



SUDBURY SELECT BOARD  
MONDAY JANUARY 24, 2022  
6:45 PM, ZOOM

Item #	Time	Action	Item
	6:45 PM		CALL TO ORDER
<b>EXECUTIVE SESSION</b>			
1.		<i>VOTE</i>	Vote to immediately enter executive session to conduct strategy session in preparation for negotiations with nonunion personnel and/or to conduct contract negotiations with nonunion personnel (Town Manager) pursuant to General Laws chapter 30A, §21(a)(exception 2).
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
<b>MISCELLANEOUS</b>			
3.		<i>VOTE</i>	Discussion and possible vote on draft Bruce Freeman Rail Trail (BFRT) lease and draft 2022 BFRT Annual Town Meeting articles. (~35 min.)
4.		<i>VOTE</i>	Discuss potential 2022 Annual Town Meeting Select Board and Town articles and possibly vote on articles to put forward. (~60 min.)
5.		<i>VOTE</i>	Discussion and possible vote on finalization of Financial Policies draft document. (~25 min.)
6.			Update from Liberty Ledge/Sewataro Negotiation Subcommittee and discussion. (~20 min.)
7.		<i>VOTE</i>	Review open session minutes of 12/7/21 and possibly vote to approve minutes.
8.			Citizen's Comments (cont)
9.			Upcoming agenda items

*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
<b>CONSENT CALENDAR</b>			
10.		<i>VOTE</i>	Motion for the Select Board to vote to intend to layout the following way at a public hearing on April 5, 2022 at 7:00 PM: Huckleberry Lane from Old Lancaster Road to dead end, a distance of 453 feet +/-; and further to refer the proposed layout to the Planning Board for its report prior to the April 5, 2022 hearing, and to place this item on the May 2, 2022 Annual Town Meeting Warrant.
11.		<i>VOTE</i>	Vote to approve the Town Manager appointment of Liesje Quinto, 15 Pendleton Road, to the Commission on Disability for a term expiring 5/31/24.
12.		<i>VOTE</i>	Vote to accept FY22 Firefighters Safety Equipment Grant funds in the amount of \$15,504.06, for the purchase of Hose, Nozzles and Valves, Cold Water Rescue Suit, Life Jackets, and Air Bag lifting system to be used by the Fire Department.

*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**

Monday, January 24, 2022

**EXECUTIVE SESSION****1: Executive session for negotiations with nonunion personnel****REQUESTOR SECTION**

Date of request:

Requestor: 15 minutes

Formal Title: Vote to immediately enter executive session to conduct strategy session in preparation for negotiations with nonunion personnel and/or to conduct contract negotiations with nonunion personnel (Town Manager) pursuant to General Laws chapter 30A, §21(a)(exception 2).

Recommendations/Suggested Motion/Vote: Vote to immediately enter executive session to conduct strategy session in preparation for negotiations with nonunion personnel and/or to conduct contract negotiations with nonunion personnel (Town Manager) pursuant to General Laws chapter 30A, §21(a)(exception 2).

Background Information:

Financial impact expected:

Approximate agenda time requested: 15 minutes

Representative(s) expected to attend meeting:

Review:

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

01/24/2022 6:45 PM

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**EXECUTIVE SESSION****2: Close executive session 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

01/24/2022 6:45 PM

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**MISCELLANEOUS (UNTIMED)****3: Discussion on BFRT lease and draft ATM articles****REQUESTOR SECTION**

Date of request:

Requestor: Chair Roberts

Formal Title: Discussion and possible vote on draft Bruce Freeman Rail Trail (BFRT) lease and draft 2022 BFRT Annual Town Meeting articles. (~35 min.)

Recommendations/Suggested Motion/Vote: Discussion and possible vote on draft Bruce Freeman Rail Trail (BFRT) lease and draft 2022 BFRT Annual Town Meeting articles. (~35 min.)

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

01/24/2022 6:45 PM

1-21-22 DRAFT

**LEASE AGREEMENT**

This LEASE AGREEMENT (the “*Lease*”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 (the “*Commencement Date*”) by and between the **MASSACHUSETTS DEPARTMENT OF TRANSPORTATION**, a body politic and corporate and a public instrumentality of the Commonwealth of Massachusetts duly established and existing pursuant to M.G.L. Chapter 6C, as amended (the “*Enabling Act*”), having an address of Ten Park Plaza, Boston, Massachusetts 02116 (“*Landlord*” or “*MassDOT*”); and the **TOWN OF SUDBURY**, a municipal corporation and a body politic and corporate having an address of Flynn Building, 278 Old Sudbury Road, Sudbury, MA 01776, Massachusetts (“*Tenant*” or “*Town*”).

**WHEREAS**, MassDOT is the owner of the right-of-way known as \_\_\_\_\_ (USRA Line Code \_\_\_\_\_), (the “*MassDOT ROW*”), which MassDOT ROW is located in the Town of Sudbury, and which comprises a portion of the Premises, as defined herein.

**WHEREAS**, the Federal Highway Administration (the “*FHWA*”) has or will provide MassDOT with funds in an amount (the “*Appropriation*”) sufficient to pay for \_\_\_\_\_ (\_\_\_\_%) of the costs associated with the design and construction of a transportation path on the Premises (the “*Multi-Use Path*”), which Multi-Use Path will comprise a portion of the Bruce Freeman Rail Trail.

**WHEREAS**, as a condition of providing the Appropriation, the FHWA requires, among other things, that Tenant coordinate and oversee the design of the Multi-Use Path and that Landlord coordinate and oversee the construction of the Multi-Use Path.

**WHEREAS**, Tenant has completed and the FHWA has approved the final design plans and specifications for the Multi-Use Path.

**WHEREAS**, as a further condition of providing the funds for the construction of the Multi-Use Path, the FHWA requires that the Town obtain possession of the Premises prior to the solicitation of bids for the construction of the Multi-Use Path.

**NOW, THEREFORE, FOR CONSIDERATION PAID**, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

## ARTICLE I FUNDAMENTAL LEASE PROVISIONS

### 1.1 Reference Subjects

Each reference in this Lease to any of the following subjects shall incorporate the following information:

<b>Commencement Date:</b>	As defined above.
<b>Premises:</b>	<p>(1) The parcel or parcels of land owned by the Massachusetts Department of Transportation, in the Town of Sudbury, MA: from a point located at approximately Railroad Valuation Station _____ as shown on Railroad Valuation Series __, Map __ (Project Station _____) to a point approximately _____, located at approximately Railroad Valuation Station _____ as shown on Railroad Valuation Series ____, Map _____; and as more particularly shown on a Plan prepared by _____, entitled “_____ Federal _____ Aid _____ Project _____ No. _____”, dated _____, (the “<b>Plan</b>”). Sheet 1 of _____ of the Plan is attached hereto as <i><b>Exhibit A</b></i> and incorporated herein by this reference. The entire Plan (Sheets 1 through _____) is on file with the Massachusetts Department of Transportation and the Town of Sudbury, and incorporated herein by this reference.</p>
<b>Landlord:</b>	Massachusetts Department of Transportation
<b>Tenant:</b>	Town of Sudbury
<b>Term:</b>	Ninety-nine (99) years, commencing on the Commencement Date (subject to Section 2.2 hereof).
<b>Rent:</b>	Ten and 00/100 Dollars (\$10.00).
<b>Permitted Uses:</b>	Subject to Article II below, the Premises shall be used for the construction, reconstruction, operation, maintenance and repair of a transportation path for pedestrians, bicycles, and other non-motorized vehicles, and amenities thereon and related thereto and for no other uses except those specifically approved in writing by MassDOT.
<b>Design Plans:</b>	The plans and specifications for the Multi-Use Path approved by the FHWA, identified as

*Exhibit B* and incorporated herein by this reference.

## 1.2 Exhibits

The Exhibits listed below are attached hereto and incorporated into this Lease:

Exhibit A -- Plan of the Premises  
 Exhibit B -- Design Plans  
 Exhibit C -- Certificates of Insurance  
 Exhibit D -- Tenant's Beneficial Disclosure Statement  
 Exhibit E -- Evidence of Authority  
 Exhibit F -- MEPA Certificate  
 Exhibit G -- MEPA Agreement

## ARTICLE II PREMISES, TERM AND USE

### 2.1 Premises

Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord for the Term, subject to matters of record existing as of the Commencement Date and matters referred to herein, to all of which Tenant shall conform.

Notwithstanding any provision of this Lease to the contrary, this Lease is not intended to transfer land or easements for purposes protected by or to create a perpetual right to any use that may be subject to protection by Article XCVII (97), as amended by the Amendments to the Constitution of the Commonwealth of Massachusetts or by legislation enacted to pursuant thereto.

### 2.2 Term

The term of this Lease shall be for a period of ninety-nine (99) years (the "*Term*"). The Term shall commence on the Commencement Date and shall terminate on the ninety-ninth (99th) anniversary of the day immediately preceding the Commencement Date (the "*Term Expiration Date*"), unless terminated sooner as hereinafter provided.

### 2.3 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:

- a. Landlord reserves the right to enter upon any portion of the Premises for any purpose deemed necessary by the Landlord in connection with the construction, reconstruction, or maintenance of any Landlord-owned conduits, inner ducts, manholes, hand holes or other installations appurtenant thereto, or in connection with the construction, reconstruction, or maintenance of any property of Landlord adjacent to the Premises, or in connection with rights granted to third parties to use and occupy portions of the Premises as further set forth herein. Throughout any such entry, Landlord shall maintain and/or require its 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 contractors to maintain such additional coverages deemed necessary by Landlord.



- b. 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.

#### 2.4 Early Termination

If the Premises shall cease to be used for the Permitted Uses or shall be used by Tenant for any other purposes, this Lease shall terminate upon notice from Landlord and the Tenant's leasehold estate in the Premises shall revert to Landlord.

If at any time during the Term, Landlord determines, in its sole discretion but subject to any provisions or conditions of the Appropriation, that all or any portion of the Premises are needed for highway, railroad or transportation-related purposes, this Lease may be terminated by Landlord by giving Tenant ninety (90) days' prior written notice of Landlord's intention to terminate this Lease. If such notice is given by Landlord, then the Term shall end on the date set forth in such notice with respect to all or such portion of the Premises designated in such notice, all with the same force and effect as though the Term had originally been scheduled to expire on such date. Where termination or modification of this Lease for any reason requires permanent or temporary total or partial displacement of Tenant prior to or at the expiration of the Lease Term, Tenant waives any benefits that Tenant may be deemed entitled to under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, and Tenant shall thereafter be excluded from any relocation benefits available under said act or amendment.

#### 2.5 Uses of Premises

Tenant agrees that the Premises shall be used and occupied by Tenant only for the Permitted Uses.

- a) Tenant shall maintain the Premises in good repair and in clean condition, in compliance with all applicable laws and regulations, including, without limitation, making all necessary repairs and maintenance. Such maintenance shall be at no cost, expense, or liability to Landlord.

- b) Except as otherwise expressly set forth in this Lease, it shall be the responsibility of the Tenant to obtain any and all necessary permits and approvals for the Permitted Uses, at the Tenant's sole cost and expense. Landlord will cooperate in all reasonable respects, but at no expense to Landlord, with the Tenant in connection with obtaining such permits and approvals as Tenant reasonably wishes to seek for the Permitted Uses, and Landlord shall sign such permits and applications as reasonably necessary, provided that (i) the Landlord incurs no obligation or liability in connection therewith, (ii) no such permit or approval shall materially adversely affect any of Landlord's adjacent or proximate real property or otherwise, in Landlord's reasonable determination, adversely affect or interfere in a material way with any of Landlord's operations or obligations.
- c) Tenant shall not perform any act or any practice which may injure the Premises. Tenant shall, in its use of the Premises, comply with the requirements of all applicable governmental laws, rules and regulations. Tenant shall not cause or permit any unlawful conduct, unreasonable annoyance or nuisance to exist or arise at the Premises or otherwise on account of the exercise of the rights granted to Tenant hereunder.
- d) The Premises shall be open to the public, and Tenant shall establish reasonable policies governing access to the Premises by the public. Such policies shall be subject to review and approval by Landlord. Tenant shall not charge any fee or other consideration, or receive any other benefit for the use of the Premises.

## 2.6 Construction Period Restrictions

Notwithstanding any provision of this Agreement to the contrary, Tenant's right to use or occupy the Premises for the Permitted Uses, other than for construction of the path, shall be suspended prior to the Substantial Completion Date (as hereinafter defined), and Tenant shall not enter upon the Premises for any purpose prior to the Substantial Completion Date without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed provided that such entry or purpose will not interfere with Landlord's Work (as hereinafter defined).

## ARTICLE III CONDITION OF PREMISES

### 3.1 Acceptance of Premises by Tenant

Landlord shall have no obligation with respect to the condition of the Premises except as expressly set forth in this Lease. Tenant's occupancy shall be deemed an acknowledgement that the condition of the Premises is fully satisfactory and suitable for the Permitted Uses and Tenant's purposes under this Lease. Tenant has leased the Premises after a full and complete examination of the Premises and appurtenant areas, as well as title thereto, and accepts the same in their present condition. Tenant further acknowledges that neither Landlord nor any officer, agent, employee or other person acting under Landlord, disclosed or undisclosed, has made or implied any representations or warranties other than those expressly set forth in this Lease concerning the Premises, their condition, title thereto, future plans of Landlord with respect to the Premises or appurtenant areas, or this Lease.

Tenant's rights herein are granted subject to existing easements, leases, licenses and other rights to the extent that such rights are still in effect and applicable. Landlord shall use reasonable efforts to

**Deleted:** If and to the extent permitted by law, Landlord covenants and agrees to indemnify and hold harmless Tena officers, agents, and employees (collectively, the "Indemn from any and all claims, actions at law, suits in equity, loss damage, costs (including reasonable attorney's fees) or inji whatever kind and nature, whether direct or indirect, arisin Landlord's acquisition of its rights to the Premises whether confirmatory taking or otherwise."

provide Tenant with copies of the documents that establish the location and term of existing easements, leases, licenses and other rights (if any) of record to the extent that such easements, leases, licenses and other rights are still in effect and applicable.

Tenant expressly agrees that if there is any encroachment onto the Premises by a third-party, Landlord will have the right to cure said encroachment and to obtain revenue from such cure or to permit such encroachment, provided that such cure does not materially interfere with Tenant's use of the Premises.

Tenant acknowledges that there may be surface and subsurface utilities on and adjacent to the Premises and agrees to exercise extreme caution in performance of the Permitted Uses. Tenant shall comply with Massachusetts General Laws, Chapter 82, Section 40 (said statute also known as the "Dig Safe" law) and the regulations promulgated pursuant thereto including but not limited to the Code of Massachusetts Regulations, more particularly, 220 CMR 99.00 et seq. After the Substantial Completion Date, any damage to any such utilities caused by Tenant shall be the sole responsibility of Tenant. In this section, the term "Tenant" shall not include any parties performing the Landlord's Work (as defined below). Any such damage caused by any such party performing the Landlord's Work shall be the responsibility of such party. If Tenant does not immediately repair any utilities it has damaged, Landlord may, but shall not be required to repair any utilities damaged by Tenant immediately and without notice in case of emergency. In the event Landlord exercises such right, Tenant shall pay to Landlord immediately upon demand all of Landlord's cost of performing such repairs plus a fee equal to five percent of the Landlord's cost of performing such repairs to reimburse Landlord for its administrative costs.

#### **ARTICLE IV RENT AND ADDITIONAL CONSIDERATION**

##### **4.1 Amount of Rent**

Tenant covenants and agrees to pay Landlord rent in the amount of Ten and 00/100 Dollars (\$10.00) upon the execution of this Lease. The parties acknowledge and agree that the mutual promises and covenants contained herein constitute additional consideration hereunder, the receipt and sufficiency of which are hereby acknowledged.

#### **ARTICLE V LANDLORD'S REQUIRED IMPROVEMENTS**

##### **5.1 Landlord's Required Improvements**

Subject to Section 5.2 below, Landlord shall at its own cost construct the Multi-Use Path on the Premises in accordance with the Design Plans and the terms and conditions of the Appropriation ("Landlord's Work"). Landlord shall be solely responsible for procuring the contractor and subcontractors in connection with Landlord's work, and shall be solely responsible for managing and overseeing Landlord's Work. It shall be Landlord's responsibility to obtain and pay for any and all applicable federal, state and local permits, inspections, and approvals necessary to construct and perform Landlord's Work. Prior to the Substantial Completion Date, Landlord reserves the right to remove any rail infrastructure or other materials located or existing on the Premises as of the date hereof.

Landlord shall commence Landlord's Work as soon as practicable after the Commencement Date, and Landlord expects that Landlord's Work will be substantially complete no later than \_\_\_\_\_ (the "**Target Substantial Completion Date**"). Landlord's failure to substantially complete Landlord's Work by the Target Substantial Completion Date shall not be a default by Landlord or otherwise render Landlord liable for damages. Landlord's Work shall be "substantially complete" when (a) Landlord completes Landlord's Work in accordance with the Design Plans, other than any details of construction, mechanical adjustment or any other similar matter, the non-completion of which does not materially interfere with Tenant's use of the Premises for the Permitted Uses, and (b) notifies Tenant in writing thereof (the date of such notice, the "**Substantial Completion Date**"). Landlord shall perform or complete any details of construction, mechanical adjustment or any other similar matter not completed by the Substantial Completion Date as soon as practicable thereafter.

Throughout Landlord's Work, Landlord shall require its contractors and subcontractors to maintain insurance as required by, and in accordance with, the terms and conditions of Section 9.6 herein, and Landlord may require its contractors to maintain such additional coverages deemed necessary by Landlord.

#### 5.2 MassDOT Obligations Subject to Appropriation

Notwithstanding any provision of this Lease to the contrary, MassDOT's obligations to construct the Multi-Use Path shall be limited by and subject to the availability of the Appropriation for such construction. In the event that MassDOT fails to receive all or any portion of the Appropriation, reasonably determines that the Appropriation will not be available to reimburse MassDOT for any construction costs, or is unable to lawfully use all of any portion of the Appropriation to pay for any construction costs, then (a) MassDOT will within thirty (30) days so notify the Tenant, (b) MassDOT shall have the option, but not the obligation, to terminate this Lease upon ten (10) days' prior written notice to Tenant, and (c) Tenant shall after consultation with MassDOT as to whether the construction of the affected portion of the Multi-Use Path will be commenced and completed within a reasonable time thereafter, have the option (upon thirty (30) days' prior written notice to Landlord), but not the obligation, to terminate this Lease as to any portion of the Premises upon which the construction of the Multi-Use Path has not been, and based on said consultation with MassDOT, will not be commenced and completed by MassDOT within a reasonable time thereafter.

#### 5.3 Tenant's Permitted Improvements

Except as set forth in this section or in Article VI and Article XI below, Tenant shall not construct any improvements on, or make any modifications or alterations to the Premises without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion. Tenant may add minor amenities to the Multi-Use Path such as signage, benches, pavement markings, and landscaping without the Landlord's prior written consent, provided that the installation of such amenities conforms to any applicable FHWA or MassDOT regulations, guidance, or standards for a Multi-Use Path ("**Permitted Amenities**").

#### 5.4 Tenant's Election for Landlord to Perform Tenant's Non-Participating Improvements

Tenant may in writing request, prior to the Substantial Completion Date set forth in Section 5.1, that Landlord have its contractor perform for the benefit of the Tenant certain work that is outside the scope of the Landlord's Work under Section 5.1 ("**Tenant's Non-Participating Improvements**"). If Landlord agrees to have its contractor perform the Tenant's Non-Participating Improvements, Landlord and Tenant will memorialize in a separate written agreement the scope of

that work, its price, and other material terms concerning the Tenant's Non-Participating Improvements, and Tenant shall timely pay the cost of the Tenant's Non-Participating Improvements in cash or its equivalent so that both Landlord's and Tenant's interests in the Premises shall always be free of liens and for labor and materials. If any lien relating to the Tenant's Non-Participating Improvements constructed pursuant to said agreement is filed against the Premises, then Tenant shall discharge the same by payment or by filling any necessary bond within thirty (30) days after Tenant has notice from any source of such lien. Tenant's Non-Participating Improvements shall not include any of Landlord's Work; and Landlord shall remain responsible for the cost of Landlord's Work as set forth in Section 5.1 and 5.2.

## ARTICLE VI TENANT'S PERMITTED IMPROVEMENTS

### 6.1 Design Guidelines

Any improvements to the Premises which, pursuant to this Lease, Tenant is required or permitted to make (hereafter referred to as "**Tenant's Permitted Improvements**") shall be in conformity with this Lease, all applicable federal, state and local laws, ordinances, regulations and codes, including, without limitation, the Americans With Disabilities Act of 1990, 42 U.S.C. section 12101, et seq., the Massachusetts Environmental Policy Act, applicable rules and regulations of MassDOT and Tenant's insurance policies.

### 6.2 Design Approval

Tenant shall not commence construction of any Tenant's Permitted Improvements until Landlord has approved plans and specifications for the proposed work.

Prior to commencing construction of any Tenant's Permitted Improvements, Tenant shall submit to Landlord a certificate of an architect or engineer licensed in the Commonwealth of Massachusetts or an opinion of an attorney licensed in the Commonwealth of Massachusetts, stating that all applicable local, state and federal permits have been obtained for the proposed work, and that the proposed work, if constructed in accordance with the plans and specifications submitted to Landlord pursuant to the preceding paragraph, will comply with all applicable laws, codes and regulations. Said certificate or opinion shall be in form reasonably acceptable to Landlord and shall state that Landlord may rely without further investigation on such certificate or opinion.

### 6.3 Permits

It shall be the Tenant's responsibility to obtain and pay for any and all applicable federal, state and local permits, inspections, and approvals necessary to construct any Tenant's Permitted Improvements.

Prior to commencing construction of any Tenant's Permitted Improvements, Tenant shall provide Landlord with a written statement addressed to Landlord from Tenant's attorney, licensed architect or engineer containing the following: (i) a list of all permits and approvals required for the construction of the Tenant's Permitted Improvements, and (ii) a statement confirming that all such permits and approvals have been obtained.

### 6.4 Changes in Plans

If Tenant desires to make any material change in the plans and specifications after approval by Landlord, Tenant shall submit the proposed change to Landlord for its approval.

#### 6.5 Contracts for Construction of Tenant's Permitted Improvements

As used in this Article, the term "contractor" shall mean any person or entity that provides labor and/or materials for the construction, repair, restoration or rehabilitation of any portion of the Premises, whether or not paid by Tenant, but excluding third-party materials suppliers.

Tenant shall select and propose to Landlord one or more qualified contractors to construct the Tenant's Permitted Improvements. Tenant agrees that it shall not select any contractor who is then debarred from public contracting pursuant to M.G.L. Chapter 29, § 29E or any other comparable state or federal laws. Said selection(s) shall be subject to Landlord's approval. Tenant shall enter into written contracts for all construction services to be provided by its contractor(s). Said contracts shall obligate Tenant to pay all fees and costs related to the constructions of the Tenant's Permitted Improvements. Upon request of Landlord, a complete copy of each such contract shall be furnished to Landlord.

#### 6.6 General Provisions Governing Construction of Tenant's Permitted Improvements

- A. No contractor shall commence construction of any Tenant's Permitted Improvements until all permits, certificates, and approvals required by law for the commencement of such construction have been issued.
- B. Once commenced, the construction of each Permitted Improvement shall be diligently and continuously prosecuted.
- C. Each contractor shall warrant to the Tenant and Landlord that all materials and fixtures furnished by such contractor will be new, except as may otherwise be required by the plans and specifications as approved by Landlord, and that all construction work will be of good quality, free from faults and defects. Construction work not conforming to these requirements may be considered defective and not in conformity with the terms of this Lease.
- D. Each contractor shall be obligated to confine its operations to the portion of the Premises within which its construction work is to be performed, and shall not store materials or equipment elsewhere on the Premises unless permitted by Landlord. Storage of materials or equipment shall be limited to what is reasonably necessary for the construction of the Tenant's Permitted Improvements.
- E. Each contractor shall be obligated at all times to keep the Premises reasonably free from accumulation of waste materials or rubbish caused by its operations. At the completion of the contractor's work, the contractor shall remove all waste materials and rubbish from the Premises as well as all tools, construction equipment, and surplus materials. If any contractor fails to comply with these provisions, it shall be the responsibility of Tenant to cause such compliance and to immediately remedy any non-compliance. All construction waste shall be disposed of in a lawful manner.
- F. Each contractor under a contract with Tenant shall be required to furnish and keep in force a performance bond and a labor and material payment bond in an amount sufficient to guarantee the faithful performance of its obligations under such contract and to pay all obligations arising in connection therewith. Such bonds shall be in a form and with such sureties as Landlord may approve.

- G. When any construction of Tenant's Permitted Improvements is in progress, Tenant shall require its general contractor to maintain insurance as required by, and in accordance with, the terms and conditions of Section 9.1 herein, and may require Tenant and/or its general contractor to maintain such additional or different coverages deemed necessary by Landlord which may include, without limitation, so-called "Builders Risk Insurance."

#### 6.7 Payment for Tenant's Permitted Improvements

In no event shall any work related to the Tenant's Permitted Improvements, or any other improvements constructed by, on behalf of or under Tenants or Landlord's approval thereof, give rise to any lien on Landlord's interest in the Premises. Tenant shall pay the entire cost of all Tenant's Permitted Improvements promptly in cash or its equivalent so that both Landlord's and Tenant's interests in the Premises shall always be free of liens for labor and materials. If any lien relating to Tenant's Permitted Improvements constructed by, on behalf of or under Tenant is filed against the Premises, then Tenant shall discharge the same by payment or by filing any necessary bond within thirty (30) days after Tenant has notice from any source of such lien. Tenant's Permitted Improvements shall not include Landlord's Work; and Landlord shall be responsible for the cost of Landlord's Work as set forth in Sections 5.1 and 5.2.

#### 6.8 Nonconforming Improvements

In its construction of the Tenant's Permitted Improvements, Tenant shall ensure that there is no material deviation from the plans and specifications as approved by Landlord, except and only to the extent that changes have been requested in writing and have been approved in writing by Landlord. Landlord's representatives may enter upon the Premises from time to time on reasonable notice to Tenant for the purpose of inspecting the work being performed by Tenant, and such entry shall not be construed to be a violation of the Tenant's right to use and occupancy of the Premises.

In the event Tenant shall fail to comply with the foregoing requirements in proceeding with construction or modification of all or any part of the Tenant's Permitted Improvements, the Landlord may, within a reasonable time after discovery thereof, direct in writing that the Tenant modify or reconstruct such portion or portions of the Tenant's Permitted Improvements as deviate from the approved plans and specifications, or any change with respect to same, in order to bring them into conformance therewith. Tenant shall promptly comply with such a directive. In addition to any other remedies available to it under law or under this Lease, Landlord may enforce the provisions of this paragraph by an action in a court of appropriate jurisdiction to compel specific performance.

