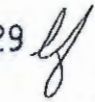


RECEIVED
TOWN CLERK
TOWN OF AYER

2017 NOV 17 PM 12: 29



Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Tuesday November 21, 2017
Open Meeting Agenda

- 7:00 PM **Call to Order**
Pledge of Allegiance; Review and Approve Agenda; Review of Warrant(s);
Announcements
- 7:05 PM* **Public Input**
- DPW Superintendent Mark Wetzel**
1. BOS Disclosure Per 268A, sec. 20
 2. DPW Operations Center Building Construction Contract
 3. LED Streetlight Purchase Order
 4. Snakehill Road Water Service Replacement
- 7:20 PM **Alan Manoian, Director of Community and Economic Development**
1. Preservation Restriction – Pleasant Street School
- 7:30 PM **Public Hearing - FY' 18 Tax Classification**
- 8:00 PM **Town Administrator's Report**
1. Administrative Update
 2. Regional Dispatch Update
 3. Town Counsel Disclosure Authorization for Regional Dispatch
- 8:15 PM **New Business/Selectmen's Questions**
- 8:20 PM **Approval of Meeting Minutes**
November 7, 2017
- *Adjournment**

**Agenda times are for planning purposes only and do not necessarily constitute exact times*

Office of the Ayer Board of Selectmen
Office of the Ayer Town Administrator



Town of Ayer | Ayer Town Hall | 1 Main Street | Ayer, MA 01432 | 978-772-8220 | Fax 978-772-3017 | www.ayer.ma.us

MEMORANDUM

DATE: November 17, 2017

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Disclosure by Special Municipal Employee of Financial Interest in a Municipal Contract (DPW Operations Center Contract) as Required by MGL Chapter 268A, Section 20(d)

Dear Honorable Selectmen,

Per MGL Chapter 268A, Section 20(d), Selectmen in the Town of Ayer are considered Special Municipal Employees based upon the Town having a population of less than 10,000 people. As a result, a Selectman may take advantage of the exemption found in MGL Chapter 268A, Section 20 (See Attached).

Selectman Christopher Hillman would like to take advantage of this exemption for the purposes on his company performing the HVAC work as a sub-bidder for Triumph Modular, Inc. the Contractor for the DPW Operations Center. As the BOS is aware, the BOS is to consider approval and award of the contract to Triumph Modular, Inc. on Tuesday, November 21, 2017 at 7pm at the Ayer BOS Meeting.

Per the statute, Selectman Hillman is a Special Municipal Employee and may legally use this exemption if the following requirements are met:

1. File the requisite disclosure with the Town Clerk (See Attached to be filed with the Town Clerk prior to the November 21, 2017 BOS Meeting);
2. Selectman Hillman recuses himself from the Ayer BOS vote to approve the exemption (See Attached);
3. The other Selectmen file a disclosure form per MGL Chapter 268A, Section 23(b)(3) with the Town Clerk (See Attached to be filed with the Town Clerk prior to the November 21, 2017 BOS Meeting); and
4. Selectman Hillman recuses himself from voting on the award of the Contract to Triumph Modular, Inc. and recuses himself from participation in any consideration or vote involving this project.

Attachment(s): Copy of MGL Chapter 268A, Section 20
DRAFT Disclosure Form for Special Municipal Employee per MGL Chapter 268A, 20(d)
DRAFT Approval of Exemption Form by the Ayer BOS for the Exemption
DRAFT Selectmen disclosure form per MGL Chapter 268A, Section 23(b)(3)

Part IV	CRIMES, PUNISHMENTS AND PROCEEDINGS IN CRIMINAL CASES
Title I	CRIMES AND PUNISHMENTS
Chapter 268A	CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES
Section 20	MUNICIPAL EMPLOYEES; FINANCIAL INTEREST IN CONTRACTS; HOLDING ONE OR MORE ELECTED POSITIONS

Section 20. (a) A municipal employee who has a financial interest, directly or indirectly, in a contract made by a municipal agency of the same city or town, in which the city or town is an interested party of which financial interest he has knowledge or has reason to know, shall be punished by a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

This section shall not apply if such financial interest consists of the ownership of less than one per cent of the stock of a corporation.

