

NOTICE OF JOINT MEETING OF SELECT BOARD AND PARKS COMMISSION

Pursuant to General Laws Chapter 41, Section 11, the Select Board and Parks Commission will hold a joint meeting on April 8, 2024 at 6:30 p.m. in the Draper Room, Hopedale Town Hall, 78 Hopedale Street for discussion and potential vote to fill a vacancy on the Parks Commission.

Any registered voter interested in filling this vacancy on the Parks Commission are invited to submit an application no later than 2:00 p.m. on April 2, 2024 to Martha White, Executive Assistant to the Town Administrator, at mwhite@hopedale-ma.gov or by mail to 78 Hopedale Street, Hopedale, MA 01747.

Any individual appointed to fill this vacancy will serve until the expiration of the current term, i.e. until the May 2025 Annual Town Election.

For further information, contact the Town Administrator's office at 508-634-2203 extension 210 or email Ms. White at mwhite@hopedale-ma.gov.

Posted: March 20, 2024

**TOWN OF HOPEDALE
BOARD, COMMISSION OR COMMITTEE
TALENT BANK FORM**

Local Government needs citizens to give of their time and talents serving the Town of Hopedale. A Talent Bank has been established to compile a list of interested citizens, willing to serve on a voluntary basis on boards, commissions and committees. Some groups meet often, others require less time, and still others are busy only at specific times of the year. Occasionally, there are requirements for ad hoc committees or sub-committees appointed to work on specific projects. Experience indicates that the two most appropriate qualities for successful service are an open mind and exercise of common sense.

If you are interested in serving, please list the position(s) you wish to be considered for:

Board, Commission or Committee applying for:

PARK Commission

Please return completed forms to:

Town Administrator's Office – Hopedale Town Hall 78 Hopedale Street, Hopedale, MA 01747

The Town Hall mailing address is: P.O. Box 7, Hopedale MA, 01747

Please Note:

- The Board of Selectmen may fill vacancies until next election.
- It is recommended that you attend a few meetings of the committee or board you are contemplating joining to help determine your interest.
- The board/committee will be asked for their recommendation on each applicant appointment.

Name: Dylan Orchard

Are you a registered voter? Yes No

Address: [REDACTED] VT

How long have you lived in Hopedale? 20 Years

Home Phone: _____ Cell Phone: [REDACTED]

E-Mail: [REDACTED]

How would you like to be contacted? Cell Phone

Occupation: DPW worker w/ton Highway

Please list any potential conflicts of interest, e.g. membership in an organization or your business:

Education and Experience: Hopedale Jr. Sr High School

How many times during the last year have you attended a meeting of the Board/Committee to which you are requesting appointment? Watch Zoom

Have you ever had business before the Board/Committee to which you are requesting an appointment?

Yes No If yes what type of business? _____

Special interests and skills: _____

Activities, e.g. Government/Civic & Community/Charitable & Educational: employee of The

Hopedale Community House

Reasons for wanting to serve: to see a change in the parks and see

new equipment in the parks like tennis courts

The completion of this form in no way assures appointment. Citizens deemed most qualified to serve in a particular capacity will fill all board, commission or committee vacancies.

Applicant's Signature 

Date 03/09/24

Hopedale Select Board
Meeting Minutes
April 24, 2023, 7:15pm.

Call to order 7:15 p.m. Present: Chair Hazard, Mr. Stock, Mr. Keyes, and Interim TA Mr. Nutting

A. Consent Items

1. Approve Memorial Day Parade Monday, May 29th

Hopedale resident U.S. Marine Thomas J, Beder, Jr., Vice Commandant of the Marine Corps League, Detachment 144 in Worcester, is planning three upcoming community events.

The first is a Memorial Day Parade, scheduled for May 29th. The parade will follow the same procedures as in past years, with collation at the Junior-Senior High School at 8:00 a.m. and concluding with a service at the Village Cemetery. The speakers at this service will be Ryan White, US Army, Bronze Medal Recipient, and Hopedale Firefighter.

The Police Chief, Fire Chief and Highway Superintendent have approved of this event; Mr. Beder is seeking the Select Board's approval.

Motion made by Mr. Stock to approve the Memorial Day Parade, seconded by Mr. Keyes
Stock-Aye Keyes-Aye Hazard-Aye

Mr. Beder also outlined plans for a "fill the boot" fundraising event on May 27, a Flag Day ceremony on June 14 and a "Christmas in July" event on July 1.

Motion made by Mr. Stock to approve these three events, seconded by Mr. Keyes
Stock-Aye Keyes-Aye Hazard-Aye

2. Announce Celebrate Literacy Award from the Massachusetts Reading Association to Tricia Perry, Director, Bancroft Memorial Library: Chair Hazard read the informational press release and noted that Tricia is much appreciated and that Hopedale is lucky to have her.

3. Accept donation from Hopedale Friends of Elders to Council on Aging in the amount of \$2000
Motion made by Mr. Keyes and seconded by Mr. Stock to accept the donation.

Stock-Aye Keyes-Aye Hazard-Aye

B. Appointments & Resignations: No items

C. New Business No Items

D. Old Business

1. FY 2024 Budget Discussion/Vote (All materials are included in the meeting packet available on the Town website.) TA Nutting stated that there is no question that either more revenue is needed, or services will be cut. Nutting noted that, even with a projected increase in revenues of about \$700-\$750,000, expenses are projected to exceed total revenues by about \$1,886,000. Many expense items are "fixed costs" such as pensions, insurance, State and County assessments, interest on debt, etc. Nutting presented a balanced budget which incorporates revenues that would result from a successful Proposition 2 ½ Override. The Finance Committee did not make any changes to the budget.

2. FY 2024 Capital Plan/Vote: (Plan is available in packet on town website). If voters approve an Override, there will be around \$400k of Free Cash available for capital needs. The Finance Committee

will be evaluating these capital requests at their next meeting. Of note, \$1 million in capital requests were submitted by town departments.

3. Review Annual Town Meeting Warrant Articles/Vote: (Warrant is available in meeting packet on town website). Some articles are standard, and there are a few things that are still being worked on, such as prior year bills that need to be paid. Of note, the recycling center is being closed as the budget was overspent. The warrant closes on Wednesday April 26.

4. Review Special Town Meeting Warrant Articles/Vote: The Moderator intends to have members consider and vote on the Special Town Meeting warrant articles prior to the Annual Town Meeting.