#### 6.9 As Built Drawings

Tenant shall provide Landlord with a complete set of "as built" plans and specifications for the Tenant's Permitted Improvements constructed by Tenant for which plans and specifications are required by this Lease, together with copies of all final permits and approvals issued by federal, state or local agencies and state or local plumbing gas, electrical, building and other inspectors.

In addition, Tenant shall advise Landlord in writing whenever Tenant permanently relocates or modifies in any material respect any utility services within the Premises, including, but not limited to, the addition or rerouting of any electric, gas, water or sewer service or line.

#### 6.10 Mechanics' Liens

No mechanics', materialmen's or similar liens shall ever attach against Landlord's interest in and to the Premises by reason of any work performed by Tenant on or to the Premises. If any such lien

shall be put on record, Tenant agrees promptly (but in any event, within thirty (30) days of the date that such lien is put on record) to arrange for the discharge of said lien by payment, bonding or otherwise as may be required to discharge said lien of record.

## **ARTICLE VII UTILITIES**

### **7.1 Utilities**

Tenant shall pay the appropriate suppliers for all water, gas, fuel oil, electricity, telephone and any other utilities and communications services used by Tenant on the Premises, and Tenant shall instruct said suppliers to bill Tenant directly therefore. Upon request, Tenant shall supply Landlord with such documentation as Landlord may reasonably request to verify compliance with the foregoing. Tenant shall also pay all costs associated with the installation, repair and maintenance of the wires, pipes, conduits, and other equipment needed to deliver utilities to the Premises, and shall procure, without cost to Landlord, any and all necessary permits, licenses, or other authorizations required for the lawful and proper installation and maintenance of such utility systems. Landlord agrees to cooperate and, if necessary, join with Tenant in any application required for obtaining or continuing such services.

Landlord makes no warranty or representation as to the availability of water, gas, or any other utility service, and Landlord shall not be in default hereunder or be liable for any damages directly or indirectly, resulting from Tenant's inability to obtain such services or from the limitation, curtailment, rationing or restriction on use of water, electricity, gas or any other form of energy or utility service.

## **ARTICLE VIII TAXES**

### **8.1 Tenant to Pay All Taxes**

In the event real estate taxes or property taxes shall be levied on the Premises or any part thereof for any reason, Tenant agrees to pay any such taxes when and as due. Tenant shall also be responsible for payment of all taxes levied on any good or services sold on the Premises, and any other taxes arising out of Tenant's occupancy, use, sub-leasing, alterations, maintenance, improvement, or operation of the Premises.

## **ARTICLE IX INSURANCE**

### **9.1 Required Liability Insurance**

Tenant shall, at its sole cost and expense, obtain and keep in full force and effect, throughout the Term and for a reasonable time thereafter at least equaling any applicable statute of limitations period where necessary to provide coverage for claims asserted based on events occurring during the Term (and shall cause each of its contractors that will enter upon the Premises to obtain and keep during the period of the applicable contract and for a reasonable time thereafter at least equaling any applicable statute of limitations period where necessary to provide coverage for claims asserted based on events occurring during the term of such contract), adequate insurance coverage



for the benefit of Landlord, but in no even shall such insurance coverage be less than the following types and amounts of coverage:

- A. Commercial General Liability Insurance with combined limits for bodily injury and property damage liability of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Such insurance shall apply to: (i) liability arising out of the intentional or negligent acts, omissions or other activities of the Tenant and its contractor(s) and their respective employees, agents, contractors, subcontractors, representatives and any other party for whom the Tenant or its contractor(s) is legally responsible; (ii) liability assumed under contract; and (iii) liability imputed to the Tenant or its contractor(s) through the activities of independent contractors. Coverage shall be written on an occurrence basis and shall include but not be limited to:

- Products and completed operations hazard
- Contractual liability covering this contract
- Personal Injury coverage
- Property damage
- Coverage for the so-called “x, c, u hazards”, i.e., collapse of buildings, blasting, and damage to underground property.

- B. Massachusetts Worker’s Compensation insurance in compliance with applicable federal and Massachusetts law.
- C. Automobile Liability Insurance covering all of Tenant’s owned, rented, leased or borrowed vehicles in accordance with applicable automobile insurance laws of the Commonwealth of Massachusetts, with limits of \$1,000,000 combined single limits for bodily injury and property damage liability. Coverage shall be written on a per accident basis.
- D. Umbrella Liability coverage, providing excess coverage over the above named primary policies. Coverage shall be written on an occurrence basis with limits of not less than \$2,000,000 combined single limit. The coverage provided by the policy shall afford coverage that is no less broad than the underlying policies.
- E. Such additional or different coverages and/or coverage amounts as Landlord may reasonably require from time to time while this Lease is in effect, or as may be required pursuant to applicable law.
- F. If any required coverage is to be self-insured, it must be approved by Landlord prior to execution of contract.

#### 9.2 Required Property Insurance

From and after the Substantial Completion Date, if and to the extent there are any buildings constructed by, for or on behalf of the Tenant on the Premises, Tenant, at its sole cost and expense, shall keep in full force and effect property insurance on the Premises, all improvements thereon and equipment and property installed or used in, on or about the Premises, naming Landlord and Tenant as their respective interests may appear, in amounts sufficient at all times to prevent Landlord from becoming a co-insurer under the provisions of applicable policies of insurance, but, in any event, at least equal to the full replacement cost thereof, without deduction for depreciation, against all risks of direct physical loss or damage as may from time to time be included within the definition of an “All Risk” or “Broad Form” property insurance policy and extended to include

coverage against earthquake, earth movement, flood (including back-up of sewers and drains), sprinkler leakage, breakdown of boilers, machinery and electrical equipment, war risk, nuclear reaction, lightning, wind storm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, demolition and such other risks as Landlord may reasonably designate. The insurance also shall cover increased cost of construction, demolition and debris removal coverage, and contingent liability arising out of the enforcement of building laws and ordinances governing repair and reconstruction and shall include an agreed amount provision. The replacement cost of all improvements and of any other property installed or used in, on or about the Premises shall be determined at least once every thirty-six (36) months by Landlord.

### 9.3 Other Insurance Policy Requirements

Through the Massachusetts Interlocal Insurance Association, Inc. ("MIIA"), the non-profit member-based corporation serving the insurance needs of Massachusetts cities and towns, or through its successor or through another provider or providers, Tenant's insurance will comply with the following provisions, unless commercially unavailable to Tenant:

- A. Duly executed certificate of insurance evidencing all insurance policies specified above, shall be submitted to Landlord prior to Landlord's execution of this Lease, which certificates shall be attached hereto as ***Exhibit C***. At least thirty (30) days prior to the expiration of each such insurance policy, Tenant shall furnish Landlord with the re-issuance of a policy continuing the insurance in force as required hereunder. Tenant's contractor(s) performing work or conducting activities under this Lease shall submit certificates of insurance within ten (10) days of the award of their subject contract or license. Certificates shall be addressed to Landlord. Landlord is entitled to rely upon the information provided in the certificates. Tenant agrees that, if any certificate of insurance required hereunder does not conform with the requirements set forth in this Article IX, that said certificate does not confer rights to the certificate holder, or otherwise disclaims responsibility for Landlord's reliance thereon, Tenant must deliver to Landlord endorsements demonstrating the specified additional insured status of Landlord and/or providing substantially and unequivocally that Landlord may, but shall not be obligated to, make premium payments to prevent such cancellation for non-payment of premiums and that such payments shall be accepted by the insurer.
- B. All insurance to be provided hereunder shall be with insurance companies licensed or approved by the Commonwealth of Massachusetts and shall have a Best's Rating of not less than "A-minus", Financial Size Code IX.
- C. All insurance to be provided hereunder shall provide Landlord with a minimum of thirty (30) days prior notice of cancellation or nonrenewable or ten (10) days prior notice in case of cancellation due to the nonpayment of any premium.
- D. Except for Workers' Compensation and Automobile Liability insurance policies, all insurance policies specified above shall be endorsed to name Landlord as an additional insured. This provision must be specifically stated as being endorsed to each required insurance policy on the certificate of insurance evidencing such coverage.
- E. All insurance maintained by the Tenant's contractor(s), except Worker's Compensation and Automobile Liability insurance policies, shall provide that insurance for the benefit of Landlord shall be primary and non-contributory. This provision must be specifically stated as applying to each required policy on the certificate of insurance evidencing such coverage.

Landlord hereby retains the right to periodically review the types and amounts of insurance being maintained by Tenant and to require additional insurance or higher coverage limits to the extent that such additional insurance is commercially available and reasonably prudent under the then existing circumstances.

If Tenant fails either to acquire the insurance required by this Article IX, or to pay the premium for such insurance, Landlord may, in addition to any other rights or remedies available to Landlord, and notwithstanding any other provisions of this Lease concerning notice and cure of defaults, acquire such insurance and pay the requisite premiums for them. Such premiums will be payable by Tenant to Landlord immediately upon demand.

In proof of any damages which Landlord may claim against Tenant arising out of Tenant's failure to maintain insurance, Landlord will not be limited to the amount of unpaid insurance premium but rather Landlord will also be entitled to recover as damages for such breach, the amount of any uninsured loss (to the extent of any deficiency in the insurance required by the provisions of this Lease), damages, costs and expenses of suits, including attorneys' fees arising out of damage to, or destruction of, the Premises occurring during any period for which Tenant has failed to provide such insurance.

#### 9.4 Personal Property at Tenant's Risk

All of the furnishings, fixtures, equipment, effects, improvements and property of every kind, nature and description of Tenant shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, no part of said loss or damage is to be charged to or to be borne by Landlord or the Federal Highway Administration, except that Landlord shall in no event be indemnified or held harmless or exonerated from any liability to Tenant or to any other person, for any injury, loss, damage or liability to the extent caused by the gross negligence or willful misconduct of Landlord, or its agents, servants, or employees acting within the scope of their agency, service or employment.

#### 9.5 Application of Insurance Proceeds

In the event of any partial or total damage to or destruction of an insured building, structure, or other improvement, Tenant shall: (i) give immediate notice thereof to Landlord, (ii) proceed immediately to establish and collect all valid claims which may have arisen against insurers based upon any such damage or destruction, and (iii) promptly repair or reconstruct the damaged building, structure or other improvement upon the same general plan and dimensions and to the same general quality as before the damage or destruction. Such repair or reconstruction shall be performed in accordance with the requirements of Article VI hereof. All proceeds of any insurance claim shall be held in trust and applied only for the purpose of repairing or reconstructing the buildings, structures or other improvements which have been destroyed or damaged.

#### 9.6 Landlord's Required Insurance

Throughout Landlord's entry onto the Premises under Section 2.3 (a), Landlord's or its grantees' use of the Premises under Section 2.3(b), and Landlord's Work under Section 5.1, and for a reasonable time thereafter at least equaling any applicable statute of limitations period where necessary to provide coverage for claims asserted based on events occurring during such entry, use or work, Landlord shall cause each of its contractors and grantees that will enter upon the Premises to obtain and keep in force and effect adequate insurance coverage which in no event shall be less than the types and amounts of coverage specified in Sections 9.1 (A) through 9.1 (C).

## ARTICLE X INDEMNIFICATION

### 10.1 Assumption of Risk

Tenant, without waiving or abridging any defenses or immunity from liability it may be able to assert against a party other than the Landlord, assumes all risk of damage or injury to any person or property located in, on or about the Premises from any cause except to the extent that: (a) such damage or injury occurs prior to the Substantial Completion Date as a result of Landlord's Work, (b) such damage or injury is caused by the gross negligence or willful misconduct of Landlord or its agents, employees, or contractors acting within the scope of their agency, employment or contract, (c) such damage or injury is caused by any person using or occupying all or any portion of the Premises pursuant to Landlord Reservation of Rights set forth in Section 2.3 hereof, or (d) such damage or injury is caused by any person using or occupying all or any portion of the Premises pursuant to an existing easement, lease, license or other right to the extent that such rights are still in effect and applicable as of the Commencement Date.

### 10.2 Release of Landlord

Except for matters set forth in Sections 10.1(a) through 10.1(d), Tenant hereby releases Landlord from any responsibility for Tenant's losses or damages related to the condition of the Premises and Tenant covenants and agrees that it will not assert or bring, nor cause any third party to assert or bring, any claim, demand, lawsuit or cause of action (whether by way of original claim, cross claim, counterclaim, contribution claim, indemnification claim, third-party claim or fourth-party claim) (hereinafter "**Claims**") against Landlord including, without limitation, claims for response actions, response costs, assessments, containment, removal and remedial costs, governmental oversight charges, including any overhead or response action costs incurred or assessed by the Massachusetts Department of Environmental Protection, fines and penalties, permit and annual compliance fees, reasonable attorney and expert fees, natural resource damages, property damages, including diminution in property value claims, and personal injury damages and damages related to a person's illness or death relating to, or arising from, Tenant's use of the Premises (or the use of the Premises by those permitted onto the Premises by Tenant) pursuant to this Lease.

### 10.3 Indemnification of Landlord by Tenant

If and to the extent permitted by law, Tenant hereby covenants and agrees to indemnify and hold harmless the Commonwealth of Massachusetts and the Landlord and their respective bond trustees and mortgagees, directors, officers, agents, and employees (collectively, the "**Indemnitee**") from any and all claims, actions at law, suits in equity, losses, damage, costs (including reasonable attorney's fees) or injury of whatever kind and nature, whether direct or indirect, arising out of the acts, omissions or negligence of Tenant, its agents, employees, contractors, or licensees during the Term in or about the Premises, or caused by any act, neglect, fault, work, improper conduct, omission, or breach of any covenant or condition of this Lease during the Term by Tenant, its agents, employees, contractors, or licensees. Tenant's liability hereunder extends to the acts or omissions during the Term of any sub-tenant, and any agent, employee, contractor, or licensee of any sub-tenant.

Tenant agrees, to the extent permitted by law, to indemnify and hold Indemnitee harmless from and against all bills for labor performed and equipment, fixtures and materials furnished to Tenant, and applicable sales taxes thereon as required by Massachusetts law, and from and against any and all liens, bills or claims therefor against the Premises, and from and against all losses, damages, costs,

expenses, suits, and claims whatsoever in connection with any improvements or alterations made by Tenant during the Term.

Notwithstanding any provision of this Lease to the contrary, if either of the indemnifications set forth in this Section 10.3 proves ineffective for any reason, except by virtue of the operation of law including without limitation M.G.L. c. 23A, § 3I, Landlord shall have the right to immediately terminate this Lease by written notice to Tenant.

#### 10.4 Legal Proceedings

Landlord shall, as soon as reasonably possible, notify the Tenant in a timely manner by telephone and in writing (pursuant to Section 19.7 hereof) of any Claims against an Indemnitee that potentially fall within the scope of Sections 10.1 through 10.3 above. In the event Tenant is prejudiced by the Landlord's failure to provide such notice in a timely manner, the Tenant shall have no obligation to defend or indemnify the Indemnitee with respect thereto. Subject to the preceding sentence and to the limitations set forth in Sections 10.1 through 10.3 above, during the Term, Tenant, at Tenant's sole cost and expense, will defend by counsel satisfactory to Indemnitee, any and all suits may be brought and claims which may be made against Indemnitee, or in which Indemnitee may be impleaded with others, whether Indemnitee shall be liable or not, upon any such above-mentioned liability, loss, damages, expenses, costs of action, suits, interests, fines, penalties, claims, judgments and shall satisfy, pay and discharge any all judgments that may be recovered against Indemnitee in any such action or actions in which Indemnitee may be a party defendant, or that may be filed against the Premises, or any interests therein. Landlord will reasonably cooperate in and Tenant will have control over the defense and settlement of any such suits and claims defended by Tenant pursuant to Article X; provided, however, that Landlord's consent shall be required with respect to any settlement affecting the Landlord, and Landlord's consent with respect thereto shall not be unreasonably withheld. In the event of the failure of the Tenant to pay the sum or sums for which Tenant shall be liable as aforesaid, then Landlord may pay such sum or sums, with all interests and charges which may have accrued thereon, and such amount if so paid by Landlord shall be additional rent payable by Tenant to Landlord within thirty (30) days following the date on which demand therefor shall be made by Landlord. The foregoing indemnity shall survive the expiration or termination of this Lease and/or any transfer of all or any portion of the Premises, or of any interest in this Lease.

### **ARTICLE XI MAINTENANCE, REPAIRS, SAFE OPERATION**

#### 11.1 Buildings, Structures and Grounds

On and after the Substantial Completion Date, Landlord will cooperate with Tenant to cause each contractor that performed all or any portion of Landlord's Work to make good on any warranty provided by the contractor to the Landlord with respect to materials, fixtures, construction work, or otherwise, such that any faults and defects covered by any such warranty and not conforming thereto are addressed by the contractor pursuant to the warranty.

Otherwise, on and after the Substantial Completion Date, Tenant shall, at its sole cost and expense, maintain the Premises, the Multi-Use Path and any and all Tenant's Permitted Improvements, buildings, structures, and equipment located upon the Premises and make repairs, restorations, and replacements to any Tenant's Permitted Improvements and when needed to preserve them in good working order and condition, and of good appearance, regardless of whether the repairs, restorations and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital

or non-capital, or the responsibility or not the responsibility of the Tenant, its agents, employees, contractors, invitees, or licensees (unless caused solely by the gross negligence or willful misconduct of Landlord, or its agents, servants or employees acting within the scope of their agency, service or employment).

Tenant shall, at its sole cost and expense, maintain any and all bridges, culverts, drainage systems, roads, private crossings, paths and sidewalks located upon or within the Premises, and/or that comprise the Multi-Use Path or any Tenant's Permitted Improvements, in good repair and ~~may elect to~~ remove all accumulations of snow and ice therefrom. Tenant shall, at its sole cost and expense, perform any and all capital improvement or repairs to all bridges, culverts, drainage systems, roads, private crossings, paths and sidewalks located upon or within the Premises, and/or that comprise the Multi-Use Path. Landlord agrees to use good faith efforts to assist Tenant with finding and securing funding for the costs of said capital improvement or repairs. Tenant shall maintain, and if necessary replace, lawns, shrubbery, trees and ground discharge of substances in concentrations which will result in harm to water supply, fish and wildlife. All activities of Tenant shall preclude the discharge of substances in concentrations which will result in harm to water supply, fish and wildlife. Chemicals may not be used to control undesirable vegetation, insects or rodents without prior written approval of Landlord. Only those materials approved and registered by the U.S. Environmental Protection Agency for the specific purpose planned will be considered for use on the Premises. Tenant shall follow label instructions in the preparation and applications of pesticides and disposal of excess materials and containers.

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All work performed by Tenant shall be accomplished in a manner so as to cause no unreasonable interference with any State highway.

#### 11.2 Sanitation

Tenant, at its sole cost and expense, shall keep the Premises in a clean and sanitary condition at all times. Tenant shall be responsible for all litter pickup, trash disposal, cleaning and sanitation. Tenant shall strictly comply with all state and local laws and regulations regarding sanitation and public health.

#### 11.3 Safe Operation of Facilities: Compliance with Laws

Tenant shall periodically inspect all areas of the Premises for the presence of unsafe and hazardous conditions and shall promptly remedy such conditions when found.

Unless expressly authorized by Landlord, Tenant shall not permit the sale or consumption of alcoholic beverages on the Premises.

This Lease shall be absolutely net to Landlord. Without in any way limiting Tenant's other obligations under this Article XI, Tenant shall, at Tenant's sole cost and expense, maintain the Premises and all buildings and improvements thereon in accordance with all applicable laws, rules, ordinances, requirements, and regulations of any board, bureau, commission, agency, body, or other entity of any municipal, county, state, federal or other governmental body now or hereafter having or acquiring jurisdiction over the Premises or the use or the improvement thereof (each a "**Governmental Authority**") over all or any part of the Premises and of all insurance companies insuring Tenant's interest in all or any part of the Premises.

## ARTICLE XII HAZARDOUS MATERIALS

#### 12.1 Hazardous Materials Activities

Tenant shall not cause any hazardous materials or toxic wastes, hazardous or toxic substances or hazardous or toxic materials (collectively, “*Hazardous Materials*”) to be used, generated, stored, released or disposed of in, on, under or about, or transported to or from the Premises (collectively, “*Hazardous Materials Activities*”) without first receiving Landlord’s prior written consent, which may be withheld for any reason or revoked at any time. If Landlord consents to any such Hazardous Materials Activities, Tenant shall conduct them in strict compliance with all applicable Hazardous Waste Laws, as hereinafter defined, using all necessary and appropriate precautions, and shall not cause or permit any release or threat of release of Hazardous Materials. In the event of a release or threat of release of any (i) Hazardous Materials on account of any Hazardous Materials Activities of Tenant or its employees, agents, contractors, licensees or invitees, or (ii) any release or migration of Hazardous Materials within, onto or under the Premises from adjoining property owned by parties other than Landlord, Tenant shall, at its sole cost and expense, conduct and complete all investigations, studies, sampling and testing, and all remediation, removal and other actions necessary to clean up the release or eliminate the threat of release in accordance with all applicable legal requirements. Landlord shall not be liable to Tenant under this Lease for any Hazardous Materials Activities by Tenant, Tenant’s employees, agents, contractors, licensees or invitees or any other third-party, whether or not consented to by Landlord.

For purposes of this Lease, “Hazardous Materials” shall include, but not be limited to, gasoline of all types and all substances defined as “hazardous substances”, “toxic substances”, “oil”, “asbestos”, “solid waste”, “hazardous materials” or “hazardous wastes” in any federal, state or applicable local statute, law, ordinance, code, rule, regulation, order, decree, notice or policy now or hereafter enacted or promulgated concerning hazardous materials (collectively, “*Hazardous Waste Laws*”).

Prior to using, storing or maintaining any Hazardous Materials on or about the Premises, Tenant shall provide Landlord with a list of the types and quantities thereof, and shall update such list as necessary for continued accuracy. Tenant shall also provide Landlord with a copy of any Hazardous Materials inventory statement required by any applicable Hazardous Waste Laws, and any update filed in accordance with any applicable Hazardous Waste Laws. If Tenant’s activities violate or create a risk of violation of any Hazardous Waste Laws, Tenant shall cease such activities immediately upon notice from Landlord. Tenant shall notify all government agencies required by law and Landlord, immediately by telephone and in writing of any release or discharge of Hazardous Materials or of any condition constituting a threat of release of Hazardous Materials.

Landlord and officers, employees, contractors or agents of Landlord may (but shall not be obligated to) enter upon the Premises at any time during the Term of inspect Tenant’s compliance herewith or to determine whether Tenant or occupants of adjacent properties are complying with all applicable Hazardous Waste Laws, and may disclose any violation of any Hazardous waste Laws to any governmental agency. Landlord shall also have the right to establish test wells on or near the Premises to monitor whether any chemical levels are increasing on or near the Premises because of the activities of Tenant or other occupants of the Premises or adjacent properties. Landlord shall use its best efforts to minimize interference with the Tenant’s business or that of other occupants of the Premises or adjacent properties, but shall not be liable for any interference caused thereby.

#### 12.2 Indemnification for Hazardous Materials Activities

If and to the extent permitted by law, and except as provided by M.G.L. c. 23A, §3I, and except as to Hazardous Materials Activities of any person using or occupying all or any portion of the



Premises pursuant to Landlord Reservation of Rights in Section 2.3 hereof or pursuant to an existing easement, lease, license or other right to the extent that such rights are still in effect and applicable as of the Commencement Date, Tenant hereby agrees to indemnify, hold harmless, and defend Indemnitee from and against all losses, damages, claims, liens, encumbrances, obligations, liabilities, actions, causes of action, response costs and expenses including reasonable attorney's, engineer's, and other costs and expenses and fees actually and reasonably incurred in connection therewith, suffered by, asserted or assessed against the Indemnitee, which arise during the Term from (i) Hazardous Materials Activities during the Term of Tenant or its agents, employees, contractors, or licensees, (ii) the Hazardous Materials Activities on the Premises during the Term of any persons other than those of Landlord or its agents, employees, or contractors, (iii) Hazardous Materials or related conditions during the Term at, under, on, or in the Premises except to the extent such Hazardous Materials or related conditions were released, exacerbated or addressed by Landlord or its agents, employees, or contractors during the Landlord's Work or from property off the Premises, and (iv) any release or migration of Hazardous Materials at, under, on, in, over or affecting the Premises during the Term unless caused by Landlord or its agents, employees, or contractors during the Term. The indemnification provided in this Section 12.2 shall also specifically cover, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal or restoration work required during the Term by any board, bureau, commission or body of any municipal, county, state, federal or other governmental body, now or hereafter having or acquiring jurisdiction over the Premises or the use of the improvement thereof (each a "**Governmental Authority**") because of the presence or suspected presence of Hazardous Materials at, under, on, in, over or affecting the Premises, or any allegation thereof, whether such claim proves to be true or false, and additional costs necessary to protect against the release or threat of release of Hazardous Materials at, on, in, under, over or affecting the Premises, into the air, any body of water or any adjacent and surrounding areas. Those costs may include, but are not limited to, diminution in the value of the Premises, damages for the loss of restriction on use of rentable or usable space or of any amenity of the Premises, sums paid in settlement of claims, attorney's fees, consultants' fees and experts' fees, and the enforcement of Tenant's obligations hereunder. Landlord will reasonably cooperate in and Tenant will have control over the defense and settlement of any such suits and claims defended by Tenant pursuant to Article X; provided, however, that Landlord's consent shall be required with respect to any settlement affecting the Landlord, and Landlord's consent with respect thereto shall not be unreasonably withheld.

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Except with respect to any known Hazardous Materials or related conditions at, under, on, or in the Premises as of the Effective Date of this Lease, this indemnification shall survive the expiration or earlier termination of this Lease and any transfer of all of any portion of the Premises, or of any interest in the Lease. Notwithstanding any provision of this Lease to the contrary, if the indemnification set for in this Section 12.2 proves ineffective for any reason, except by virtue of the operation of law including without limitation M.G.L. c. 23A, §31, Landlord shall have the right to immediately terminate this Lease by written notice to Tenant.

### 12.3 Notices of a Release of Hazardous Materials

Landlord and Tenant shall promptly notify the other by telephone and in writing (such notice to be given pursuant to Section 19.7 hereof) of all spills, releases or discharges of any Hazardous Materials; any condition constituting a threat of such spill, release or discharge; all failures to comply with any federal, state or local law, or with any regulation or ordinance; all inspections of the Premises by any regulatory entity concerning the same; all notices, orders, fines or communications of any kind from any Governmental Authority of third party that relate to the presence or suspected presence of any Hazardous Materials on the Premises or the migration or



suspected migration of any Hazardous Materials from other property onto or beneath the Premises or to other property from the Premises; and all responses to interim cleanup action taken by or proposed to be taken by any government entity or private party on the Premises. Landlord and Tenant shall provide the other with copies of all notices with respect to any of the foregoing received from any federal, state or local authority or official or from any other third party. In the event Tenant is prejudiced by the Landlord's failure to provide timely notice, the Tenant shall have no obligation to defend or indemnify the Indemnitee under Article XII with respect thereto.