This section shall not apply (a) to a municipal employee who in good faith and within thirty days after he learns of an actual or prospective violation of this section makes full disclosure of his financial interest to the contracting agency and terminates or disposes of the interest, or (b) to a municipal employee who is not employed by the contracting agency or an agency which regulates the activities of the contracting agency and who does not participate in or have official responsibility for any of the activities of the contracting agency, if the contract is made after public notice or where applicable, through competitive bidding, and if the municipal employee files with the clerk of the city or town a statement making full disclosure of his interest and the interest of his immediate family, and if in the case of a contract for personal services (1) the services will be provided outside the normal working hours of the municipal employee, (2) the services are not required as part of the municipal employee's regular duties, the employee is compensated for not more than five hundred hours during a calendar year, (3) the head of the contracting agency makes and files with the clerk of the city or town a written certification that no employee of that agency is available to perform those services as part of their regular duties, and (4) the city council, board of selectmen or board of aldermen approve the exemption of his interest from this section, or (c) to a special municipal employee who does not participate in or have official responsibility for any of the activities of the contracting agency and who files with the clerk of the city or town a statement making full disclosure of his interest and the interests of his immediate family in the contract, or (d) to a special municipal employee who files with the clerk of the city, town or district a statement making full disclosure of his interest and the interests of his immediate family in the contract, if the city council or board of aldermen, if there is no city council, board of selectmen or the district prudential committee, approve the exemption of his interest from this section, or (e) to a municipal employee who receives benefits from programs funded by the United States or any other source in connection with the rental, improvement, or rehabilitation of his residence to the extent permitted by the funding agency, or (f) to a municipal employee if the contract is for personal services in a part time, call or volunteer capacity with the police, fire, rescue or ambulance department of a fire district, town or any city with a population of less than thirty-five thousand inhabitants; provided,

however, that the head of the contracting agency makes and files with the clerk of the city, district or town a written certification that no employee of said agency is available to perform such services as part of his regular duties, and the city council, board of selectmen, board of aldermen or district prudential committee approve the exemption of his interest from this section or (g) to a municipal employee who has applied in the usual course and is otherwise eligible for a housing subsidy program administered by a local housing authority, unless the employee is employed by the local housing authority in a capacity in which he has responsibility for the administration of such subsidy programs or (h) to a municipal employee who is the owner of residential rental property and rents such property to a tenant receiving a rental subsidy administered by a local housing authority, unless such employee is employed by such local housing authority in a capacity in which he has responsibility for the administration of such subsidy programs.

This section shall not prohibit an employee or an official of a town from holding the position of selectman in such town nor in any way prohibit such employee from performing the duties of or receiving the compensation provided for such office; provided, however, that such selectman shall not, except as hereinafter provided, receive compensation for more than one office or position held in a town, but shall have the right to choose which compensation he shall receive; provided, further, that no such selectman may vote or act on any matter which is within the purview of the agency by which he is employed or over which he has official responsibility; and, provided further, that no such selectman shall be eligible for appointment to any such additional position while he is still a member of the board of selectmen or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by any municipal agency in any matter shall be grounds for avoiding, rescinding or cancelling the action on such terms as the interest of the municipality and innocent third parties may require.

This section shall not prohibit any elected official in a town, whether compensated or uncompensated for such elected position, from holding one or more additional elected positions, in such town, whether such additional elected positions are compensated or uncompensated.

