain such legal review, draft petition articles must be submitted to the Select Board's office at least five business days prior to the deadline for article submission. Staff in the Select Board's office shall forward the draft petition article to Town Counsel for review.

4. Town Counsel's office will write all motions for all articles for Annual or Special Town Meeting, working with the sponsors of all articles as needed in the judgment of Town Counsel.

D. Confidentiality of Attorney-Client Communications

The attorney-client privilege shields from the view of third parties all confidential communications between a client and its attorney undertaken for the purpose of obtaining legal advice. **As a matter of policy, the Select Board hereby requires that the confidentiality of communications between town officials, departments, boards, and committees, and Town Counsel and Special Town Counsel be maintained and preserved.** The scope of privileged communications includes communications from Town officials, departments, boards or employees seeking legal advice, as well as opinions and advice received from Town Counsel or Special Town Counsel, whether in formal written opinions, email, in person, or by telephone. The attorney-client privilege belongs to the Town of Sudbury, acting through its Select Board. The Select Board is the chief policy making body of the Town and is responsible, in conjunction with Town Counsel, for managing the legal affairs of the Town. Accordingly, only the Select Board, acting as a Board at a duly noticed meeting, is authorized to waive the attorney-client privilege on behalf of the Town. Should any town official, department, board, or committee believe that it is in the best interests of the Town to waive the attorney-client privilege with respect to any privileged attorney-client communication received from Town Counsel or Special Town Counsel, they should request to discuss the matter with the Select Board in executive session to obtain a vote by the Select Board as to whether or not said privileged communication may be released. No town official, department, board or committee is permitted on his or her own volition to release any confidential attorney-client communications to third parties or otherwise purport to waive the Town's attorney-client privilege.

(Approved 9/8/2015)

(Revised 7/14/2020)

FY2021	BUDGET	ACTUAL LEGAL EXPENSE
<u>TOWN COUNSEL</u>		
KP Retainer*	\$85,000	\$ 83,800
Town Counsel Litigation	\$50,000	\$ 25,284
Town Counsel Expenses	0	\$ 2,388
Other & Misc. Billable	0	\$128,309
	<hr/>	<hr/>
Subtotal	\$135,000	\$239,781
 <u>LABOR COUNSEL</u>		
Feeley & Brown. Labor Counsel	\$15,000	\$ 15,130
Arbitration	0	\$ 325
 <u>OTHER</u>		
Lampke Law – LSRHS	0	\$ 2,974
	<hr/>	<hr/>
ALL CATEGORIES TOTAL	\$150,00	\$258,210
EXPENSES TRANSFERRED		(\$ 81,408)
		(\$ 52)
BUDGET ADDITION	<u>\$ 26,750</u>	
BUDGET TOTAL	\$176,750	\$176,750

* CPA pays \$100/mo of each bill which has been deducted from Actual

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**9: SB office hours schedule****REQUESTOR SECTION**

Date of request:

Requestor: Vice chair Russo

Formal Title: Discussion and vote whether to approve the Select Board office hours schedule for remainder of 2021. (~10 min.)

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested: 10 minutes

Representative(s) expected to attend meeting:

Review:

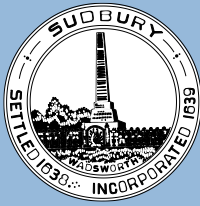
Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

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Sudbury Select Board Office Hours Schedule, Oct.-Dec. 2021		
Month	Select Board Members	Date/Time
October	Dan & Jen	12 noon Wednesday, October 13
November	Janie & Bill	7 p.m. Tuesday, November 10
December	Charlie & Dan	12 noon Wednesday, December 15

Mission statement:

As part of the **Sudbury Select Board Citizen's Comment Procedure**, citizens have the option of attending one of the Board's monthly "Office Hours" to discuss items with members of the Board. The Board offers monthly "Office Hours" where no more than two members of the Board will be at different sites in town. These office hours are not public meetings with an agenda, but rather a casual, open time for general discussions with Board members. The Select Board's Office Hours shall be posted on the Town's web site at least one week before each session. The Board began offering these Office Hours in October 2013.

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**10: Fall 2021 Select Board Newsletter Topic Discussion****REQUESTOR SECTION**

Date of request:

Requested by: Leila S. Frank

Formal Title: Discuss topics to be assigned for Fall 2021 - Select Board newsletter (~10 min).

Recommendations/Suggested Motion/Vote: Discuss topics to be assigned for Fall 2021 - Select Board newsletter (~10 min).

Background Information:

List of previous topics attached

Financial impact expected:N/A

Approximate agenda time requested: 10 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden Pending

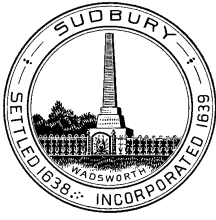
Henry L Hayes Pending

Jonathan Silverstein Pending

Jennifer Roberts Pending

Select Board Pending

10/05/2021 6:15 PM



Town of Sudbury

Office of Select Board

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776-1843
978-639-3381
Fax: 978-443-0756

sbadmin@sudbury.ma.us

Date: September 20, 2021
To: Select Board
From: Leila Frank
Re: **Fall 2021 Select Board Newsletter Topics**

To help facilitate discussion of topics for the upcoming Select Board Newsletter, below is a list of topics from previous editions.

SEPTEMBER 2021

Transportation
9/11 Garden
HOPEsudbury
Financial Policy

JUNE 2021

Town Manager Henry Hayes, Jr.
Diversity, Equity and Inclusion
Fairbank Community Center Update
Conservation Land Trails
ADA Assessment & Transition Plan

FEBRUARY 2021

Town Meeting
Financial Policies Review
Mail-In Voting
Conservation Office
Restaurant Gift Card Drive

NOVEMBER 2020

Finance
Fire Chief Whalen
Master Plan
Transportation

FALL 2021 NEWSLETTER DEADLINES

SB Meeting to Discuss Topic Assignments- Tuesday, October 5
Submission Deadline- Monday, October 18
SB Meeting Approval- Tuesday, November 3

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**11: Citizen's Comments (cont)****REQUESTOR SECTION**

Date of request:

Requested by: Patty Golden

Formal Title: Citizen's Comments (cont)

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**12: Minutes review****REQUESTOR SECTION**

Date of request:

Requested by: Patty Golden

Formal Title: Review open session minutes of 9/13/21 and possibly vote to approve minutes.

Recommendations/Suggested Motion/Vote: Review open session minutes of 9/13/21 and possibly vote to approve minutes.

Background Information:
attached draft

Financial impact expected:

Approximate agenda time requested: 30 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

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SUDBURY SELECT BOARD
 MONDAY, SEPTEMBER 13, 2021
 JOINT MEETING WITH PLANNING BOARD
 (Meeting can be viewed at www.sudburytv.org)

Select Board members present: Chair Jennifer Roberts, Vice-Chair Charles Russo, Member Daniel Carty, Member William Schineller, Member Janie Dretler, Town Manager Henry Hayes, Jr.

Planning Board members present: Chair Steve Garvin, John Hincks, Justin Finnicum, John Sugrue, Anuraj Shah Adam Duchesneau, Director Planning and Community Development; Krista Moravic, Horsley Witten

The statutory requirements as to notice having been complied with, the meeting was convened at 7:01 p.m., via Zoom telecommunication mode.

Select Board Chair Roberts announced the recording of the meeting and other procedural aspects included in the meeting.

Call to Order/Roll Call

Select Board Roll Call: Dretler-present, Russo-present, Carty-aye, Schineller-aye, Roberts-aye

Opening remarks by Select Board Chair

- Thanked the 9/11 Memorial Committee and others, noting presentations by Vice-Chair Russo and Town Manager Hayes at the moving 9/11 Memorial, marking the 20th anniversary of the tragic event
- Select Board Policy Subcommittee (she and Member Schineller) met on September 9th and discussed non-financial policies; thanked Member Dretler for compiling an outline of outstanding policies
- Board of Health released a statement regarding mosquito protection measures
- Thanked the Planning Department and the Planning Board for meeting with the Select Board in joint session to discuss the Master Plan Town Forum this evening

Reports from Town Manager

- Thanked the Planning Department and the Planning Board for all progress made with the Master Plan, and stated he was looking forward to Master Plan outcomes/implementations, and the Master Plan Town Forum event

Reports from Select Board

Board Member Dretler:

- Thanked the Planning Board for attending tonight's joint meeting, and enjoyed her membership on the Master Plan Steering Committee; stated she was looking forward to sharing the completed Master Plan with residents and proceeding with action plans
- Wished a happy New Year to those celebrating Rosh Hashanah and Yom Kippur
- Attended a productive and informative BFRT staff meeting last week

- PBC meetings regarding the Fire Station and the Fairbank Community Center project can be viewed on SudburyTV

Vice-Chair Russo:

- Thanked members of the 9/11 Memorial Garden Committee for their special contributions; many members have served on the Committee for some 20 years
- Thanked the Planning Board, the Planning Department, and Horsley Witten consultants for completing a most comprehensive Master Plan for the Town

Board Member Carty:

Commented that he would present his reports at tomorrow night's Select Board meeting.

Board Member Schineller:

- Reiterated "Never Forget," in consideration of 9/11
- Residents have approached him regarding Master Plan implementations

Citizen comments on items not on agenda

No comments

Vote to open joint meeting with Planning Board to discuss Master Plan Implementation Committee and Town Forum

Mr. Garvin called the Planning Board meeting to order at 7:11 p.m.

Planning Board Roll Call: Garvin-present, Hincks-present, Finnium-present, Sugrue-present, Shah-present

Chair Roberts read in the words of the motion. Board Member Schineller moved in the words of the Chair. Board Member Dretler seconded the motion.