Motion made by Mr. Stock and seconded by Mr. Keyes to approve and sign the warrants for the Annual and Special Town Meetings.

Stock- Aye Keyes- Aye Hazard-Aye

5. Review upcoming meeting schedule: TA Nutting asked the board if they feel they need to add an additional meeting to their schedule. At this time the board decided to add a meeting at 6p on the night of the Town Meeting.

E. Public and Board Member Comments (votes will not be taken)

1. Mr. Stock stated he attended the ribbon cutting for the Dunkin on Hartford Ave. It was nice and well attended. The owners also donated money to the food pantry. He also reminded residents that the "water bills" are water and sewer bills and are quarterly not monthly. Water and sewer costs are highly regulated and carry a high number of unfunded mandates.

2. Len Guertin: Asked if the warrant article submitted by the Parks Commission passes, how it will be funded? TA Nutting stated that it would have to be figured out as it would not be a debt exclusion.

3. Kara Chambers: She feels it was not the right time for anyone to put an article on the town meeting warrant asking for \$4 million for the parks. Nutting noted that the Parks Commission submitted the article, not the Select Board.

F. Correspondence and Select Board Informational Items (votes will not be taken)

1. Memo to Planning Board re: representative to serve on Master Plan Implementation Cte. (In meeting packet available on website)

2. Thank you letter to Master Plan Steering Committee (In meeting packet available on town website)

G. Requests for Future Agenda Items: Mr. Keyes suggested that each member of the board should be able to see a draft agenda and weigh in prior to it being posted. He was dismayed that there was an item for next week that he felt should have been on the agenda for today.

H. Administrator Updates : no further updates

I. Executive Session(s): Mr. Keyes made a motion to adjourn, seconded by Mr. Stock.

Stock-Aye Keyes-Aye Hazard-Aye

The meeting was dissolved by Chair Hazard at 9:04 p.

Respectfully Submitted by Kelly Grant

Minutes approved: _____

Hopedale Select Board
Meeting Minutes
May 8, 2023 6:30 p.m.
Draper Room

Present: Chair Hazard, Mr. Stock, Mr. Keyes, and Interim Town Administrator Jeff Nutting

Chair Hazard called the meeting to order at 6:30 p.m. and stated that the Board would be entering Executive Session pursuant to Purpose 3, G.L. c. 30A, §21(a)(3) to discuss litigation strategy if an open meeting may have a detrimental effect on the litigating position of the public body and the Chair so declares. The topic for the executive session is Marjorie Clinton et al v. Town of Hopedale, Worcester Superior Court, Civil Action No. 2385CV00037 and/or Clinton et al v. Chaplin et al, Massachusetts Land Court, 23 Misc. 000127; Attorney Robin Stein of KP Law will be in attendance and the Planning Board is participating in the Executive Session. The Board will return to open session.

Moved by Mr. Stock, seconded by Mr. Keyes, to enter Executive Session for reasons stated by the Chair.
Stock-Aye, Keyes-Aye, Hazard-Aye

The Select Board returned to open session at 6:57 p.m.

A. Consent Items:

The Board held a moment of silence for Nancy Collins, long-time and beloved Hopedale teacher who passed away over the weekend.

1. Reminder that the Town Election is Tuesday May 9th (tomorrow), the Annual and Special Town Meetings are Tuesday May 16th at 7:00 p.m. at the JSHS, and the Special Election for the Proposition 2 ½ Override Ballot Question is Tuesday May 23rd.

2. Review/Approve Meeting Minutes – 8/1/2022, 9/26/2022 and 1/23/2023: Motion made by Mr. Stock to approve the minutes as presented in packet with one edit to the January 23 minutes to clarify that Mr. Stock had not voted to approve minutes of prior meetings as he was not a Board member at when those meetings took place and grammatical edits to the September 26 minutes. Seconded by Mr. Keyes.

Stock- Aye Keyes-Aye Hazard-Aye

3. Accept \$375 donation for a tree from Jayme Solomon-Zissu: Motion made by Mr. Stock and seconded by Mr. Keyes to accept the donation.

Stock-Aye Keyes-Aye Hazard-Aye

4. Accept \$1,300 donation for trees from Glenda Hazard: Motion made by Mr. Stock, seconded by Mr. Keyes to accept the donation.

Stock-Aye Keyes-Aye Hazard-Aye

5. Accept donation of \$5,000 from Seven Hills Foundation for Bancroft Memorial Library in honor of Library Director's recent Celebrate Literacy award: Motion made by Mr. Stock, seconded by Mr. Keyes.

Stock-Aye Keyes-Aye Hazard-Aye

6. Review/Approve Inter-Fund Transfers: Document with all inter-fund transfers is available on the town website in the meeting packet. TA Nutting indicated that there may be more transfers prior to June 30. Motion made by Mr. Stock, seconded by Mr. Keyes to approve the transfers.

Stock-Aye Keyes-Aye Hazard-Aye

B. Appointments & Resignations

1. Applicant for Community Preservation Committee – Tracy Phillips: Ms. Phillips' talent bank form is available on the town website in the meeting packet. This appointment will complete the committee. Mr. Stock noted that Ms. Phillips would be a great addition as she does a great deal in town. Mr. Stock made a motion to appoint Tracy Phillips to the Community Preservation Committee, seconded by Mr. Keyes.

Stock-Aye Keyes-Aye Hazard-Aye

C. New Business

1. Review/Approve updated Zoning Board of Appeals application fees: The Zoning Board voted to approve an application fee of \$150; the applicant will be required to pay the newspaper fee for the legal ad directly. Motion made by Mr. Stock, seconded by Mr. Keyes to approve the fee of \$150.

Stock-Aye Keyes-Aye Hazard-Aye

D. Old Business

1. Consider and Vote on Proposed Order of Taking for Land at 364 West Street Pursuant to Article 1 of July 11, 2022, Special Town Meeting: Motion made by Mr. Stock, seconded by Mr. Keyes to sign the Order of Taking as was directed by the voters at Town Meeting.

Stock-Aye Keyes- Nay Hazard-Aye

2. Further discussion regarding FY 2024 Operating and Capital Budget Discussion if warranted/possible vote.

The final budget is included in the meeting packet on the Town website. The budget will be going to print this week. The information presented includes a proposed budget with a successful override and one without. The choice is less services or higher taxes. TA Nutting also informed the board that the current accounting firm has stated they will not be bidding to renew the contract and therefore the town will need to select a new firm. The town is already out to bid.