This section shall not prohibit an employee of a municipality with a city or town council form of government from holding the elected office of councillor in such municipality, nor in any way prohibit such an employee from performing the duties of or receiving the compensation provided for such office; provided, however, that no such councillor may vote or act on any matter which is within the purview of the agency by which he is employed or over which he has official responsibility; and provided, further, that no councillor shall be eligible for appointment to such additional position while a member of said council or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by a municipal agency in any matter shall be grounds for avoiding, rescinding or cancelling such action on such terms as the interest of the municipality and innocent third parties require. No such elected councillor shall receive compensation for more than one office or position held in a municipality, but shall have the right to choose which compensation he shall receive.

This section shall not prohibit an employee of a housing authority in a municipality from holding any elective office, other than the office of mayor, in such municipality nor in any way prohibit such employee from performing the duties of or receiving the compensation provided for such office; provided, however, that such elected officer shall not, except as otherwise expressly provided, receive compensation for more than one office or position held in a municipality, but shall have the right to choose which compensation he shall receive; provided further that no such elected official may vote or act on any matter which is within the purview of the housing authority by which he is employed; and provided further that no such elected official shall be eligible

for appointment to any such additional position while he is still serving in such elective office or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by the housing authority in any matter shall be grounds for avoiding, rescinding, or cancelling the action on such terms as the interest of the municipality and innocent third parties may require.

This section shall not prohibit an employee in a town having a population of less than three thousand five hundred persons from holding more than one appointed position with said town, provided that the board of selectmen approves the exemption of his interest from this section.

[There is no subsection (b).]

**DISCLOSURE BY SPECIAL MUNICIPAL EMPLOYEE
OF FINANCIAL INTEREST IN A MUNICIPAL CONTRACT
AS REQUIRED BY G. L. c. 268A, § 20(d)**

SPECIAL MUNICIPAL EMPLOYEE INFORMATION	
Name of special municipal employee:	Christopher R. Hillman
Put an X beside one statement.	<p>I am a special municipal employee because:</p> <p><input checked="" type="checkbox"/> I am a selectman in a town with a population of 10,000 or fewer people;</p> <p><input type="checkbox"/> I am not a mayor, alderman or city councilor, and</p> <p><input type="checkbox"/> I serve in a municipal position for which no compensation is provided, or</p> <p><input type="checkbox"/> I earned compensation for fewer than 800 hours in the preceding 365-day period, or</p> <p><input type="checkbox"/> By the classification of my position by my municipal agency or by the terms of a contract or my conditions of employment, I am permitted to have personal or private employment during normal business hours.</p> <p><input type="checkbox"/> I work for a company or organization which has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the municipal is contracting for my services in particular, and the contract states that I am a special municipal employee or indicates that I meet one of the three requirements listed above.</p>
Title/ Position	Chairman, Ayer Board of Selectmen
Fill in this box if it applies to you.	If you are a special municipal employee because a municipal agency has contracted with your company or organization, please provide the name and address of the company or organization.
Municipal Agency/ Department:	This is "my Municipal Agency." Town of Ayer
Agency Address:	Town of Ayer 1 Main Street Ayer, MA 01432
Office phone:	978-772-8200
Office e-mail:	
	Check one: <input checked="" type="checkbox"/> Elected or <input type="checkbox"/> Non-elected
Starting date as a special municipal employee.	April 25, 2012