#### 12.4 Remedial Work

If and to the extent covered by the Indemnification for Hazardous Materials Activities set forth in Section 12.2 and except as provided in Section 12.3, if any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work (the "**Remedial Work**") of any kind is necessary under any applicable local, state or federal laws or regulations, or is required by any Governmental Authority because of or in connection with the presence or suspected presence of Hazardous Materials on or under the Premises, Tenant shall have sole responsibility for all such Remedial Work and all costs and expenses of such Remedial Work shall be paid by Tenant.

Landlord shall have the right to contest the assertion by any Governmental Authority or any third party of any obligation or liability affecting Tenant, Landlord, or all or any portion of the Premises for performance of any Remedial Work. Landlord shall have the right to perform any Remedial Work, and if and to the extent covered by the Indemnification for Hazardous Materials Activities set forth in Section 12.2, Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord in connection therewith as set forth above.

Failure by Landlord to object to any actions taken by Tenant shall not be construed to be an approval by Landlord of such actions. Nothing contained herein shall be construed as creating any obligation for Landlord to review any plans for Remedial Work, or to perform, or review Tenant's or any other party's performance of any Remedial Work. However, in the event that Remedial Work is required, and Landlord elects to perform such Remedial Work, Tenant shall provide Landlord and its agents and employees with such access to the Premises as shall be required in connection therewith. Landlord shall have the right, in its sole discretion, to undertake such Remedial Work, and Landlord shall not be liable for any loss sustained by Tenant resulting from any Remedial Work undertaken by Landlord or from any other act or omission of Landlord in connection therewith except to the extent such loss is caused by the gross negligence or willful misconduct of Landlord, or its agents, servants, or employees acting within the scope of their agency, service or employment.

### ARTICLE XIII INSPECTION AND ACCESS

#### 13.1 Landlord's Right to Inspect Premises

Throughout the Term, Landlord and its representatives, including, without limitation, representatives of the Federal Highway Administration, shall have the right, but not the duty, to inspect the Premises for the purpose of ascertaining Tenant's compliance with the terms of this Lease. If requested by Landlord, Tenant shall provide a representative to accompany Landlord on each such inspection. Landlord shall also have the right to establish tests wells on or near the Premises to monitor chemical levels on or near the Premises.

#### 13.2 Landlord's Access

Throughout the Term, Landlord and its representatives shall have the right to pass in, on and over the Premises for the purpose of maintenance, repair and/or replacement of Landlord's adjacent facilities.

Tenant shall allow any public or private utility holding an easement, license or permit regarding the Premises or any portion thereof, to enter the Premises and perform routine and emergency repairs and maintenance work.

#### **ARTICLE XIV ACCOUNTING AND REPORTING**

##### **14.1 Repair and Maintenance Records**

In addition to any other books and records maintained by Tenant which pertain to the Premises, the Multi-Use Path or any Tenant's Permitted Improvements or to the performance of the provisions and obligations of this Lease, Tenant shall maintain proper records of all repairs and maintenance made to the Premises, the Multi-Use Path and any Tenant's Permitted Improvements and shall make these available to Landlord for review, audit and analysis upon request. Tenant shall preserve all such books and records pertaining to the Premises, the Multi-Use Path or any Tenant's Permitted Improvements for a period of six (6) years following the close of each fiscal year of the Tenant.

#### **ARTICLE XV ASSIGNMENT AND SUBLETTING**

##### **15.1 Limitations**

Tenant shall not assign, transfer, convey, sublet, encumber or dispose of its right, title or interest in the whole or any part of the Premises or in this Lease, nor enter into any agreement with any entity or person, except for employees of the Tenant, to exercise substantial management responsibilities for the operations authorized hereunder or any part thereof, without the prior written consent of Landlord, which may be withheld for any reason whatsoever.

The failure of a transferee or any other successor in interest to Tenant to assume the obligations of Tenant hereunder or to obtain the approval of Landlord as herein required shall not relieve such transferee or successor of such obligations or limit Landlord with respect to any rights, remedies or controls it may have under this Lease.

Any transfer by operation of law or otherwise of Tenant's interest in this Lease or of a controlling interest in Tenant's ownership so as to permit the exercise of substantial managerial influence over the operations of Tenant by such transferee shall be deemed a transfer of Tenant's interests in the Premises for the purposes of this Article XV. Tenant agrees to comply with the requirements of Massachusetts General Laws, Chapter 7C, Section 39, regarding the filing of updated beneficial interest disclosure statements.

#### **ARTICLE XVI EMINENT DOMAIN**

##### **16.1 Taking by Eminent Domain**

If a substantial part of the Premises shall be taken for any public or quasi-public use under governmental law or by right of eminent domain and such taking would materially interfere with the use of the Premises by Tenant for the purposes contemplated by this Lease, then the Lease may be terminated by either Landlord or Tenant. Landlord or Tenant shall make such election by giving the other party written notice within sixty (60) days after the event giving rise to a right to terminate. Any such termination shall be effective thirty (30) days after the date of notice thereof.

Landlord reserves all rights to damages payable by reason of anything lawfully done in pursuance of any public or other authority and, by way of confirmation, Tenant grants to Landlord all of Tenant's rights to such damages and agrees to execute and deliver such further instruments of assignment thereof as Landlord may from time to time request. Where, as the result of a taking by eminent domain or for any other reason, the Lease is terminated or modified so as to require the permanent or temporary, total or partial displacement of Tenant from the Premises prior to or at the expiration of the Term, Tenant waives any benefits to which Tenant may be entitled under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, an Tenant shall be excluded from any relocation benefits available under said Act or any amendments thereto.

#### **ARTICLE XVII RIGHT OF LANDLORD TO PERFORM**

##### **17.1 Landlord's Right to Perform Tenant's Obligations**

If Tenant fails to pay when due amounts payable under this Lease, except for payments of Rent, or to perform any of its other obligations under this Lease within the time permitted for its performance, then Landlord, after thirty (30) days' prior written notice to Tenant (or, in the case of any emergency, upon such notice or without notice, as may be reasonable under the circumstances) and without waiving any of its right under this Lease, may, but shall not be required to, pay such amount or perform such obligations.

All amounts paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any such obligations (together with interest at the statutory rate) per annum from the date of Landlord's payment of such amount until the date of full repayment by Tenant) will be payable by Tenant to Landlord as additional rent on demand.

#### **ARTICLE XVIII DEFAULTS AND REMEDIES**

##### **18.1 Events of Default by Tenant**

The following events shall be deemed to be events of default by Tenant under this Lease:

- (a) Tenant shall fail to pay when due any sum of money due Landlord hereunder or any other payment or reimbursement due Landlord by the terms of this Lease, and such failure shall continue for a period of ten (10) days from the date when such payment was due.
- (b) Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the failure to pay a sum of money due Landlord, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant or, in the case of failures that cannot be cured within thirty (30) days, commence to cure such failure within thirty (30) days and thereafter diligently pursue such cure to completion.

- (c) Tenant shall attempt to assign, transfer, convey, sublet, encumber or dispose of any of its right, title or interest in the whole or any part of the Premises without the prior approval of Landlord.
- (d) Tenant shall abandon any substantial portion of the Premises or cease to use a substantial portion of the Premises for the Permitted Uses.
- (e) This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon and subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged within fifteen (15) days after its levy.
- (f) Tenant shall fail to contest diligently the validity of any lien or claimed lien and give sufficient security to Landlord to insure payment thereof or shall fail to satisfy any judgement rendered thereon and have the same released within ten (10) days after Tenant has notice from any source of such lien.
- (g) Tenant shall file a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy law of the United States, or is dissolved, or makes an assignment for the benefit of creditors.
- (h) Involuntary proceedings under any such bankruptcy laws or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for all or substantially all of Tenant's property, and such proceeding is not dismissed or such receivership or trusteeship is not vacated within ninety (90) days after such institution or appointment.
- (i) Tenant shall fail to use the Premises for the Permitted Uses or shall use the Premises for any other uses.
- (j) Tenant shall fail to maintain the Premises in a safe, orderly and clean condition, and as otherwise required by this Lease.

#### 18.2 Remedies of Landlord

Upon the occurrence of any of the events of default in Section 18.1, Landlord shall have, in addition to the rights set forth in Article XVII of this Lease and any other remedies available to Landlord at law or equity, the immediate option, or the option at any time thereafter, to immediately terminate this Lease and all rights of Tenant hereunder by written notice to Tenant and this Lease will come to an end on the date such notice is deemed delivered to Tenant as fully and completely as if the Term had expired. Upon the termination of this Lease, Tenant shall immediately quit and surrender the Premises to Landlord in accordance with the terms of Section 19.2 herein, but Tenant shall remain liable for damages as hereinafter provided. In the event Tenant fails to quit and surrender the Premises, Landlord may re-enter and repossess the Premises and any improvements or any part thereof and remove Tenant and those claiming through Tenant from the Premises without being deemed guilty or liable in any manner of trespass and without prejudice to any remedies for arrears of rent or other default. Termination under this paragraph shall not relieve Tenant from the payment of any sum then due to Landlord, or from any claim for damages previously accrued against Tenant. Tenant hereby waives all statutory and equitable rights to its leasehold after termination of this Lease by Landlord under this paragraph, including, without limitation, rights in the nature of further cure or redemption, if any.

#### 18.3 Termination Damages

If this Lease is terminated for default, then Tenant covenants as an additional cumulative obligation after such termination, to pay all of Landlord's reasonable costs and expenses, including attorney's fees, related to (i) the termination of this Lease, (ii) the recovery of the Premises from Tenant, and (iii) the collection of the amounts due hereunder; all of said costs and expenses collectively referred to as "***Landlord's Termination Expenses***." Landlord's Termination Expenses shall be due and payable immediately from time to time upon notice from Landlord.

#### 18.4 Remedies Cumulative

The specific remedies to which Landlord or Tenant may resort under this Lease, and all other rights and remedies of Landlord and Tenant are cumulative, and any two or more may be exercised at the same time. Nothing in this Lease shall limit the right of Landlord to prove and obtain in proceedings for bankruptcy or insolvency an amount equal to the maximum allowed by any statute or rule of law in effect at that time.

#### 18.5 Waiver of Relocation Assistance

Where termination or modification of this Lease for any reason requires permanent or temporary, total or partial, displacement to Tenant, prior to or at the expiration of this Lease, Tenant waives any benefit that Tenant may be deemed entitled to under the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, and Tenant shall thereafter be excluded from any relocation benefits available under said act or amendments thereto.

### ARTICLE XIX MISCELLANEOUS

#### 19.1 Quiet Enjoyment

Landlord agrees that, except as otherwise provided in this Lease, and so long as Tenant performs and observes the agreements, conditions and covenants of this Lease on its part to be performed and observed, Tenant's use and enjoyment of the Premises will not be disturbed by Landlord or anyone claiming by, through or under Landlord.

#### 19.2 Surrender of Premises

At the end of the Term, or any extension or renewal thereof, or other sooner termination of this Lease, the Tenant peaceably will deliver to the Landlord possession of the Premises, together with the Multi-Use Path, all Tenant's Permitted Improvements, Permitted Amenities, and any other improvements or additions thereto within the Leased Premises, (unless Landlord has requested removal as a condition to approving construction of same) in the condition in which Tenant is required to maintain them under the terms of this Lease. Tenant may, upon termination of this Lease, remove all moveable furniture, trade fixtures, equipment, and other personal property belonging to Tenant, and Tenant shall repair any damage caused by such removal. Property not so removed shall be deemed abandoned by the Tenant, and Landlord may at its option, keep the same for its use or remove and dispose of the same in any manner as Landlord shall choose, and Tenant shall pay on demand any and all expenses incurred in such removal and disposal.

#### 19.3 Holding Over

Tenant has no right to hold over at the end of the Term. If Tenant retains possession of the Premises or any part thereof after expiration of the Term or earlier termination of the Lease, Landlord may

at its option, serve written notice upon Tenant that such holding over consists creation of tenancy at will, upon the terms and conditions set forth in this Lease, except for the rental rate, which shall be at market rent for comparable Multi-Use Paths in the Commonwealth at that time. If no such notice is given, then a tenancy at sufferance shall be deemed to be created and the rental described in the preceding sentence shall apply. The provisions of this paragraph shall not constitute a waiver by Landlord of any right or re-entry or any other remedy given by this Lease or otherwise available at law or equity; nor shall the acceptance of Rent operate as a waiver of Landlord's right to terminate this Lease for a default by Tenant hereunder.

#### 19.4 Status Report

Recognizing that both Landlord and Tenant may find it necessary or desirable to establish to third parties, such as accountants, lenders, government agencies, or the like, the then current status of performance hereunder, either party, upon the written request of the other made from time to time, will promptly furnish a written statement on the status of any matter pertaining to this Lease. Without limiting the foregoing, Tenant shall at any time and from time to time, but only after ten (10) days' prior written notice from Landlord, execute, acknowledge and deliver a written statement certifying that this Lease is in full force and effect subject only to such modification as may be set out; that Tenant is in possession of the Premises and is paying rent as provided in this Lease or specifying the amount of any unpaid rent; and that there are not any uncured defaults on the part of the Landlord, or specifying such defaults if they are claimed. If Tenant fails to deliver such statement in a timely manner, Tenant shall be deemed to have acknowledged that this Lease is in full force and effect, without modifications except as may be represented by Landlord, and that there are no uncured defaults in Landlord's performance. Any statement provided by either Landlord or Tenant hereunder may be relied upon by the other or any other party to whom Landlord or Tenant requests the statement be addressed.

#### 19.5 Waiver

If either Landlord or Tenant waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein. Furthermore, the acceptance of rent by Landlord shall not constitute a waiver of any preceding breach of this Lease by Tenant, regardless of Landlord's knowledge of such preceding breach at the time Landlord accepted such rent. Failure by either Landlord or Tenant to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or to diminish the right of such party to insist upon strict performance in the future. No provision of this Lease shall be deemed to have been waived by either Landlord or Tenant unless such waiver is in writing and signed by a duly authorized representative of the party to be bound thereby.

#### 19.6 No Brokerage

Landlord and Tenant each represents and warrants that no broker, agent, commission salesman or other person has represented it in connection with the procurement or consummation of this Lease. In the event any brokerage claims are asserted against Landlord predicated upon prior dealings with the Tenant, Tenant agrees to indemnify and hold Landlord harmless against any such claim.

#### 19.7 Notices: Time of Essence

All notices and other communications require or permitted to be given under this Lease shall, unless otherwise expressly permitted hereunder, be in writing, signed by a duly authorized representative of the party giving notice and shall be deemed delivered when given: (a) upon hand delivery, (b)

one (1) business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, or (c) three (3) business days after being deposited in the United States mail, certified, return receipt requested, postage prepaid; and address as follows:

<u>If to Landlord:</u> Massachusetts Department of Transportation Highway Division Ten Park Plaza Boston, Massachusetts, 02116	<u>If to Tenant:</u> Town of Sudbury ATTN: Town Manager 278 Old Sudbury Road Sudbury, Massachusetts 01776
<u>With a copy to:</u> <u>Massachusetts Department of Transportation</u> <u>Office of the General Counsel</u> <u>Ten Park Plaza, Suite 3510</u> <u>Boston, Massachusetts, 02116</u>  <u>And:</u> <u>Massachusetts Department of Transportation</u> <u>Director of Railroad Properties,</u> <u>MassDOT Rail Division</u> <u>Ten Park Plaza</u> <u>Boston, Massachusetts, 02116</u>	

Landlord or Tenant may, by notice given hereunder, at any time and from time to time, designate a different address to which notices shall be sent.

#### 19.8 Landlord's and Tenant's Consent

MassDOT's consent required by this Lease may be provided by the MassDOT Rail and Transit Administrator provided, however, that consent regarding access to and use of the Premises by third parties pursuant to Section 2.3 and other applicable provisions hereof shall be made through the Director of Railroad Properties, MassDOT Rail Division, or such other person as MassDOT may designate from time to time, by written notice to the Town.

Deleted: (a) \_\_\_\_\_, or (b) \_\_\_\_\_

Tenant's consent required by this Lease may be provided by the Sudbury Town Manager.

#### 19.9 Status of Parties

Landlord reserves no control whatsoever over the employment, discharge, compensation of or services rendered by Tenant's employees, agents or contractors. Tenant covenants and agrees that it will neither hold itself out as, nor claim to be, a partner, agent, joint venturer, officer or employee of the Landlord by reason of this Lease, and that it will not, by reason of this Lease, make any claim, demand or application to or for any right or privilege applicable to an employee or officer of the Commonwealth of Massachusetts. Nothing contained in this Lease shall create or be construed as creating a partnership or joint venture between Landlord and Tenant or constitute Tenant as an agent of Landlord.

#### 19.10 Governing Law

This Lease will be governed by and construed in accordance with the law of the Commonwealth of Massachusetts, and all legal actions brought in connection with this Lease shall be brought in courts within the Commonwealth of Massachusetts.

19.11 Entire Agreement

This Lease, together with its Exhibits, whether physically appended to this document or incorporated by reference without being so appended, contains all of the agreements of the parties and supersedes any previous negotiations. There are no agreements between Landlord and Tenant with respect to the subject matter of this Lease other than those set forth in this Lease and its Exhibits.

19.12 Headings

The headings herein are for convenience of reference only and shall in no way define, increase or limit the scope or intent of any provision of this Lease.

19.13 Partial Invalidity

If any term or provision of this Lease, or the application thereof to any person or circumstance, shall to any extent be deemed invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each other term and provision of this Lease shall remain valid and enforceable to the fullest extent permitted by law.

19.14 Force Majeure

In any case where either Landlord or Tenant is required to perform any act pursuant to this Lease, delays caused by or resulting from war, fire, flood, unusually severe weather, strikes or other causes beyond such party's reasonable control shall not be counted in determining the time during which such act shall be completed, whether such time be designated by a fixed date, a fixed time or a "reasonable" time, and such time shall be deemed to be extended by the period of the delay.

19.15 Recording

Landlord and Tenant agree not to record this Lease. Both parties will, at the request of either party, execute, acknowledge and deliver a Notice of Lease in recordable form. Such notice shall contain only the information required by law for recording. Tenant shall be responsible for the preparation of any plans required for the recording of any such notice and the recording costs thereof.

19.16 No Agreement Until Signed

No legal obligations shall arise with respect to the Premises or other matters herein until this Lease is executed and delivered by Land and Tenant, with all required signatures.

19.17 Accord and Satisfaction

No acceptance by Landlord of a lesser sum than any charge due hereunder shall be deemed to be other than an acceptance of the earliest installment of such charge due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or other charge be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy provided in this Lease.



#### 19.18 Successors and Assigns

This Lease and the covenants and conditions herein contained shall insure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and only such transferees of Tenant as are permitted hereunder.

#### 19.19 State Employees Barred from Interest

No official, employee or consultant of the Commonwealth of Massachusetts or Landlord shall have any personal interest, direct or indirect, in this Lease, nor shall any such official, employee or consultant participate in any decision relating to this Lease which affects their personal interest or the interests of any corporation, partnership, or association in which they are directly or indirectly interested. Tenant has on or prior to the date hereof delivered to Landlord and to the Commonwealth of Massachusetts Division of Capital Asset Maintenance and Management (“**DCAMM**”) Tenant’s Beneficial Interest Disclosure Statement, a copy of which is attached hereto as **Exhibit D**. Tenant agrees in case of any change of Tenant’s interest in the Premises during the Term, that is shall deliver to Landlord and to DCAMM a new Beneficial Interest Disclosure Statement within (30) days of such change.

#### 19.20 Limitation of Liability

No official, employee, agent, officer or consultant of the Commonwealth of Massachusetts or Landlord shall be personally liable to Tenant or to any partner or shareholder thereof, or to any successor in interest of person claiming by, through, or under Tenant or any partner or shareholder thereof, in the event of any default or breach of this Lease, or for any amount which may become due or on any claim, cause or obligation whatsoever under the terms of this Lease.

No official, employee, agent, officer, or consultant of the Tenant shall be personally liable to Landlord or to any partner or shareholder thereof, or to any successor in interest of person claiming by, through, or under Landlord or any partner or shareholder thereof, in the event of any default or breach of this Lease, or for any amount which may become due or on any claim, cause or obligation whatsoever under the terms of this Lease.

All claims against Landlord and Tenant shall be governed by the provisions of this Lease and Chapter 258 of the Massachusetts General Laws.

Except as between MassDOT and the Town under the terms and conditions of this Lease, nothing herein shall be construed, act, and/or operate to alter, limit, waive, eliminate, terminate, or otherwise modify statutory provisions, exemptions, exceptions, limits, and/or defenses available to either party under any applicable statutes and/or regulations relating to any claims or causes of actions asserted against either party.

#### 19.21 Nondiscrimination

Tenant agrees that it shall not, because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation, discriminate against any qualified employee, applicant for employment, subcontractor, or person or firm seeking to provide goods or services to Tenant, or deny any person access to the Premises or to any activities or programs carried out upon the Premises. Tenant shall comply with all applicable federal and state statutes, rules, and regulations prohibiting discrimination in employment or public accommodation. Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21,

Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, Landlord shall have the right to terminate this Lease and reenter and repossess the Premises and hold the same as if this Lease had never been made or issued.

#### 19.22 Counterparts

This Lease may be executed in any number of counterparts and each of such counterparts shall, for all purposes, be deemed to be an original and all such counterparts shall together constitute but one and the same Lease.

#### 19.23 Tenant's Due Authority and Compliance with Laws

Tenant has on or prior to the date hereof delivered to Landlord: (i) Tenant's Vote(s) and Town Clerk's Certificate, a copy of which is attached hereto as **Exhibit E** (ii) the Certificate dated \_\_\_\_\_, of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form for the [Project Name], EEA Number \_\_\_\_\_, a copy of which is attached hereto as **Exhibit F**, and (iii) the executed MEPA Agreement, a copy of which is attached hereto as **Exhibit G**.

#### 19.24 Executive Order 526

By signing this Lease, the Tenant hereby certifies under the pains and penalties of perjury that the Tenant currently complies with and will continue to comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law.

#### 19.25 Minority-, Women-, and Service Disabled Veteran-Owned Business Enterprises

Landlord encourages to the greatest extent possible, the active and meaningful equity participation of Minority-Owned Business Enterprises (MBEs), Women-Owned Business Enterprises (WBEs) and Service Disabled Veteran-Owned Business Enterprises (SDVBE), as certified by the Commonwealth of Massachusetts Supplier Diversity Office. Landlord also encourages Tenant to use, to the greatest extent possible, MBEs, WBEs and SDVBEs to provide services and materials. Tenant agrees, to the greatest extent possible, to purchase supplies and services concerning this Lease from certified MBEs, WBEs and SDVBEs.

*[Signature page of this Lease follows.]*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be signed and delivered as an instrument under seal by their duly authorized officers or representatives as of the date first set forth above.