3. Further discussion regarding Special Town Meeting Warrant Articles if warranted/possible
Vote: no further discussion.

4. Further discussion regarding Annual Town Meeting Warrant Articles if warranted/possible
Vote: Mr. Keyes questioned if the citizen sponsored article seeking 4Mil for the parks would be included in the warrant since the Finance Committee voted "Unfavorable". TA Nutting said that it is on the warrant as citizen-sponsored articles must be included.

E. Public and Board Member Comments (votes will not be taken)

1. Mr. Arcudi thanked Mr. Keyes for his service to the community.
2. Mr. Keyes read a letter to the public stating that, while there were many ups and downs during his terms on Planning and Select Boards, he has loved serving the town for the past six years and he will miss it very much.

3. Chair Hazard asked about the Open Space and Recreation Plan. By having this plan, it will open more grant opportunities. She was concerned that the committee has not met in a year and that they may need to modify the committee. TA Nutting did not feel there is a need for it.

F. Correspondence and Select Board Informational Items (votes will not be taken).

Each of the correspondences listed are available on the town website.

1. Hopedale Police Department FY 2023 3rd Quarter Statistics.
2. Letter from Water Department regarding state-mandated water restrictions/Announce availability of Consumer Confidence Report for 2022
3. Thank you to Hopedale Friends of Elders for donation
4. Congratulations to Tricia Perry, Library Director, for Celebrate Literacy Award

G. Requests for Future Agenda Items: no new request for items at this time, as Mr. Stock would prefer to wait until the newest member of the board is on board.

H. Administrator Updates: Reminder that Town Administrator interviews will be conducted Wednesday evening.

The meeting was adjourned by Chair Hazard at 8:11p.

Respectfully submitted by Kelly Grant

Minutes Approved: _____

Hopedale Select Board
Meeting Minutes
May 10, 2023
Draper Room, 5:30 p.m.

Present at the meeting: Chair Hazard, Mr. Stock, Mr. Savage, John Petrin from Community Paradigm.

Meeting called to order at 5:30 p.m. by Chair Hazard.

A. Preliminary Discussion regarding Town Administrator Interviews: Mr. Petrin will facilitate the interviews on behalf of the board. Candidates will each get the same questions and the same amount of interview time. (Resumes for each candidate are available on the town website in the meeting packet and the interviews can be seen on the meeting video, also on the website).

B. Interview Town Administrator Candidate Finalists:

5:45	Justine Caggiano
6:45	Chad Lovett
7:45	Mitchell Ruscitti

C. Vote (subject to successful negotiations with selected candidate): Mr. Stock made a motion to appoint Mitch Ruscitti as the next Town Administrator pending successful negotiation. Seconded by Mr. Savage.

Stock-Aye Savage-Aye Hazard-Aye

D. Authorize the Interim Town Administrator to negotiate a contract with the selected candidate, to be submitted for the Select Board's consideration. Stock made a motion to authorize Mr. Nutting to negotiate the Town Administrators contract, subject to Board's final approval. Seconded by Mr. Savage.

Stock- Aye Savage-Aye Hazard-Aye

The meeting was adjourned by Chair Hazard at 9:25p.

Respectfully submitted: Kelly Grant

Board approved: _____

**TOWN OF HOPEDALE
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If you are interested in serving, please list the position(s) you wish to be considered for:

Board, Commission or Committee applying for:

Construction Commission

Please return completed forms to:

Town Administrator's Office – Hopedale Town Hall 78 Hopedale Street, Hopedale, MA 01747

The Town Hall mailing address is: P.O. Box 7, Hopedale MA, 01747

Please Note:

- The Board of Selectmen may fill vacancies until next election.
- It is recommended that you attend a few meetings of the committee or board you are contemplating joining to help determine your interest.
- The board/committee will be asked for their recommendation on each applicant appointment.

Name: Scott Ellis

Are you a registered voter? Yes No

Address: _____

How long have you lived in Hopedale? 8.5 years

Home Phone: N/A Cell Phone: _____

How would you like to be contacted? cell phone

Occupation: Insurance Broker

Please list any potential conflicts of interest, e.g. membership in an organization or your

business: N/A

Education and Experience: Bachelors degree from Worcester State

How many times during the last year have you attended a meeting of the Board/Committee to which you are requesting appointment? 0

Have you ever had business before the Board/Committee to which you are requesting an appointment?

Yes No If yes what type of business? _____

Special interests and skills: hunting, fishing, being outdoors

Computer skills, Communication

Activities, e.g. Government/Civic & Community/Charitable & Educational: previous

Baypath Humane Society and Milford Auxiliary Police Officer

Reasons for wanting to serve: Interest in getting involved in the

town. Supporting the town I live in.

The completion of this form in no way assures appointment. Citizens deemed most qualified to serve in a particular capacity will fill all board, commission or committee vacancies.

Applicant's Signature 

Date 3/21/2024



TOWN OF HOPEDALE

78 Hopedale Street - P.O. Box 7
Hopedale, Massachusetts 01747

Tel: 508-634-2203 Fax: 508-634-2200
www.hopedale-ma.gov

Select Board

Glenda A. Hazard, Chair
Bernard J. Stock
Scott M. Savage

Town Administrator

Mitchell Ruscitti

April 3, 2024

TO: Select Board
FROM: Martha White, Executive Assistant
REGARDING: Application for new Class II license for Power Brothers Auto Center
COPY TO: Mitch Ruscitti, Town Administrator

We have received an application from Power Brothers Auto Center for a new Class II license for the sale of used cars at 13 Oakwood Avenue. Lord & Son Auto Body and Paint held a Class II license at this address for many years. Power Brothers Properties, LLC recently purchased the property subsequent to Mr. Wayne Lord's retirement.

The applicant has submitted all required documentation and fees for a new Class II license, zoning compliance has been confirmed, and other town departments have cited no concerns regarding this application. Therefore, it is recommended that the Select Board issue a Class II license to Power Brothers Auto Center for used auto sales at 13 Oakwood Avenue.

Martha White

From: Hopedale Tree Warden
Sent: Thursday, April 4, 2024 8:54 AM
To: Martha White
Subject: Tree declaration

Hopedale Town Administrator,

5 large maple trees on the south side of Adin street between 103 Adin street and Adin park are severely diseased and internally decaying. Immediate removal of these tree is recommended to prevent possible public harm.

One large pine tree in front of the Kingdom Hall at 120 plain street is severely rotted and in danger of falling and causing public harm. Immediate removal of this tree is recommended.