<p>BOX # 1</p> <p>Select either STATEMENT #1 or STATEMENT #2.</p> <p>Write an X by your financial interest.</p>	<p>ELECTED SPECIAL MUNICIPAL EMPLOYEE</p> <p>I am an elected special municipal employee.</p> <p><input type="checkbox"/> STATEMENT #1: I had a financial interest in a contract made by a municipal agency before I was elected to a compensated special municipal employee position. I will continue to have this financial interest in a municipal contract.</p> <p><input checked="" type="checkbox"/> STATEMENT #2: I will have a new financial interest in a contract made by a municipal agency.</p> <p>My financial interest in a contract made by a municipal agency is:</p> <p><input type="checkbox"/> A compensated, non-elected position with a municipal agency.</p> <p><input type="checkbox"/> A contract between a municipal agency and myself.</p> <p><input checked="" type="checkbox"/> A financial benefit or obligation because of a contract that a municipal agency has with another person or with a company or organization.</p> <p><input type="checkbox"/> Other work because a municipal agency has a contract with my company or organization and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the municipal is contracting for my services in particular.</p>
<p>BOX #2</p> <p>Select either STATEMENT #1 or STATEMENT #2.</p> <p>Write an X by your financial interest.</p>	<p>NON-ELECTED SPECIAL MUNICIPAL EMPLOYEE</p> <p>I am a non-elected special municipal employee (compensated or uncompensated).</p> <p><input type="checkbox"/> STATEMENT #1: I had a financial interest in a contract made by a municipal agency, other than an employment contract, before I took a non-elected, compensated special municipal employee position. I will continue to have this financial interest in a municipal contract.</p> <p>My financial interest in a contract made by a municipal agency is:</p> <p><input type="checkbox"/> A contract between a municipal agency and myself, but not an employment contract.</p> <p><input type="checkbox"/> A financial benefit or obligation because of a contract that a municipal agency has with another person or with a company or organization.</p> <p>OR</p> <p><input type="checkbox"/> STATEMENT #2: I will have a new financial interest in a contract made by a municipal agency.</p> <p>My financial interest in a contract made by a municipal agency is:</p> <p><input type="checkbox"/> A compensated, non-elected position with a municipal agency.</p> <p><input type="checkbox"/> A contract between a municipal agency and myself.</p> <p><input type="checkbox"/> A financial benefit or obligation because of a contract that a municipal agency has with another person or with a company or organization.</p> <p><input type="checkbox"/> Other work because a municipal agency has a contract with my company or organization and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the municipal is contracting for my services in particular.</p>
<p>Name and address of municipal agency that made the contract</p>	<p>FINANCIAL INTEREST IN A MUNICIPAL CONTRACT</p> <p>This is the "contracting agency."</p> <p>Town of Ayer 1 Main Street Ayer, MA 01432</p>
<p>Write an X to confirm this statement.</p>	<p><input checked="" type="checkbox"/> In my work as a special municipal employee for my Municipal Agency, I participate in or have official responsibility for activities of the contracting agency.</p>

FILL IN THIS BOX OR THE NEXT BOX	ANSWER THE QUESTION IN THIS BOX IF THE CONTRACT IS BETWEEN THE MUNICIPAL AGENCY AND YOU. - Please explain what the contract is for.
	ANSWER THE QUESTIONS IN THIS BOX IF THE CONTRACT IS BETWEEN THE MUNICIPAL AGENCY AND ANOTHER PERSON OR ENTITY - Please identify the person or entity that has the contract with the municipal agency. - What is your relationship to the person or entity? - What is the contract for? The contract is between the Town of Ayer and Triumph Modular, Inc. for the modular building for the DPW Operations Center. My company HILLCO Cooling and Heating is a sub-bidder for the HVAC work for this contract.
What is your financial interest in the municipal contract?	- Please explain the financial interest and include the dollar amount if you know it. My company HILLCO Cooling and Heating is a sub-bidder for the HVAC work for this contract. The estimated financial interest is approximately \$16,000.
Date when you acquired the financial interest	Date is pending the award of the Sub-Bid Contract.
What is the financial interest of your immediate family?	- Please explain the financial interest and include the dollar amount if you know it.
Date when your immediate family acquired the financial interest	
Employee signature:	
Date:	

**SEE NEXT PAGE FOR APPROVAL
BY CITY COUNCIL, BOARD OF ALDERMEN,
BOARD OF SELECTMEN. TOWN COUNCIL,
OR DISTRICT PRUDENTIAL COMMITTEE**

**APPROVAL OF EXEMPTION
BY THE CITY COUNCIL, BOARD OF ALDERMEN, BOARD OF SELECTMEN,
TOWN COUNCIL OR DISTRICT PRUDENTIAL COMMITTEE**