**MASSACHUSETTS DEPARTMENT OF  
TRANSPORTATION**

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

Jamey Tesler  
Secretary & Chief Executive Officer

**TOWN OF SUDBURY**

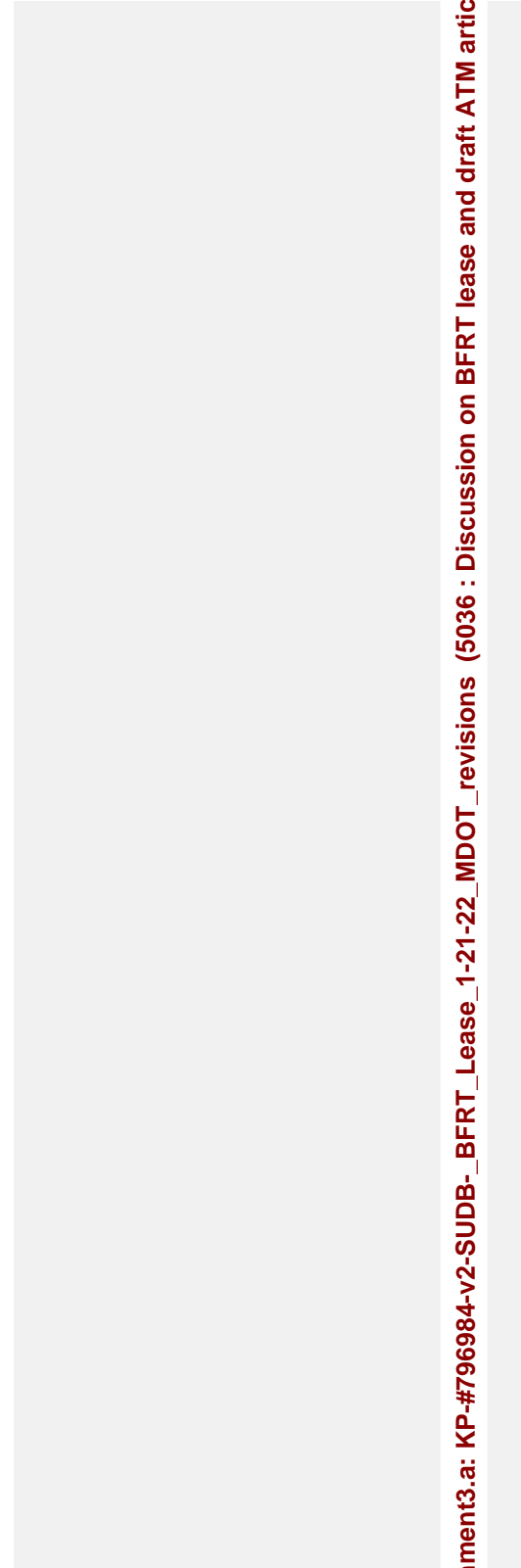
By: \_\_\_\_\_

[Name]  
[Title]

*1-21-22 DRAFT*

**EXHIBIT A**  
**Plan**

DRAFT

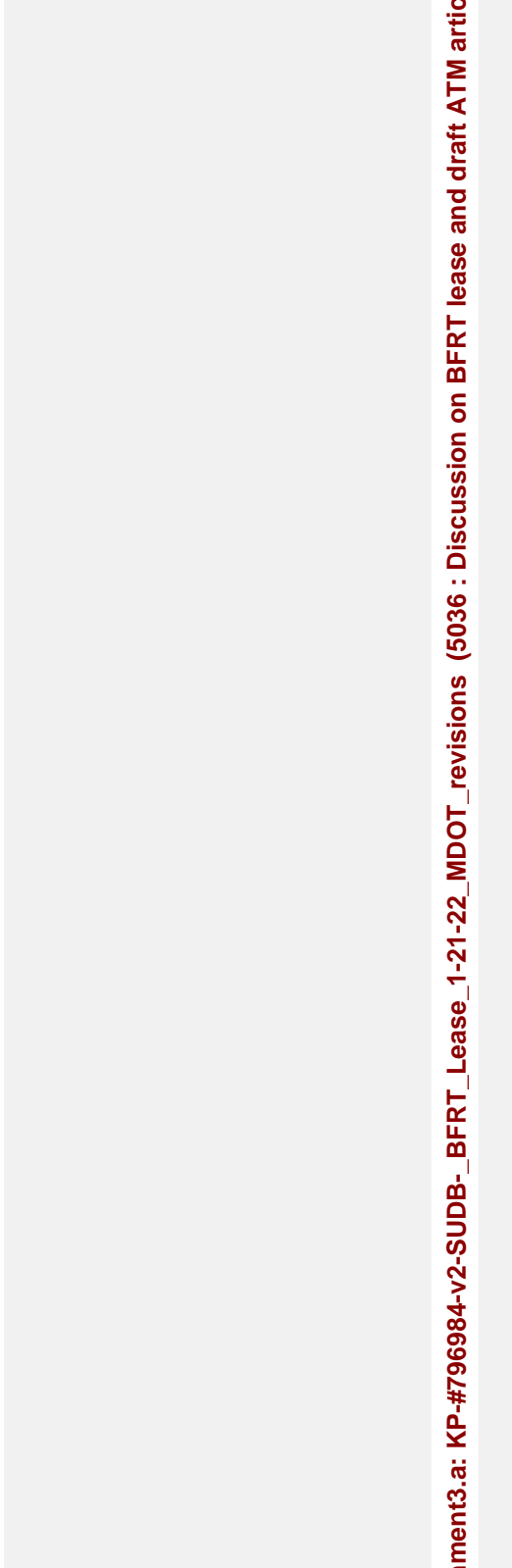


Attachment3.a: KP-#796984-v2-SUDB- BFRT\_Lease\_1-21-22\_MDOT\_revisions (5036 : Discussion on BFRT lease and draft ATM articles)

**EXHIBIT B  
DESIGN PLANS**

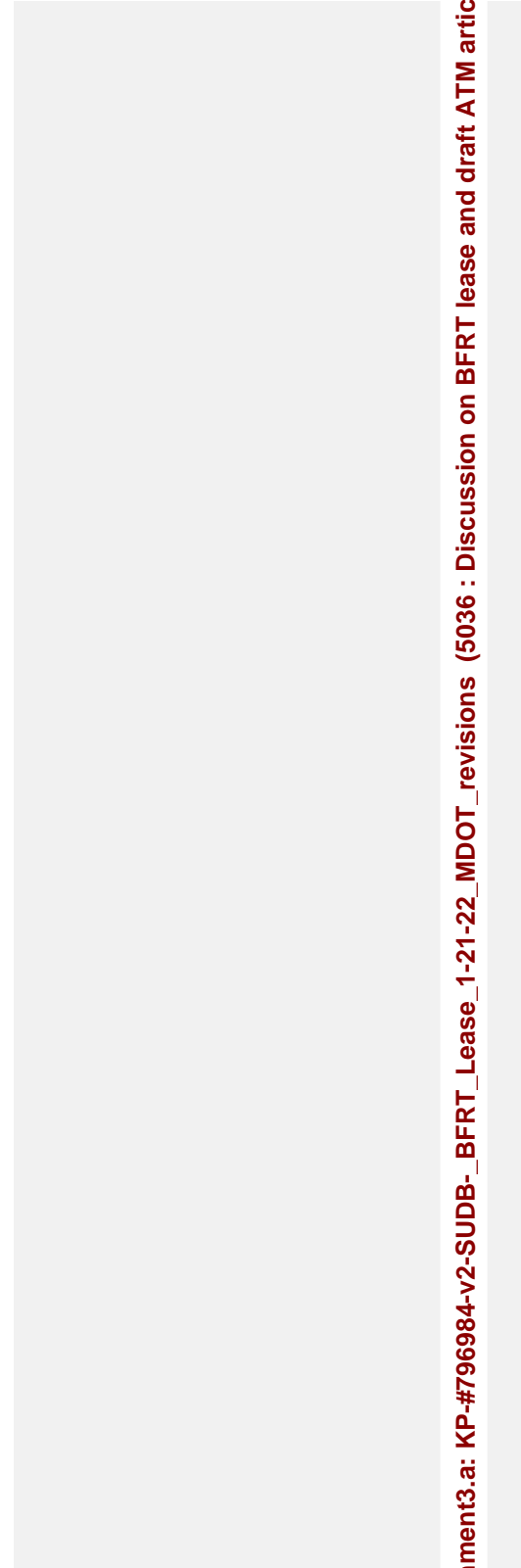
Exhibit B is the set of plans and specifications for the Multi-Use Path in the Town of Sudbury, \_\_\_\_\_ County, MA, from the Beginning Project Station \_\_\_\_ to the End Project Station \_\_\_\_\_, as approved by the FHWA, which are incorporated herein by reference. The plans prepared for the Massachusetts Department of Transportation, Highway Division, by \_\_\_\_\_, entitled "Plan and Profile of \_\_\_\_\_ in the Town of Sudbury (\_\_\_\_\_ County) Preliminary Right of Way Federal Aid Project No. \_\_\_\_\_", dated \_\_\_\_\_, consisting on that date of \_\_\_\_\_ pages, with all amendments through the final Plans and Specifications and Estimate set of plans as approved by the FHWA (the "Design Plans"). Sheet 1 of \_\_\_\_\_, of the Design Plans is attached hereto and incorporated herein by reference. The entire set of Design Plans is on file with the Massachusetts Department of Transportation and the Town of Sudbury, and incorporated herein by reference.

**EXHIBIT C  
CERTIFICATES OF INSURANCE**



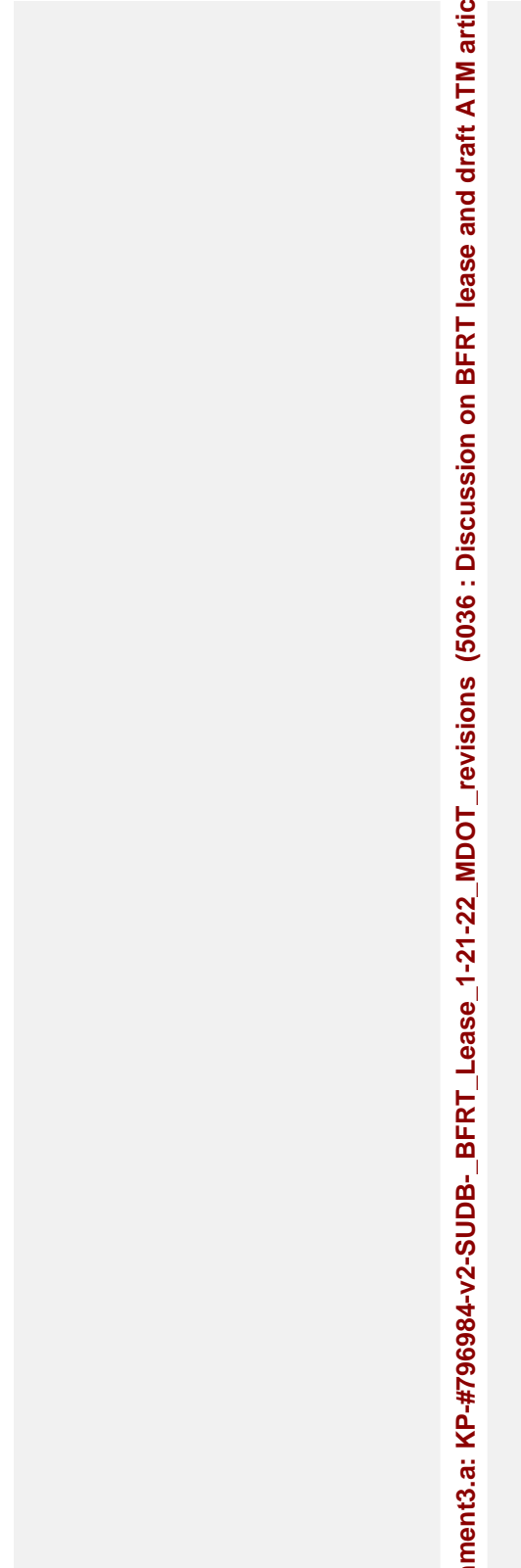
Attachment3.a: KP-#796984-v2-SUDB- BFRT\_Lease\_1-21-22\_MDOT\_revisions (5036 : Discussion on BFRT lease and draft ATM articles)

**EXHIBIT D**  
**TENANT'S BENEFICIAL DISCLOSURE STATEMENT**



Attachment3.a: KP-#796984-v2-SUDB- BFRT\_Lease\_1-21-22\_MDOT\_revisions (5036 : Discussion on BFRT lease and draft ATM articles)

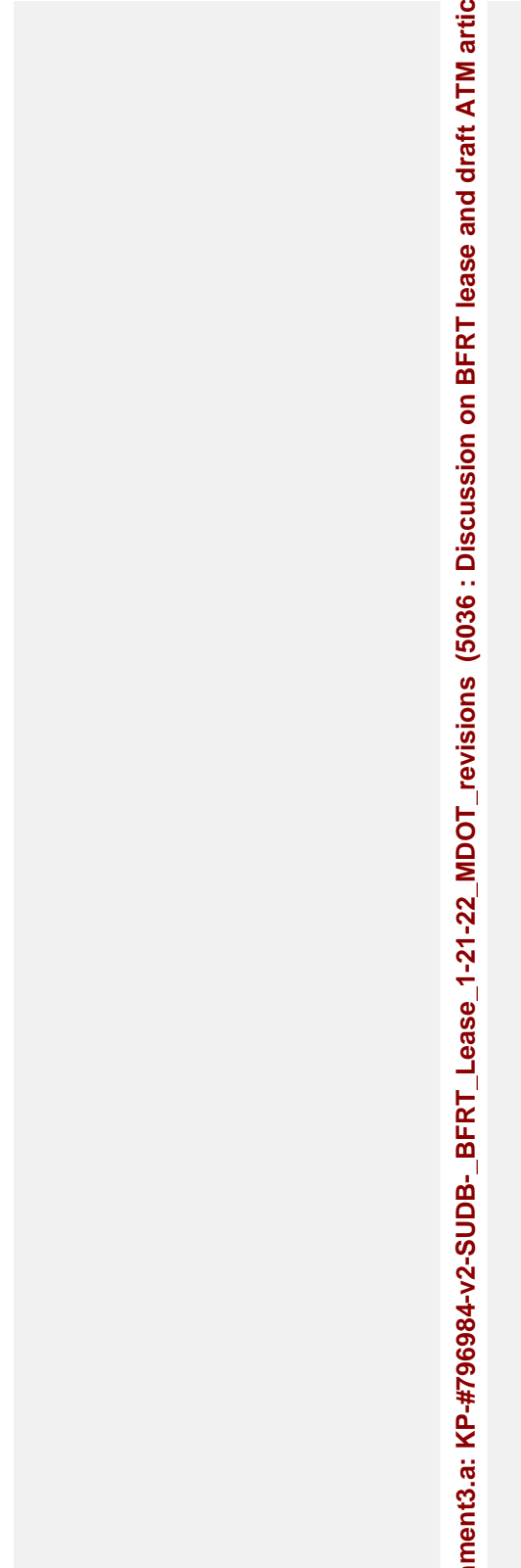
**EXHIBIT E  
EVIDENCE OF AUTHORITY**



Attachment3.a: KP-#796984-v2-SUDB- BFRT \_Lease\_ 1-21-22\_MDOT \_revisions (5036 : Discussion on BFRT lease and draft ATM articles)

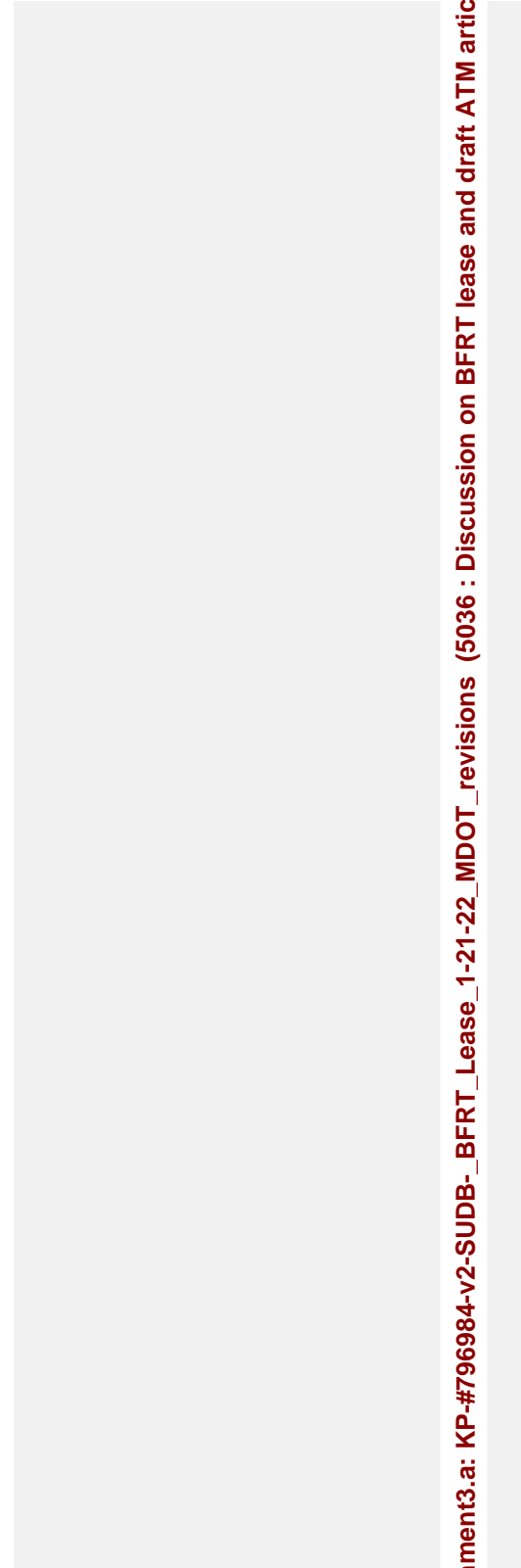


**EXHIBIT F  
MEPA CERTIFICATE**



Attachment3.a: KP-#796984-v2-SUDB- BFRT \_Lease\_ 1-21-22\_MDOT \_revisions (5036 : Discussion on BFRT lease and draft ATM articles)

**EXHIBIT G  
MEPA AGREEMENT**



Attachment3.a: KP-#796984-v2-SUDB- BFRT\_Lease\_1-21-22\_MDOT\_revisions (5036 : Discussion on BFRT lease and draft ATM articles)

**ARTICLE - XX.            BRUCE FREEMAN RAIL TRAIL PHASE 2B – ACQUISITION OF LAND**

To see if the Town will vote to authorize the Select Board to acquire by gift, purchase, eminent domain or otherwise, fee, leasehold, easement, license or other interests in real property, in, on, over, across, under and along all or any portion of the land, premises, easements, or right-of-way in Sudbury shown on the plan entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Bruce Freeman Rail Trail in the Town of Sudbury Middlesex County Preliminary Right of Way Submission” dated October 22, 2021 prepared by Fuss & O’Neill and on file with the Town Clerk, as it may be amended, for purposes of establishing, constructing, operating, improving, and maintaining an improved multi-use trail for non-motorized transportation, open space and active recreation purposes, including access thereto, and for all other purposes for which rail trails are used in the Commonwealth, on such terms and conditions as the Select Board deems to be in the best interest of the Town; and further, to see if the Town will vote to raise and appropriate, or transfer from available funds, or borrow a sum of money therefor, including all costs and expenses related thereto, and/or accept gifts for these purposes; and further, to authorize the Select Board to take such actions and execute such documents and agreements as are necessary to effectuate the purpose of this article, or take any other action relative thereto.

(Two-Thirds Required)

**ARTICLE - XX.            BRUCE FREEMAN RAIL TRAIL PHASE 2B – GRANT OF EASEMENTS**

To see if the Town will vote to transfer from the board, commission, or officer currently having care, custody, management and control of portions of the following described property for the purpose for which the property is currently held to the Select Board for the purposes of establishing, constructing, operating, improving, and maintaining an improved multi-use trail for non-motorized transportation, open space and active recreation purposes, including access thereto, and for all other purposes for which rail trails are used in the Commonwealth, on such terms and conditions as the Select Board deems to be in the best interest of the Town, including granting temporary or permanent easements over portions thereof, namely that certain Town property commonly known as “Broadacres Farm”, “Davis Field”, and “Parkinson’s Field” as shown on the plan entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Bruce Freeman Rail Trail in the Town of Sudbury Middlesex County Preliminary Right of Way Submission” dated October 22, 2021 prepared by Fuss & O’Neill and on file with the Town Clerk, as it may be amended, in connection with the establishment of an improved multi-use rail trail for non-motorized transportation, open space, and active recreational purposes, including access thereto, and for all other purposes for which rail trails are now or hereafter may be used in the Commonwealth, on such terms and conditions as the Select Board deems to be in the best interest of the Town; and further to authorize the Select Board to take such actions and execute such documents and agreements as are necessary to effectuate the purpose of this article, or take any other action relative thereto.

(Two-Thirds Required)

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**MISCELLANEOUS (UNTIMED)****4: Discuss potential ATM SB articles****REQUESTOR SECTION**

Date of request:

Requestor: Chair Roberts

Formal Title: Discuss potential 2022 Annual Town Meeting Select Board and Town articles and possibly vote on articles to put forward. (~60 min.)

Recommendations/Suggested Motion/Vote: Discuss potential 2022 Annual Town Meeting Select Board and Town articles and possibly vote on articles to put forward. (~60 min.)

Background Information:

Financial impact expected:

Approximate agenda time requested: 60 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden Pending

Henry L Hayes Pending

Jonathan Silverstein Pending

Jennifer Roberts Pending

Select Board Pending

01/24/2022 6:45 PM

Potential Select Board 2022 Annual Town Meeting Articles Overview created by Chair Roberts 01.04.22 edited 01.23.22

POTENTIAL ARTICLE	RESPONSIBLE TO EXPLORE	ARTICLE SPONSOR (TOWN, SELECT BOARD, RESIDENT(S))	GOAL/OBJECTIVE	COST	FUNDING SOURCE	STATUS/NEXT STEPS	SELECT BOARD VOTE TO MOVE FORWARD
Hire Sustainability Director	Roberts	Climate Emergency Group, Select Board (?)	Hire Sustainability Director to drive/support Town-wide sustainability initiatives, Municipal Vulnerability Plan and Hazard Mitigation Plan, Master Plan, Next Generation Roadmap legislation, and proposed Climate Emergency Declaration.	\$130K (CEG estimate)	Free Cash leaving open possibility for State earmark/other funding sources.	CEG Group will investigate with Town Counsel how to make article flexible for other (non-override) funding sources.	No (will not put forward duplicate article with CEG)
Reversion of unspent past Town Meeting article appropriations	Carty	Town Manager	Identify and revert money from Town Meeting articles from prior years that is no longer needed.	N/A	N/A	Staff investigate if there is outstanding money. Goal is to have it ready for 2023 ATM, but Town Manager will determine if possible to do in time this year.	N/A
Audio Visual components appropriation for Fairbank Community Center Project	Dretler/Roberts	Select Board	Appropriation to fund Audio Visual components for Fairbank Community Center to address newly identified needs during pandemic and potential budget challenges.	\$300K	Free Cash	SB needs to review draft article..	Yes - Fairbank articles split into two.
Furniture, Fixtures, & Equipment (FF&E) appropriation for Fairbank Community Center Project	Dretler/Roberts	Select Board	Appropriation to fund certain Furniture, Fixture, & Equipment (FF&E) elements including kitchen equipment for Fairbank Community Center to address potential budget challenges.	\$200K	Free Cash	SB needs to review draft article..	Yes - Fairbank articles split into two.
Bruce Freeman Rail Trail-related articles for easements (and lease?)	Dretler/Russo	Select Board	MBTA lease/easements	\$????	Free Cash or Available Funding	Staff and Town Counsel to provide full list of easements. SB needs to review draft article. Does this include lease?	Yes (but Town staff give presentation)
Bruce Freeman Rail Trail-related articles for dedications	Dretler/Russo	Select Board	ROW dedications	\$????	Free Cash or Available Funding	Staff and Town Counsel to provide full list of dedications. SB needs to review draft article..	Yes (but Town staff give presentation)
Bruce Freeman Rail Trail-related articles for additional items	Dretler/Russo	Select Board	Enhancements	\$????	Free Cash or Available Funding	Staff to reconcile with CPA request to clarify and avoid overlap/duplication. What is status of this proposed article?	Yes (but Town staff give presentation)
Sudbury Housing Trust Bylaw	Carty	Select Board	Create bylaw to incorporate details of Declaration of Housing Trust document	N/A	N/A	Town Counsel created draft bylaw article to include discrepancies between State statute and Declaration of Trust document. SHT discussed and requested 120 days for further review.	Majority of Select Board decided to postpone to next TM.
Commission on Disability Bylaw	Roberts	Commission on Disability or Select Board (TBD)	Possibly include Commission on Disability (description, structure, goals) in Town Bylaws	N/A	N/A	Jen has met with COD and reached out to Town Counsel. Town Counsel advises that a bylaw is not required given the Town adoption of GLC.40Sec.8J (but could be done based on Town policy). Select Board/COD needs to determine if it wants to move article forward for a future Town Meeting.	No
Sewataro operational funding (for if property manager contract not renewed)	Russo	Select Board	Back up funding in case of lack of Camp Operator contract.	\$150K	Free Cash	Plan is to withdraw prior to Town Meeting if/when a new Camp Operator contract is signed. SB needs to review draft article.	Yes
Sewataro Land Use Consultant	Russo	Select Board	Initiate long-term evaluation of how to maximize use of Sewataro property.	\$100K	Free Cash	SB needs to review draft article.	Yes
GO SUDBURY Taxi and Uber Program	Carty	Select Board	Funding for the GO SUDBURY Taxi and Uber Program	\$100K	Free Cash	SB needs to review draft article.	Yes

## Golden, Patricia

---

**From:** Hayes, Henry  
**Sent:** Friday, January 21, 2022 11:50 AM  
**To:** Roberts, Jennifer; Golden, Patricia  
**Cc:** Russo, Charlie  
**Subject:** RE: SB meeting packet draft2 - 1/24/22

Patty: please send the packet, if we get more data, we will share it.

Jen: see below...

Hear Reports	SB in pkt	
Budget Adjustments	SB in pkt	
Stabilization Fund	SB in pkt	
St. Acceptance	SB in pkt	
BFRT	SB	KP Law working this
BFRT	SB	KP Law working this
BFRT	SB	KP Law working this
FF&E Fairbank	SB in pkt but will split	
AV Fairbank	SB in pkt but will split	
Sewataro Consultant	SB added to pkt now	
Sewataro Funding	SB in work	
Housing Tr. Bylaw	SB – awaiting decision	
Abrams Easement	SB in pkt	

Respectfully, Henry

Henry L. Hayes, Jr. (he, him)  
 Town Manager  
 Town of Sudbury  
 Phone: (978) 639-3381

Sustaining a SAFE, SECURE, SERVICED & STRONG SUDBURY!

The Secretary of State's office has determined that most e-mails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.

Attachment4.b: HH\_email (5054 : Discuss potential ATM SB articles)

Rough Draft of Article:

ARTICLE XX. FUNDING OR OPERATIONS FOR PASSIVE RECREATION REQUIREMENTS OF THE  
SEWATARO/LIBERTY LEDGE PROPERTY

To see if the Town will vote to raise and appropriate, or to transfer from available funds, the sum of \$155,000, to be expended under the direction of the Town Manager, for the purpose of sustaining, for the purpose of passive recreation, the Sewataro/Liberty Ledge property.

Submitted by the Select Board

(Majority vote required)

SELECT BOARD REPORT: The purpose of these funds would be needed in the event that the decision is made that the Town would not extend the current Agreement with the Camp Operator/Manager the Sewataro/Liberty Ledge property.

SELECT BOARD POSITION: The Select Board \_\_\_\_\_ this article.

FINANCE COMMITTEE REPORT: The Finance Committee \_\_\_\_\_ of this article

Rough Draft of Article:

ARTICLE XX. FUNDING OF A LAND USE CONSULTANT FOR THE SEWATARO/LIBERTY LEDGE PROPERTY

To see if the Town will vote to raise and appropriate, or to transfer from available funds, the sum of \$100,000, to be expended under the direction of the Director of Planning and Community Development, for the purpose of hiring an independent land use consultant to study, evaluate, and expand the options for the short-term and long-term uses for the Sewataro/Liberty Ledge property.

Submitted by the Select Board

(Majority vote required)

SELECT BOARD REPORT: The independent land use consultant's evaluation and report shall include, but not be limited to, new and prior information regarding the financial operating costs and revenues attributed to the site, the identification of the range of all potential uses for the site, the identification of uses that could increase the number and/or diversity of users of the site, the identification of potential uses in addition to a private camp (either off-season or concurrent with the camp season), the capital costs and potential funding sources for those alternative or additional uses on a one-time or phased basis, costs for increased Town responsibility of the site, and all options that are available to maximize use of the entire site. The consultant shall prepare a written report of their findings and conclusions for the Town to use in its future decisions regarding the use of the Sewataro/Liberty Ledge property for the benefit of Town residents.

SELECT BOARD POSITION: The Select Board \_\_\_\_\_ this article.

FINANCE COMMITTEE REPORT: The Finance Committee \_\_\_\_\_ of this article



**From:** Russo, Charlie

**Sent:** Thursday, January 13, 2022 3:15 PM

**To:** Golden, Patricia; Duchesneau, Adam; Bilodeau, Maryanne; Jones, Elaine; Frank, Leila; Silverstein, Jonathan; Hayes, Henry; Roberts, Jennifer

**Subject:** Re: Select Board Agenda 1/18/22

Hello,

Please see text below for the latest draft of the Select Board Town Meeting Article for a Land Use Consultant for Sewataro. Yellow text is edits from staff. Can we include this in the packet?

thanks,

Charlie

DRAFT ARTICLE:

To see if the Town will vote to raise and appropriate, or to transfer from available funds, \$100,000, or any other sum, from Free Cash or other available funds, to be expended under the direction of the Director of Planning and Community Development, for the purpose of hiring an independent land use consultant to study, evaluate, and expand the options for the short-term and long-term uses for the Sewataro/Liberty Ledge property. The consultant's evaluation and report shall include, but not be limited to, new and prior information regarding the financial operating costs and revenues attributed to the site, the identification of uses that could increase the number and/or diversity of users of the site, the identification of the range of all potential uses for the site, the identification of potential uses in addition to a private camp (either off-season or concurrent with the camp season), the capital costs and potential funding sources for those alternative or additional uses on a one-time or phased basis, costs for increased Town responsibility of the site, and all options that are available to maximize use of the entire site. The consultant shall prepare a written report of their findings and conclusions for the Town to use for in its future decisions regarding the use of the Sewataro/Liberty Ledge property for the benefit of Town residents.