Sincerely
Chris Larson
Tree Warden

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TOWN OF HOPEDALE

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Select Board
Glenda A. Hazard, Chair
Bernard J. Stock
Scott M. Savage

Town Administrator
Mitchell Ruscitti

April 3, 2024

TO: Select Board
FROM: Martha White, Executive Assistant
REGARDING: Establishing "maximum useful life" for recently purchased fire truck
COPY TO: Mitch Ruscitti, Town Administrator
Tom Merolli, Treasurer/Collector

Tom Merolli, Treasurer/Collector, after discussions with bond counsel, has advised that when the term of any a bond is to exceed 5 years, the Select Board must vote to establish the maximum useful life of the item for which funds are being borrowed – in this case, a fire truck – pursuant to M.G.L. c. 44, §7(1).

It is recommended that the Board vote a maximum useful life of 20 years for the fire truck.

Bond counsel provided the attached form which needs to be submitted as evidence that the vote took place at a duly called meeting of the board. This form stipulates that:

- all members of the board were duly notified of the meeting and a quorum was present
- the agenda for the meeting was properly posted and this matter was included as an agenda item
- the meeting was open to the public and no deliberations or decisions were made in executive session
- the vote was unanimously passed and was not taken by secret ballot

The vote must be recorded in the official record of the meeting. Until the meeting minutes are prepared and approved by the board, the videotape of the meeting serves as an accurate record of the board's discussion and vote.

VOTE OF THE SELECT BOARD OF THE TOWN OF HOPEDALE MASSACHUSETTS

I, Glenda A. Hazard, Chair of the Select Board of the Town of Hopedale, Massachusetts, certify that at a meeting of the board held April 8, 2024 of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with the proceeds of the following borrowings authorized by the vote of the Town passed November 23, 2023 (Article 11) is hereby determined pursuant to G.L. c.44, §7(1) to be as follows:

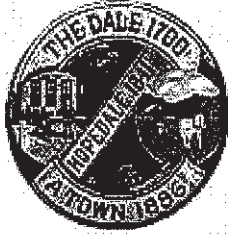
<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Maximum Useful Life</u>
Fire Truck	\$505,304	20 Years

I further certify that the vote was taken at a meeting open to the public, that the vote was not taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above vote) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended.

Dated: April 8, 2024

Glenda A. Hazard, Chair of the Select Board
Town of Hopedale, MA

*This document is
in the "Signature
Folder" also.*



TOWN OF HOPEDALE, MA POLICE LIEUTENANT CONTRACT



This CONTRACT made effective July 1, 2024 by and between the Hopedale Board of Selectmen and Donald J. Martin Sr. hereinafter referred to as the Lieutenant. In consideration of all promises herein contained, the parties hereto mutually agree as follows and the Town agrees to seek and provide all funds necessary to maintain this CONTRACT.

1. **EMPLOYMENT:**

The Board of Selectmen hereby agrees to employ Donald J. Martin Sr. as the Lieutenant for the Town of Hopedale and Donald J. Martin Sr. agrees to accept that employment, subject to the terms and conditions of this CONTRACT.

2. **TERM:**

- a. The initial term of this CONTRACT shall be for a period commencing July 1, 2024 and ending June 30, 2027. However, this CONTRACT may be extended as provided by its terms.
- b. Unless either party provides written notice to the other of its intention to renegotiate and/or not to renew this CONTRACT no less than six (6) months prior to the end of its initial term or any extended terms, this CONTRACT shall automatically be extended on the then applicable terms and conditions for an additional one (1) year period.

3. **TERMINATION: DISCIPLINE OR DISCHARGE GRIEVANCE PROCEDURE**

- a. It is agreed that the Lieutenant can be disciplined or discharged (which term includes non-reappointment) only for just cause, upon proper written notice of at least 30 days and only after a hearing at which the Lieutenant shall have the right to be represented by counsel. The term "proper written notice" as it appears in this section means that written notice of the hearing must be given to the Lieutenant at least thirty (30) calendar days prior to the date of the hearing and must set forth the following: (i) the date, time and location of the hearing; (ii) the reason for the hearing; (iii) the charges alleged; and (iv) the range of discipline considered. The Lieutenant shall have the option of choosing whether or not any such hearing shall be closed to the public or be held as an open or public hearing. The principle of progressive discipline will apply and the City/Town recognizes its obligation to provide the Lieutenant with periodic performance evaluations.
- b. The Lieutenant may appeal any discipline or discharge to a single arbitrator subject to the Labor Arbitration Rules of the American Arbitration Association with the cost of this arbitration to be shared equally by both parties. The decision of the arbitrator shall be final.

AGREEMENT FOR ENGINEERING SERVICES
BY AND BETWEEN THE
TOWN OF HOPEDALE, MASSACHUSETTS
AND
WESTON & SAMPSON ENGINEERS, INC.

THIS AGREEMENT is made this _____ day of March, 2024, by and between the Town of Hopedale, acting herein by and through its Town Administrator, hereinafter called the OWNER and WESTON & SAMPSON ENGINEERS, INC., with offices at 55 Walkers Brook Drive, Suite 100, Reading, Massachusetts 01867, hereinafter called the ENGINEER.

WITNESSETH, for the consideration hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1 - ENGAGEMENT OF THE ENGINEER AND STANDARD OF CARE

- 1.1 THE OWNER hereby engages the ENGINEER, and the ENGINEER hereby accepts the engagement to perform certain professional engineering services for the Hopedale MS4 Permit Year 5 Services, hereinafter called the PROJECT.
- 1.2 The ENGINEER's services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions. The ENGINEER makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder.

ARTICLE 2 - SCOPE OF SERVICES

The MS4 Permit is currently in Permit Year 6 although the Town of Hopedale (OWNER) will be focusing on completing Year 5 tasks. The OWNER is currently one (1) year behind in meeting permit requirements, as most recently noted on the Annual Report submitted to EPA on September 27, 2023. The OWNER is committed to completing Year 5 tasks and will continue to remain transparent with EPA as they work to achieve compliance with the permit requirements. The ENGINEER proposes the following services to assist the OWNER in complying with the requirements of the OWNER's MS4 Permit, as administered by the EPA.