Name:	Christopher R. Hillman
Name of approving body: Write an X by one selection.	<input type="checkbox"/> City Council <input type="checkbox"/> Board of Aldermen <input checked="" type="checkbox"/> Board of Selectmen <input type="checkbox"/> Town Council <input type="checkbox"/> District Prudential Committee
Title/ Position	Chairman, Ayer Board of Selectmen
Agency Address:	1 Main Street Ayer, MA 01432
Office phone:	978-772-8220
	APPROVAL OF § 20(d) EXEMPTION
	We have received a disclosure under G.L. c. 268A, § 20(d) from a special municipal employee who seeks to have a financial interest in a contract made by a municipal agency of this city or town. We understand that the special municipal employee participates in, or has official responsibility for, activities of the municipal agency that made the contract. We approve this exemption under § 20(d) regarding the financial interest identified by the special municipal employee.
Signature:	On behalf of the Council, Board or Committee identified above, I sign this approval.
Date:	

Attach additional pages if necessary.

File your completed, signed, approved Disclosure with the city or town clerk.

**DISCLOSURE OF APPEARANCE OF CONFLICT OF INTEREST
AS REQUIRED BY G. L. c. 268A, § 23(b)(3)**

PUBLIC EMPLOYEE INFORMATION	
Name of public employee:	
Title or Position:	
Agency/Department:	
Agency address:	
Office Phone:	
Office E-mail:	
	<p>In my capacity as a state, county or municipal employee, I am expected to take certain actions in the performance of my official duties. Under the circumstances, a reasonable person could conclude that a person or organization could unduly enjoy my favor or improperly influence me when I perform my official duties, or that I am likely to act or fail to act as a result of kinship, rank, position or undue influence of a party or person.</p> <p>I am filing this disclosure to disclose the facts about this relationship or affiliation and to dispel the appearance of a conflict of interest.</p>
APPEARANCE OF FAVORITISM OR INFLUENCE	
Describe the issue that is coming before you for action or decision.	
What responsibility do you have for taking action or making a decision?	
Explain your relationship or affiliation to the person or organization.	
How do your official actions or decision matter to the person or organization?	

Optional: Additional facts – e.g., why there is a low risk of undue favoritism or improper influence.	
If you cannot confirm this statement, you should recuse yourself.	WRITE AN X TO CONFIRM THE STATEMENT BELOW. <input type="checkbox"/> Taking into account the facts that I have disclosed above, I feel that I can perform my official duties objectively and fairly.
Employee signature:	
Date:	

Attach additional pages if necessary.

Not elected to your public position – file with your appointing authority.

Elected state or county employees – file with the State Ethics Commission.

Members of the General Court – file with the House or Senate clerk or the State Ethics Commission.

Elected municipal employee – file with the City Clerk or Town Clerk.

Elected regional school committee member – file with the clerk or secretary of the committee.

Form revised July, 2012

DEPARTMENT OF PUBLIC WORKS

Mark L. Wetzel, P.E., Superintendent
Daniel Vas Schalkwyk, P.E. Town Engineer
Pamela J. Martin, Business Manager



25 BROOK STREET
AYER, MASSACHUSETTS 01432
T: (978) 772-8240
F: (978) 772-8244

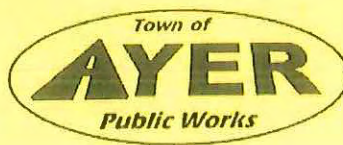
MEMORANDUM

Date: November 15, 2017
To: Board of Selectmen
From: Mark Wetzel, P.E. Superintendent of Public Works
Subject: November 21 Meeting Agenda Items