Charlie Russo

Town of Sudbury Select Board member

[russoc@sudbury.ma.us](mailto:russoc@sudbury.ma.us)

*The Secretary of State's office has determined that most emails to and from municipal offices and officials are public records. Consequently, confidentiality should not be expected.*

Attachment4.e: Sewataro\_draft\_article\_update\_Russo\_5054 : Discuss potential ATM SB articles)

TOWN OF SUDBURY

WARRANT ARTICLE FORM

ARTICLE # \_\_\_\_\_

Instructions:

- 1) The **ORIGINAL, DOUBLE SPACED, TYPEWRITTEN** article is to be submitted to the Selectmen's Office in final form.
- 2) Articles submitted by Boards and Committees must be signed by a majority accompanied by a copy of vote signed by its clerk.
- 3) **WARRANT REPORT**, briefly explaining intent and scope of article **must** be attached.
- 4) All monied articles must specify dollar amounts requested.
- 5) Article wording must be approved and article signed by Town Counsel before submission.

### ARTICLE 1. HEAR REPORTS

To see if the Town will vote to hear, consider and accept the reports of the Town Boards, Commissions, Officers and Committees as printed in the 2020 Town Report or as otherwise presented; or act on anything relative thereto.

SUBMITTED BY: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
 Town Counsel

Attachment4.f: Art. 1 Hear Reports (5054 : Discuss potential ATM SB articles)

## Instructions:

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- 3) **WARRANT REPORT**, briefly explaining intent and scope of article **must** be attached.
- 4) All monied articles must specify dollar amounts requested.
- 5) Article wording must be approved and article signed by Town Counsel before submission.

## ARTICLE 2.                      FY21 BUDGET ADJUSTMENTS

To see if the Town will vote to amend the votes taken under Article 3, FY22 Budget, of the 2021 Annual Town Meeting, by adding to or deleting from line items thereunder, by transfer between or among accounts or by transfer from available funds; or act on anything relative thereto.

SELECT BOARD REPORT: This article will allow flexibility to review all accounts within the FY22 Operating Budget to make adjustments at the Annual Town Meeting as necessary.

SUBMITTED BY: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
 Town Counsel

TOWN OF SUDBURY

WARRANT ARTICLE FORM

ARTICLE # \_\_\_\_\_

## Instructions:

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- 3) **WARRANT REPORT**, briefly explaining intent and scope of article **must** be attached.
- 4) All monied articles must specify dollar amounts requested.
- 5) Article wording must be approved and article signed by Town Counsel before submission.

**ARTICLE . FY23 STABILIZATION FUND***(Consent Calendar)*

To see if the Town will vote to transfer from Free Cash the sum of \$\_\_\_\_\_, or any other sum or sums, to be added to the Stabilization Fund established under Article 12, of the October 7, 1982 Special Town Meeting, pursuant to General Laws Chapter 40, Section 5B; or act on anything relative thereto.

**SELECT BOARD REPORT:** Based on the Select Board's Budget and Financial Policies, the Town's goal is to maintain in the Stabilization Fund an amount equal to 5% of the total projected general fund operating revenues for the last fiscal year. This Fund protects the Town in case of a severe emergency and is beneficial in supporting the Town's AAA bond ratings, which in turn results in lowering borrowing costs.

SUBMITTED BY: \_\_\_\_\_

_____	_____
_____	_____
_____	_____

APPROVED BY: \_\_\_\_\_

Town Counsel

Attachment 4.h: Stabilization Fund (5054 : Discuss potential ATM SB articles)

## Instructions:

- 1) The **ORIGINAL, DOUBLE SPACED, TYPEWRITTEN** article is to be submitted to the Selectmen's Office in final form.
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- 3) **WARRANT REPORT**, briefly explaining intent and scope of article **must** be attached.
- 4) All monied articles must specify dollar amounts requested.
- 5) Article wording must be approved and article signed by Town Counsel before submission.

## ARTICLE XX. STREET ACCEPTANCE – HUCKLEBERRY LANE

To see if the Town will vote to accept as a public way:

Huckleberry Lane from Old Lancaster Road to dead end, a distance of 453 feet +/- As laid out by the Select Board in accordance with the descriptions and plan entitled "Acceptance Plan of Huckleberry Lane in Sudbury, MA," prepared for Eligius Homes Company by Thomas Land Surveyors and Engineering Consultants, Inc., dated September 17, 2014 and twice revised on December 12, 2016 and March 16, 2017, on file in the Town Clerk's Office; and to authorize the Select Board to acquire by purchase, by gift, or by eminent domain, an easement or fee simple, over the ways shown on the said plans and any associated drainage, utility, or other easements for all purposes for which public ways are used in the Town of Sudbury; and to raise and appropriate or transfer from available funds a sum or sums of money therefor and all expenses in connection therewith; or act on anything relative thereto.

Submitted by the Select Board.

(Two-thirds vote required)

**SELECT BOARD REPORT:** Prior to Town Meeting the Select Board will hold a public meeting and receive a recommendation from the Planning Board relative to approval of the layout of this road. The Select Board will then report at Town Meeting. If the above street is voted and accepted by Town Meeting as a public way, all future maintenance and repair of the roadway will be performed by the Town.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES & REGULATIONS OF THE BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS & SURVEYORS OF THE COMMONWEALTH OF MASSACHUSETTS.

sketch 11.52  
DATE REC. PROJ. LAND REGISTRATION

I CERTIFY THAT THIS PLAN SHOWS THE PROPERTIES LINED THAT ARE THE LANDS SHOWN HEREON AND ALREADY ESTABLISHED, AND THAT THE NEW LINES FOR DIVISION OF EACHING THEREON OR FOR NEW LOTS ARE CORRECT.

sketch 12.52  
DATE REC. PROJ. LAND REGISTRATION

FOR REGISTRY USE

**LOT 1**  
4841/36  
AREA = 26,430.36 S.F.

**LOT 2**  
6144/393  
AREA = 26,430.36 S.F.

**LOT 3**  
6284/37  
AREA = 26,430.36 S.F.

**LOT 4**  
6284/1  
AREA = 26,430.36 S.F.

**LOT 5**  
6284/13  
AREA = 26,430.36 S.F.

**HUCKLEBERRY LANE**  
AREA = 26,430.36 S.F.

**OLD LANCASTER ROAD**

**PARCEL A**  
TOWN OF HUNTERY  
5778/779

**PARCEL B**  
TOWN OF HUNTERY  
5778/779

I HEREBY CERTIFY THAT THE CORNERS SHOWN AND FIELD THIS HAVE BEEN MEASURED AS SHOWN ON THIS PLAN.  
THOMAS LAND SURVEYORS  
THOMAS LAND SURVEYORS, P.C.  
THOMAS LAND SURVEYORS, P.C.

PLAN REFERRED: PLAN NO. 127 OF 2011

GRAPHIC SCALE  
0 100 FEET  
0 30 METERS

1. I, THOMAS LAND SURVEYORS, P.C., being duly sworn, depose and say that the foregoing is a true and correct copy of the original plan as the same appears in the files of the Registry of Deeds for the County of Middlesex, State of Massachusetts.

THOMAS LAND SURVEYORS, P.C.  
THOMAS LAND SURVEYORS, P.C.  
THOMAS LAND SURVEYORS, P.C.

THOMAS LAND SURVEYORS, P.C.  
THOMAS LAND SURVEYORS, P.C.  
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THOMAS LAND SURVEYORS, P.C.  
THOMAS LAND SURVEYORS, P.C.  
THOMAS LAND SURVEYORS, P.C.

**Attachment4.i: Street Acceptance - Huckleberry (5054 : Discuss potential ATM SB articles)**

SUBMITTED BY: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
Town Counsel

Middlesex Registry of Deeds,  
Southern District  
Cambridge, Massachusetts

Plan No. 894 of 20.00  
Rec'd 8-16 20.00  
at 2 h 40 m P m Doc No. 562  
Rec'd, Bk. 31702 Page 321  
Attest [Signature]  
Register

FOR REGISTRY USE

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN  
CONFORMITY WITH THE RULES AND REGULATIONS OF  
THE REGISTRY OF DEEDS OF THE COMMONWEALTH  
OF MASSACHUSETTS.

6-21-00 [Signature]  
DATE REG. PROF. LAND SURVEYOR

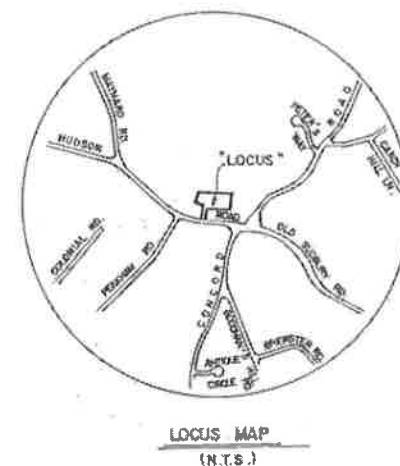
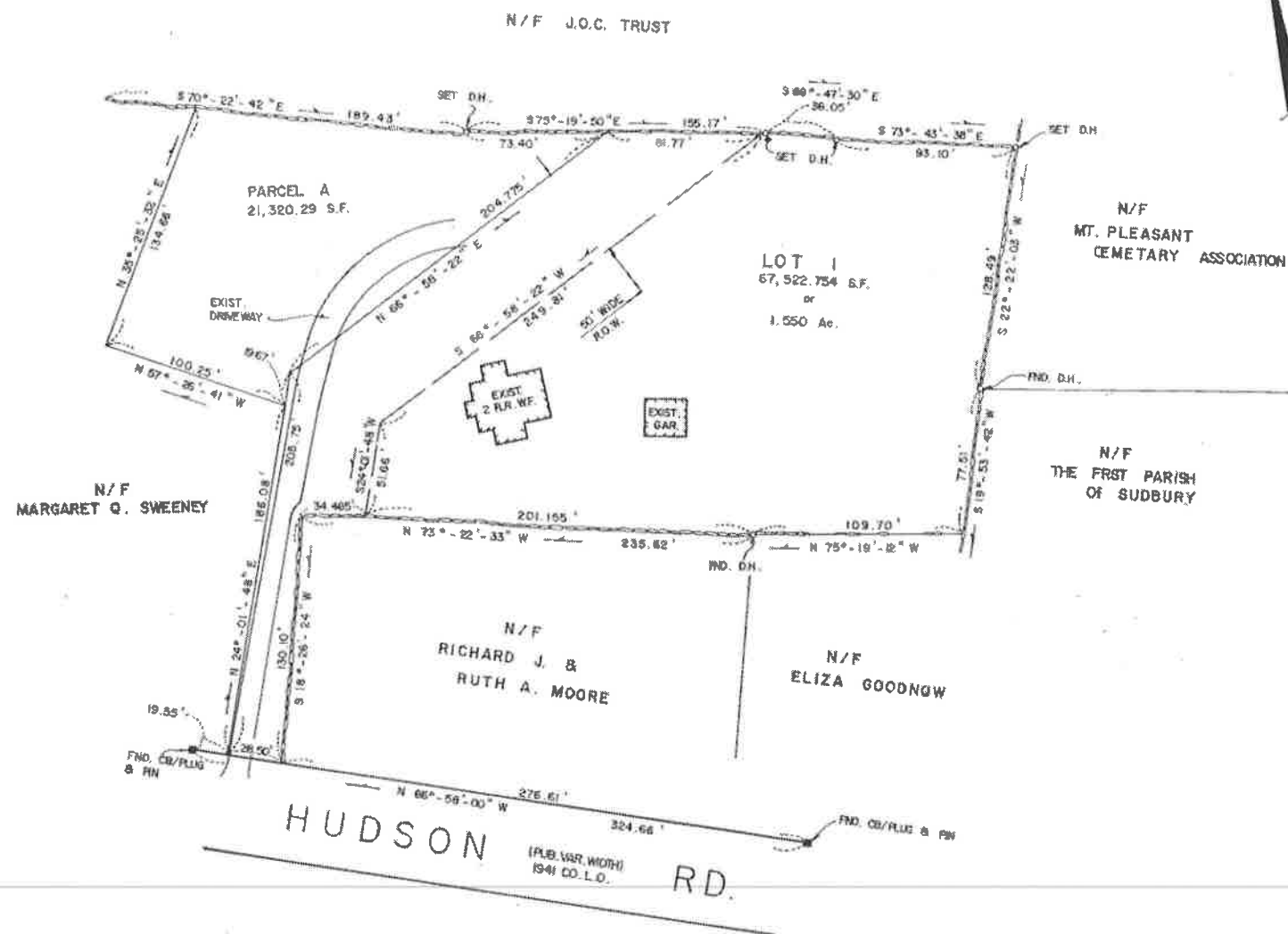
APPROVAL UNDER THE SUBDIVISION  
CONTROL LAW NOT REQUIRED.

SUDBURY PLANNING BOARD

[Signature]  
[Signature]  
[Signature]

DATE: July 11, 2000

NO DETERMINATION AS TO COMPLIANCE WITH ZONING  
REQUIREMENTS HAS BEEN MADE OR INTENDED.



LOCUS MAP  
(N.T.S.)

NOTES:

- 1). ZONING: SINGLE RES. A-1
- 2). PLAN REF.: PLAN 308 OF 1951
- 3). PARCEL A IS FOR DESCRIPTIVE PURPOSES ONLY AND NOT TO BE CONSIDERED A BUILDING LOT.

PLAN OF LAND  
IN  
**SUDBURY, MASS.**

OWNED BY: 24 HUDSON ROAD TRUST  
C/O ROBERT LANDRY  
22 UNION AVE., SUDBURY, MASS.

PREPARED BY: THOMAS LAND SURVEYORS &  
ENGINEERING CONSULTANTS, INC.  
118 FOREST AVE., HUDSON, MASS.

SCALE: 1" = 40'

JUNE 21, 2000



**ARTICLE - XX. 24 HUDSON ROAD – RELEASE OF EASEMENT**

To see if the Town will vote to authorize the Select Board to terminate and extinguish any and all rights the Town has in that certain 50 foot wide right-of-way shown on a Plan of Land dated June 21, 2000, recorded in the Middlesex South Registry of Deeds as Plan Number 894 of 2000, and in Book 31702, Page 521, as granted by Quitclaim Deed recorded in said Registry in Book 31702, Page 525, and as reserved in a Quitclaim Deed to the Town recorded in said Registry in Book 77156, Page 472, or take any other action relative thereto.



**From:** Lee S. Smith <[LSmith@k-plaw.com](mailto:LSmith@k-plaw.com)>

**Sent:** Monday, January 24, 2022 1:47 PM

**To:** Roberts, Jennifer <[RobertsJ@sudbury.ma.us](mailto:RobertsJ@sudbury.ma.us)>; Suedmeyer, Beth <[SuedmeyerB@sudbury.ma.us](mailto:SuedmeyerB@sudbury.ma.us)>

**Cc:** Hayes, Henry <[HayesH@sudbury.ma.us](mailto:HayesH@sudbury.ma.us)>; Golden, Patricia <[GoldenP@sudbury.ma.us](mailto:GoldenP@sudbury.ma.us)>; Jones, Elaine <[JonesE@sudbury.ma.us](mailto:JonesE@sudbury.ma.us)>; Russo, Charlie <[RussoC@sudbury.ma.us](mailto:RussoC@sudbury.ma.us)>

**Subject:** RE: KP-#796471-v1-SUDB- \_Draft\_Article\_- \_Parkinson\_Land\_transfer\_from\_Treasurer\_to\_PRC

When a Town acquires real property by tax title foreclosure, as was the Parkinson land, it is held under the custody and control of the Town Treasurer until Town Meeting votes to transfer it to another Board, Commission, etc. or for another purpose (like for sale or dedication to open space, recreation, etc.). Because no one has located a Town Meeting vote transferring custody from the Treasurer, I am recommending that we formalize that transfer now by vote on the warrant article.

Let me know if you have any questions.

-Lee

Lee S. Smith, Esq.

KP | LAW

101 Arch Street, 12th Floor

Boston, MA 02110

O: (617) 654 1809

C: (617) 699 2935

F: (617) 654 1735

[lsmith@k-plaw.com](mailto:lsmith@k-plaw.com)

[www.k-plaw.com](http://www.k-plaw.com)

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

Attachment4.I: KP\_draft\_article\_email\_Parkinson\_Land (5054 : Discuss potential ATM SB articles)

**ARTICLE . TRANSFER OF TAX POSSESSION PARCEL TO THE PARK AND RECREATION COMMISSION**

To see if the Town will vote to transfer from the Town Treasurer to the Park and Recreation Commission, certain real property shown as Parcel 1 and Parcel 2 being Lots 2 and 2A off Hudson Road in the Town of Sudbury and shown on the plan entitled "Topographic Plan of Land in Sudbury, Massachusetts Showing Tax Possession Parcel No. 167 Known as "The Parkinson Land"" prepared by the Town of Sudbury Engineering Department, dated July 30, 1999, on file with the Town Clerk, and as further described in the Instrument of Taking issued by the Town of Sudbury Collector of Taxes, dated September 14, 1970, recorded in the Middlesex South Registry of Deeds in Book 11889 Page 393 as ordered in the Land Court Final Decree in Tax Lien Case No. 51535 Town of Sudbury vs. Florence H. Parkinson, recorded in the Middlesex South Registry of Deeds in Book 13189 Page 604; or act on anything relative thereto.

TOWN OF SUDBURY

WARRANT ARTICLE FORM

ARTICLE # \_\_\_\_\_

Instructions:

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- 2) Articles submitted by Boards and Committees must be signed by a majority accompanied by a copy of vote signed by its clerk.
- 3) **WARRANT REPORT**, briefly explaining intent and scope of article **must** be attached.
- 4) All monied articles must specify dollar amounts requested.
- 5) Article wording must be approved and article signed by Town Counsel before submission.

ARTICLEFAIRBANK COMMUNITY CENTER AUDIO-VISUAL EQUIPMENT FUNDING

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$300,000, or any other sum or sums, for the purchase of audio-visual equipment for the Fairbank Community Center project to address newly identified needs and budget challenges, or act on anything relative thereto.

Submitted by the Select Board.

**SELECT BOARD REPORT:** This request is submitted to meet the user group and professional staff needs for enhanced audio-visual equipment to address new methods of delivery of Fairbank Community Center services that rely more heavily on audio-visual technology, developed in response to the pandemic and not foreseen in the feasibility study phase of the project. The associated purchases will enhance the level of service to the patrons of the Fairbank Community Center. These will be valuable tools now as well as in a post-pandemic world.

SUBMITTED BY: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

Town Counsel

Attachment4.n: Fairbank AV art. for SB mtg 1-24 (5054 : Discuss potential ATM SB articles)

TOWN OF SUDBURY

WARRANT ARTICLE FORM

ARTICLE # \_\_\_\_\_

Instructions:

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- 3) **WARRANT REPORT**, briefly explaining intent and scope of article **must** be attached.
- 4) All monied articles must specify dollar amounts requested.
- 5) Article wording must be approved and article signed by Town Counsel before submission.

**ARTICLE****FAIRBANK COMMUNITY CENTER FURNITURE, FIXTURES, EQUIPMENT FUNDING (FF&E)**

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$200,000, or any other sum or sums, for the purpose of purchasing any one or more of the furniture, fixtures, and equipment categories for the Fairbank Community Center project to address needs and budget challenges, or act on anything relative thereto.

Submitted by the Select Board.

**SELECT BOARD REPORT:** The challenges associated with the global pandemic, and its impact on the material costs and labor forces have caused an increase cost in some of the items associated with the Fairbank Community Center project. This request is submitted to meet the needs of the project including, but not limited to commercial kitchen equipment and kitchen wares to address requirements for emergency shelter operation. The associated purchases will enhance the level of service to the patrons of the Fairbank Community Center and Town emergency shelter.

SUBMITTED BY: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
 Town Counsel

Attachment 4.o: Fairbank FFE article for SB mtg 1-24 (5054 : Discuss potential ATM SB articles)

ARTICLE XX. FUNDING OF GO SUDBURY! TAXI AND UBER TRANSPORTATION PROGRAMS FOR FY2023

To see if the Town will vote to raise and appropriate, or to transfer from available funds, the sum of \$100,000, for the purposes of the continued operations of the Go Sudbury! Taxi and Uber Transportation Programs, including all incidental and related expenses; or act on anything relative thereto.

Submitted by the Select Board

(Majority vote required)

SELECT BOARD REPORT: The Go Sudbury! Taxi program started in 2020 and Go Sudbury! Uber in 2021 and has been funded with grants and mitigation fund appropriations. Through the end of 2021 the program has provided thousands of rides to Sudbury's finically vulnerable, residents with a disability, those aged 50+, essential workers, and military veterans to and from healthcare and social service appointments, shopping, community resources, and places of employment. Approval of this article will provide funds to continue the operation of the Go Sudbury! Taxi and Uber Transportation programs into and through fiscal year 2023.

SELECT BOARD POSITION: The Select Board \_\_\_\_\_ this article.

FINANCE COMMITTEE REPORT: The Finance Committee \_\_\_\_\_ of this article

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**MISCELLANEOUS (UNTIMED)****5: Discussion and possible vote on finalization of Financial Policy****REQUESTOR SECTION**

Date of request:

Requestor: Chair Roberts

Formal Title: Discussion and possible vote on finalization of Financial Policies draft document. (~25 min.)

Recommendations/Suggested Motion/Vote: Discussion and possible vote on finalization of Financial Policies draft document. (~25 min.)

Background Information:  
(cont. from 1/18 mtg)

Financial impact expected:

Approximate agenda time requested: 25 minutes

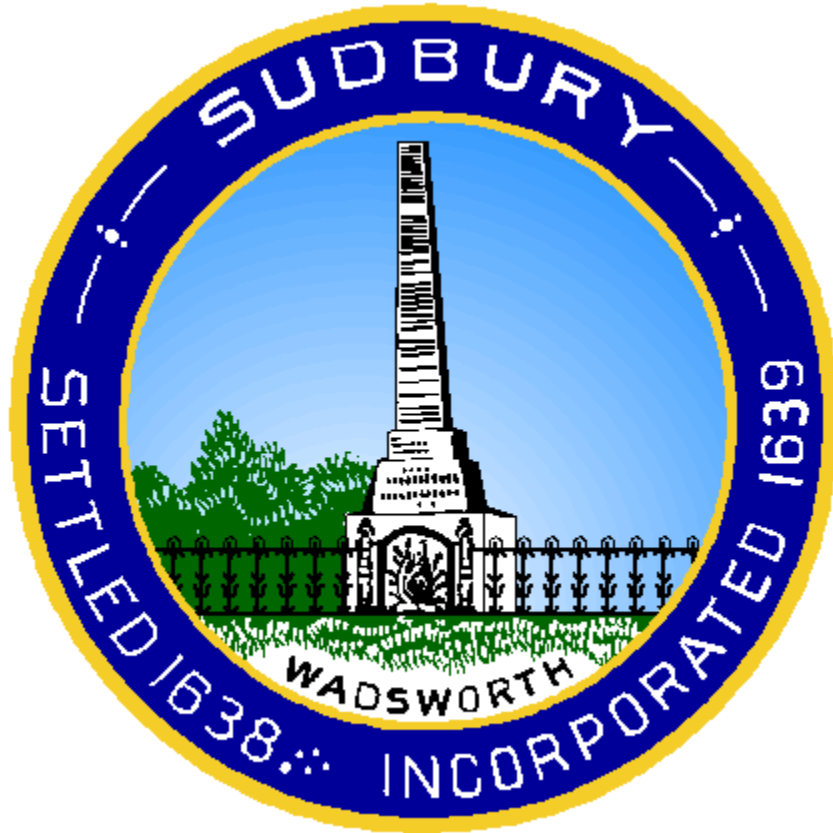
Representative(s) expected to attend meeting:

Review:

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

01/24/2022 6:45 PM

*Town of Sudbury, Massachusetts*  
**Financial Policies Manual**  
**January 18, 2022**



Version	Changes	Select Board Approved Date
1.0	Initial release, replacing prior Board of Selectmen Financial Policies	

## Introduction

The Town of Sudbury is committed to safeguarding public funds, protecting local assets, and complying with financial standards and regulations. To that end, this manual of financial policies provides guidance for local planning and decision making. The policies as a whole are intended to outline objectives, provide formal direction, and define authority to help ensure sound fiscal stewardship and management practices. Each is a living document that should be reviewed periodically and updated as necessary.

With these policies, the Town of Sudbury, through its Select Board, Town Manager, and employees, commits to the following objectives:

- Sustaining a consistent level of service and value for residents and enhancing as needed and able
- Safeguarding financial integrity and minimizing risk through a system of internal controls
- Ensuring the quality and maintenance of capital assets.
- Conforming to general law, uniform professional standards, and municipal best practices
- Protecting and enhancing the town's credit rating
- Promoting transparency and public disclosure
- Revisiting and reviewing the policies every three years to assess thresholds and targets.

## Acknowledgements

These Financial Policies were created through collaborative efforts by the Select Board with Town Committees and staff including: Dennis Keohane (Finance Director), Henry Hayes Jr. (Town Manager), the Select Board Policies and Procedures Review Subcommittee, the Finance Committee, and the Capital Improvement Advisory Committee. Incorporated are recommendations from Massachusetts Division of Local Services "Town of Sudbury Review of Capital Improvement Program, April 2020."



# Town of Sudbury, Massachusetts

## Financial Policies Manual

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## FINANCIAL RESERVES

### PURPOSE

To help the Town stabilize finances and maintain operations during difficult economic periods, this policy establishes prudent practices for appropriating to and expending reserve funds. With well-planned sustainability, Sudbury can use its reserves to finance emergencies and other unforeseen needs, to hold money for specific future purposes, or in limited instances, to serve as revenue sources for the annual budget. Reserve balances and policies can also positively impact the Town's credit rating and consequently its long-term cost to fund major projects.

### APPLICABILITY

This policy pertains to short- and long-range budget decision making and applies to the Select Board, Sudbury Public School Committee, and Town Manager in those duties. It also applies to the related job duties of the Finance Director, the Town Accountant, the Board of Assessors, and the Finance Committee.

### POLICY

The Town of Sudbury commits to building and maintaining its reserves so as to have budgetary flexibility for unexpected events and significant disruptions in revenue-expenditure patterns and to provide a source of available funds for future capital expenditures. The Town will strive to maintain overall reserves in the level of 10-12% of the prior year General Fund budget. These reserves are comprised of the general stabilization fund, special purpose stabilization funds and free cash target. Adherence to this policy will help the Town withstand periods of decreased revenues and control spending during periods of increased revenues. Other types of reserves include retained earnings and overlay surplus.