It was on motion 5-0; Carty-aye, Schineller-aye, Russo-aye, Dretler-aye, Roberts-aye

VOTED: To open joint meeting with Planning Board to discuss Master Plan Implementation Committee and Town Forum.

Chair Garvin read in the words of the motion. Mr. Hincks moved in the words of the Chair. Mr. Finnium seconded the motion.

It was on motion 5-0; Hincks-aye, Finnium-aye, Sugrue-aye, Shah-aye, Garvin-aye

VOTED: To open joint meeting with the Select Board to discuss Master Plan Implementation Committee and Town Forum

Mr. Duchesneau presented related goals, including shared understanding of the Town Forum, and consensus on organization of Implementation Committee and Working Groups. He announced that the Master Plan Town Forum would be held on Thursday October 21, 2021 at 7:00 p.m., via Zoom.

The two Boards discussed various Town Forum aspects including the Town's Comprehensive Wastewater Management Plan, Horsley Witten Group summary of the Master Plan, related Action Items and budget. It was noted that Town Staff and/or Planning Board members could add to the Horsley Witten Group's presentation

Mr. Garvin confirmed that Forum planning represents a collaborative effort between himself, Vice-Chair Russo, and Mr. Duchesneau.

Select Board Member Schineller stated that the Master Plan was owned by the Planning Board, and that Board should assume the lead role.

It was noted that Town Staff and/or Planning Board members could add to the Horsley Witten Group's Master Plan Forum presentation.

Mr. Hincks motioned that the Town Forum be conducted with the Horsley Witten Group presenting the Master Plan materials in general, with Planning Board Chair Garvin to act as the Master of Ceremonies and the first point of response on all questions; and that Chair Garvin appoint, as appropriate, Planning Board member/s to respond. Select Board Chair Roberts to act as the point of contact, and that Chair Roberts appoint, as appropriate, the Select Board member/s to respond to policy-related questions.

Select Board Member Carty amended the motion made by Mr. Hincks. Mr. Finnicum seconded the motion.

It was on motion; 10-0; Russo-aye, Carty-aye, Dretler-aye, Schineller-aye, Roberts-aye, Finnicum-aye, Hincks-aye, Sugrue-aye, Shah-aye, Garvin-aye

VOTED: That Select Board Chair Russo introduce the Master Plan Forum; the Horsley Witten Group present the Master Plan materials in general. Planning Board Chair Garvin to act as the Master of Ceremonies, and the first point of response on all questions; and that Chair Garvin appoint, as appropriate, Planning Board member/s to respond to Master Plan inquiries. Select Board Chair Roberts to act as the point of contact, and that Chair Roberts appoint, as appropriate, the Select Board member/s to respond to inquiries related to Master Plan policy.

Select Board Member Carty amended the motion, adding that the Forum should be kicked off by Select Board Vice-Chair Russo, in accordance with established procedure. Mr. Finnicum seconded the motion.

It was on motion; 10-0; Russo-aye, Carty-aye, Dretler-aye, Schineller-aye, Roberts-aye, Finnicum-aye, Hincks-aye, Sugrue-aye, Shah-aye, Garvin-aye

VOTED: That Select Board Chair Russo introduce the Master Plan Forum; the Horsley Witten Group present the Master Plan materials, in general. Planning Board Chair Garvin to act as the Master of Ceremonies, and the first point of response on all questions; and that Chair Garvin appoint, as appropriate, Planning Board member/s to respond to Master Plan inquiries. Select Board Chair Roberts to act as the point of contact, and that Chair Roberts appoint, as appropriate, the Select Board member/s to respond to inquiries related to Master Plan policy.

Implementation Committee Discussion

Select Board and Planning Board Members discussed the three options associated with a Master Plan Implementation Committee:

- Model driven by the Select Board
- Model driven by the Planning Board
- Model driven by an Independent Steering Committee

The Select Board and the Planning Board agreed that the model driven by an Independent Steering Committee would be the preferred option.

Discussion continued regarding a working group model and qualifications involved with membership.

Mr. Hincks motioned that the Planning Board be authorized to implement the Independent Steering Committee, using a working group model, with details to be defined, and later approved. Vice-Chair Russo seconded the motion.

It was on motion 10-0; Schineller-aye, Dretler-aye, Carty-aye, Russo-aye, Roberts-aye, Finnium-aye, Hincks-aye, Sugrue-aye, Shah-aye, Garvin-aye

VOTED: That the Planning Board be authorized to implement the Independent Steering Committee using a working group model, with details to be defined, and later approved.

Chair Roberts asked if the Planning Board would be owning the Implementation Committee function, and would work towards advancing the action items associated with the Master Plan. Mr. Finnium emphasized the accountability factor, noting that the Planning Board was accountable to the Select Board, as the working groups and Implementation Committee would be accountable to the Planning Board, and the Planning Board would report to the Select Board regarding Master Plan action progress.

Discussion continued regarding a working group model and qualifications involved with membership.

Chair Roberts suggested that a summary document/outline be drafted by Mr. Duchesneau, Select Board Vice-Chair Russo, and Planning Board Chair Garvin, and then distributed to both Boards.

Vote to close the joint meeting with the Planning Board

Chair Roberts read in the words of the motion. Select Board Member Carty moved in the words of the Chair. Select Board Member Dretler seconded the motion.

It was on motion 5-0; Russo-aye, Schineller-aye, Carty-aye, Dretler-aye, Roberts-aye

VOTED: To close the joint meeting with the Planning Board.

Planning Board Chair Garvin motioned to close the Planning Board meeting. Mr. Hincks moved in the words of Chair Garvin. Mr. Finnium seconded the motion.

It was on motion 5-0; Finnium-aye, Hincks-aye, Sugrue-aye, Shah-aye, Garvin-aye

VOTED: To close the Planning Board meeting

Chair Roberts stressed the importance of implementing action to advance the Master Plan.

Vote to adjourn the Select Board Meeting

Chair Roberts read in the words of the motion. Select Board Member Dretler moved in the words of Chair Roberts. Vice-Chair Russo seconded the motion.

It was on motion 5-0; Russo-aye, Dretler-aye, Schineller-aye, Carty-aye, Roberts-aye

VOTED: To adjourn the Select Board Meeting

There being no further business, the meeting was adjourned at 8:48 p.m.



SUDBURY SELECT BOARD

Tuesday, October 5, 2021

MISCELLANEOUS (UNTIMED)**13: Upcoming Agenda Items**REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Upcoming Agenda Items

Recommendations/Suggested Motion/Vote:

Background Information:

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM

POTENTIAL UPCOMING AGENDA ITEMS/MEETINGS

MEETING	DESCRIPTION
October 19	Sudbury Access Corp (SAC) Annual presentation to Select Board
	Transportation discussion
	Correction of COA member appointment term
	Re-precincting process (Town Clerk)
	Housing trust discussion
	Route 117 Mitigation funds discussion
Thursday, October 21 7:00 PM	Annual Town Forum on Master Plan - joint meeting with Planning Board
November 3	Overview of Tax Classification process by Director of Assessing Cynthia Gerry
November 30	Annual Tax Classification hearing (tentative)
December 7	Open 2022 Annual Town Meeting Warrant and announce ATM for Monday, May 2, 2022
	Annual License renewals
Date to be Determined	By-law items to examine - Special Events & Demonstration Permits; Common Victualler License Holders (Related to Farm Act exemptions, citizen request); Nuisance / Blight Bylaw; Removal Authority of members from appointments
	Citizen Leadership Forum
	Fairbank Community Center update (ongoing)
	FinCom joint meeting re: Financial policy review
	Health/COVID-19 update (as of 3/18/20)
	Housing Choice discussion
	Invite Commission on Disability Chair to discuss Minuteman High School
	Local receipts – fee schedule review (Vice-chair Russo)
	Quarterly update from Diversity, Equity and Inclusion Commission (DEI) (November, February, May, August)
	Quarterly update on Key Performance Indicators (KPIs) projects to track (August, November, February, May)
	Quarterly review of approved Executive Session Minutes for possible release (February, May, August and November). Consider separate meeting solely for this purpose.
	Quarterly update on Bruce Freeman Rail Trail (BFRT) (March, June, September, December)
	Quarterly update on CSX (January, April, July, October)
	Route 20 empty corner lot – former gas station
	Sewataro Financial Statement review
	Sewataro Future planning - \$ for negotiations, insurance, contract
	Sidewalks discussion
	Town Manager Goals and Evaluation process
	Town meeting recap – year in review
	Town-wide traffic assessment and improve traffic flow
	Update from SB Policy Subcommittee
	Update on crosswalks (Chief Nix/Dan Nason)
	Update on traffic policy (Chief Nix)
	Work Session with Town Counsel: Select Board/Town Manager Code of Conduct and other procedural training

Standing Items for All Meetings	Select Board requests for future agenda items at end of meeting
	Citizens Comments, continued (if necessary)



SUDBURY SELECT BOARD

Tuesday, October 5, 2021

CONSENT CALENDAR ITEM**14: Pavement Management Program - Kimley Horn and Assoc**REQUESTOR SECTION

Date of request:

Requestor: Dan Nason DPW Director

Formal Title: Vote to approve execution by the Town Manager of an Agreement between the Town of Sudbury and Kimley-Horn and Associates, Inc. for professional consulting services for development of a pavement management program, and any documents relative thereto.

Recommendations/Suggested Motion/Vote: Vote to approve execution by the Town Manager of an Agreement between the Town of Sudbury and Kimley-Horn and Associates, Inc. for professional consulting services for development of a pavement management program, and any documents relative thereto.

Background Information:

This contract will provide a pavement management system for the next 3 years in Sudbury. The vendor will assess the Pavement Condition Index on the 140 miles of roadway. Once collected, the information is categorized and will provide a 3-year capital plan.