1. **DPW Operations Center Building Construction Contract** – The DPW received 3 bids for the DPW Operations Center. The lowest responsible bidder was Triumph Modular from Littleton, MA for \$1,100,526.00. Attached is the contract for execution by the Board.
2. **LED Streetlight Purchase Order** – Under a grant from Department of Energy Resources, the DPW worked with MAPC to obtain bids for the LED Streetlight Upgrade project. This was a three part procurement; fixtures, installation and controls. Based on the bids received for the streetlight fixtures, the DPW has selected the Philips RoadFocus fixture supplied by GrayBar for a total cost of \$58,317.00. Attached is the purchase order and related data, for signature by the Chairman.
3. **Snake Hill Road Water Service Replacement**- Attached is the contract for replacement of eight water services on Snake Hill Road between Sandy Pond Road and the RR tracks. Unfortunately, these services were never transferred to the newer water main when it was installed in in the late 1970's and these customers have water quality issues. Transfer of the services will provide better water quality and allow us to abandon the old 6-inch pipe. This work is funded under the Water Main Rehabilitation budget.

The Town received six bids and Commonwealth Construction and Utilities was the low bidder with a bid of \$59,200.76. Attached is the Agreement for execution by the Chairman.

Item 1



pay Owner \$1,000 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 4 – CONTRACT PRICE

- 4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01A.
- A. For all Work, at the price of **\$1,100,526.00 Dollars (One million one hundred thousand five hundred and twenty six dollars and zero cents)** which is equivalent to the price stated in Contractor's Price Proposal Form minus the add alternates dated September 21, 2017 from Contractor to Ayer DPW, all attached hereto as an exhibit.

ARTICLE 5 – PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article VIII of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Article VIII of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with the General Conditions:
 - a. 95 percent of Work completed (with the balance being retainage); and
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
 2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts as Engineer shall determine in accordance with the General Conditions.

5.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with the General Conditions and the Supplementary Conditions, Owner shall pay the remainder of the Contract Price as recommended by the Engineer and as provided in the General Conditions, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

ARTICLE 6 – INTEREST

- 6.01 Not Applicable

ARTICLE 7 – CONTRACTOR'S REPRESENTATIONS

- 7.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities).
- E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 *Contents*

- A. The Contract Documents consist of the following:
1. This Agreement (pages 1 to 5, inclusive).
 2. Performance bond and Payment bond
 3. General Conditions
 4. Supplementary Conditions
 5. Specifications as listed in the Request for Proposals.
 6. Drawings consisting of 10 sheets with each sheet bearing the following general title: DPW Modular Administration Building in Appendix E of the Request for Proposals.
 7. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (Non-Price Proposal and Price Proposal, inclusive).
 8. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed.

- b. Work Change Directives.
- c. Change Order(s).
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 9 – MISCELLANEOUS

9.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in four copies. One counterpart each has been delivered to Owner, Contractor, Engineer, and Agency. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor or identified by Engineer on their behalf.

This Agreement is dated 10/25/2017

OWNER:

Board of Selectmen
Town of Ayer
Ayer, Massachusetts

By: _____

Title: Chairman

By: _____

Title: Member

By: _____

Title: Member

CONTRACTOR

By: [Signature]

Clifford S. Galt

Title: President

[CORPORATE SEAL]

[CORPORATE SEAL]

Approved: _____

Title: Treasurer

Attest: _____

Title: Clerk

Address for giving notices:

Attest: [Signature]

Title: Corporate Secretary

Address for giving notices:

Triumph Modular, Inc.
194 Ayer Rd.
Littleton, MA 01460

Agent for service of process:

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

For Official Town of Ayer Use Only

Item 2



Ayer Quotes

Requirements										Optional Elements			
Distributor	Brand Luminaire	Model	3000K	7-pins	Ownership & ANSI Labels	10kV/5kA	Specific Requirements	Total Cost	Brand Photocell	Standard Life Photocell Option	Long-Life Photocell Option	0-10v Driver	Internal Adjustability
Hampden Zimmerman	Philips	RoadFocus	Yes	Yes	Yes	Yes (10 kV/10kA)	RFS set to 17w	\$ 68,687.00	Philips	\$ 4,629.85	\$ 14,909.25	Unclear	No
Northeast	Cree	RSW	Yes	Yes	ANSI yes. Ownership?	Yes		\$ 73,783.34	Intermatic	\$ 4,681.35	\$ 8,245.15	Yes	No
Standard	Philips	RoadFocus	Yes	Unclear	ANSI yes. Ownership?	Yes (10 kV/10kA)	RFS set to 17w	\$ 59,995.00	Eye & Gateway	\$ 2,317.50	\$ 6,952.50	Unclear	No
Graybar	GE	Evolve	Yes	Yes	?	Yes		\$ 85,926.00	Ripley	\$ 4,295.10	\$ 10,815.00	Some models	No
Graybar	Philips	RoadFocus	Yes	Yes	Yes	Yes (10 kV/10kA)	RFS set to 17w	\$ 58,317.00	Ripley	\$ 4,295.10	\$ 10,815.00	Unclear	
Fred Davis	Cree	RSW	Yes	Yes	ANSI yes. Ownership?	Yes		\$ 73,598.75	FP Controls	N/A	\$ 7,210.00	Didn't check	Didn't check
Fred Davis	Philips	RoadFocus	Yes	Yes	ANSI yes. Ownership?	Yes (10 kV/10kA)	RFS set to 17w	\$ 65,610.00	FP Controls	N/A	\$ 7,210.00	Didn't check	Didn't check



25 RESEARCH PARKWAY
 WALLINGFORD CT 06492-1927
 Phone: 203-284-4529
 Fax: 203-287-4551

To: METROPOLITAN AREA PLANNING COUNCIL
 60 TEMPLE PLACE
 BOSTON MA 02111
 Attn: P ROCHE
 Phone: 000-00-0000
 Fax:
 Email: SHARON.TIERNEY@GRAYBAR.COM

Date: 10/05/2017
 Proj Name: AYER PHILLIPS
 GB Project Qte#: 0228568983
 Valid From: 10/05/2017
 Valid To: 11/04/2017
 Contact: SHARON TIERNEY
 Email: sharon.tierney@graybar.com

Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

Item	Quantity	Supplier	Catalog Nbr	Description	Price	Unit	Ext.Price
------	----------	----------	-------------	-------------	-------	------	-----------

Notes: Graybar is an approved vendor on the FAC100- Category 2 LED Roadway and Outdoor Area Lighting, Vendor Code VC6000214241. This proposal is being provided in accordance with all rates, terms and conditions of the contract.

PLEASE CONTACT SHARON.TIERNEY@GRAYBAR.COM TO ORDER; M 860-987-9704

THANK YOU FOR THE OPPORTUNITY!

100	438 EA	USE VC# 100064939	RFS-25W16LED3K- G2-R2M-UNV-17W- RCD7APIGY3		\$113.00	1	\$49,494.00
-----	--------	----------------------	--	--	----------	---	-------------

Item Note: RFS-25W16LED3K-G2-R2M-UNV-17W-RCD7-API-GY3- OWNERSHIP LABEL
 FACTORY PRESET 17W R2M 7 PIN 3K 10KV/KA ANSI AND OWNERSHIP LABEL

200	21 EA	USE VC# 100064939	RFS-25W16LED3K- G2-TYPE4UNV- 17WRCD7APIGY3		\$113.00	1	\$2,373.00
-----	-------	----------------------	--	--	----------	---	------------

Item Note: RFS-25W16LED3K-G2-TYPE4-UNV-17W-RCD7-APIGY3-OWNERSHIP LABEL
 FACTORY PRESET 17W TYPE 4 7 PIN 10KV/KA ANSI AND OWNERSHIP LABEL

300	38 EA	USE VC# 100064939	RFM-72W32LED3K- G2-R2M-UNV-RCD7- API-GY3OW		\$150.00	1	\$5,700.00
-----	-------	----------------------	--	--	----------	---	------------

Item Note: RFM-72W32LED3K-G2-R2M-UNV-RCD7-API-GY3-OWNERSHIP LABEL

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at www.graybar.com

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill.
 Unless noted the estimated ship date will be determined at the time of order placement.