2.1 Updating of Stormwater Plans

The ENGINEER will update the OWNER's Stormwater Management Plan (SWMP) during Year 5 to document the status of activities completed during Year 5, including but not limited to, compliance with the Post-Construction Stormwater Management requirements of the 2016 MS4 Permit, including implementation of the recommendations included in the Street Design and Parking Lot and Green Infrastructure Reports developed during Permit Year 4; drainage mapping updates; new outfalls and/or interconnections identified along with receiving water and any associated impairments; identification of new impairments; progress related to IDDE investigations; update of the OWNER's SSO Inventory and items completed to comply with the impaired waters requirements of the permit. The ENGINEER will also review and update the

OWNER's Illicit Discharge Detection and Elimination (IDDE) Plan; O&M Procedures, including the inventory of municipal property; and the Stormwater Pollution Prevention Plans (SWPPP) for the Highway Department, Hopedale Wastewater Treatment Facility, and Greene Street Water Treatment Facility. Up to 50 hours has been allocated to this task as needed to provide these updates.

2.2 Phosphorus Control Plan (PCP) Phase 1 Development

The OWNER is required to develop a Phosphorus Control Plan (PCP) for its land area within the Charles River Watershed, which is included under the *Total Maximum Daily Load for Nutrients in the Upper/Middle Charles River*. The following scope items are included as part of the development of Phase 1 of the PCP.

- The ENGINEER will develop Phase 1 of the OWNER's PCP to address phosphorus in stormwater discharges and assist the OWNER in working towards meeting the waste load allocations outlined in the Charles River TMDL and the required percent reduction in phosphorus load outlined in Appendix F of the 2016 MS4 Permit, as modified, for the Charles River in Hopedale.
- The ENGINEER will identify the scope of the PCP, assumed to cover the entire Charles River Watershed within the Town of Hopedale, and will identify the Baseline Phosphorus Load, Stormwater Phosphorus Reduction Requirement, and Allowable Phosphorus Load that corresponds to the PCP Area.
- The ENGINEER, with input from the OWNER, will describe non-structural controls to be implemented in the PCP area, including planned measures, the implementation area, and the annual percent reduction expected from each non-structural control.
- The ENGINEER, with input from the OWNER, will perform a ranking assessment to determine priority areas and infrastructure to incorporate structural BMPs to address phosphorous discharges. The ranking assessment will rely on the use of available screening and monitoring results obtained throughout the permit term, and catchment delineations previously performed. The prioritization will consider site suitability, including parameters such as soil conditions, space constraints within the public right-of-way, and where there are municipally owned parcels located within the catchment area. The analysis will also consider planned redevelopment opportunities. Soils within the watershed will be evaluated using readily available information to determine whether they are conducive to installation of stormwater management techniques that promote infiltration.
- As required by the Permit, proposed structural BMPs will include the area of implementation, and the annual percent of phosphorus reduction expected. In addition, structural measures to be implemented by a third party will be included in the PCP, where applicable.
- The ENGINEER will develop an operation and maintenance plan specific to each of the proposed types of structural BMPs identified in the above assessment that includes an inspection and maintenance schedule and responsible parties. We assume the operation and maintenance plan, with input by the OWNER, will reference existing plans developed for already constructed BMPs, whether they are public or private, and a plan to organize and document future site-specific O&M plans for public or private BMPs.

- The ENGINEER will prepare an estimated cost to implement Phase 1 of the PCP. This will serve to (1) confirm the validity of available funding sources identified under the Funding Source Assessment for PCP Implementation previously prepared in Permit Year 3, and (2) how implementation of the PCP will be funded. The ENGINEER will incorporate observations and recommendations included in the Funding Source Assessment into the PCP and make updates to reflect how the OWNER plans to fund implementation of the PCP.
- The ENGINEER will prepare a draft of the Phase 1 Implementation Schedule for review and comment by the OWNER. The schedule will take into consideration funding, construction, inspections, monitoring, operation and maintenance, and other assessment and evaluation components of implementation. Based on input, the ENGINEER will incorporate the Phase 1 Implementation Schedule into the PCP.

This task includes meetings with the OWNER and local watershed groups, as needed, to discuss progress and findings. Four (4) virtual meetings have been allocated throughout the duration of the project.

2.3 Phosphorus Source Identification Report Feasibility Study

The 2016 MS4 Permit requires the OWNER to develop a Phosphorus Source Identification Report (PSIR) for discharges to the Blackstone River or to receiving waters tributary to the Blackstone River, which is impaired for phosphorus and requires the development of a TMDL. The PSIR was prepared in Permit Year 4. Potential BMP retrofit opportunities were identified as part of the PSIR that require further evaluation for feasibility. The ENGINEER will perform the following tasks in assisting the OWNER in evaluating up to five (5) potential retrofit opportunities identified a part of this report, and the development of a plan and schedule for implementing each of the projects. The evaluation will include:

- An analysis of the next planned infrastructure, resurfacing, or redevelopment activity for each of the five (5) retrofit sites;
- A desktop screening analysis of the engineering and regulatory feasibility of the identified redevelopment or retrofit BMPs to include site suitability factors and permitting impacts; and
- An estimated cost for implementation and maintenance of each retrofit project.

The ENGINEER will work with the OWNER to develop a schedule for implementing the retrofit projects. The project evaluation and implementation schedule developed under this task will be summarized in a technical memorandum and provided to the OWNER.

This task includes meetings with the OWNER to discuss findings. Three (3) virtual meetings have been allocated throughout the duration of the project for this task.

2.4 Wet Weather Outfall and Interconnection Screening and Sampling

During or after a storm event which produces at least 0.25-inches of rainfall, the ENGINEER will visually inspect and document findings at as many as 24 regulated stormwater outfalls and interconnections where at least one System Vulnerability Factor was identified by the OWNER. At each outfall or interconnection, a photograph will be taken, and the following information will

be verified and/or recorded utilizing hand-held tablets that link to the OWNER's Drainage GIS:

- Receiving water
- Date of inspection
- Structure dimensions & shape
- Material
- Physical condition
- Flow rate, if applicable
- Evidence of non-stormwater discharges (odor, color, turbidity, floatables or oil sheen)
- Spatial Location

The ENGINEER will collect the wet weather samples using a two-person team, and analyze these samples for ammonia, chlorine, conductivity, salinity, Escherichia coliform, surfactants, and temperature as stated in the OWNER's 2016 MS4 Permit. In addition, for outfalls that discharge to receiving waters or their tributaries that are impaired, samples will also be analyzed for pollutants of concern, including cadmium, copper, iron, lead, zinc, dissolved oxygen, phosphorus, and BOD5, where applicable.