Financial impact expected:\$45,850 - c.90 funds

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM



September 10, 2021

Kevin J. McCabe
 Director of Operations
 Department of Public Works
 Town of Sudbury
 275 Old Lancaster Road
 Sudbury, MA 01776

CC: Dan Nason, Director of Public Works - Town of Sudbury

**Re: Professional Services Agreement
 Pavement Management Program
 Sudbury, MA**

Dear Mr. McCabe:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to the Town of Sudbury ("Client" or "Town") for providing professional consulting services for the above referenced projects.

SCOPE OF SERVICES

Based on the information provided, we understand that the Client wishes to execute a pavement management program across their roadway network in the Town of Sudbury, MA. The project will involve the use of automated data collection equipment that will result in an inventory of pavement attributes and associated conditions. After reviewing the Town's roadway network, we anticipate collection on a maximum of 140 miles of roadway. Utilizing the condition data and discussions with the Client regarding a treatment library tailored to the Town, Kimley-Horn will prepare a 3-year pavement maintenance and rehabilitation plan. Roadway condition and treatment plan data will be viewable and editable in Kimley-Horn's DRIVE software. The DRIVE web-based software program will be provided to the Town with a 1-year renewable license.

Our Scope of Services, Fee, and Schedule are as follows:

An overview of the task items is included in the table below, with task details and an overview of deliverables presented in the text that follows.

Task #	Task Description
1	Project Coordination Services
2	Network Inventory Integration
3	Data Collection
4	Treatment Analysis and Budgeting
5	Plan Development
6	Project Deliverables
7	Software & Training

Task 1 – Project Coordination Services

This task will consist of general project management, administrative, and accounting activities for the project. It will further consist of monthly project status updates, scheduling of review meetings and activities, and monthly project status reporting. In addition, this task will consist of monthly work planning efforts and will comprise the initial schedule development and monthly maintenance of the scope of services and project milestones.

Kimley-Horn will coordinate and facilitate a kick-off meeting with the Town upon Notice to Proceed. The purpose of this meeting will be to introduce the participants to the project, review the project scope, and discuss key issues so they can be resolved early in the project planning process. Subsequently, Kimley-Horn will coordinate and facilitate weekly half-hour project status calls as needed. Meetings may consist of project status updates, schedule review, and discussion of upcoming milestones for both the project team and Town staff. Kimley-Horn will assemble and distribute meeting minutes as needed.

Deliverables from Task 1 include:

- Minutes from kickoff meeting.
- Minutes from project meetings.

Task 2 – Network Inventory Integration

Prior to beginning data collection, Kimley-Horn will work with the Town to develop an inventory of its existing roadway network. In coordination with the Town, relevant inventory data related to roadway surface type, segmentation limits (to/from streets), lane widths, work history, and other maintenance and rehabilitation efforts will be compiled. This process will result in a GIS shapefile with linear segmentation as provided by the Town. Kimley-Horn will assess potential linear segmentation edits due to work history since the last data collection effort, make recommendations for segmentation updates to the Town for approval, and implement the updates.

Deliverables from Task 2 include:

- Network inventory in .xlsx and .shp formats.

Task 3 – Data Collection

Kimley-Horn, through our data collection vendor Pavement Management Group (PMG), will complete pavement data collection using video imagery equipment. Task 3 involves the collection, quality management, and integration of data inventories into the pavement management database. Based on preliminary estimates, we anticipate data collection on a total of no more than 140 centerline-miles of Town-maintained roadway.

PMG will perform an ASTM D6433-20 condition assessment for the maintained roadway sections defined in the inventory. The assessment first constitutes loading the frames of road section videos into PMG's web-based inspection and machine learning platform. The PMG patrol team will capture the full roadway network in 1080P full HD video at 60 frames per second. The Artificial Intelligence (AI) model identifies and applies the distress types and severities occurring within each video frame. PMG's team of skilled ASTM D6433 inspectors then review each label for ASTM compliance, verification, and remediation. Distress details are quantified and exported into an XML file for import into the PAVER pavement management system, which then calculates the PCI on a scale of 0-100 per the ASTM D6433 standard. Condition data, distress details, and video files will be prepared for to delivery to the Town.

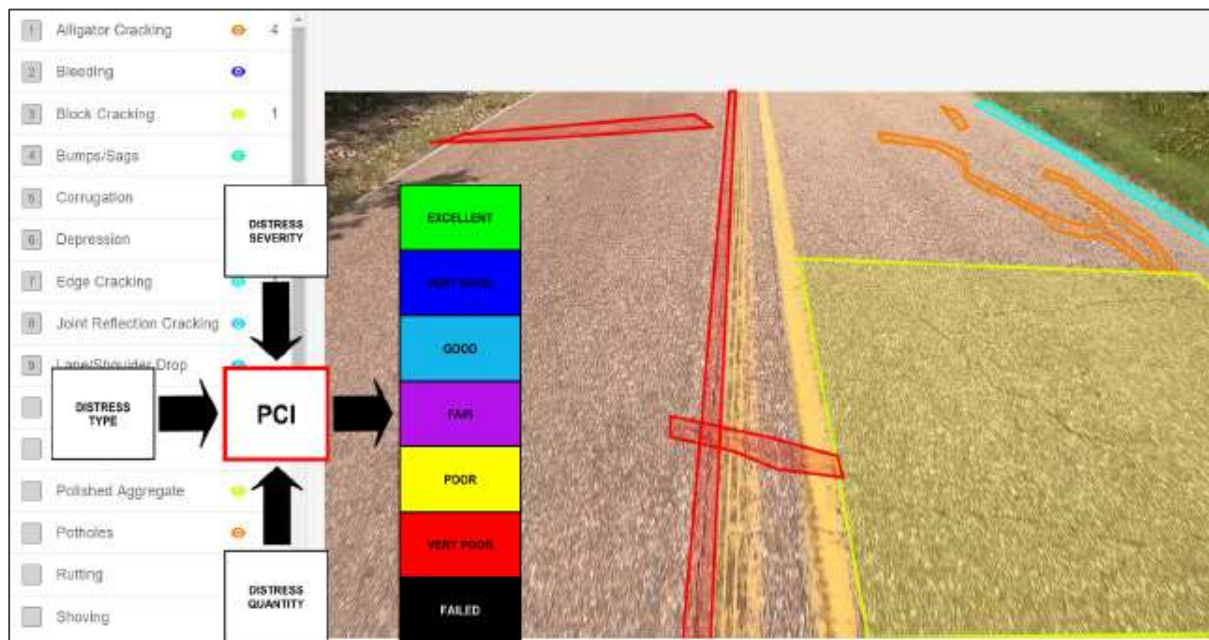


Figure 1: PMG Data Collection Methodology

Deliverables from Task 3 are considered in Task 6 – Project Deliverables.

Task 4 – Treatment Analysis and Budgeting

Upon confirmation of the pavement condition data, Kimley-Horn will populate the DRIVE software tool with condition and inventory information. The integration process will contain final confirmation of parameters related to treatment types, local cost data, maintenance trigger values, and budget constraints that will be used when conducting various budget scenarios. Kimley-Horn will coordinate and facilitate a workshop meeting with the Town to discuss and finalize the treatment library and typical budget expectations for use in budget analyses, capital planning, and within the DRIVE tool. Selection of Town-specific treatment types, costs, and related information will help tailor the resultant rehabilitation plan to Town needs.

Pavement performance models will be used that consider pavement conditions, surface type, functional classification, and past work history. Up to five budget scenarios will be performed to compare potential network health under various forecasted situations. In addition to the five budget-driven or performance-driven scenarios, the “Do Nothing” and “Unlimited Funding” scenarios will be included. Results from the analysis will be presented to the Town in a project status meeting and memorandum document.

Deliverables from Task 4 include:

- Minutes from treatment and budget workshop.
- Memorandum document of budget analysis results.

Task 5 – 3-Year Plan Development

A cost-benefit value (CBV) analysis in the DRIVE software will be used to initially prioritize the pavement repair needs and is based on the current condition of the asset, unit cost for the selected treatment, AADT or functional class, and the life gained from the treatment. Kimley-Horn assumes the Town will provide AADT data and/or functional class data. The objective of the capital plan development is to maximize funding for the best benefit. The CBV analysis, based on a target funding level as discussed in Task 4, will yield the “raw” pavement repair work plan for 3 years. Kimley-Horn will then build a practical plan from the basis of the raw 3-year output in DRIVE. This may include adjusting treatment types and timing to provide a plan that is efficient, logical, and meets the overall needs of the Town. The raw output and draft 3-year plans will be discussed with the Town to develop a final 3-year plan.

Deliverables from Task 5 include:

- Draft 3-year capital plan in .pdf and .xlsx formats.

Task 6 – Project Deliverables

Video files from Task 3 – Data Collection will be organized by street name and section number and delivered on a 1 TB external hard drive and a shared Google Drive folder, as well as via the RoadInSights platform. Draft deliverables from Tasks 2-5 will be finalized and collected for final delivery. Network condition maps will be prepared and delivered in .pdf, .shp, and Google Earth .kmz formats.

Deliverables from Task 6 include:

- Final inventory and condition data tables in .xlsx format.
- Final network condition maps in .pdf, .shp, and Google Earth .kmz formats.

- Spreadsheets depicting conditions and extrapolated quantities of specific distress and severities for each roadway segment.
- Final 3-year capital plan in .pdf, .mpk, and .xlsx formats.
- Dedicated shared Google Drive containing full HD videos of each roadway segment (1-year access).
- External hard drive containing full HD videos of each roadway segment.