#### A. Protection of Credit Rating

Maintenance of the highest-level credit rating possible is important to the continued financial health of Sudbury as it reduces the costs of issuing debt. Credit rating firms consider management practices to be very important factors. Poor management practices can inadvertently jeopardize the financial health of a local government. To be proactive in assuring the Town of Sudbury does not engage in these practices, the Select Board of the Town of Sudbury has adopted the following credit rating protection policies. The Town will not rely on reserves to sustain operating budgets. Use of such reserves will be limited to helping the Town deal with short-term or emerging financial stress. In the subsequent year, the Town will either reduce spending to within the limits of recurring revenues or seek approval for additional revenues from the voters of the Town. The Town will not defer current costs, such as pension or benefit costs, to a future date.

#### B. Free Cash

The Division of Local Services (DLS) defines free cash as "the remaining, unrestricted funds from operations of the previous fiscal year, including unexpended free cash from the previous year." DLS must certify free cash before the Town can appropriate it in the new year.

As close to fiscal year end as reasonably possible, the Town Accountant shall submit to DLS a year-end balance sheet, free cash checklist, and year-end reporting checklist. Once DLS certifies free cash, the Town Accountant will provide copies of the certified balance to the Select Board, Town Manager, and Finance Director.

Each spring, the Town Manager shall include the Town's free cash balance in the proposed budget submitted to the Select Board and Finance Committee for the ensuing fiscal year, along with details on the proposed uses of and/or retention level of free cash. Any proposed use of free cash for capital equipment or improvements shall be consistent with needs identified in the Town's capital improvement program.

The Town shall set a year-to-year goal of maintaining its free cash in the range of 3-5% of the prior year's General Fund budget. To achieve this, the Finance Director shall assist the Town Manager in proposing budgets with conservative revenue projections, and department heads shall carefully manage their appropriations to produce excess income and budget turn backs. Further, budget decision makers will avoid fully depleting the Town's free cash in any year, so that the succeeding year's calculation can begin with a positive balance. Moreover, as much as practicable, the Town will limit its use of free cash to funding one-time expenditures (like capital projects or emergencies and other unanticipated expenditures) and should appropriate any free cash excess above 5% of the General Fund budget to reserves, to offset unfunded liabilities, or to set aside for existing debt.

### C. Stabilization Funds

A stabilization fund is a reserve account allowed by state law to set aside monies to be available for future spending purposes, including emergencies or capital expenditures, although it may be appropriated for any lawful purpose. Prior to the adoption of this policy, the Town established and appropriated to a general stabilization fund and special purpose stabilization funds for capital projects.

**General Stabilization:** The Town will endeavor to maintain a minimum balance of 5% of the prior year's General Fund budget in its general stabilization fund. Withdrawals from general stabilization should only be used to mitigate emergencies or other unanticipated events that cannot be supported by current General Fund appropriations. When possible, withdrawals of funds should be limited to the amount available above the 5% minimum reserve target level. If any necessary withdrawal drives the balance below the minimum level, the withdrawal should be limited to one-third of the general stabilization fund balance at a time, endeavoring to never fully deplete it. Replenishment of the funds should be made annually at the Fall Town Meeting, or the earliest available meeting after free cash has been certified.

### **Special Purpose Stabilization Funds**

**Capital Stabilization:** The Town will appropriate annually to the capital stabilization fund so that over time it achieves a target balance sufficient to cover the Town's cash outlay for capital. Doing so enables the Town to pay outright for moderate-range (under \$1M) capital expenditures and thereby preserve debt capacity for major, higher-dollar

purchases or projects. This approach balances debt with pay-as-you-go practices and protects against unforeseen costs. The Town should endeavor to achieve and maintain a combined target balance for all capital-related special purpose stabilization funds equal to 2% of prior year General Fund budget.

Withdrawals from the Capital Stabilization Fund should be avoided until the target balance has been achieved. Once achieved, funds can be used towards items on the CIP. Once funds are used, the Town will seek to make annual contributions to the fund until the target balance is achieved.

**Turf Stabilization:** The Town maintains a special purpose fund to offset the cost of repairs or replacement of Town owned and operated synthetic turf fields<sup>1</sup>. Contributions to this fund should be made annually from the General Operating Fund and Field Maintenance Enterprise Fund.

#### D. Overlay Surplus

The overlay is a reserve the Town uses to offset unrealized revenues resulting from property tax abatements and exemptions. Sudbury officials will prudently manage the overlay in accordance with the Town's Overlay policy governed by Mass General Law<sup>2</sup> to avoid the need to raise overlay deficits in the tax levy. At the conclusion of each fiscal year, the Board of Assessors shall submit to the Town Manager and Finance Director an update of the overlay reserve with data that includes, but is not limited to, the gross balance, potential abatement liabilities, and any transfers to surplus. If the balance exceeds the amount of potential liabilities, the Town Manager on behalf of the Select Board may request that the Board of Assessors vote to declare those balances surplus, available for one-time expenditures (as with free cash).

<sup>1</sup> TM-2015 - Article 17 Establish Special Stabilization Fund - Town-Owned Synthetic Turf Fields. "To see what sum the Town will vote to raise and appropriate, or transfer from available funds, to be placed in a special Stabilization Fund established under this article for the purpose of replacement or major repair of the synthetic turf fields solely owned and operated by the Town of Sudbury; or act on anything relative thereto." (This does not apply to LSRHS turf fields as they are not solely owned by the Town of Sudbury.)

<sup>2</sup> MGL Ch.59 Sec. 25

## FORECASTING

### PURPOSE

To assess the range of choices available to budget decision makers when determining how to allocate resources, this policy establishes guidelines for evaluating revenue sources and the requirement to determine an expenditure strategy as part of the annual budget process and longer-range fiscal planning. Forecasting helps local officials understand the long-range implications of pending near-term decisions.

### APPLICABILITY

This policy applies to the Town Manager as the Town's chief budget decision maker. It also applies to the job responsibilities of the Finance Director, Sudbury Public Schools Superintendent, Sudbury Public Schools Business Manager, Select Board, Sudbury Public Schools Committee, and Finance Committee.

### POLICY

#### A. Revenue Guidelines

The Town will continually seek to diversify its revenue to improve the equity and stability of sources. Each year and whenever appropriate, the Town will reexamine existing revenues and explore potential new sources. A balance will be sought between elastic and inelastic revenues to minimize any adverse effects caused by inflation or other economic changes. Additionally, intergovernmental revenues (e.g., local aid, grants) will be reviewed annually to determine their short- and long-term stability in order to minimize detrimental impacts.

The Town will generally avoid using one-time revenues to fund ongoing or recurring operating expenditures. These one-time revenue sources can include, but are not limited to, free cash, bond premiums, overlay surplus, sale of municipal equipment, legal settlements, insurance proceeds, and gifts. Additionally, the Town hereby establishes the following priority order when appropriating one-time revenues:

- General Stabilization Fund (maintenance of 5% of prior year's General Fund budget)
- Annual Capital Spending (non-debt; target of 3% of prior year's General Fund budget)
- Capital Stabilization Fund (target of 2% of prior year's General Fund budget)
- OPEB Trust Fund
- Existing debt

New growth (residential or commercial) permanently adds to the tax base. The Town should endeavor to contribute any new growth in excess of 1% of prior year's General Fund budget to capital expenditures, reserves, or potentially augment the Town Manager's Capital Budget.

Economic downturns or unanticipated fiscal stresses may compel reasonable exceptions to the use of one-time revenue. In such cases, the Town Manager, in consultation with the Finance

Director, can recommend its use for operational appropriations. Such use will trigger the Town Manager to develop a plan to avoid continued reliance on one-time revenues.

State laws impose further restrictions on how certain types of one-time revenues may be used. The Town will consult Mass General Laws governing use of one-time revenues<sup>3</sup> by revenue source.

This policy further entails the following expectations regarding revenues:

- The Assessing Department will maintain property assessments for the purpose of taxation at full and fair market value as prescribed by state law.
- Town departments that charge fees (Enterprise Funds and recreation programs, for example) shall annually review their fee schedules and propose adjustments when needed to ensure coverage of service costs and endeavor to generate retained earnings of 3-5% of prior year's enterprise fund budgets towards asset maintenance / replacement.
- The Building Department will notify the Finance Director of any moderate-to-large developments that could impact building permit volume.
- Department heads will strive to be informed of all available grants and other aid and will carefully consider any related restrictive covenants or matching requirements (both dollar and level-of-effort) to determine the cost-benefit of pursuing them.
- Revenue estimates will be adjusted throughout the budget cycle as more information becomes available.

#### B. Expenditure Guidelines

Annually, the Town will determine a particular budget approach for forecasting expenditures, either maintenance (level service), level funded, or one that adjusts expenditures by specified increase or decrease percentages (either across the board or by department). A maintenance budget projects the costs needed to maintain the current staffing level and mix of services into the future. A level funded budget appropriates the same amount of money to each municipal department as in the prior year and is tantamount to a budget cut because inflation in mandated costs and other fixed expenses still must be covered.

#### C. Financial Forecast Guidelines

To determine the Town's operating capacity for each forthcoming fiscal year, the Finance Director will annually create and provide the Town Manager with a detailed budget forecast. The Finance Director shall also annually prepare a three-year financial projection of revenues and expenditures for all operating funds.

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<sup>3</sup> Sale of real estate: M.G.L. c. 44, §63 and M.G.L. c. 44, §63A  
 Gifts and grants: M.G.L. c. 44, §53A and M.G.L. c. 53A½  
 Bond proceeds: M.G.L. c. 44, §20  
 Sale of moveable property: M.G.L. c. 44, § 53

These forecasts shall be used as planning tools in developing the following year's operating budget as well as the five-year capital improvement plan.

To ensure the Town's revenues are balanced and capable of supporting desired levels of services, forecasts for property taxes, local receipts, and state aid shall be conservative based on historical trend analyses and shall use generally accepted forecasting techniques and appropriate data. To avoid potential revenue deficits, estimates for local receipts (e.g., inspection fees, investment income, license fees) should generally not exceed 90% of the prior year's actual collections without firm evidence that higher revenues are achievable.

Additionally, the forecast model should assume that:

- The Town will maintain its current level of services.
- Property taxes (absent overrides) will grow within the limits of Proposition 2½.
- New growth will be projected conservatively, considering the Town's three-year average by property class.
- The Town will annually meet or exceed the state's net school spending requirements.
- Local receipts and state aid will reflect economic cycles.
- The Town will pay the service on existing debt and adhere to its Debt Management policy.
- The Town will make its annual pension contributions and continue appropriating to its other postemployment benefits trust fund.
- The Town will build and maintain reserves in compliance with its Financial Reserves policy.

#### D. Reporting

The Town Manager and the Finance Director shall submit a detailed annual budget to the Select Board and Finance Committee, on behalf of Town departments, addressing estimated budgetary requirements for the ensuing year.<sup>4</sup>

The Finance Committee shall, not later than March 31st, submit to the Select Board their written report with their recommendations, including the amounts requested by those originating the above estimates.<sup>5</sup>

The annual detailed budget and other requests shall be presented at the Annual Town Meeting each May.<sup>6</sup>

<sup>4</sup> Per Bylaw Article IV Section 5 "Each Town department shall annually submit to the Finance Committee, not later than January 31st, an estimate of its requirements for the ensuing year, and the Selectmen shall report all other requests for appropriations on or before February 5th."

<sup>5</sup> Per Bylaw Article IV Section 5 "The Finance Committee shall, not later than March 31st, submit to the Selectmen their written report with their recommendations, including the amounts requested by those originating the above estimates."

<sup>6</sup> Per bylaw Article I Section 2 "The Annual Business Meeting shall begin on the first Monday in May at such place as the Selectmen shall determine."

The Town financial results vs. forecast (revenues and expenses) shall be reported out quarterly for the Select Board and public.



## OVERLAY

### PURPOSE

To set guidelines for determining the annual overlay amount in the Town's budget and for deciding whether any overlay balance can be certified as surplus.

The allowance for abatements and exemptions, commonly referred to as the overlay, is a single account whose purpose is to offset anticipated abatements and exemptions of committed real and personal property taxes. Although this policy treats overlay as a single account<sup>7</sup>, to continue historical information and facilitate reconciliations, the Town may elect to maintain subsidiary ledgers by levy year for overlay balances.

### APPLICABILITY

This policy applies to the job duties of the Board of Assessors, Director of Assessing, Town Manager, and Finance Director.

### POLICY

#### A. Annual Overlay

Each year, the Board of Assessors shall vote in an open meeting to authorize a contribution to the overlay account as part of the budget process and to raise it without appropriation on the Town's Tax Recap Sheet. The Principal Assessor will propose this annual overlay amount to the Board of Assessors based on the following:

- Current balance in the overlay account
- Five-year average of granted abatements and exemptions
- Potential abatement liability in cases pending before, or on appeal from, the Appellate Tax Board (ATB)
- Timing of the next certification review by the Division of Local Services (scheduled every five years under the Municipal Modernization Act) The Board of Assessors shall notify the Finance Director of the amount of overlay voted

#### B. Excess Overlay

Annually, the Finance Director and Director of Assessing will conduct an analysis to see if there is any excess in the overlay account by factoring the following:

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<sup>7</sup> Effective December 7, 2016, the Municipal Modernization Act (Chapter 218 of the Acts of 2016) provides for a single overlay account. Previously, a community had to maintain separate overlay reserves for each fiscal year and could not use the surplus from one year to cover another year's deficit without a multistep process involving the assessors, accounting officer, and local legislative body. However, the Act allows all existing overlay balances to be transferred to a single account.

- Current balance in the overlay account after reconciling with the Town Accountant's records
- Balance of the property tax receivables, which represents the total real and personal property taxes still outstanding for all levy years
- Estimated amount of potential abatements, including any cases subject to ATB hearings or other litigation

Upon determining any excess in the overlay account, the Principal Assessor shall present the analysis to the Board of Assessors for its review.

### C. Overlay Surplus

If there is an excess balance in the overlay account, the Board of Assessors shall formally vote in an open meeting to certify the amount to transfer to overlay surplus and shall notify the Town Manager and Finance Director in writing of its vote. If the Town Manager on behalf of the Select Board makes a written request for a determination of overlay surplus, the Board of Assessors shall vote on the matter within the next 10 days and notify the Town Manager and Finance Director of the result in writing. In advance of the annual Tax Classification Hearing, the Select Board shall request an update from the Board of Assessors on the balance of the overlay account.

After being certified, Town Meeting may appropriate overlay surplus for any lawful purpose until the end of the fiscal year. However, the appropriation should be as prescribed in the Town's Forecasting policy (re: treatment of one-time revenues) and its Financial Reserves policy (re: overlay surplus). Overlay surplus not appropriated by year-end closes to the General Fund's undesignated fund balance.

## DEBT MANAGEMENT

### PURPOSE

To provide for the appropriate issuance and responsible use of debt, this policy defines the parameters and provisions governing debt management. Policy adherence will help the Town to responsibly address capital needs, provide flexibility in current and future operating budgets, control borrowing, and maintain capital investment capacity. This policy is also intended to maintain and enhance the town's bond rating so as to achieve long-term interest savings.

### APPLICABILITY

This policy applies to the Town Manager, Select Board, Sudbury Public School Committee, and Finance Committee in their budget decision making and in the Finance Director's debt reporting. It also applies to the Finance Director's budget analysis duties and statutory responsibilities associated with debt management, in their role as Treasurer/Collector.

### POLICY

Under the requirements of federal and state laws, the Town may periodically issue debt obligations to finance the construction, reconstruction, or acquisition of infrastructure and other assets or to refinance existing debt. The Town will issue and manage debt obligations in such a manner as to obtain the best long-term financial advantage and will limit the amount of debt to minimize the impact on taxpayers. Debt obligations, which include general obligation bonds, revenue bonds, bond anticipation notes, lease/purchase agreements, and any other debt obligations permitted to be issued under Massachusetts law, shall only be issued to construct, reconstruct, or purchase capital assets that cannot be acquired with current revenues.

#### A. Debt Financing

Debt may be financed either within the levy, or beyond the levy (a debt exclusion which requires a Proposition 2 ½ voter referendum).

In financing with debt, the Town will:

1. Issue long-term debt only for objects or purposes authorized by state law and only when the financing sources have been clearly identified.
2. Use available funds as appropriate to reduce the amount of borrowing on all debt-financed projects.
3. Confine long-term borrowing to capital improvements and projects that cost at least \$100,000 and that have useful lifespans of at least ten years or whose lifespans will be prolonged by at least ten years.
4. Restrict debt exclusion borrowing to proposals which meet all three of these criteria:
  - (1) useful life of 20 years or more

(2) estimated cost of the principal payment in the first year of the debt issuance greater than 0.25% of the prior year's General Fund revenue. This criterion applies after target level for in-levy debt of 3% is initially achieved<sup>8</sup>.

(3) the expenditure is either for town-owned land, buildings, or infrastructure or for a LSRHS capital assessment.

5. Refrain from using debt to fund any recurring purpose, such as current operating and maintenance expenditures.
6. The policy of the Select Board shall be to include sufficient debt capacity within the levy, such that capital items can be more predictably funded.
7. As debt within the levy decreases annually, this amount shall be used for capital, future debt, or set aside for future capital.

#### B. Debt Limits and Targets

The Town will adhere to these debt parameters:

1. Total annual debt service, including debt exclusions and any self-supporting debt, shall be limited to 10% of General Fund revenues, with a reasonable range of 5-7%.
2. As dictated by state statute<sup>9</sup>, the Town's debt limit shall be 5% of its most recent equalized valuation.
3. The Town shall endeavor to gradually and consistently pursue future debt issuances financed by within-levy dollars with a target of 3% of prior year's General Fund budget.

#### C. Structure and Term of Debt

The following shall be the Town's guidelines on debt terms and structure:

1. The term of any debt shall not exceed the expected useful life of the capital asset being financed and in no case shall it exceed the maximum allowed by law.
2. The Town will limit bond maturities to no more than 10 years, except for major buildings, water and water facility projects, land acquisitions, and other purposes in accordance with the useful life borrowing limit guidelines published by the Division of Local Services (DLS).
3. For non-excluded debt the Town will generally choose terms less than 20 years and structure as level principal payments, so that over time the annual debt payment goes down, opening up capacity for future capital.
4. Any vote to authorize borrowing will include authorization to reduce the amount of the borrowing by the amount of the net premium and accrued interest.
5. The Town will work closely with its financial advisor to follow federal regulations and set time frames for spending borrowed funds to avoid committing arbitrage, paying rebates, fines and penalties to the federal government, and jeopardizing any debt issuance's tax-exempt status.

<sup>8</sup> As per Section B. Debt Limits and Targets Item 3 of this document, herein.

<sup>9</sup> MGL Chapter 44 Section 10

**D. Bond Refunding**

To achieve potential debt service savings on long-term debt through bond refunding, the Town will:

1. Issue debt with optional call dates no later than 10 years from issue.
2. Analyze potential refunding opportunities on outstanding debt as interest rates change.
3. Use any net premium and accrued interest to reduce the amount of the refunding.
4. Work with the Town's financial advisor to determine the optimal time and structure for bond refunding.

**E. Protection of Bond Rating**

To protect its bond rating, the Town will:

1. Maintain good communications with bond rating agencies, bond counsel, banks, financial advisors, and others involved in debt issuance and management.
2. Follow a policy of full disclosure on every financial report and bond prospectus, including data on total outstanding debt per capita, as a percentage of per capita personal income, and as a percentage of total assessed property value.
3. The Town will not rely on reserves to sustain operating deficits. Use of such reserves will be limited to helping the Town deal with short-term or emerging financial stress, but then the Town will either reduce spending to within the limits of recurring revenues, or seek approval for additional revenues from the voters of the Town.
4. The Town will not defer current costs to a future date. This includes costs such as pension costs or benefits costs. From time to time, the State offers municipalities the option of deferring payments to their pension system, or other costs, as a short-term way of balancing a fiscal year's budget. However, it is the intention of the Town of Sudbury not to rely on these options.
5. The Town will follow the policies as outlined in this policy statement.

**F. Reporting**

1. The Town's Annual Town Report, Town Manager's Budget Request and Annual Town Meeting Warrant will give comprehensive summaries of the debt obligations of the Town.
2. The Finance Director will include an indebtedness summary as part of a report on receipts and expenditures in Sudbury's Annual Town Report.
3. The Finance Director, with the Town's financial advisor, will file the annual audit and official disclosure statement within 270 days of the end of the fiscal year.

## INVESTMENTS

### PURPOSE

To ensure the Town's public funds achieve the highest possible, reasonably available rates of return while following prudent standards associated with safety, liquidity, and yield, this policy establishes investment guidelines and responsibilities. It is further designed to comply with the Governmental Accounting Standards Board's recommendation that each community disclose its key policies affecting cash deposits and other long-term investments to ensure they are managed prudently and not subject to extraordinary risk.

### APPLICABILITY

This policy pertains to short-term operating funds, including general funds, special revenue funds, bond proceeds, capital project funds, and to all accounts designated as long-term (e.g., trusts, stabilization funds, other postemployment benefits trust fund (OPEB), and others the Town may set aside for long-term use, including scholarship and perpetual care funds). It does not pertain to the Town's retirement fund, which is managed by the Middlesex County Retirement Board. This policy applies to the Finance Director, in the role as Treasurer, his or her designee(s), and any advisors or other professionals in their responsibilities for investing and managing Town funds.

### POLICY

The Finance Director shall invest funds in a manner that meets the Town's daily operating cash flow requirements and conforms to state statutes governing public funds while also adhering to generally accepted diversification, collateralization, and the prudent investment principles regarding safety, liquidity, and yield. The Finance Director will report investment performance to the Select Board each August including a three-year historical lookback for Trust Funds.

See additional details in the [Town of Sudbury Investment Policy](#), [Trust Funds Investment Policy](#) as well as the [Town of Sudbury CPA Investment Policy](#).

## CAPITAL ASSETS

### PURPOSE

To ensure Sudbury's capital assets can cost-effectively sustain the town's desired service levels into the future.

### APPLICABILITY

This policy applies to the Town Manager as the Town's chief budget decision maker. It also applies to the job responsibilities of the Finance Director, School Superintendent, School Business Manager, Select Board, Sudbury Public School Committee, Finance Committee and Capital Improvement Advisory Committee (CIAC).

Capital Assets are defined as the community-owned collection of significant, long-lasting, and expensive real and personal property used in the operation of government, including land and land improvements; infrastructure, such as roads, bridges, water and sewer lines; easements; buildings and building improvements; vehicles, machinery and equipment. In order to be included in Sudbury's Capital Improvement Program, Capital Assets must cost \$20,000 or more and have a useful life of 5 or more years. Items or improvements that do not meet this threshold should be included within the Town's operating budget.

### POLICY

#### A. Capital Improvement Plan

The Town Manager shall maintain an inventory of all Town 'capital assets.' Annually, by September 30<sup>th</sup>, each department shall assess the condition and replacement needs. The Town Manager will update and adopt annually a five-year capital improvement plan ("CIP"), including the upcoming annual capital improvement budget ("CIB") and a four-year projection of capital needs and expenditures, which details the estimated cost, description and anticipated funding sources for capital projects. The CIP should govern projects undertaken either to build, buy, expand or replace a long-life asset or to an asset's condition beyond its original state of quality, efficiency, or useful life expectation.

Annually, the minimum level of capital spending the town should target year to year should be equivalent to 6% of the prior year's General Fund budget, endeavoring to draw equally from within-levy debt and cash capital sources. The chosen ratio of cash capital vs. in-levy debt used to fund capital may vary based on available cash capital, interest rates, and other factors.

The 6% target shall guide how much capital spending can be planned in each year of the CIP.

1. The Town Manager shall establish criteria to determine capital asset prioritization, including but not limited to:
  - Risks to public safety
  - Legal requirements



- Equitable provision of services (e.g. Americans with Disabilities Act compliance)
  - Revenue producing or cost savings
  - Improvement of operating efficiency
  - Funding sources availability
  - Systematic replacement or repair
  - Supports community plans (e.g. Master Plan)
  - Enhancement of quality of life (e.g. preservation of conservation, historic, and recreation resources)
2. Annually, the Town Manager shall request 5- and 15-year capital plans from Town Department Heads, SPS, and LSRHS. The Town's obligation per the LSRHS agreement shall be factored into the Town CIP.
  3. The Town Manager in consultation with Department Heads, SPS, and LSRHS, shall annually update the composition and prioritization of the 5- and 15-year capital plans and create an ordered list sorted by urgency score, with appropriate justification (identifying criteria and which department it supports).
  4. A Capital Project Submission Sheet shall be required for every item listed on the five-year CIP.
  5. The CIP shall not include items that cost less than \$20,000 or have a useful life of less than 5 years. Items that do not meet this threshold should be included within the Town's operating budget.
  6. Alongside the CIP prioritization, proposed Funding Sources shall be identified. Wherever possible, funding sources should be derived from 'cash capital' and within levy debt funding options. Funding sources for capital may include:
    - Community Preservation Act (CPA) funds (if eligible; Open Space, Recreation, Historic)
    - Town Manager's Capital Budget (items less than \$100,000 in one year; less than \$200,000 over multiple years; and last more than 5 years)
    - New growth dedicated to capital
    - Capital Stabilization Fund
    - Special-purpose stabilization funds
    - Free Cash
    - In-levy Debt
    - Dedicated revenue sources
    - Capital Exclusion
    - Debt Exclusion
    - Grants
  7. Capital Items which are CPA-eligible and prioritized for the upcoming budget year (i.e. to be included in the CIB) must be locked down and presented to the Community Preservation Committee according to their application/evaluation timeline.
  8. The Town will emphasize preventive maintenance as a cost-effective approach to infrastructure maintenance. Exhausted capital goods will be replaced as necessary.
  9. The CIP shall not include items deemed to be departmental maintenance. Rather, such smaller, shorter life maintenance items should be included in departmental budgets.



## B. Risk Management

1. The Town will maintain an effective risk management program that provides adequate coverage, minimizes losses, and reduces costs.
2. The Town will annually work with the Town's insurance carrier to update all listings of Town owned assets and the value and condition of such covered assets.

## C. Reporting and Process

1. The Town Manager will submit CPA-eligible projects under consideration for the CIB to the Community Preservation Committee by October 15th.