As indicated by EPA in the OWNER's 2016 MS4 Permit, efforts will be made to conduct wet weather screening and sampling during the spring between March and May of 2024 when groundwater levels are high.

A report will be generated summarizing sampling data collected, as well as any exceedances and recommendations.

2.5 Post-Construction Stormwater Management

The ENGINEER will continue to assist the OWNER in implementing the recommendations included in the OWNER's Street Design and Parking Lots and Green Infrastructure Reports, which were developed in Permit Year 4. As many as 60 hours has been allocated to this task to assist with drafting language for the regulatory updates and attending meetings with the OWNER's Planning Board, Zoning Board and Conservation Commission, including participation in Town Meeting, to discuss the recommended regulatory updates and potential modifications to the OWNER's existing Zoning Bylaw, Rules & Regulations Governing the Subdivision of Land, and Stormwater Management Rules & Regulations.

2.6 Catch Basin Optimization Plan Updates

The ENGINEER will develop the OWNER's Catch Basin Cleaning Optimization Plan to meet the requirements of the 2016 MS4 Permit. The OWNER began tracking catch basin cleaning metrics required for the optimization plan in 2020. Using information collected by the OWNER, the ENGINEER will work to develop a plan that determines the frequency with which catch basins need to be cleaned to ensure that no catch basin sump is more than 50% full. Supporting documentation will include a map which identifies catch basins that were less than and more than 50% full. The plan will include an preliminary optimized schedule for cleaning to conserve Town resources and ensure compliance with the 2016 MS4 Permit. The priority status of catch basins for cleaning will account for impaired water bodies within Hopedale per the 2016 MS4 Permit.

The Plan will include updates for the following written procedures:

- Standard Operating Procedure for Catch Basin Cleaning
- Procedures for Storage and Disposal of Catch Basin Cleanings
- Catch Basin Cleaning Optimization Methodology
- Prioritization and Schedule for Catch Basin Cleaning

The ENGINEER will submit a draft update of the Catch Basin Cleaning Optimization Plan to the OWNER for review. The ENGINEER will attend one (1) meeting with the OWNER to discuss the draft catch basin cleaning optimization plan. Comments received from the OWNER on the plan will be incorporated.

The ENGINEER will provide one electronic copy of the updated plan to the OWNER.

2.7 Stormwater Pollution Prevention Plans (SWPPP) Quarterly Inspections

The ENGINEER shall conduct quarterly inspections at each of the three (3) locations where a SWPPP was previously prepared – Hopedale Wastewater Treatment Facility, Greene Street Water Treatment Facility, and the Hopedale Highway Department. Inspections shall include inspecting areas that are exposed to stormwater and stormwater control measures. At least one of the quarterly inspections shall occur during a period when a stormwater discharge is occurring. The budget for quarterly inspections assumes all inspections will be performed on the same day each quarter. The ENGINEER shall document the following information from each facility inspection:

- The inspection date and time;
- The name of the inspector;
- Weather information and a description of any discharge occurring at the time of inspection;
- Identification of any previously unidentified discharges;
- Any control measures needing maintenance or repair;
- Any failed control measures that need replacement; and
- Any SWPPP changes required as a result of the inspection.

Findings from the site inspections shall be reported in the annual report.

2.8 Employee Training

2.8.1 Illicit Discharge Detection and Elimination (IDDE) Training

The ENGINEER will conduct training on the detection and elimination of illicit discharges that will include an introduction to IDDE, water quality impacts, identification of illicit discharges to the storm drain system, best practices to track and eliminate discharges, and procedures for reporting. In addition, training will cover proper procedures for the use, storage, and disposal of petroleum products. The ENGINEER will conduct one (1) 60-minute training session with personnel from applicable municipal facilities and departments.

2.8.2 Stormwater Pollution Prevention Plan (SWPPP) Training

The ENGINEER will provide one (1) 60-minute training session for all employees responsible for implementing activities identified in the SWPPPs for the Hopedale Wastewater Treatment Facility, the Greene Street Water Treatment Facility, and the Hopedale Highway Department Facility, and additional personnel that the OWNER feels may benefit from this training.

2.9 Public Education

The ENGINEER will assist the OWNER in implementing their stormwater public education program in Permit Year 6, as outlined in their Notice of Intent, to meet the MS4 Permit requirements. Information provided will focus on educating the following target audiences: (1) residents, (2) businesses, institutions and commercial facilities, (3) industrial facilities, and (4) developers, as well as meeting public education requirements related to impaired waters. Emphasis will be placed on the research and selection of pre-prepared stormwater materials that are readily available. Examples of these materials will be provided for the OWNER's use.

2.10 Year 6 MS4 Annual Report

The ENGINEER will attend one (1) meeting with the OWNER to document the status of tasks completed during the reporting period and then draft the Year 6 Annual Report, which is anticipated to include:

- Identification and status of BMPs implemented to reduce pollutants in discharges to water quality limited waters.
- Identification of items implemented as part of the OWNER's public education program, including targeted messages distributed; methods and dates of distribution; and program effectiveness.
- Description of public participation and outreach activities, including verification of compliance with state public noticing requirements.
- Status of activities related to IDDE Program implementation including mapping, the priority assessment and ranking of catchments, the identification of problem catchments, the IDDE Plan, the number of outfalls screened, the number of illicit discharges located and removed including volume of flow removed, and employee training conducted.
- Identification of BMPs pertaining to implementation of the OWNER's Construction Site Stormwater Runoff Control Program including the number of reviewed project plans, the number of inspections and the number of enforcement actions.
- Identification of BMPs pertaining to implementation of the OWNER's Post Construction Stormwater Management Program.
- Identification of the implementation of BMPs pertaining to the OWNER's Good Housekeeping and Pollution Prevention Practices.
- A summary of outfall screening and monitoring data collected during the reporting period.
- A description of activities planned for the next reporting period, including identification of changes to existing BMPs or their measurable goals.

The ENGINEER will provide a draft of the Annual Report for review by the OWNER, incorporate comments, and then submit the report to EPA electronically on the OWNER's behalf.