Task 7 – Software & Training

DRIVE from Kimley-Horn

Kimley-Horn will provide a user login for the Town to access the DRIVE software (Database for Roadway Inventory Visualization and Evaluation). DRIVE incorporates a user-interface (UI) to meet the Town's needs for maintaining repair and treatment data as well as exporting and viewing data. DRIVE also has pavement repair and analysis capabilities to develop pavement repair work plans. Budget scenarios from Task 4 and the initial 3-year plan from Task 5 will be viewable in DRIVE, along with condition and inventory data. Shifting future needs may require changes to the Town's 3-year paving plan. DRIVE allows the user flexibility to dynamically update the capital plan and provides relevant data and viewing dashboards in order to make informed decisions.

Kimley-Horn will provide Town staff with the training required to operate the DRIVE software. Following the initial configuration and data integration into DRIVE, Kimley-Horn will meet with the Town to demonstrate software features and functions with the goal of providing Town staff with the training required to operate the system independently. The software will be web-based and allow for users to access the site remotely. The initial DRIVE software licensing period will remain in effect for one (1) year after initial logins are provided and can be renewed by the Town annually should it wish to do so.

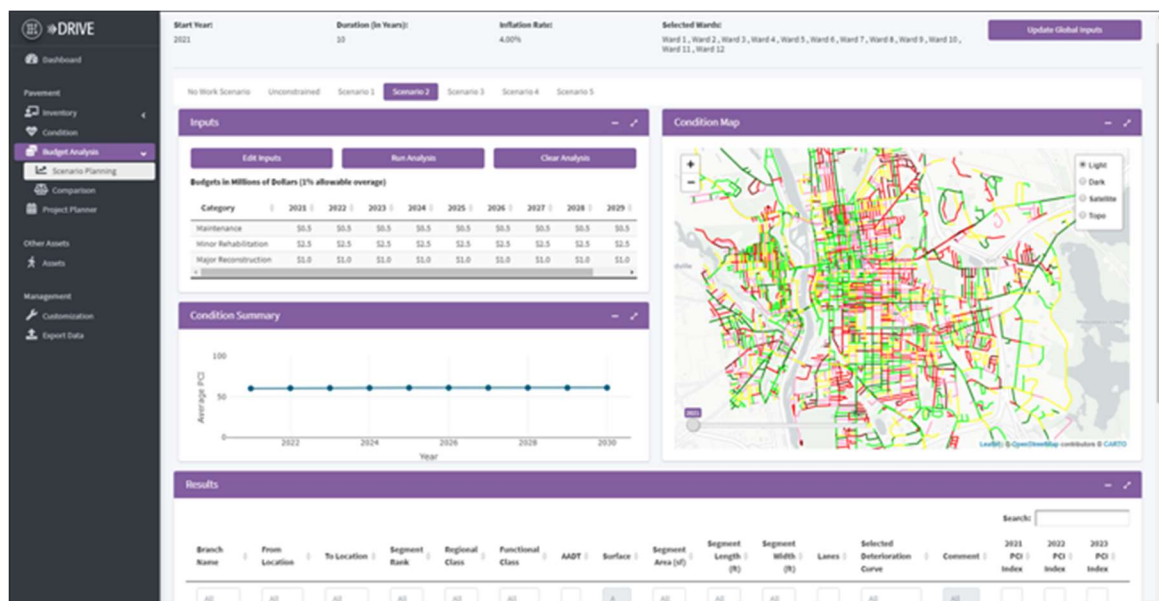


Figure 2: Example DRIVE Software Platform

RoadInSights from PMG

Data collection from Task 3 will be viewable in RoadInSights, PMG's web-based condition and video streaming dashboard. In this platform, the user will be able to view the 0-100 PCI rating of each street segment. Geo-located videos of each street segment and condition maps will be viewable as collected in Task 3.

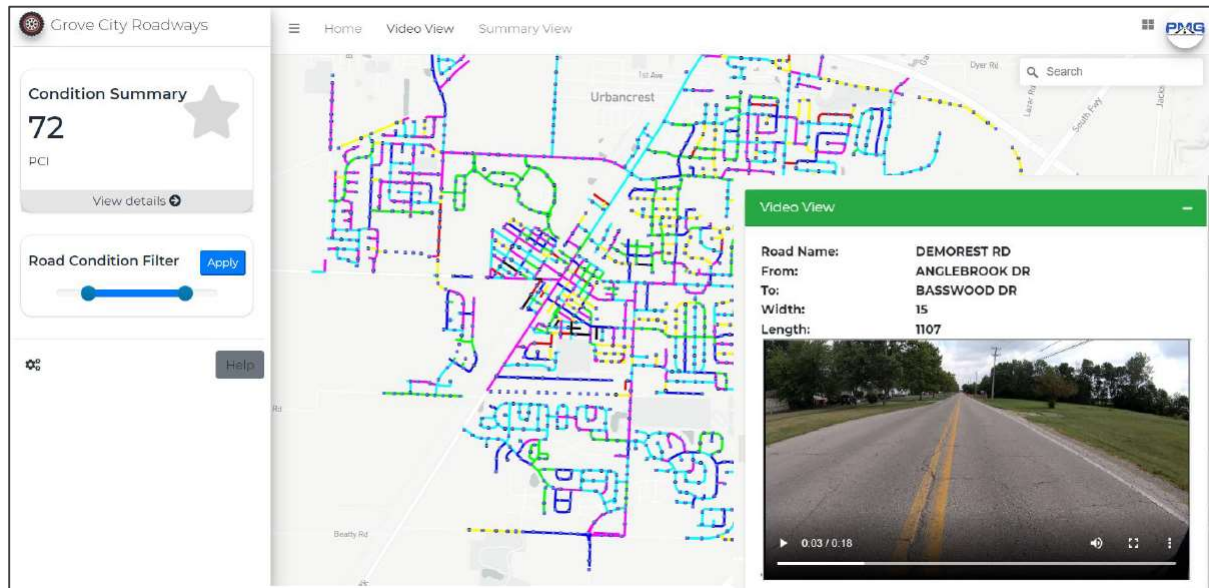


Figure 3: RoadInSights from PMG Example Dashboard

Deliverables from Task 7 include:

- 1-year access for one login to the DRIVE web-based platform.
- On-site 2-hour training of DRIVE.
- 1-year access for one login to the RoadInSights web-based platform.
- 1-2 hours of training of RoadInSights.

DRIVE software license renewal will be available at a cost of \$1,000 per year. Technical support for the DRIVE software can be available for an hourly rate of \$150/hour. RoadInSights license renewal will be available at a cost of \$750 per year.

INFORMATION PROVIDED BY CLIENT

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide the information requested by Kimley-Horn during the project, including but not limited to the following:

- Existing GIS data for the project area.
- Construction history documentation including dates for last major work.
- Bid tabulations containing material unit cost information.



- AADT and/or functional class data.

SCHEDULE

We will provide our services as expeditiously as practicable. Upon notice to proceed and contract execution, Kimley-Horn is prepared to initiate Task 1 immediately. We expect the project to take approximately 10 weeks. An updated schedule will be distributed at the kick-off meeting and can be modified as needed to meet a mutually agreed-upon schedule.

FEE AND BILLING

Kimley-Horn will perform the Scope of Services in Tasks 1-7 for the total lump sum fee of \$45,850 as shown in the fee table below. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Table 1: Fee Table

Task #	Task Description	Task Cost
1	Project Coordination Services	\$2,850
2	Network Inventory Integration	\$3,875
3	Data Collection	\$21,475
4	Treatment Analysis and Budgeting	\$3,600
5	Plan Development	\$5,900
6	Project Deliverables	\$2,100
7	Software & Training	\$6,050
Total		\$45,850

Licenses in Task 7 are available for 1 year. Renewal fees are available at the following rates:

- DRIVE: \$1,000 annual fee after 1 year
- RoadInSights: \$750 annual fee after 1 year

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

ADDITIONAL SERVICES

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then-current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Sidewalk master-planning
- Integration of other assets into DRIVE



- Geotechnical investigations, including coring and boring
- Ground-penetrating radar (GPR) investigations
- Non-destructive testing (NDT)
- Pavement condition evaluations beyond the scoped mileage of 140 miles
- Pavement design services
- Public meetings
- Structural inspections on bridges

CLOSURE

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to **Town of Sudbury, MA.**

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

____ Please email all invoices to _____

____ Please copy _____

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

We appreciate the opportunity to provide these services to you. Please contact us if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

Chris Jacques, P.E.
Project Manager

Kathy Keegan, P.E.
Associate



Proposal
Page 9

CC: Dan Nason (Town of Sudbury)

Agreed to this _____ day of _____, 2021

Town of Sudbury, Massachusetts

By: _____

(Date)

(Print of Type Name)

Title: _____
(Member of Manager, as authorized)

(Email Address)

_____, Witness
(Print or Type Name)

Attachment – Request for Information

Attachment – Standard Provisions



Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client					
Mailing Address for Invoices					
Contact for Billing Inquiries					
Contact's Phone and e-mail					
Client is (check one)	Owner	<input type="checkbox"/>	Agent for Owner	<input type="checkbox"/>	Unrelated to Owner

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

**KIMLEY-HORN AND ASSOCIATES, INC.
STANDARD PROVISIONS**

(1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
- (c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
- (d) Arrange for access to the site and other property as required for the Consultant to provide its services.
- (e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
- (g) Obtain any independent accounting, legal, insurance, cost estimating and feasibility services required by Client.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Client shall pay Consultant as follows:

- (a) Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the maximum rate allowed by law. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.
- (b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
- (c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.
- (d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.
- (e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the

Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.

(8) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(9) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks are allocated such that, to the fullest extent allowed by law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of or in any way related to the services under this Agreement from any causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or \$50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. This Section 9 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 9 shall require the Client to indemnify the Consultant.

(10) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(11) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully-approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

(12) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) Construction Phase Services.