Annually by January 31st:

2. The Town Manager and departments shall submit to the CIAC a summary for evaluation of projects over \$100,000 for a single year, or \$200,000 over multiple years<sup>10</sup>. The Select Board requests progress summary reports for prior year capital items approved by the Town.
3. The Town Manager shall submit Town Meeting articles for the CIB.
4. The Town Manager shall coordinate the distribution of the CIB, CIP, and associated Capital Project Submission Sheets to the Select Board, CIAC, and Finance Committee<sup>11</sup> and other stakeholders. These materials will detail each capital project, the estimated cost, description and funding.
5. The 5 year capital improvement plan shall be posted and accessible for committees, commissions, boards, and public view on town website, reflecting updates for any changes made. The Capital Project Submission Sheet for each project on the 5 year CIP shall be posted and linked from the CIP.
6. On or before February 5th, the Select Board shall report all requests for capital appropriations to the Finance Committee<sup>12</sup>.
7. On or before February 15<sup>th</sup>, the Town Manager shall organize a joint meeting of the Select Board, CIAC, Finance Committee, CPC representatives, SPS/LSRHS superintendents, and department heads. They will solicit and coordinate receipt of questions in advance of this joint meeting. At this joint meeting, the CIAC will present its opinions on capital projects within its scope and will follow up with a final written report<sup>13</sup>.

<sup>10</sup> Per Bylaw Article XXV Sec. 2

<sup>11</sup> Per Bylaw Article IV Sec. 5 "Each Town department shall annually submit to the Finance Committee, not later than January 31st, an estimate of its requirements for the ensuing year."

<sup>12</sup> Per Bylaws Article IV Sec. 5 "Selectmen shall report all other requests for appropriations on or before February 5th."

<sup>13</sup> Per Bylaw XXV Sec. 2-3 "CIAC shall make a report with recommendations to the Finance Committee and the Board of Selectmen." "Capital expenditures budget shall be submitted to the Sudbury Finance Committee at the same time as the budgets of other Sudbury cost centers"

The Town Manager will present components of the CIB, in the form of Town Meeting Articles, for approval at the Annual Town Meeting (generally the 1<sup>st</sup> Monday in May).<sup>14</sup>

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<sup>14</sup> Per bylaw Article I Section 2 "The Annual Business Meeting shall begin on the first Monday in May at such place as the Selectmen shall determine."

## OTHER POSTEMPLOYMENT BENEFITS LIABILITY (OPEB)

### PURPOSE

To provide the basis for a responsible plan for meeting the Town's obligation to provide other postemployment benefits (OPEBs) to eligible current and future retirees. This policy provides guidelines designed to ensure OPEB sustainability and achieve generational equity among those called upon to financially support OPEBs, thereby avoiding transferring costs into the future.

### APPLICABILITY

This policy encompasses OPEB-related budget decisions, accounting, financial reporting, and investment.

### BACKGROUND

In addition to salaries, the Town of Sudbury compensates employees in a variety of other forms. Many earn benefits over their years of service that they will not receive until after retirement. A pension is one such earned benefit. Another is a set of retirement insurance plans for health and life. These are collectively referred to as other postemployment benefits or OPEBs.

OPEBs represent a significant liability for the Town that must be properly measured, reported, and planned for financially. As part of a long-range plan to fund this obligation, the Town established an OPEB Trust Fund, which allows for long-term asset investment at higher rates of return than those realized by general operating funds.

### POLICY

The Town of Sudbury is committed to funding the long-term cost of the benefits promised its employees. To do so, the Town will accumulate resources for future benefit payments in a disciplined, methodical manner during the active service life of employees. The Town will also periodically assess strategies to mitigate its OPEB liability. This involves evaluating the structure of offered benefits and their cost drivers while at the same time avoiding benefit reductions that would place undue burdens on employees or risk making the Town an uncompetitive employer.

#### A. Accounting and Reporting

The Finance Director will obtain actuarial analyses of the Town's OPEB liability every two years and will annually report the Town's OPEB obligations in financial statements that comply with the current guidelines of the Governmental Accounting Standards Board.

The Town Auditor shall ensure that the Town's independent audit firm reviews compliance with the provisions of this policy as part of its annual audits.

**B. Mitigation**

On an ongoing basis, the Town will assess healthcare cost containment measures and evaluate strategies to mitigate its OPEB liability. The Finance Director shall monitor proposed laws affecting OPEBs and Medicare and analyze their impacts. The Human Resources Director shall regularly audit the group insurance and retiree rolls and drop any participants found to be ineligible based on work hours, active Medicare status, or other factors.

**C. Funding**

To address the OPEB liability, decision makers shall analyze a variety of funding strategies and subsequently implement them as appropriate with the intention of fully funding the obligation. The Town shall derive funding to invest in the OPEB trust from taxation, free cash, and any other legal form.

## List of Acronyms

ADA - Americans with Disabilities Act

ATB - Appellate Tax Board

CIAC - Capital Improvement Advisory Committee

CPA - Community Preservation Act

CIB – Capital Improvement Budget (one year annual budget)

CIP – Capital Improvement Plan (five year plan, including upcoming CIB)

DLS – Division of Local Services

LSRHS – Lincoln Sudbury Regional High School

MGL – Massachusetts General Law

OPEB - Other Postemployment Benefits

SPS – Sudbury Public Schools

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**MISCELLANEOUS (UNTIMED)****6: Update from Liberty Ledge/Sewataro Negotiation Subcommittee****REQUESTOR SECTION**

Date of request:

Requestor: Chair Roberts

Formal Title: Update from Liberty Ledge/Sewataro Negotiation Subcommittee and discussion. (~20 min.)

Recommendations/Suggested Motion/Vote: Update from Liberty Ledge/Sewataro Negotiation Subcommittee and discussion. (~20 min.)

Background Information:

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

01/24/2022 6:45 PM



## SUDBURY SELECT BOARD

Monday, January 24, 2022

7

### MISCELLANEOUS (UNTIMED)

#### 7: Minutes review

##### REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Review open session minutes of 12/7/21 and possibly vote to approve minutes.

Recommendations/Suggested Motion/Vote: Review open session minutes of 12/7//21, and possibly vote to approve minutes.

Background Information:

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

01/24/2022 6:45 PM

# SUDBURY SELECT BOARD

TUESDAY, DECEMBER 7, 2021

(Meeting can be viewed at [www.sudburytv.org](http://www.sudburytv.org))

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

The statutory requirements as to notice having been complied with, the meeting was convened at 6:32 p.m. via Zoom telecommunication mode.

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: Charlie-present, Bill-present, Dretler-aye, Dan-aye, Roberts-aye

## **Opening remarks by Chair:**

- Wished everyone Happy Holidays
- Thanked Town Manager Hayes and Staff for efforts with festive Town Center holiday lighting
- Submission of entries to the holiday sweater contest ended yesterday – winner/s to be announced
- Attended BOH meeting, COVID cases increased slightly - mostly among unvaccinated youth and children – mask mandate still in place
- Will likely be changes to contact tracing model – decision of towns and individuals

## **Reports from Town Manager:**

- Electricity Disclosure Label available regarding Sudbury Community Electricity Aggregation Program
- Flags at half-staff in memory of US Senator Bob Dole
- Dutton Road Bridge completed and open to the public as of December 1, 2021

## **Reports from Select Board**

Board Member Carty:

- Apologized for missing announcing the 11<sup>th</sup> anniversary of the passing of Lt. Scott Milley on November 30
- In honor of 1<sup>st</sup> Lt. Scott Milley the 10<sup>th</sup> annual Warriors4Warriors hockey jamboree/benefit between LSRHS and Concord-Carlisle High School scheduled for Saturday, December 18<sup>th</sup> at the New England Sports Center, Marlborough, MA
- As part of the jamboree/benefit LSRHS boys Junior Varsity plays Concord-Carlisle at 1:30 p.m. – Girls Varsity to play at 3:00 p.m. – Boys Varsity to play at 5:00 p.m.
- Newly published You'll Be Fine – 33 Years of Ice, Tape and Wisdom from Yoshitaka Ando, written by Yoshitaka Ando, the beloved coach and teacher at LSRHS – all proceeds go to the Ando Family Fund – order from: **bookofando.bigcartel.com**
- He and Vice-Chair Russo will host Select Board Office Hours on December 15<sup>th</sup> at noon



Vice-Chair Russo:

- Attended a couple of Town Committee/Board meetings the past week
- Will be participating in the upcoming “Open Meeting Law” training session

Board Member Schineller:

- Happy to start the Select Board meeting earlier tonight in consideration of full agenda
- Announced anniversary of Pearl Harbor Day

Board Member Dretler:

- Thanked Park & Recreation Department and Staff for conducting a fantastic and well-run event at Level 99 – The Natick Mall for middle school students
- Attended Park & Recreation Commission meeting last night as liaison – she sent concerns to Town Manager Hayes regarding issues raised by the Commission and Staff
- Senator Eldridge hosting a “Community Climate Summit” this evening on Zoom
- “Toys for Tots” collection at the Fire Station on Hudson Road – accepting donations until Friday, December 17<sup>th</sup> with collect bin at rear entrance
- Listened to the Town of Newton ARPA session

**Citizen comments on items not on agenda**

None

**Employee and Supervisor of the Year recognitions**

Present: Debra Galloway, Senior Center Director; Brian Powell, IT Specialist

Town Manager Hayes announced Debra Galloway as Sudbury Supervisor of the Year for 2021, and Brian Powell as Sudbury Employee of the Year for 2021.

**Debra Galloway – Sudbury Supervisor of the Year 2021**

Town Manager Hayes detailed that Ms. Galloway began her employment with the Town on 7/1/2005 as the COA (Council on Aging) Information Referral Specialists and was appointed Director of COA 12/2010.

Debra has worked endlessly to promote every opportunity for all Seniors in Sudbury, especially in consideration of the ongoing pandemic period. Debra continues to ensure that the Senior Center offer comprehensive services, programs, and activities for seniors, via in-person, hybrid or utilizing the Zoom electronic mode. Her collaborative work with SudburyTV has provided all Seniors the opportunity to participate with all programming and stay involved.

Town Manager Hayes recognized Debra’s significant contribution as member of the Transportation Committee, with the successful implementation of GoSudbury! Taxi service, in addition to other transportation programs that provides transportation for seniors, military veterans, the disabled, and those with financial hardship.

Board members extended their congratulations and appreciation to Debra Galloway.

**Brian Powell – Sudbury Employee of the Year 2021**

Town Manager Hayes shared that Mr. Powell began his employment with the Town on 9/11/2000 as the Sudbury IT Technical Support Specialist, and continues to rise to the top as an outstanding employee.

In 2009, Brian had also achieved the Sudbury Employee of the Year distinction. Brian continues to address all IT-related issues, with individual system issues, as well as, addressing technical excellence behind the scenes.

Town Manager Hayes emphasized that Brian successfully solved additional IT challenges presented with the advent of the pandemic, such as the continued smooth processes associated with virtual Town-wide meetings, and other associated functions.

Brian's excellent effort over the course of the year has allowed all Town departments to continue to provide a high-quality level of service Town-wide.

Town Manager Hayes confirmed that Brian possesses a sterling technical aptitude and has the gift associated with directing others in this area, instilling a level of confidence in all Town employees who depend on the IT processes.

Board members extended their congratulations and appreciation to Brian Powell.

Board Member Schineller stressed the importance of IT functions during the recent Town meetings during COVID.

#### **Discussion and possible vote on finalization of Financial Policies draft document**

Present: Dennis Keohane, Finance Director

Chair Roberts confirmed she had received Financial Policies draft document comments/edits from FinCom (Finance Committee), CIAC (Capital Improvement Advisory Committee) and Select Board members.

The Board resumed discussion regarding the overlay/debt and overlay surplus topics.

Board Members presented questions regarding the Investment Advisory Group that meets with his department periodically. Mr. Keohane detailed that the members of the Advisory Group include: Dan Flanagan, 17 Lafayette Drive, Dave Petitt, 66 Robbins Road; and Frederick Pryor, 221 Nobscot Road, and have been serving Sudbury when he commenced his employment in the Finance Department. Mr. Keohane stated he would research the Advisory Group further, and provide additional information to the Board.

Various other edits were included in the areas of:

- Trust Funding Reporting – conduct performance reviews in consideration the Select Board serves as trustees.
- OPEB

Board Member Dretler recommended that at the end of each section, language be included to reflect the date the Select Board adopted a policy, or made alterations; that references be provided in consideration of updating in the future, and the inclusion of page numbers.

Board Member Carty agreed that a clean, amended copy be voted on at the next Board meeting.

Resident Pat Brown, 24 Whispering Pine Road, said she was pleased with the work done by the Board and Mr. Keohane. She recommended the Board also consider the recommendations presented by DLS (Division of Local Services).

**Bruce Freeman Rail Trail update by Environmental Planner Beth Suedmeyer**

Present: Environmental Planner Beth Suedmeyer, Town Counsel Lee Smith, Consultant Nick Lapointe, Fuss & O'Neill, Inc.

Ms. Suedmeyer provided a Bruce Freeman Rail Trail (BFRT) update, confirming that the MA Environmental Policy Act (MEPA) meeting went well today, and any additional comments from the State agencies would follow. She stated the advertising date would now be scheduled for July, and such change was inconsequential to the completion date established. Ms. Suedmeyer confirmed the NOI (Notice of Intent) hearing was scheduled for January 10, 2022.

Mr. Smith expressed no concerns regarding the related lease, adding the lease was similar to those of Acton and Concord.

Board Member Dretler asked about insurance details. Mr. Smith provided related detail.

Board Member Carty asked about the multi-use path in relation to permitted uses. Mr. Smith provided multi-use path definition and permitted uses as documented within the lease.

Board Member Carty inquired about Article 2.1 language, and referenced a recent letter from resident Dan DePompei, 35 Haynes Road, requesting that the Planning Department further examine all properties involved. Mr. Smith said such considerations would be addressed.

Board Member Carty asked about Article 3.1, and potential damage to utilities. Mr. Smith provided descriptive detail. Board Member Carty further asked if lighting would be provided on the BFRT. Mr. Smith responded not.

Vice-Chair Russo inquired about the definition of material interference and indemnification. Mr. Smith provided explanation.

Board Member Schineller inquired about the clear title aspect. Mr. Smith described the "taking" which took place in 2014 for the railroad right of way acquired by MassDOT (Mass Department of Transportation) in Acton, Concord and Sudbury. Mr. Smith added that MassDOT was not seeking further "taking" in connection with the BFRT in Sudbury.

Chair Roberts inquired about the timeline in connection with completion of the lease document and possible contingencies. Mr. Smith responded that actual finalization would be performed at the end of the process. Mr. Smith suggested Board Members review the draft and present any comments, so that the lease could be completed.

Board Member Dretler asked why date of advertising went from June to July. Vice-Chair Russo noted that the NOI process could take additional time. Ms. Suedmeyer added the NOI was being reviewed by MassDOT currently; indicating the NOI proposal was a good one. Related discussion took place.

Board Member Roberts inquired about the team confidence regarding the BFRT timeline. Mr. Lapointe expressed 100% confidence regarding the proposed project delivery date.

Resident Len Simon, 40 Meadowbrook Circle, expressed concern regarding the timing of the NOI, being in such close timing to end of project. He mentioned if the NOI was appealed, it could delay completion of the project. He was uncomfortable with additional revisions.

**Town Manager Hayes to present Key Performance Indicators (KPI) projects: Fairbank Community Center Rebuild; Eversource Litigation; Bruce Freeman Rail Trail (BFRT); Town Hall Restoration; Town-wide ADA Assessment; Comprehensive Wastewater Management Plan; and American Rescue Plan Act (ARPA).**

Town Manager Hayes presented Key Performance Indicators (KPIs) for several Town projects, including:

**The Fairbank Community Center**

Goal: Replacement of Current Building

Town Manager Hayes stated that construction estimates presented were in excess of the approved construction budget, and revisions are being considered, with continued discussion to take place.

Board Member Dretler asked about the water issue. Town Manager responded the water main location could possibly be relocated, which would likely cost approximately \$300,000. Town Manager Hayes opined about the Sudbury Water District possibly assuming a portion of the related cost. Board Member Dretler stated she would be interested in learning about all possible funding options.

Vice-Chair Russo asked about release of contingency funds. Town Manager Hayes responded that releasing such funds early in the project is not preferable.

Chair Roberts addressed her concerns about cost inflation due to COVID, and how the finalized project would be affected. She agreed with Board Member Dretler about better understanding all options, as well as alternative funding considerations. She acknowledged that ARPA funds might be considered for some aspects of the project.

Vice-Chair Russo inquired about fund-raising possibilities. Board Member Carty suggested that Board Members review Article 18, and what the Town approved.

**Eversource Litigation**

Goal: Seek the best and safest options for Sudbury with regard to utility expansion and related unintended consequences

Board Member Schineller asked about the Board's letter sent to Governor Baker and Eversource CEO Joe Nolan. Town Manager Hayes commented that a return letter/s were not received.

Chair Roberts mentioned the conversation with she, Sherrill Cline, Community Preservation Committee Chair, and the aide from Senator Markey's office regarding this issue. The representative from Senator Markey's office stated the situation would be explored further.

**Bruce Freeman Rail Trail (BFRT) Phase 2D**

Goal: Create rail trail from the Concord line south ending at Station Road

Town Manager Hayes stated the presented KPI was consistent with the BFRT update presentation earlier in the meeting.

Vice-Chair Russo mentioned possible surplus funds. Board Member Carty reiterated the Board must be aware of the original purpose of those funds.

#### Town Hall Restoration/Rehabilitation Design (2017 Town Meeting Article 31)

Goal: Upgrades, adjustments and repairs to increase utilization of a Town resource within the Historic District

Town Manager Hayes confirmed there was no substantive changes made.

Board Member Schineller mentioned the possibility of CPC funding.

Chair Roberts suggested a conversation regarding a timeline take place.

Vice-Chair Russo opined about the variable/inflated construction rate, and the fact that the Town is involved with many projects at this time.

#### ADA Self-Assessment & Transition Plan

Goal: Upgrades, adjustments and repairs to increase accessibility for Town resources

Town Manager said now in a period of evaluating what can be done regarding Town buildings, and the Facilities Department is examining those aspects. He stated that planning for the Fairbank Center includes all aspects of ADA compliance.

Board Member Dretler asked if the Board could be provided with the associated evaluation costs, as well as what funding source was used. Vice-Chair Russo asked if an ADA priority list would be available. Town Manager Hayes responded related spreadsheets are online, and will be amended as each project is addressed.

Board Member Schineller suggested addressing smaller ADA projects first and keep track of those improvements; with expenses over \$20,000 becoming part of a five-year capital plan.

Chair Roberts indicated the importance of ensuring continued momentum, suggesting that larger ADA modification projects be presented at Town Meeting on a yearly basis. Town Manager Hayes agreed that bringing as many projects as possible to Town Meeting over a five-year period would be beneficial.

Resident Kay Bell, 348 Old Lancaster Road, commented that the ADA KPI needed more specificity; and suggested that COD be allowed to work more closely with Facilities Director Bill Barletta.

#### Comprehensive Wastewater Management Plan (CWMP) Updates

Goal: Completion of Town-wide Comprehensive Wastewater Management Plan and Environmental Impact Report

Town Manager Hayes confirmed that public participation would be continuing. He stated that a CWMP draft report will be completed by the end of the month.

Vice-Chair Russo asked if the MEPA filing would be provided online. Town Manager Hayes affirmed it would.

Chair Roberts mentioned the importance of public education being provided.

### American Rescue Plan Act – ARPA

Goal: Utilize funding in accordance with the Federal Guidelines

Town Manager Hayes mentioned that surveys, Flash Votes, and submissions have been established and can be submitted until the end of the month.

Board Member Dretler stressed the importance of two project deadlines: 2024 and 2026.

### Recess

Chair Roberts moved 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, Russo-aye, Schineller-aye, Dretler-aye, Roberts-aye

VOTED: To recess for five minutes and return at 10:09 p.m.

Select Board meeting resumed at 10:09 p.m.

### **Sewataro Discussion: - Update on outstanding Sewataro questions list - Update on public education document to be drafted by Subcommittee - Update on swimming/fishing ponds and ongoing MA Department of Public Health/MA Department of Environmental Protection meetings - Discussion on Camp Operator/Property Manager contract renewal decision approach/timeline - Sewataro Use Policy discussion - Other Outstanding Sewataro items**

Town Manager Hayes confirmed that comments/questions related to Sewataro were submitted from Select Board Members, as well as several resident comments.

Board Member Dretler motioned to release Town Counsel answers in the Sewataro Q&A document. Board Member Carty seconded the motion.

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

VOTED: To release Town Counsel answers to the Sewataro Q&A document.

Town Manager Hayes acknowledged that he received a note from Health Director Bill Murphy stating that the Town should implement a testing process to establish quality of water at Sewataro.

Board Member Dretler asked if the Board of Health memo dated September, 2019; could be added to tonight's meeting as supporting material. Chair Roberts suggested including such material to the Sewataro website.

Board Member Dretler motioned to execute a one-year lease agreement extension with the current Camp Sewataro operator, and hire a consultant to study the Liberty Ledge property. Chair Roberts seconded the motion.

Board Member Carty asked for discussion time, and stated that the timing of the motion just seconded was suspect. Board Member Dretler stated the motion would provide the Camp operator a full year to extend the contract, and would give the Town time to analyze the site.



Board Member Schineller endorsed a five-year term extension. Chair Roberts iterated that a one-year extension would help to address outstanding considerations, as well as further consideration of studying the best use for the property.

Vice-Chair Russo stated he was not in favor of a one-year extension, and was not confident that such consultation would be completed in one year.

Board Member Dretler opined that ARPA funds might be considered, and there might be financial impacts created by the pond situation.

Camp Operator Scott Brody stated one or two-year contract extensions would be problematic; he confirmed that the Camp makes money for the Town.

Resident Len Simon affirmed that the use of the land should be determined by the residents, adding that the Town had until June, 2022 to make a final decision, and indicated that hiring a land use consultant would be the best option at this time. He supported a one-year agreement extension.

Kristen Drummey, Camp Sewataro representative, confirmed that the consultant hired by the camp operator, agreed that the water issue could be easily remedied. She added that those results would be shared with the Select Board, the Conservation Commission, and other town departments.

After intense discussion, Board Member Schineller read the Camp Sewataro Agreement aloud without being interrupted.

Chair Roberts recessed the meeting for five minutes.

When the meeting resumed, Board Member Dretler read comments from residents into the record:

- Resident Robert May, 98 Maynard Farm Road, indicated support of a one-year extension, and hiring a consultant to determine the best use of Sewataro.
- Resident Thomas Travis, 45 Old Framingham Road, supported a full-independent review by a land use consultant, and one-year camp operator extension.
- Park and Recreation staff suggested that the use of Camp Sewataro be studied.

Board Members considered the previous motion made by Board Member Dretler.

It was on motion 3-2; Schineller-no, Russo-no, Dretler-aye, Carty-no, Roberts-aye

VOTED: Not to approve a one-year lease agreement extension with the current Camp Sewataro operator, and hire a consultant to study the Liberty Ledge property.

### **Fire Station discussion - Town Manager Hayes to provide update on design and project status for Fire Station 2**

Town Manager Hayes provided update regarding project schematics, noting that funding was deficient by over one million dollars. He stated that the Permanent Building Committee (PBC) and the design team are revising the project design and an updated cost estimate will determine if the project proceeds to phase one.

Related discussion ensued.

Resident Len Simon stated the Board takes a long time to arrive at project decisions.

**Open 2022 Annual Town Meeting warrant and announce that Annual Town Meeting will commence Monday, May 2, 2022 at Lincoln-Sudbury Regional High School. Warrant to close Monday, January 31, 2022 at 12:00 Noon.**

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

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

VOTED: To open 2022 Annual Town Meeting warrant and announce that Annual Town Meeting will commence Monday, May 2, 2022 at Lincoln-Sudbury Regional High School. Warrant to close Monday, January 31, 2022 at 12:00 Noon.

Board Members inquired if Town Meeting would be conducted outside or inside. Town Manager Hayes responded that a change to an outdoor Town Meeting could be made closer to the date of Town Meeting.

**Discuss 2022 Annual Town Meeting logistics and potential costs**

Town Manager Hayes asked if the Board would anticipate an outside Town meeting.

Board Member Dretler asked if ARPA funding could be used, if an outdoor Town Meeting took place. Town Manager Hayes confirmed he would check to see if ARPA funds could be used in that way. Board Member Dretler indicated her preference for using ARPA funding for a Special Town Meeting, if needed. Board Member Carty stated he hoped that Town Meeting could be held inside.

**Discuss potential 2022 Annual Town Meeting Select Board articles**

Articles discussed included:

- Sustainability Director vs. Consultant for the Climate Action Plan
- Reversion of funds
- Fairbank FF&E (furniture, fixtures, and equipment)
- Sudbury Housing Trust Bylaw Change

**American Rescue Plan Act (ARPA) funds discussion: Possible dedicated consultant/staff member; process recap and discussion on allocation tracking**

Chair Roberts asked if ARPA requests submission could be extended to December 31, 2021.

Board Member Dretler suggested a public hearing session be scheduled in January.

**Review open session minutes of 11/3/2021, and possibly vote to approve minutes**

Chair Roberts recommended that in consideration of time, review of 11/3/2021 minutes be postponed to the next meeting.

**Citizen's Comments (cont.)**

None



**Upcoming Agenda Items**

December 21:

- Reversion of funds
- Superintendent Crozier to present ARPA funding request
- Review of Minutes
- Sewataro Discussion

**Consent Calendar****Vote to approve the Town Manager appointment of Karyn Jones, 27 Pendleton Road, to the Commission on Disability (COD) for a term expiring 5/31/23.**

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

Board Member Carty asked if COD member terms were staggered. Member Kay Bell responded that staggering was now taking place.

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

VOTED: To approve the Town Manager appointment of Karyn Jones, 27 Pendleton Road, to the Commission on Disability (COD) for a term expiring 5/31/23.

**Adjourn**

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

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

VOTED: To adjourn the Select Board Meeting

There being no further business, the meeting adjourned at 12:11 a.m. Wednesday, 12/8/21.