ARTICLE 3 - RESPONSIBILITIES OF THE OWNER

The OWNER, without cost to the ENGINEER, shall do the following in a timely manner so as not to delay the services of the ENGINEER:

- 3.1 Designate in writing a person to act as the OWNER 's representative with respect to work to be performed under this AGREEMENT, such person to have complete authority to transmit instructions, receive information, interpret and define the OWNER'S policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this AGREEMENT.
- 3.2 Through its officials and other employees who have knowledge of pertinent conditions, confer with the ENGINEER regarding both general and special considerations relating to the PROJECT.
- 3.3 Assist the ENGINEER by placing at the disposal of the ENGINEER, all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
- 3.4 Arrange for access to and make all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform its work under this AGREEMENT.
- 3.5 Furnish the ENGINEER all needed property, boundary and right-of-way maps.
- 3.6 Cooperate with and assist the ENGINEER in all additional work that is mutually agreed upon.
- 3.7 Pay for all police details required to complete the work.
- 3.8 Pay the ENGINEER for work performed in accordance with the terms specified herein.
- 3.9 Examine all studies, reports, sketches, Drawings, specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants, as OWNER deems appropriate for such examination, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.
- 3.10 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect or non-conformance of the work of any Contractor(s).

ARTICLE 4 - TIME OF PROJECT

- 4.1 The ENGINEER will initiate work under this AGREEMENT following formal acceptance of this AGREEMENT by the OWNER. The ENGINEER agrees to provide services for the estimated duration of work, starting within 14 days of signing this AGREEMENT and concluding by September 30, 2024.
- 4.2 If the specific periods of time for services provided under this AGREEMENT are changed through no fault of the ENGINEER, the rates and compensation provided for herein shall be subject to equitable adjustment.

- 4.3 If ENGINEER's services are delayed or suspended in whole or in part by the OWNER for more than three months through no fault of the ENGINEER, ENGINEER shall be entitled to an equitable adjustment of the rates and compensation to be paid herein.

ARTICLE 5 - PAYMENTS TO THE ENGINEER

- 5.1 For services performed under this AGREEMENT, the OWNER agrees to pay the ENGINEER within thirty (30) days of the invoice date, as charges accrue on a time charged plus expense basis. For this PROJECT, the rates of the ENGINEER are 2.35 times the cost of salaries of those personnel working on the PROJECT and 1.1 times other direct costs which include transportation, printing and reproduction of plans and reports, telephone charges, postage, computer time, sub-consultant charges such as specialty engineering, soils, surveying, testing of materials, and other identifiable expenses. Compensation shall be payable monthly, as earned, and shall not exceed \$130,000 without prior written authorization from the OWNER.
- 5.2 If the OWNER fails to make any payment due the ENGINEER for services and expenses within thirty (30) days after receipt of the ENGINEER'S statement therefore, the ENGINEER may, after giving seven (7) days' written notice to the OWNER, suspend services under this AGREEMENT. Unless the ENGINEER receives payment within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the ENGINEER shall have no liability to the OWNER for delay or damage caused the OWNER because of such suspension of services.

ARTICLE 6 - INSURANCE

6.1 General Liability Insurance

The ENGINEER shall secure and maintain, for the duration of this PROJECT, the following General Liability Insurance policy or policies at no cost to the OWNER. With respect to the operations the ENGINEER performs, the ENGINEER shall carry Commercial General Liability Insurance for bodily injury, death, and property damage in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

6.2 Automobile Liability Insurance

The ENGINEER shall secure and maintain, for the duration of this PROJECT, Automobile Liability Insurance covering the operation of all motor vehicles, including those hired or borrowed, used by the ENGINEER in connection with this AGREEMENT, in the amount of \$1,000,000 combined single limit per accident.

6.3 Umbrella Liability Insurance

In addition to the above-mentioned coverage, the ENGINEER shall carry a minimum of One Million Dollar (\$1,000,000) umbrella liability policy for the duration of the PROJECT.

6.4 Professional Services Liability Insurance

The ENGINEER shall secure, at its own expense, a Professional Services Liability Insurance policy with a limit of \$3,000,000 per claim and in the aggregate, and maintain such policy for the duration of the PROJECT.

6.5 Workers Compensation Coverage

6.5.1 The ENGINEER shall maintain statutory Worker's Compensation insurance coverage for all of its employees at the PROJECT as required by the State of Massachusetts.

6.5.2 The OWNER shall maintain statutory Worker's Compensation insurance coverage for all of its employees at the PROJECT as required by the State of Massachusetts.

6.6 Additional Insured

OWNER shall be named an additional insured for insurance coverage included in Articles 6.1, 6.2 and 6.3 only.

ARTICLE 7 - LIMITATION OF LIABILITY AND INDEMNIFICATION

7.1 To the fullest extent permitted by law, the total liability in the aggregate, of ENGINEER and its officers, directors, employees, agents, and independent professional associates, and any of them, to the OWNER and any one claiming by, through or under OWNER, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to ENGINEER'S services, the project, or this AGREEMENT, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of ENGINEER or its officers, directors, employees, agents or independent professional associates, or any of them, and any causes arising from or related to the COVID-19 pandemic, shall not exceed the total amount recoverable from the available limits of the insurance identified in Article 6. ENGINEER shall have no upfront duty to defend the OWNER but shall reimburse defense costs of the OWNER to the same extent of its indemnity obligation herein.

7.2 To the fullest extent permitted by law, and subject to the limitation of liability set forth in 7.1, the ENGINEER agrees to indemnify and hold harmless the OWNER and its officers, directors, employees, agents, and independent professional associates, and any of them, from any claims, losses, damages or expense (including reasonable attorneys' fees) arising out of the death of, injuries, or damages to any person, or damage or destruction of any property, in connection with the ENGINEER'S services under this AGREEMENT to the extent caused by the negligent acts, errors, or omissions of the ENGINEER or its officers, directors, employees, agents or independent professional associates, or any of them.

ARTICLE 8 - EXTENSION OF SERVICES

8.1 Additional Work

In the event the ENGINEER, as requested by the OWNER, is to make investigations or reports

on matters not covered by this AGREEMENT, or is to perform other services not included herein, additional compensation shall be paid the ENGINEER as is mutually agreed upon by and between the OWNER and the ENGINEER. Such services shall be incorporated into written amendments to this AGREEMENT, or into a new written AGREEMENT.

8.2 Changes in Work

The OWNER, from time to time, may require changes or extensions in the Scope of Services to be performed hereunder. Such changes or extensions, including any increase or decrease in the amount of compensation, to be mutually agreed upon by and between the OWNER and the ENGINEER, shall be incorporated into written amendments to this AGREEMENT.