(a) If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

(b) The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) No Third-Party Beneficiaries; Assignment and Subcontracting. This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) Confidentiality. The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) Miscellaneous Provisions. This Agreement is to be governed by the law of the State where the Project is located. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

**SUDBURY SELECT BOARD**

Tuesday, October 5, 2021

CONSENT CALENDAR ITEM**15: Uber agreement****REQUESTOR SECTION**

Date of request:

Requestor: Transportation Committee

Formal Title: Vote to extend the Town's Uber For Business Dashboard Access Agreement with Uber Technologies, Inc. for one (1) year per the terms of the existing agreement.

Recommendations/Suggested Motion/Vote: Vote to extend the Town's Uber For Business Dashboard Access Agreement with Uber Technologies, Inc. for one (1) year per the terms of the existing agreement.

Background Information:
attached agreement

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Henry L Hayes	Pending
Jonathan Silverstein	Pending
Jennifer Roberts	Pending
Select Board	Pending

10/05/2021 6:15 PM

UBER FOR BUSINESS DASHBOARD ACCESS AGREEMENT

This Cover Sheet ("**Cover Sheet**") is entered into as of the last signature date set forth below ("**Effective Date**") by and between **UBER TECHNOLOGIES, INC.**, located at 1455 Market Street, Suite 400, San Francisco, CA 94103 ("**Uber**") and the Town of Sudbury, Massachusetts ("**Town**").

Town Information:

Name:	Town of Sudbury, Massachusetts
Address:	322 Concord Road, Sudbury, MA 01776
Contact Name:	Adam Duchesneau
Contact Email:	DuchesneauA@sudbury.ma.us

This Cover Sheet sets forth the terms of certain promotional, marketing and other business activities to be undertaken in connection with Uber's technology systems that enables the Town's Qualified Riders ("Users") with an Uber Rider Account to request on-demand ground transportation (the "**Program**"). Capitalized terms used but not otherwise defined in this Cover Sheet shall have the respective meanings ascribed to such terms in the Terms and Conditions (the "**Terms**"), attached hereto and incorporated herein. In consideration of the mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following terms:

Program Details:

Collaborative Goals:	<p>Collaborative goals of our partnership:</p> <ol style="list-style-type: none"> 1. The objective of this pilot program is to improve the provision of transportation services for the Town's Users, who include senior residents over fifty years of age, persons with disabilities, low-income and financially vulnerable residents, and veterans, by providing on-demand access to transportation to health and community centers where existing public transportation, paratransit, public vans, and shuttles do not provide such transit. The Town seeks to enhance its dedication to safety and accessibility of services for its Users. 2. Successfully onboard all Users to Uber's Dashboard and ensure access to Uber's vehicles, including but not limited to Uber's wheelchair-accessible vehicles ("WAV"). 3. Receive dedicated account support from Uber. 4. Simplify the ground transportation and WAV booking and expense process for Users in the Town.
Launch	<p>The Town will work in good faith to meet the following goals; provided, however, that if the Town does not meet the following goals it will not be deemed a breach of this Agreement:</p> <p>Launch</p> <p>1. Launch: Before December 31st, 2020</p> <p>Announcement & Invitation</p> <ol style="list-style-type: none"> 1. The Town shall announce and publicize the launch of the pilot program to Users prior to uploading any Users' information to the Dashboard. 2. Once the Town registers all Users, the Town shall upload their information via the Dashboard. 3. The Town shall follow Uber's customary onboarding processes for registering the Users. <p>After the Town provides Uber Linking Data, Uber shall identify Users in the Town who have registered and automatically create a new Enterprise Profile, distinct from the User's Personal Profile, which will allow the User to link to the Town's subsidized account for Users, after agreeing to the necessary consent. The Town shall not be billed for non-subsidized rides or rides of non-qualified Users.</p>
Uber for Business Elements:	<p>Uber will provide the following in connection with the relationship:</p> <ol style="list-style-type: none"> 1. Insurance <ol style="list-style-type: none"> a. Uber shall provide Town insurance in accordance with this Agreement. The Town shall be covered as an additional insured on a blanket basis under Uber's commercial general liability and commercial automobile liability insurance policies, under which such coverage is provided where required by written contract.

Attachment 15.a: Dashboard Agreement 201015 Signed (4865 : Uber agreement)

2. Policy Support

- a. Uber shall work directly with the Town on adapting the travel policy to include Uber as a preferred option for ground transportation, although Uber shall not be the only option for ground transportation for Users.

3. Enhanced Experience – Uber shall:

- a. Include logo for Town's Go Sudbury! Program in the Uber App to indicate to Users that the Town is enrolled in and subsidizing the Program.
- b. Provide Enterprise Profile ride awareness features.
- c. Integrate expense systems, if such feature is included in the Terms.
- d. Provide 24/7, global technical support.
- e. Provide means for Users to use WAV, and any other features as necessary to accommodate Users with disabilities.

4. Custom Onboarding & Education

- a. Uber shall work with the Town on creating and executing an implementation plan to onboard and educate Users about the program and about Uber.
- b. Uber shall create custom marketing materials to support the Town's program.
- c. Uber shall dedicate an onboarding specialist assigned to the Town.

5. Access to use the Uber for Business Dashboard:**Data and Reporting**

- a. Detailed In-Dashboard Data – rich trip data on all User trips
- b. Detailed Reporting – enhanced, detailed reporting
- c. Data Export – export trips from the dashboard via CSV
- d. Trip Search – ability to filter and manage trips from within the Town's Uber for Business Dashboard
- e. Lifetime Trip History – access to data on User trips over the duration of the contract.
- f. Trips API – access to the Uber for Business trip data API

Policies & Controls

- a. User Administration – quickly add or remove Users to Town's Account
- b. Expense Codes – expense code lists, requirements, and automations
- c. Manual Trip Review – manually review out of policy rides
- d. Automated Trip Review – machine learning, automated trip review to remove out of policy rides

Billing & New Features

- a. Monthly Billing – bill User trips on a single account once a month
- b. Preferred Partner – option for advanced access of select new Uber for Business features, provided, however, that Uber will not be the only available ground transportation option for Users.

6. Duty of Care

- a. International SOS's Travel Tracker

7. Systems Implementation

- a. Uber shall work with the Town to integrate Uber systems.

8. Client Strategy and Partner Management. Uber shall provide:

- a. A dedicated strategic partner manager
- b. Quarterly business reviews
- c. 24/7 global business support

The Town's Elements:

The Town will provide the following in connection with the Program:

1. Messaging to all Users

	<p>a. The Town shall send quarterly dedicated emails to Users encouraging their use of Uber as a preferred option for ground transportation, provided, however, that Uber is not the only option available to Users for their ground transportation needs.</p> <p>2. Town References</p> <p>a. The Town shall be available for three (3) reference calls in each calendar quarter after the Effective Date</p>
Term:	Unless otherwise terminated pursuant to the terms set forth in the Terms and Conditions, the "Term" shall commence on the Effective Date and continue through one (1) year, with continuing one (1) year renewal periods thereafter, for up to three years total.

This Agreement consists of this Cover Sheet and the Terms attached hereto and incorporated into this Agreement. In the event of a conflict between the Cover Sheet and the Terms, the Cover Sheet shall prevail. An authorized representative of each party has caused this Agreement to be duly executed as of the Effective Date.

UBER TECHNOLOGIES, INC.

By: *Dmitriy Vanchugov*
D356637478AE4EF...

Name: Dmitriy Vanchugov

Title: Head of Transit Partnerships

Date: October 15, 2020

THE TOWN OF SUDBURY, MASSACHUSETTS

By: *Henry L. Hayes, Jr.*
8169F473C91143B

Name: Henry L. Hayes, Jr.

Title: Town Sudbury, Town of Sudbury

Date: October 15, 2020

Attachment15.a: Dashboard Agreement 201015 Signed (4865 : Uber agreement)

TERMS AND CONDITIONS

1. **Incorporation.** These Terms are expressly incorporated into and made a part of the Cover Sheet(s) ("**Cover Sheet**") between Uber and The Town (the Cover Sheet and Terms, collectively, the "**Agreement**"). The Town agrees to establish an Uber for Business account ("**Corporate Account**") pursuant to the terms and conditions of this Agreement. These Terms set forth the terms under which the Town's Users may utilize the Uber Service in connection with the Town's Corporate Account.

2. **Term and Termination.** This Agreement shall commence on the Effective Date and shall continue throughout the Term specified on the Cover Sheet, unless earlier terminated as provided herein, for up to a three year term. Either party shall provide at least thirty (30) days written notice prior to the expiration of the then-current term if either party intends not to renew the terms of this Agreement, as applicable pursuant to the terms of the Cover Sheet. Either party may also terminate this Agreement (i) in the event of a material breach by the other party if the breach is not cured by the other party within thirty (30) days' notice thereof by the non-breaching party, (ii) in its entirety at any time without cause by giving thirty (30) days prior written notice of termination to the other party, or (iii) immediately upon notice to the other party in the event the other party makes an assignment for the benefit of creditors, files an involuntary petition in bankruptcy or is adjudicated bankrupt or insolvent, has a receiver appointed for any portion of its business or property, or has a trustee in bankruptcy or trustee in insolvency appointed for it under federal or state law. Accrued and outstanding payment obligations, Sections 1, 3, 7, 8, 10 – 14, and the last sentence of this Section 2 shall survive the expiration or termination of this Agreement.

3. **Fees and Payment.**

3.1. **Technology Service Fees.** The calculation of the Technology Service Fees are set forth on the Cover Sheet. Technology Service Fees shall be paid pursuant to Section 3.3.3 below.

3.2. **User Charges.** All User Charges shall be paid in the ordinary course of use of the Uber Services through the payment card associated with the applicable Enterprise Profile at the end of each User's trip, unless the Town participates in Monthly Billing, in which case the Town shall pay such User Charges pursuant to Section 3.3.3 below.