SUDBURY SELECT BOARD  
Monday, January 24, 2022

8

**MISCELLANEOUS (UNTIMED)**

**8: 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

01/24/2022 6:45 PM

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**MISCELLANEOUS (UNTIMED)****9: 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

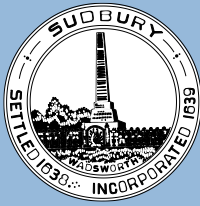
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# POTENTIAL UPCOMING AGENDA ITEMS/MEETINGS

MEETING/EVENT	DESCRIPTION
<b>Mon, January 31</b>	2022 Annual Town Meeting Warrant closes at <b>12:00 Noon</b> for submission of articles
<b>February 1</b>	Accept 2022 Annual Town Meeting articles submitted by 1/31/22
	Peakham Road speed limit discussion
	Housing Choice/MBTA Communities discussion
<b>February 15</b>	<b>Joint meeting with FinCom and CIAC</b> to discuss capital Town Meeting articles
<b>March 1</b>	<b>7:15 PM Public Hearing – Grant of Location (Eversource) to move utility pole at Cold Brook Crossing</b>
	Deadline (or March 8) to sign Annual Town Election Warrant and send to print
<b>Mon, March 28</b>	Annual Town Election
<b>April 5</b>	Drop deadline to sign/approve ATM warrant and send to print
<b>May 2-4</b>	Annual Town Meeting at LSRHS
<b>Date to be determined</b>	Investment Advisory Committee
	Housing Choice Legislation
	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
	Sewataro Renewal Decision Next Steps; Sewataro Use Policy; Sewataro Financial Statement Review
	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
	Sidewalks discussion
	Town Manager Goals and Evaluation process
	Town meeting recap – year in review
	Town-wide traffic assessment and improve traffic flow
	Update on crosswalks (Chief Nix/Dan Nason)
	Update on traffic policy (Chief Nix)

Attachment 9.a: Upcoming items 01.24.21 (5020 : Upcoming agenda items)

	Work Session with Town Counsel: Select Board/Town Manager Code of Conduct and other procedural training	9.a
<b>Standing Items for All Meetings</b>	Select Board requests for future agenda items at end of meeting	
	Citizens Comments, continued (if necessary)	

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**CONSENT CALENDAR ITEM****10: ATM article - street acceptance Huckleberry Lane****REQUESTOR SECTION**

Date of request:

Requestor: Adam Duchesneau, Director of Planning &amp; Community Development

Formal Title: Motion for the Select Board to vote to intend to layout the following way at a public hearing on April 5, 2022 at 7:00 PM: Huckleberry Lane from Old Lancaster Road to dead end, a distance of 453 feet +/-; and further to refer the proposed layout to the Planning Board for its report prior to the April 5, 2022 hearing, and to place this item on the May 2, 2022 Annual Town Meeting Warrant.

Recommendations/Suggested Motion/Vote: Motion for the Select Board to vote to intend to layout the following way at a public hearing on April 5, 2022 at 7:00 PM: Huckleberry Lane from Old Lancaster Road to dead end, a distance of 453 feet +/-; and further to refer the proposed layout to the Planning Board for its report prior to the April 5, 2022 hearing, and to place this item on the May 2, 2022 Annual Town Meeting Warrant.

**Background Information:**

This is the first step in the process outlined on the attached schedule to accept Huckleberry Lane as a public way, with all future maintenance and repair to be done by the Town. Please see the attached schedule for further details.

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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

01/24/2022 6:45 PM



January 19, 2022

TO: Henry Hayes, Town Manager

FROM: Elaine Jones, Town Counsel's Office

RE: Street Acceptance Schedule – 2022 Annual Town Meeting

The following schedule of required actions by the Select Board for laying out Huckleberry Lane to be accepted by the 2022 Annual Town Meeting has been prepared as follows.

The first date (January 24, 2022) allows a 45+ day period for the Planning Board report, so the layout (April 5, 2022) can proceed in the event a report is not received.

January 24th Select Board votes its intention to layout the street in question on April 5, 2022 and refers to the Planning Board. Letter of referral written and sent to the Planning Board no later than February 1, 2021.

March 28th Owners of property must be notified by no later than this date. Town Counsel's Office prepares notices and delivery instructions for Department of Public Works, or mails notices where applicable.

April 5th Select Board, having received the Planning Board report or 45 days having elapsed, votes the layout and signs form prepared by Town Counsel's Office.

April 20th Layout must be filed with the Town Clerk by this date.

May 2nd-3rd Acceptance of layout at Annual Town Meeting. Upon acceptance by Town Meeting, Select Board adopts Order of Taking prepared by Town Counsel's Office within 120 days of termination of Town Meeting and Order of Taking is recorded within thirty days of its adoption.

cc: Dan Nason, Director of Public Works  
Adam Duchesneau, Director of Planning & Community Development  
Conservation Commission  
Town Clerk  
Select Board



**ARTICLE XX. STREET ACCEPTANCE – HUCKLEBERRY LANE**

To see if the Town will vote to accept the layout of the following as a public way:

Huckleberry Lane from Old Lancaster Road to dead end, a distance of 453 feet +/-

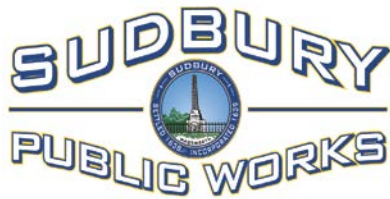
as laid out by the Select Board in accordance with the descriptions and plan entitled “Acceptance Plan of Huckleberry Lane in Sudbury, MA” prepared for Eligius Homes Company by Thomas Land Surveyors and Engineering Consultants, Inc., dated September 17, 2014 and twice revised on December 12, 2016 and March 16, 2017, on file in the Town Clerk’s Office; and to authorize the Select Board to acquire by purchase, by gift, or by eminent domain, an easement or fee simple, over the way shown on said plan and any associated drainage, utility, or other easements for all purposes for which public ways are used in the Town of Sudbury; and to raise and appropriate or transfer from available funds a sum or sums of money therefor and all expenses in connection therewith; or act on anything relative thereto.

Submitted by the Select Board. (Majority vote required)

**SELECT BOARD REPORT:** This article is the result of the recommendations of the Department of Public Works as to roads which meet legal requirements for acceptance. Prior to Town Meeting, the Select Board will have held a public meeting and will have received a recommendation from the Planning Board relative to approval of the layout of this road. The Select Board will then report at Town Meeting. If Town Meeting votes to accept the layout of Huckleberry Lane as a public way, all future maintenance and repair of the roadway will be performed by the Town.

**SELECT BOARD POSITION:**





ENGINEERING • HIGHWAY • PARKS & GROUNDS • TRANSFER STATION • TREES & CEMETERY

275 Old Lancaster Road, Sudbury, MA 01776 T: (978) 440-5421 F: (978) 440-5404

Daniel F. Nason, Director

December 10, 2021

Sudbury Select Board  
Flynn Building  
278 Old Sudbury Road  
Sudbury, MA 01776

RE: Acceptance of Huckleberry Lane as a Public Way.

Dear Select Board Members:

Huckleberry Lane lies within the completed development of Pinewood Grove and runs from Old Lancaster Road to a dead end, a distance of 453 feet +/- . The development includes five homes designed in 2010 and completed in 2016. The Department of Public Works requests that this roadway be accepted as a public way in order to be eligible for future MassDOT Chapter 90 funding.

A petition to accept this roadway as a public way was overlooked due to staff turnover in both the Department of Public Works and the Planning and Community Development Department in early 2017. We wish to correct this oversight with a warrant article of street acceptance at the 2022 Spring Town Meeting.

The Town has the necessary documentation for filing with the South Middlesex Registry of Deeds including the Street Acceptance Plan and the As Built Plan.

Thank you for your consideration.

Sincerely,

William F. O'Rourke, P.E.  
Town Engineer/DPW Deputy Director

Cc: Dan Nason, Director of Public Works

Attachment10.d: L211210 Select Board - Huckleberry Ln\_ (5044 : ATM article - street acceptance Huckleberry Lane)

**SUDBURY SELECT BOARD**

Monday, January 24, 2022

**CONSENT CALENDAR ITEM****11: Appointment to Commission on Disability****REQUESTOR SECTION**

Date of request:

Requestor: COD chair Kay Bell

Formal Title: Vote to approve the Town Manager appointment of Liesje Quinto, 15 Pendleton Road, to the Commission on Disability for a term expiring 5/31/24.

Recommendations/Suggested Motion/Vote: Vote to approve the Town Manager appointment of Liesje Quinto, 15 Pendleton Road, to the Commission on Disability for a term expiring 5/31/24.

Background Information:

See attached application and letter of recommendation from COD chair.

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

01/24/2022 6:45 PM

# **TOWN OF SUDBURY** **APPLICATION FOR APPOINTMENT**

**SELECT BOARD**  
**278 OLD SUDBURY ROAD**  
**SUDBURY, MA 01776**

**FAX:** (978) 443-0756  
**E-MAIL:** selectboard@sudbury.ma.us

**Board or Committee Name:** Commission on Disability

**Name:** Liesje Quinto

**Address:** 15 Pondloton Rd, Sudbury, MA 01776 **Email Address:** [REDACTED]

**Home phone:** [REDACTED] **Work or Cell phone:** [REDACTED]

**Years lived in Sudbury:** 4

**Brief resume of background and pertinent experience:**

I am the mother of a child who has a physical disability. I have firsthand experience of what it is like to navigate a world that does not accommodate the needs of my child. I also know the struggles of balancing multiple appointments and expenses associated with having a disability. Other than my experience as being a mom to a child with a physical disability, I also have experience working with adults who have intellectual and developmental disabilities. I was a vocational counselor for Esot Human Services in Lexington MA in 2002-2003.

**Municipal experience (if applicable):**

**Educational background:**

Bachelor of Commerce - Saint Mary's University, Halifax, NS  
 Bachelor of Arts - Saint Francis Xavier University, Antigonish NS

**Reason for your interest in serving:**

I have been a resident of Sudbury since 2017. I love this town and want to contribute to the community. I believe that being on the Commission on Disability would be a valuable way for me to make a contribution.

**Times when you would be available (days, evenings, weekends):**  
**My schedule is flexible**

**Do you or any member of your family have any business dealings with the Town? If yes, please explain:**  
**No.**

**IQ** (Initial here that you have read, understand and agree to the following statement)

I agree that if appointed, I will work toward furtherance of the committee's mission statement; and further, I agree that I will conduct my committee activities in a manner which is compliant with all relevant State and Local laws and regulations, including but not limited to the Open Meeting Law, Public Records Law, Conflict of Interest Law, Email Policy and the Code of Conduct for Town Committees.

I hereby submit my application for consideration for appointment to the Board or Committee listed above.

**Signature**

Liesje Quinto

**Date**

11/22/2021

Attachment 11.a: Quinto\_appl\_redact (5040 : Appointment to Commission on Disability)



## Sudbury Commission on Disability

[disability@sudbury.ma.us](mailto:disability@sudbury.ma.us)

(978) 639 – 3265

<https://sudbury.ma.us/disability/>

December 6, 2021  
Town Manager, Henry Hayes  
278 Old Sudbury Road  
Sudbury, MA 01776

Dear Town Manager Hayes,

As Chair of the Sudbury Commission on Disability (COD) I write to express the Commission's strong support for the application for membership of Ms. Liesje Quinto. Ms. Quinto attended the December 6, 2021 meeting of the Commission for a conversation. COD members were glad for the opportunity to hear directly from Ms. Quinto.

After her education at Saint Mary's University and Saint Francis Xavier University in Nova Scotia, Ms. Quinto worked in financial aspects of the biotech sector in the Boston area. She also worked at Eliot Human Services in Lexington as a vocational counselor for adults with intellectual and developmental disabilities. Ms. Quinto's most recent position was manager of clinical business planning at Deciphera Pharmaceuticals.

Ms. Quinto's family includes a child with a physical disability and that has caused her to sometimes encounter and deal with obstacles that impede her child's full participation in the things children without physical disabilities are able to participate in freely. She has seen what works and what does not. Ms. Quinto has said, "I love this town and want to contribute to the community." She sees participation on the COD as a good way to do that.

The members of the COD agree that Ms. Quinto's firsthand knowledge, her status as what Valerie Fletcher of the Institute for Human Centered Design has termed a "user expert," will be an asset to our work. In fact, the vote to support Ms. Quinto's candidacy was unanimous.

We believe that Ms. Quinto possesses the background, skills, and positive motivation that will be valuable resources to the Commission, and we fully support your request, Mr. Hayes, that the Select Board approve your appointment of Ms. Quinto to the Commission on Disability.

Sincerely,  
Kay Bell, Chair, on behalf of the Sudbury Commission on Disability

Assess \* Educate \* Assist  
making an inclusive community



## SUDBURY SELECT BOARD

Monday, January 24, 2022

**CONSENT CALENDAR ITEM****12: Accept firefighters safety grant****REQUESTOR SECTION**

Date of request:

Requestor: Fire Chief John Whalen

Formal Title: Vote to accept FY22 Firefighters Safety Equipment Grant funds in the amount of \$15,504.06, for the purchase of Hose, Nozzles and Valves, Cold Water Rescue Suit, Life Jackets, and Air Bag lifting system to be used by the Fire Department.

Recommendations/Suggested Motion/Vote: Vote to accept FY22 Firefighters Safety Equipment Grant funds in the amount of \$15,504.06, for the purchase of Hose, Nozzles and Valves, Cold Water Rescue Suit, Life Jackets, and Air Bag lifting system to be used by the Fire Department.

Background Information:

Attached FSE Grant and approved contract

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

01/24/2022 6:45 PM



## COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



12.a

This form is jointly issued and published by the Office of the Comptroller (CTR), the Executive Office for Administration and Finance (ANF), and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. The Commonwealth deems void any changes made on or by attachment (in the form of addendum, engagement letters, contract forms or invoice terms) to the terms in this published form or to the [Standard Contract Form Instructions](#), [Contractor Certifications](#) and [Commonwealth Terms and Conditions](#) which are incorporated by reference herein. Additional non-conflicting terms may be added by Attachment. Contractors are required to access published forms at CTR Forms: <https://www.mass.gov/lists/osd-forms>. Forms are also posted at OSD Forms: <https://www.mass.gov/lists/osd-forms>.

<b>CONTRACTOR LEGAL NAME:</b> Town of Sudbury (and d/b/a):		<b>COMMONWEALTH DEPARTMENT NAME:</b> Department of Fire Services <b>MMARS Department Code:</b> DFS	
<b>Legal Address: (W-9, W-4):</b> 322 Concord Rd, Sudbury, MA 01776		<b>Business Mailing Address:</b> P.O. Box 1025, Stow MA 01775	
<b>Contract Manager:</b> Chief John M. Whalen	<b>Phone:</b> 978-440-5311	<b>Billing Address (if different):</b>	
<b>E-Mail:</b> Whalenj@sudbury.ma.us	<b>Fax:</b> 978-440-5305	<b>Contract Manager:</b> David Clemons	<b>Phone:</b> 978-567-3179
<b>Contractor Vendor Code:</b> VC6000191996		<b>E-Mail:</b> David.Clemons@mass.gov	<b>Fax:</b> 978-567-3121
<b>Vendor Code Address ID (e.g. "AD001"):</b> AD001 (Note: The Address ID must be set up for EFT payments.)		<b>MMARS Doc ID(s):</b> CT-DFS-1000-2022FFEGRANT00000000	
		<b>RFR/Procurement or Other ID Number:</b> BD-21-1021-DFS-DFS01-69754	
<b><u>X</u> NEW CONTRACT</b> <b>PROCUREMENT OR EXCEPTION TYPE: (Check one option only)</b> <input type="checkbox"/> <b>Statewide Contract</b> (OSD or an OSD-designated Department) <input type="checkbox"/> <b>Collective Purchase</b> (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> <b>Department Procurement</b> (includes all Grants - <a href="#">815 CMR 2.00</a> ) (Solicitation Notice or RFR, and Response or other procurement supporting documentation) <input type="checkbox"/> <b>Emergency Contract</b> (Attach justification for emergency, scope, budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach Employment Status Form, scope, budget) <input type="checkbox"/> <b>Other Procurement Exception</b> (Attach authorizing language, legislation with specific exemption or earmark, and exception justification, scope and budget)		<b><u>    </u> CONTRACT AMENDMENT</b> Enter Current Contract End Date <u>Prior</u> to Amendment: <u>    </u> , 20 <u>    </u> . Enter Amendment Amount: \$ <u>    </u> . (or "no change") <b>AMENDMENT TYPE: (Check one option only. Attach details of amendment changes.)</b> <input type="checkbox"/> <b>Amendment to Date, Scope or Budget</b> (Attach updated scope and budget) <input type="checkbox"/> <b>Interim Contract</b> (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> <b>Contract Employee</b> (Attach any updates to scope or budget) <input type="checkbox"/> <b>Other Procurement Exception</b> (Attach authorizing language/justification and updated scope and budget)	
<b>The Standard Contract Form Instructions, Contractor Certifications and the following Commonwealth Terms and Conditions document is incorporated by reference into this Contract and are legally binding: (Check ONE option):</b> <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services			
<b>COMPENSATION: (Check ONE option):</b> The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under <a href="#">815 CMR 9.00</a> . <input type="checkbox"/> <b>Rate Contract.</b> (No Maximum Obligation) Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> <b>Maximum Obligation Contract.</b> Enter total maximum obligation for total duration of this contract (or <u>new</u> total if Contract is being amended). <u>\$15,504.06</u> .			
<b>PROMPT PAYMENT DISCOUNTS (PPD):</b> Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting <b>accelerated</b> payments must identify a PPD as follows: Payment issued within 10 days <u>    </u> % PPD; Payment issued within 15 days <u>    </u> % PPD; Payment issued within 20 days <u>    </u> % PPD; Payment issued within 30 days <u>    </u> % PPD. If PPD percentages are left blank, identify reason: <input checked="" type="checkbox"/> agree to standard 45 day cycle <input type="checkbox"/> statutory/legal or Ready Payments ( <a href="#">M.G.L. c. 29, § 23A</a> ); <input type="checkbox"/> only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.)			
<b>BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT:</b> (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) FY22 Firefighter Safety Equipment Grant Program. This contract is for funds awarded under the Department of Fire Services' FY22 Firefighter Equipment Grant, in accordance with the FY22 Grant Application, and attached Grant Agreement Scope of Work and Budget. Funds for this program will be disbursed on a reimbursement basis only.			
<b>ANTICIPATED START DATE:</b> (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input checked="" type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and <u>no</u> obligations have been incurred <u>prior</u> to the Effective Date. <input type="checkbox"/> 2. may be incurred as of <u>    </u> , 20 <u>    </u> , a date <u>LATER</u> than the Effective Date below and <u>no</u> obligations have been incurred <u>prior</u> to the Effective Date. <input type="checkbox"/> 3. were incurred as of <u>    </u> , 20 <u>    </u> , a date <u>PRIOR</u> to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
<b>CONTRACT END DATE:</b> Contract performance shall terminate as of <u>June 30, 2022</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
<b>CERTIFICATIONS:</b> Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor certifies that they have accessed and reviewed all documents incorporated by reference as electronically published and the Contractor makes all certifications required under the Standard Contract Form Instructions and Contractor Certifications under the pains and penalties of perjury, and further agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, this Standard Contract Form, the Standard Contract Form Instructions, Contractor Certifications, the applicable Commonwealth Terms and Conditions, the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in <a href="#">801 CMR 21.07</a> , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
<b>AUTHORIZING SIGNATURE FOR THE CONTRACTOR:</b> X: <u>[Signature]</u> Date: <u>12 Jan 2022</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>HENRY L. HAYES, JR.</u> Print Title: <u>SUDBURY TOWN MANAGER</u>		<b>AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:</b> X: <u>[Signature]</u> Date: <u>1/14/22</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Peter J. Ostroskey</u> Print Title: <u>State Fire Marshal</u>	

Attachment 12.a: FY22 FFE Grant Executed Contract - Sudbury (5043 : Accept firefighters safety grant)



**COMMONWEALTH OF MASSACHUSETTS  
CONTRACTOR AUTHORIZED SIGNATORY LISTING**

**CONTRACTOR LEGAL NAME:** Town of Sudbury  
**CONTRACTOR VENDOR/CUSTOMER CODE:** VC6000191996

**INSTRUCTIONS:** Any Contractor (other than a sole-proprietor or an individual contractor) must provide a listing of individuals who are authorized as legal representatives of the Contractor who can sign contracts and other legally binding documents related to the contract on the Contractor's behalf. In addition to this listing, any state department may require additional proof of authority to sign contracts on behalf of the Contractor, or proof of authenticity of signature (a notarized signature that the Department can use to verify that the signature and date that appear on the Contract or other legal document was actually made by the Contractor's authorized signatory, and not by a representative, designee or other individual.)

**NOTICE:** *Acceptance of any payment under a Contract or Grant shall operate as a waiver of any defense by the Contractor challenging the existence of a valid Contract due to an alleged lack of actual authority to execute the document by the signatory.*

For privacy purposes **DO NOT ATTACH** any documentation containing personal information, such as bank account numbers, social security numbers, driver's licenses, home addresses, social security cards or any other personally identifiable information that you do not want released as part of a public record. The Commonwealth reserves the right to publish the names and titles of authorized signatories of contractors.

AUTHORIZED SIGNATORY NAME	TITLE
Henry Hayes	Town Manager

I certify that I am the President, Chief Executive Officer, Chief Fiscal Officer, Corporate Clerk or Legal Counsel for the Contractor and as an authorized officer of the Contractor I certify that the names of the individuals identified on this listing are current as of the date of execution below and that these individuals are authorized to sign contracts and other legally binding documents related to contracts with the Commonwealth of Massachusetts on behalf of the Contractor. I understand and agree that the Contractor has a duty to ensure that this listing is immediately updated and communicated to any state department with which the Contractor does business whenever the authorized signatories above retire, are otherwise terminated from the Contractor's employ, have their responsibilities changed resulting in their no longer being authorized to sign contracts with the Commonwealth or whenever new signatories are designated.

  
Signature

Date: 12 Jan 2022

Title: SUDBURY TOWN MANAGER

Telephone: 978-639-3381

Fax: 978-443-0756

Email: TOWN MANAGER@SUDBURY.MA.US

[Listing can not be accepted without all of this information completed.]

A copy of this listing must be attached to the "record copy" of a contract filed with the department.

## Department of Fire Services and the Town of Sudbury FY22 Firefighter Equipment Grant Agreement Scope of Work and Budget

**Authorization:** This grant is awarded by the Executive Office of Public Safety through the Department of Fire Services' FY22 Firefighter Safety Equipment grant program for the purchase of firefighter safety equipment in accordance with the Acts of 2020 chapter 151 2D, the Department of Fire Services Earmark and Grants policy and procedures, and CMR 815, 2.00 State Grant Regulations.

**Grant Project Description:** Purchase of firefighter safety equipment as listed in the budget section of this Scope of Work.

**Grant Manager:** The MA Department of Fire Services and the grantee will each assign a grant manager with respect to this Scope of Work. It is anticipated that the grant manager will not change during the period the Scope of Work is in force. In the event that a change is necessary, the party requesting the change will provide prompt written notice to the other. In the event a change occurs because of a non-emergency, two-week written notice is required. For a change resulting from an emergency, prompt notice is required.

The MA Department of Fire Services grant manager will work closely with the grantee to ensure successful completion of the grant, will consult with the grantee to develop the Scope of Work, will coordinate input as needed, and will review and approve deliverables, progress reports and authorize acceptance and compensation of deliverables.

The grantee's grant manager will serve as the interface between the MA Department of Fire Services and all grantee personnel participating in this program, will maintain the Scope of Work and Budget in consultation with the MA of Fire Services grant manager, will facilitate regular communication with the MA Department of Fire Services grant manager including status reports/updates and review of performance against the Scope of Work, and will work closely with the MA Department of Fire Services to ensure successful completion of the grant.

The grantee's grant manager is Asst. Fire Chief Timothy Choate who can be reached at: 77 Hudson Rd, Sudbury, MA 01776, tel 978-440-5312, email: [choatet@sudbury.ma.us](mailto:choatet@sudbury.ma.us). The MA Department of Fire Services grant manager is David Clemons, Director of Operations, 1 State Road, Stow, MA 01775, tel 978-567-3179, email: [David.Clemons@mass.gov](mailto:David.Clemons@mass.gov).

**Budget:** The funds may not be used to serve as a match for a federal grant. The funds may not be used for construction and all applicable local and state procurement requirements must be adhered to in the use of the grant funds. The grant funds must be used to purchase the following approved firefighter safety equipment.

**Grant Award:**

<b>Department</b>	<b>Description of allowable Equipment</b>
Town of Sudbury	Hoses, Nozzles, and Valves Cold Water Immersion Suit/Dry Suit Life Jacket (PFD) Lifting Air Bag
<b>Total Award</b>	<b>\$15,504.06</b>

**Reimbursement Request Process:** The MA Department of Fire Services agrees to disburse funds on a cost reimbursement basis. All costs requested for reimbursement must be listed on the DFS Grant/Earmark reimbursement form. Appropriate supporting documentation for all non-salary costs must also be attached, including:

1. copy of invoice
2. proof of payment – cancelled check or similar other proof of payment documentation such as a copy of the City/Town warrant or invoice that is marked paid and signed as paid by the City/Town fiscal officer.

**Period of Performance:** Approved expenditures may not be made until a contract has been executed between DFS and the grant recipient. Expenses incurred prior to execution of a contract will not be eligible for reimbursement through this program.

Grant recipients must take delivery of equipment no later than June 30, 2022. Equipment delivered to the recipient after that date will not be eligible for reimbursement through this program unless approval for an extension has been already been granted in writing by the DFS grant manager.

Reimbursement requests must be submitted no later than July 29, 2021. DFS will only reimburse for costs incurred through the grant performance period, June 30, 2022.

**Grant Extensions:** Grant recipients may request a single performance period extension if extenuating circumstances beyond the control of the recipient (backordered equipment, supply chain disruptions, vendor errors, etc.) will prevent equipment from being delivered on or before June 30, 2022. Extensions for these purposes must be submitted to DFS by email no later than June 1, 2022. Approval of extension requests is at the sole discretion of DFS.

**Grant Monitoring:** The Department of Fire Services may conduct grant monitoring through either a desk-based review or on-site monitoring visits, or both, in order to obtain additional

information or verify information related to grant spending, grant-funded activity, or grant award outcomes. Advance notice will be given prior to a site visit. Findings of non-compliance with any portion of the terms of the FY22 Firefighter Safety Equipment Application, the executed Standard Contract Form, and the DFS Grant Agreement Scope of Work and Budget may result in a demand for funds to be returned to DFS.

**Changes in Scope of Work or Budget:** The grant project description and budget are fixed and any change would be a "material" change in the contract. "Material" changes to the project description (adding, deleting or altering items) or budget lines (deletions, additions or changes to items) will require both parties to execute a *Standard Contract Amendment Form*. Contract amendments may not be done retroactively and must be done prior to the grant end date.

**Records Management:** The grantee shall maintain records in accordance with 815 CMR 2.08. This regulation includes but is not limited to "... maintain records, books, files and other data as specified in a contract and in such detail as shall properly substantiate claims for payment under a contract, for a minimum retention period of seven years beginning on the first day after the final payment under a contract, or such longer period as is necessary for the resolution, of any litigation, claim, negotiation, audit or other inquiry involving a contract..."

Approved by:

  
Town of Sudbury

HENRY L. HAYES, JR., TOWN MANAGER  
Print Name and Title

12 JAN 2022  
Date

Approved by:

  
Department of Fire Services

David Clemons, Director of Operations  
Print Name and Title

1/14/22  
Date