8.3 Litigation Support Services

In the event the ENGINEER is to prepare for or appear in any litigation on behalf of the OWNER, additional compensation shall be paid to the ENGINEER.

The OWNER agrees to compensate the ENGINEER for time spent and expenses incurred in preparation for and attendance at meetings and appearances, including depositions. This shall include appearances before the OWNER'S attorney and before the attorney of any other party to the litigation, in addition to all other support services as requested by the OWNER. Additional compensation shall be paid the ENGINEER as is mutually agreed upon by and between the OWNER and the ENGINEER. Such services shall be incorporated into written amendments to this AGREEMENT, or into a new written AGREEMENT.

ARTICLE 9 - OWNERSHIP AND USE OF DOCUMENTS

9.1 Use of Documents

9.1.1 The OWNER shall retain ownership of the documents submitted to the OWNER by the ENGINEER pursuant to this AGREEMENT.

9.1.2 Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

9.1.3 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. The party delivering the electronic files will correct any errors detected within the 60-day acceptance period. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

9.1.4 When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents

resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

- 9.1.5 OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants.
- 9.1.6 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 9.1.7 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER

ARTICLE 10 – TERMINATION

- 10.1 The obligation to provide further services under this AGREEMENT may be terminated by either party upon thirty (30) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- 10.2 If the PROJECT is suspended or abandoned in whole or in part for more than three (3) months, the ENGINEER shall be compensated for all services performed prior to receipt of written notice from the OWNER of such suspension or abandonment, together with other direct costs then due and all Termination Expenses as defined in Article 10.4. If the PROJECT is resumed after being suspended for more than three (3) months, the ENGINEER'S compensation shall be equitably adjusted.
- 10.3 In the event of termination by the OWNER under Article 10.1, the ENGINEER shall be paid for all unpaid services and unpaid other direct costs incurred to the date of receipt of written notice of termination, including sub-consultants, and for the services necessary to affect termination, in accordance with the provisions of Article 5 of this AGREEMENT.
- 10.4 In the event of termination by the ENGINEER under Article 10.1, or termination by the OWNER for the OWNER'S convenience, the ENGINEER shall be paid for all unpaid services and unpaid other direct costs incurred to the date of receipt of written notice of termination, including sub-consultants, for the services necessary to affect termination, plus termination expenses. Payment for services will be in accordance with the provisions of Article 5 of this AGREEMENT. Termination expenses means additional costs of services directly attributable to termination, which shall include an additional amount computed as the costs the ENGINEER reasonably incurs relating to commitments, which had become firm before the termination.

ARTICLE 11 - GENERAL PROVISIONS

11.1 Precedence

The terms and conditions in this AGREEMENT shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding the ENGINEER'S services.

11.2 Severability

If any of the terms and conditions in this AGREEMENT shall be finally determined to be invalid or unenforceable in whole or part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this AGREEMENT to replace any such invalid or unenforceable provision with a valid enforceable provision that comes as close as possible to the intention of the stricken provision.

11.3 Mediation

All claims, disputes or controversies arising between the OWNER and the ENGINEER shall be submitted to non-binding mediation prior to and as a condition precedent to the commencement of any litigation between those parties. The American Arbitration Association, or such other person or mediation service shall conduct the non-binding mediation as the parties mutually agree upon. The party seeking to initiate mediation shall do so by submitting a formal written request to the other party to this AGREEMENT and the American Arbitration Association or such other person or mediation service as the parties mutually agree upon. The costs of mediation shall be borne equally by the parties. The parties may engage in remote mediation if in-person mediation is not possible or practicable due to the COVID-19 pandemic, or if mutually agreed upon between the parties.

11.4 Subrogation

The OWNER and the ENGINEER waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent covered by any property or other insurance in effect whether during or after the PROJECT. The OWNER and the ENGINEER shall each require similar waivers from their contractors, consultants and agents.

11.5 Consequential Damages

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the ENGINEER, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty, including costs arising from the COVID-19 pandemic. Both the OWNER and ENGINEER shall

require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project.

11.6 Sole Remedy

Notwithstanding anything to the contrary contained herein, OWNER and ENGINEER agree that their sole and exclusive claim, demand, suit, judgment or remedy against each other shall be asserted against each other's corporate entity and not against each other's shareholders, A/E's, directors, officers or employees.

11.7 Third Party Obligations

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the OWNER or the ENGINEER.

11.8 Force Majeure

If delays or failures of performance of the ENGINEER are caused by occurrences beyond the reasonable control of the ENGINEER, the ENGINEER shall not be in default of this AGREEMENT. Said occurrences shall include Acts of God or the public enemy; expropriation or confiscation; compliance with any quarantine or other order of any governmental authority; pandemic; epidemic; public health crisis; labor or materials shortage; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots, strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by the ENGINEER, or any other causes which are beyond the reasonable control of the ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be compensated for all costs incurred in connection with or arising from a force majeure event or in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

ARTICLE 12 – DISCLOSURE RIGHTS

12.1 OWNER agrees the ENGINEER has the authority to use its name as a client and a general description of the project as a reference for other prospective clients.

ARTICLE 13 – NOTICES

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address that appears below, and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

Notices shall be provided to:

Owner:
Mitchell Ruscitti
Town Administrator
78 Hopedale Street
Hopedale, MA 01747

Engineer:
Corey Repucci
Team Leader
55 Walkers Brook Drive, Suite 100
Reading, MA 01867

ARTICLE 14 – CONTROLLING LAW

This Agreement is to be governed by the law of the principal place of business of the ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT the day and year first above written.

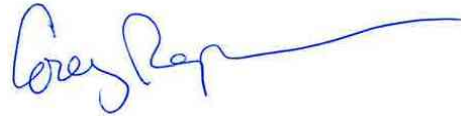
ACCEPTED FOR:

TOWN OF HOPEDALE, MA

WESTON & SAMPSON ENGINEERS, INC.

By Its Town Administrator

By:



Mitchell Ruscitti
Town Administrator

Corey Repucci
Team Leader

DATE

03/19/2024

DATE

CERTIFICATION OF AVAILABLE FUNDS

Certification is herewith given that funds are available for payments required by the terms of this AGREEMENT.

By: _____
OWNER Accountant

Date: _____

APPROVED AS TO FORM:

By: _____
OWNER Counsel

Date: _____

A TRUE COPY, ATTEST:

By: _____
OWNER Clerk

Date: _____

OWNER'S Insert Appropriate State Sales and Use Tax Certificate Exemption Number _____

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