3.3. **Billing Options.**

3.3.1. **Monthly Billing.** Subject to terms and conditions determined by Uber in its sole discretion, Uber may elect to qualify the Town to receive, and thereafter the Town may elect to receive, monthly statements (each, a "**Monthly Statement**") for User Charges incurred by the Town's Users through an Enterprise Profile during each calendar month of the Term ("**Monthly Billing**"). If the Town elects to participate in Monthly Billing, Uber will bill the Town the Technology Service Fees and User Charges monthly in a Monthly Statement.

3.3.2. **Non-Monthly Billing.** If the Town does not participate in Monthly Billing: (i) User Charges shall be paid in the ordinary course of business, as stated above in Section 3.2, and (ii) Uber shall charge the Town for Technology Service Fees incurred during each calendar month of the Term in which Monthly Billing was not utilized (each a "**Technology Service Fee Invoice**").

3.3.3. **Payment.** All fees under each Monthly Statement or Technology Service Fee Invoice, as applicable, shall be paid in full by the Town within thirty (30) days of receipt of such Monthly Statement or Technology Service Fee Invoice.

3.4. **Taxes.** Unless otherwise indicated on a User's receipt, all Technology Service Fees and User Charges are exclusive of applicable taxes, and the Town agrees to be responsible for the payment of any such taxes assessed on such Technology Service Fees and User Charges, including, but not limited to, all sales, use, VAT or similar taxes, except for taxes based on Uber's income. All payments shall be processed in the local currency applicable to the geography of the User's applicable ride except in certain instances when Uber may process foreign transactions in United States dollars. All payments are nonrefundable except as may be expressly provided otherwise herein. Except as may be expressly agreed in the Cover Sheet, each party shall be responsible for its costs and expenses associated with its performance under this Agreement.

3.5. **Account Suspension.** Uber reserves the right to immediately suspend the Town's account and suspend any or all access to an Enterprise Profile by all Town Users in the event of any unpaid Technology Service Fees or User Charges by the Town due on any past Monthly Statements or Technology Service Fee Invoice, so long as the Town has not submitted an inquiry with respect to any of the User charges. Uber further reserves the right to pursue any and all remedies available to it under applicable law, including reporting the Town to applicable credit reporting agencies, in the event of any unpaid Technology Service Fees or User Charges hereunder. Reestablishing a Town account after full payment of late Technology Service Fees or User Charges shall be at Uber's sole discretion. All late payments shall accrue simple interest on the sum due from the date such payment was originally due until the date of actual payment, at 3% per month or the maximum allowed by applicable law.

4. **Provision of Services.**

4.1. **Access to Services.** Uber will establish the Town's Corporate Account that will enable the Town to permit Town Users to establish an "**Enterprise Profile**" billing option within their Uber Rider Account that will allow Town Users to bill qualified trips to one of the following options: (i) a central Town corporate payment card, (ii) a Town-issued individual payment card, or (iii) a personal payment card or, in Uber's sole discretion, Monthly Billing. User Charges and any Technology Service Fees, if applicable, that are incurred on such Enterprise Profiles will be transmitted to the Town via the Dashboard in accordance with the terms and conditions of this Agreement. Subject to the Town's compliance with this Agreement, Uber agrees to use commercially reasonable efforts to provide the Uber Service and Dashboard to the Town and its Users as set forth herein.

4.2. **Driver Verification and User Safety Policies.** Uber is responsible for contracting terms with all independent contractors using the Uber technology systems under license from Uber (a "**Driver-Partner**") to provide transportation or other services. The following shall apply:

4.2.1. **Screening Standards:** Uber shall ensure that all prospective Driver-Partners are screened using a third-party service accredited by a nationally-recognized background screening organization. The screening standard applied shall conform to Uber's then-current

background check practices on the Uber systems and in the relevant jurisdiction. The Town shall not be responsible for any background check of Drivers.

4.2.2. **Screening Information:** During the course of the screening process the following information shall be collected and maintained (unless such information should not be maintained due to privacy considerations or other applicable law) in accordance with Uber's then-current practices: (a) full name; (b) date of birth; (c) driver's license number (does not apply to non-automotive Driver Partners); and (d) copy of driver's license (does not apply to non-automotive Driver Partners).

4.2.3. **Vehicle Standards.** In accordance with its business needs and procedures (which are subject to change in Uber's reasonable discretion), Uber shall undertake reasonable efforts to ensure that Drivers (excluding those providing delivery services without an automobile), at all times use vehicles that are suitable for providing transportation services for elderly persons and persons with disabilities, and maintained in good operating condition consistent with Uber's safety and maintenance standards. Uber will ensure that wheelchair accessible vehicle services are made available to the Town's Users.

4.3. **Uber Rider Account Required.**

4.3.1. **Enterprise Profile.** The Town acknowledges and agrees that before an individual can establish an Enterprise Profile on the Uber Service pursuant to this Agreement, such proposed Town User must register for and maintain during the Term an active Uber Rider Account for the Uber Service.

4.3.2. **Violations.** The Town acknowledges that certain proposed Town Users may be suspended or banned from use of the Uber Service due to future or past violations of the End User Terms or Community Guidelines, available at <https://www.uber.com/legal/community-guidelines> ("Violations"), and that neither Uber or the Town shall have no obligation or liability related to a proposed User that is unable to obtain or maintain an Uber Rider Account for the purposes of the Enterprise Profile due to Violations. In the event that a User's Uber Rider Account is suspended or terminated pursuant to the End User Terms, such User's access to the Enterprise Profile shall also be suspended. Furthermore, Uber reserves the right to immediately suspend any or all access to the Enterprise Profile of any Town User that has an invalid payment card on their Enterprise Profile, or a rejected Town payment card transaction that was initiated through their Enterprise Profile.

4.4. **Enterprise Profile Linking.**

4.4.1. **Linking Mechanics.** To enable a proposed Town User to securely establish an Enterprise Profile, the Town will utilize the Provisioning Tool to maintain the list of authorized Users' (i) full name, (ii) personal or business-issued email address, and (iii) other information the parties may mutually agree upon ("Linking Data"), which is necessary for authentication and verification purposes. Upon establishing an Enterprise Profile linked to an Uber Rider Account, such Town User shall be provided the option, on a ride-by-ride basis, to apply User Charges to either (A) such the User's personal profile or (B) the User's Enterprise Profile.

4.4.2. **Accuracy.** The Town shall ensure that Linking Data is accurate and complete, and Uber shall not be liable to the Town, a User, or any other party with respect to inaccurate or incomplete Linking Data supplied by the Town.

4.4.3. **Unlinking.** A Town User's Enterprise Profile may be unlinked from any such Uber Rider Account at any time by (i) the Town unlinking such User through the Provisioning Tool, or (ii) the User deleting the Enterprise Profile option from his or her Uber Rider Account.

4.5. **Restrictions.** The Town agrees to use the Corporate Account and shall cause each User to, use their Enterprise Profile solely as set forth in this Agreement and the End User Terms. The Town shall not, and shall not authorize others to, (a) decompile, disassemble, reverse engineer or otherwise attempt to derive the source code or underlying technology, methodologies or algorithms of the Uber Service or Uber App, except to the extent allowed by applicable law, (b) sublicense, lease, rent, sell, give, or otherwise transfer or provide the Uber Service or Uber App to any unaffiliated third party, (c) upcharge, increase or otherwise modify the User Charges as calculated through the Uber App for any usage of the Uber Service or (d) impose any additional fees or charges on a User's related to use of the Uber Service. Uber reserves all rights not expressly granted to the Town or the Town's Users under this Agreement.

5. **Account Administration.**

5.1. **Town Dashboard.** Upon execution of this Agreement, Uber will establish the Town's Corporate Account that will enable the Town to access Uber's browser-based online dashboard for "Uber for Business" customers ("Dashboard"). Uber's contact with the Town shall be by way of any individual representative designated by the Town as an "administrator" through the Dashboard ("Administrator"). The Dashboard will enable the Town to (a) view detailed trip or other service information, without limitation, the Town's Users' name together with status, distance, duration, fare amount, service type, trip ID, User Charges, and expense memo; driver data (e.g. first name, telephone number, vehicle and license plate) ("Dashboard Data"), (b) view a current list of all Users who have been authorized to establish, and Users who have established, their Enterprise Profile, (c) to utilize the Provisioning Tool to add Linking Data to maintain an up-to-date list of authorized Town Users, (d) revoke Users' access to their Enterprise Profile, (e) view current, appoint new, and remove Administrators, and (f) settle outstanding balances on the Corporate Account. Uber reserves the right to add, remove and update features and functionality of the Dashboard at any time.

5.2. **Administration.** The Town may appoint additional Administrators at its discretion. The Town agrees to (a) maintain all Dashboard login credentials in confidence, (b) only permit an authorized Administrator to access the Dashboard, and (c) update, as necessary, all information of Administrators to ensure that it is current, accurate, and complete. The Town shall be responsible for all activity that occurs under its Dashboard login credentials.

5.3. **Town's User Updates.** It is the Town's sole responsibility to keep and maintain an accurate list of current Users authorized to establish an Enterprise Profile and charge User Charges to the Town's corporate account. Uber may review the current list of Users from time to time via the Dashboard to maintain and support the Uber App and Uber Service and ensure compliance with this Agreement.

6. Intellectual Property.

6.1 License to Marks; Restrictions. The term “Marks” shall mean the trademarks, service marks, trade names, logos, slogans and other identifying symbols and indicia of a party (“Licensor”). Each party hereby grants to the other party (“Licensee”), solely during the Term, a limited, royalty-free, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the Licensor’s Marks only as expressly permitted by the other party in each instance. Notwithstanding the foregoing and solely in connection with describing the Town’s business relationship with Uber pursuant to this Agreement, Uber may include the Town’s logos and/or trademark on Uber’s official website. All use of a Licensor’s Marks by Licensee will be in the form and format approved by Licensor, and Licensee will not otherwise use or modify Licensor’s Marks without Licensor’s prior written consent. All goodwill related to Licensee’s use of Licensor’s Marks shall inure solely to the benefit of Licensor. Marks will at all times remain the exclusive property of the respective Licensor. Except as expressly set forth herein, Licensor does not, and shall not be deemed to, grant Licensee any license or rights under any intellectual property or other proprietary rights. All rights not granted herein are expressly reserved by Licensor.

6.2 No Development. EACH PARTY ACKNOWLEDGES AND AGREES THAT THERE SHALL BE NO DEVELOPMENT OF TECHNOLOGY, CONTENT, MEDIA OR OTHER INTELLECTUAL PROPERTY BY EITHER PARTY FOR THE OTHER PARTY PURSUANT TO THIS AGREEMENT. Any development activities relating to any technology, content, media or other intellectual property must be the subject of a separate written agreement between Uber and the Town prior to the commencement of any such activities.

7. Confidentiality.

7.1. Definition of Confidentiality. The term “Confidential Information” shall mean any confidential or proprietary business, technical or financial information or materials of a party (“Disclosing Party”) provided to the other party (“Receiving Party”) in connection with the Agreement, whether orally or in physical form, and shall include the terms of the Agreement. However, Confidential Information shall not include information (a) previously known by Receiving Party without an obligation of confidentiality, (b) acquired by Receiving Party from a third party which was not, to Receiving Party’s knowledge, under an obligation of confidentiality, (c) that is or becomes publicly available through no fault of Receiving Party, or (d) that Disclosing Party provides written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure.

7.2. Restrictions. Receiving Party agrees that, to the extent permitted by law, (a) it will use Confidential Information solely for the purposes permitted under this Agreement and (b) it will not disclose the Confidential Information to any third party other than Receiving Party’s employees or agents who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein. In the event Receiving Party receives a subpoena, administrative or judicial order, or any other request for disclosure of any Confidential Information of Disclosing Party, Receiving Party will give Disclosing Party prompt written notice of such subpoena, order or request and allow Disclosing Party to assert any available defenses to disclosure. For the avoidance of doubt, Linking Data, excluding any such information provided by individual Uber account holders, shall constitute Town’s Confidential Information and Uber may not (i) sell or otherwise publicly disclose any such Linking Data, or (ii) use any such Linking Data for any purpose that is detrimental or harmful to the Town. Uber and the Town acknowledge that the Town must comply with all applicable legal requirements, including, but not limited to, the Massachusetts Public Records Law.

7.3. Confidential Information Security. Receiving Party will protect the Disclosing Party’s Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care. Uber shall comply with the then-current version of the Payment Card Industry Data Security Standard (“PCI-DSS”) and Uber and its designated payment service provider will remain PCI-DSS certified and compliant at all times during the Term of this Agreement. Uber and the Town acknowledge that the Town must comply with all applicable legal requirements, including, but not limited to, the Massachusetts Public Records Law.

8. Privacy and Data Security.

8.1. Roles of Parties. Each party is an independent controller of the Dashboard Data and Linking Data. The Town will provide Linking Data to Uber, for the provision of the services as described in Section 4 of these Terms. To the extent permitted by law, the Town will only process Dashboard Data for administrative purposes, to manage access control and for activity review purposes.

8.2. Lawfulness. The Town acknowledges that the linking process described in Section 4.3, above, requires a verification email to be sent by Uber to each Town User using the Linking Data, and the Town agrees, where necessary, to have: (i) a legal basis for such processing (such as consent); and (ii) inform the Users that Uber will send them an email for the purpose of linking and establishing the Enterprise Profile within the Users’ Uber Rider Account, which will also describe the benefits of creating an Enterprise Profile. The Town consents to Uber emailing such Users for the purpose of linking and establishing the Enterprise Profile within the Town’s Users’ Uber Rider Account.

8.3. Compliance with Data Protection Laws. Each party shall comply with the obligations applicable to it under the Data Protection Law with respect to the processing of personal data, including but not limited to G.L. c. 93H.

8.4. Restrictions. Uber agrees to only process the Linking Data for the purposes described in this Agreement. The Town agrees that any Uber Personal Data obtained in connection with this Agreement shall be used: (i) solely for the purposes set forth in Section 8.1 of these Terms, or in connection with the use of the Uber Service, and for no other purpose, unless expressly authorized in writing by Uber, and (ii) in accordance with the purposes communicated to the data subjects. The Town shall not use Uber Personal Data in any way that harms Uber or that benefits a competitor of Uber. The Town agrees that it shall not disclose Uber Personal Data to any third parties, except as necessary for the purposes set forth herein. The Town shall not rent or sell Uber Personal Data for any purpose.

8.5. Security. Uber shall implement appropriate technical and organizational measures to protect Linking Data against unauthorized or unlawful processing and against unauthorized loss, destruction, damage, alteration, or disclosure. The Town shall implement appropriate technical and organizational measures to protect Uber Personal Data against unauthorized or unlawful processing and against unauthorized loss, destruction, damage, alteration, or disclosure, as well as any breach of the Town’s security measures (“Information Security Incident”).

8.6. Notification. The Town shall promptly notify Uber in the event that the Town learns or has reason to believe that an Information Security Incident has occurred in relation to Uber Personal Data, including to the extent such Incident results from an act or omission of the Town.

This notification includes at least: (1) the nature of the breach of security measures; (2) the potentially compromised personal data and data subjects; (3) the duration and expected consequences of the Information Security Incident; and (4) any mitigation or remediation measures taken or planned in response to the Information Security Incident. Upon any such discovery, the Town shall (a) take all reasonable steps at its own cost and expense to investigate, remediate, and mitigate the effects of the Information Security Incident, including by providing notice, and (b) provide Uber with assurances reasonably satisfactory to Uber that such Information Security Incident will not recur. Uber and the Town acknowledge that the Town must comply with all applicable legal requirements, including, but not limited to, the Massachusetts Public Records Law.

8.7. **Data Transfers.** To the extent this Agreement involves the transfer of Dashboard Data in the EEA to a jurisdiction outside the EEA, which has not been recognized by the European Commission as providing an adequate level of data protection, the Town agrees that the Standard Contractual Clauses, as specified on [t.uber.com/Exhibit A](https://t.uber.com/ExhibitA) ("**Exhibit A**"), shall apply.

9. **Insurance.** Uber agrees to maintain the following insurance coverage with an A.M. Best financial rating of "A-" or better:

9.1. Commercial General Liability (including contractual liability, personal and advertising injury and products and completed operations) with a limit of five million dollars (US\$5,000,000) per occurrence and five million dollars (US\$5,000,000) in the aggregate for bodily injury and property damage.

9.2. Workers Compensation Statutory (for all states of operation) including Employer's Liability with limits of not less than one million dollars (US\$1,000,000).

9.3. Commercial Auto Liability insurance for all owned, hired and non-owned vehicles for bodily injury, including death and property damage for limits of five million dollars (US\$5,000,000) each accident combined single limit.

9.4. Uber shall furnish the Town with a certificate of insurance showing coverage as set forth herein.

9.5.

9.6. The Town shall be covered as an additional insured on the Commercial Auto Liability and Commercial General Liability policies.

10. **Warranties; Disclaimer; Ownership.**

10.1. **Mutual Warranties.** Each party hereby represents and warrants that (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder, (b) such party's acceptance of this Agreement, as well as such party's performance of the obligations set forth in this Agreement, does not and will not violate any other agreement to which such party is a party, (c) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin, (d) it shall comply with all applicable laws and regulations applicable to the performance of its obligations hereunder, and (e) such party's Marks as provided by such party pursuant to this Agreement will not infringe or otherwise violate the intellectual property rights, rights of publicity or other proprietary rights of any third party.

10.2. **Town Warranties.** The Town represents and warrants that (a) the Town has all rights and consents, where necessary, to provide the Provisioning Tool with the Linking Data and any other information provided to Uber hereunder in connection with the Uber Service and Enterprise Profile, (b) the Town and its Transportation Committee will use Uber Personal Data solely for legitimate analytical purposes including, but not limited to, statistical purposes, business expense, processing, accounting, and budgeting purposes, (c) the Town will only share and provide access to Uber Personal Data to authorized Town personnel, as determined in the Town's sole discretion, including without limitation, the Sudbury Transportation Committee members who have a business need to access such Uber Personal Data, (c) the Town will not disclose Uber Personal Data to any third party, unless expressly authorized in writing by Uber, and who are in each case bound by privacy and security obligations regarding Uber Personal Data at least as restrictive as those contained herein (e) the Town will not rent or sell Uber Personal Data for any purpose not authorized by Uber, and (f) the Town will not use Uber Personal Data in any way that harms Uber or benefits a competitor of Uber.

10.3. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, UBER PROVIDES THE UBER SERVICE AND UBER APP "AS IS" AND WITHOUT WARRANTY. UBER DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE UBER SERVICE AND UBER APP WILL MEET TOWN'S REQUIREMENTS OR THAT THE OPERATION OF THE UBER SERVICE OR UBER APP WILL BE UNINTERRUPTED OR ERROR FREE. UBER HEREBY DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, (A) ANY IMPLIED OR STATUTORY WARRANTIES COVERING THE UBER SERVICE OR THE UBER APP, AND (B) ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. TOWN ACKNOWLEDGES AND AGREES THAT THE UBER SERVICE IS A TECHNOLOGY SYSTEMS THAT ENABLES ACCESS TO REQUEST ON-DEMAND GROUND TRANSPORTATION AND LOGISTICS SERVICES PROVIDED BY INDEPENDENT THIRD-PARTY PROVIDERS. UBER IS NOT A TRANSPORTATION OR LOGISTICS PROVIDER. UBER DOES NOT GUARANTEE AVAILABILITY OF TRANSPORTATION OR LOGISTICS SERVICES, ON-TIME ARRIVALS OR DEPARTURES THEREOF, OR ANY OTHER SERVICES LEVELS RELATED TO INDEPENDENT TRANSPORTATION OR LOGISTICS PROVIDERS THAT MAY BE OBTAINED VIA THE UBER SERVICE.

10.4. **Ownership.** Uber and its Affiliates are and shall remain the owners of all right, title and interest in and to the Uber Service, Uber App, and Uber Personal Data (including, without limitation, Dashboard Data) including any updates, enhancements and new versions thereof, all data related to the use of the Uber Services, and all related documentation and materials provided or made available to Town or any proposed Town User in connection with this Agreement.

11. **Indemnification.**

11.1. To the extent permitted by law, each party hereto shall indemnify, defend, and hold the other harmless from and against any and all third party claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of the indemnifying party's breach of the representations or warranties in this Agreement or the negligence of the indemnifying party, or the indemnifying party's agents or employees in carrying out its obligations under this Agreement.

11.2. Each party shall provide prompt notice to the other party of any potential claim subject to indemnification hereunder. The Indemnifying Party will assume the defense of the claim through counsel designated by it and reasonably acceptable to the Indemnified Party. The Indemnifying Party will not settle or compromise any claim, or consent to the entry of any judgment, without written consent of the Indemnified Party, which will not be unreasonably withheld. The Indemnified Party will reasonably cooperate with the Indemnifying Party in the defense of a claim, at Indemnifying Party's expense.

12. **Limits of Liability.** OTHER THAN EITHER PARTY'S INDEMNIFICATION OBLIGATIONS, TO THE EXTENT PERMITTED BY LAW, OBLIGATIONS WITH RESPECT TO A BREACH OF CONFIDENTIALITY, OR OBLIGATIONS WITH RESPECT TO A BREACH OF SECTION 6 OF THIS AGREEMENT, (A) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF BUSINESS OR PROFITS, SUFFERED BY THE OTHER PARTY OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF UBER OR THE TOWN (OR THEIR AGENTS) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (B) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY DIRECT DAMAGES IN AN AMOUNT EXCEEDING THE GREATER OF (X) ONE HUNDRED THOUSAND DOLLARS (\$100,000), AND (Y) THE TOTAL TECHNOLOGY SERVICE FEES PAID BY TOWN TO UBER HEREUNDER PRIOR TO THE APPLICABLE DISPUTE.

13. **General.**

13.1. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its choice or conflict of laws provision, and Uber hereby consents to personal and exclusive jurisdiction and venue in the State Courts for the County of Middlesex, Massachusetts, or in the United States District Court for the District of Massachusetts in the event of any litigation between the parties related to this Agreement.

13.2. **Affiliates.** The parties hereby acknowledge and agree that the Town and each of its Affiliates may utilize the same Uber for Business account upon execution of this Agreement and, to the extent the Town's Affiliate incurs any User Charges or Technology Service Fees, Uber may, upon the Town's direction and approval, invoice for and receive payment of such User Charges or Technology Service Fees (as applicable) directly from such Affiliate, provided, however, the Town shall continue to bear financial responsibility for all payments due to Uber.

13.3. **Notices.** Any notice required or permitted to be delivered to the Town by this Agreement shall be posted to the Town's Dashboard. Any notice required or permitted to be delivered to Uber by this Agreement shall be submitted via <https://support.uber.com>.

13.4. **Force Majeure.** Nonperformance of either party under this Agreement shall be excused to the extent and during the period that performance is rendered impossible by strike, fire, flood, hurricane, earthquakes, other natural disaster, governmental acts or orders or restrictions, failure of suppliers, or contractors, or any other reason where failure to perform is beyond the reasonable control and not caused by the negligence of the non-performing party.

13.5. **Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

13.6. **Assignment.** This Agreement is not transferable and may not be assigned by either party, in whole or in part, without the prior written consent of the other party, provided that both parties may assign this Agreement without such consent, but with notice to Uber, in connection with a merger or a sale of all of the equity or assets of either party. Subject to the foregoing, this Agreement shall be binding upon all successors and assigns of a party.

13.7. **Headings.** Section headings are for convenience only and shall not be considered in the interpretation of this Agreement.

13.8. **Independent Contractor.** Uber and the Town are and shall remain independent contractors. Neither party is the representative or agent of the other and neither party shall have any power to assume any obligations on behalf of the other.

14. **Definitions.** The following terms, as may be used in the Agreement, shall have the meanings set forth below:

14.1. **"Affiliate"** means an entity that, directly or indirectly, controls, is under the control of, or is under common control with a party, where control means having more than fifty percent (50%) of the voting stock or other ownership interest, the majority of the voting rights of such entity, the ability to ensure that the activities and business of that entity are conducted in accordance with the wishes of that entity or the right to receive the majority of the income of that entity on any distribution by it of all of its income or the majority of its assets on a winding up of that entity.

14.2. **"Town Personal Data"** means Linking Data provided in connection with this Agreement, excluding any such information provided by individual Uber account holders.

14.3. **"User"** shall mean an individual authorized to use and link to the Town's Corporate Account.

14.4. **"Data Protection Law"** means all laws and regulations applicable to the personal data under the Agreement, including as applicable the laws and regulations of Massachusetts, the United States, European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, including the EU General Data Protection Regulation (2016/679) (GDPR).

14.5. **"Dashboard Data"** means any and all data or other information made available to the Town through the Dashboard and may include, without limitation, User name together with request time and date, drop-off time and date, pick-up and drop-off address, trip route, distance, duration, fare amount, service type, trip ID, and expense memo.

14.6. **"End User Terms"** shall mean the terms and conditions applicable to all users of the Uber Service, available at www.uber.com/legal, as may be updated by Uber from time to time.

14.7. **"Provisioning Tool"** shall mean the technology that utilizes Linking Data to authorize the Town's Users to establish an Enterprise Profile.

14.8. **"Uber App"** shall mean Uber's mobile application or mobile website (m.uber.com) required for use of the Uber Service, as may be updated by Uber from time to time.

14.9. **"Uber Personal Data"** means any information Uber provides to the Town in connection with this Agreement relating to an identified or identifiable individual or that can reasonably be used to identify an individual, or that may otherwise be considered "Personal Data" under applicable law. For the avoidance of doubt, "Dashboard Data" shall constitute Uber Personal Data.

14.10. **"Uber Rider Account"** means an Uber account in which the owner of the account has: (i) installed the Uber App on a compatible mobile device, (ii) registered for and currently maintains an active personal user account for the Uber Service, which requires the entry of certain personally identifiable information and a personal credit card number, (ii) currently complies with the End User Terms, and (iv) confirmed the mobile number provided during the registration process. Uber's collection and use of any personal data and credit card or other authorized payment method information to establish an Uber Rider Account shall be as set forth on the Uber Privacy Policy, available at www.uber.com/legal/privacy, as may be updated by Uber from time to time.

14.11. **"Uber Service"** or **"Service"** shall mean Uber's technology systems that, when used in conjunction with the Uber App, enables users to request on-demand ground transportation from independent third-party transportation providers.

14.12. **"User Charges"** shall mean charges incurred by the Town's Users for transportation obtained through the use of the Uber Service, including any applicable tolls, foreign transaction fees, taxes, and any other fees or charges that may be due for a particular use of the Uber Service.

14.13. The terms **"controller"**, **"data subject"**, **"personal data"**, **"processing"** and **"processor"** as used in this Agreement have the meanings given in the GDPR.

Exhibit 1

Scope of Work

Program configurations	Your program requirements
Name of program	GO Sudbury!
Pricing	<p>Essentially subsidized by town; copays by rider according to geofence (see below) are:</p> <ul style="list-style-type: none"> - Geofence 1 = \$1 copay per ride; - Geofence 2 = \$2 copay per ride; - Geofence 3 = \$10 copay per ride <p>Any amount over the copay will be subsidized by the agency.</p>
Ride limits	No trip limit for launch, but might be subject to change
Total budget (per person and/or per program)	Sudbury pilot designed in phases: First phase = up to expenditure of \$5,000; subsequent phases to be negotiated, based on prior usage; expected duration 1 year
Geographical restrictions	<p>Restricted geography to 3 geofences:</p> <ul style="list-style-type: none"> - Geofence 1 = within Sudbury; - Geofence 2 = towns contiguous with Sudbury (9); - Geofence 3 = 25 miles from Sudbury <p>All trips must begin or end in Sudbury</p>
Day of week/time of day	Available 24/7
Vehicles/products	<p>UberX and Uber WAV (if/when it becomes available)</p> <p>Uber Pool (if/when it becomes available)</p>
Data requirements	<p>Uber data requested for Sudbury pilot:</p> <ul style="list-style-type: none"> ● Trip ID ● Request date ● Request time ● Actual pickup date (if different)

	<ul style="list-style-type: none">• Actual pickup time (if different)• Drop off date• Drop off time• Service (e.g., WAV, van pool)• City/town• Distance• Duration• Fare (what the agency pays less any copay)• Pickup address• Drop-off address
Do you want to limit the program to certain individuals?	<p>Riders will be pre-qualified by the agency and grouped into one of four target groups</p> <ul style="list-style-type: none">- (1) residents aged 50 or older;- (2) residents aged 18 to 50 with a disability that limits driving;- (3) residents of limited financial means;- (4) veterans
How do you want to share the program?	TBD

Exhibit 2
Trademarks and Territory

Uber Marks

<u>Trademark</u>	<u>Description</u>	<u>Territory</u>
UBER	Word mark	United States
	Rider Logo	United States



Agency Marks

<u>Trademark</u>	<u>Description</u>	<u>Territory</u>
Sudbury	Word mark	United States