To: METROPOLITAN AREA PLANNING COUNCIL
 60 TEMPLE PLACE
 BOSTON MA 02111
 Attn: P ROCHE

Date: 10/05/2017
 Proj Name: AYER PHILLIPS
 GB Project Qte#: 0228568983

Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

Item	Quantity	Supplier	Catalog Nbr	Description	Price	Unit	Exl.Price
400	5 EA	USE VC# 100064939	RFM-72W32LED3K- G2-TYPE4-UNV- RCD7-API-GY3		\$150.00	1	\$750.00
Item Note: RFM-72W32LED3K-G2-TYPE4-UNV-RCD7-API-GY3-OWNERSHIP LABEL							
500	515 EA	SUNRISE TECH	6390TF	RIPLEY 6390 TR FLT PHTOCNTRL BL MV FO	\$8.34	1	\$4,295.10
GB Part #: 25979435 UPC #: ***Item Note:*** STANDARD PHOTOCCELL MANUFACTURE 8 YR WARRANTY							
600	515 EA	RIPLEY PHOTO	6390LL-BK (ALTERNATE)		\$21.00	1	\$10,815.00
Item Note: LONG LIFE PHOTOCCELL MANUFACTURE 12 YR WARRANTY							

Total in USD (Tax not included): \$73,427.10

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7408 to speak with a leasing specialist.

To learn more about Graybar, visit our website at www.graybar.com

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill. Unless noted the estimated ship date will be determined at the time of order placement.

To: METROPOLITAN AREA PLANNING COUNCIL
 60 TEMPLE PLACE
 BOSTON MA 02111
 Attn: P ROCHE

Date: 10/05/2017
 Proj Name: AYER PHILLIPS
 GB Project Qte#: 0228568983

Proposal

We Appreciate Your Request and Take Pleasure in Responding As Follows

Item	Quantity	Supplier	Catalog Nbr	Description	Price	Unit	Ext.Price
------	----------	----------	-------------	-------------	-------	------	-----------

**GRAYBAR ELECTRIC COMPANY, INC.
 TERMS AND CONDITIONS OF SALE**

1. ACCEPTANCE OF ORDER; TERMINATION - Acceptance of any order is subject to credit approval and acceptance of order by Graybar Electric Company, Inc. ("Graybar") and, when applicable, Graybar's suppliers. If credit of the buyer of the goods ("Buyer") becomes unsatisfactory to Graybar, Graybar reserves the right to terminate upon notice to Buyer and without liability to Graybar.
2. PRICES AND SHIPMENTS - Unless otherwise quoted, prices shall be those in effect at time of shipment, which shall be made F.O.B. shipping point, prepaid and bill.
3. RETURN OF GOODS - Credit may be allowed for goods returned with prior approval. A deduction may be made from credits issued to cover cost of handling.
4. TAXES - Prices shown do not include sales or other taxes imposed on the sale of goods. Taxes now or hereafter imposed upon sales or shipments will be added to the purchase price. Buyer agrees to reimburse Graybar for any such tax or provide Graybar with acceptable tax exemption certificate.
5. DELAY IN DELIVERY - Graybar is not to be accountable for delays in delivery occasioned by acts of God, failure of its suppliers to ship or deliver on time, or other circumstances beyond Graybar's reasonable control. Factory shipment or delivery dates are the best estimates of our suppliers, and in no case shall Graybar be liable for any consequential or special damages arising from any delay in shipment or delivery.
6. LIMITED WARRANTIES - Graybar warrants that all goods sold are free of any security interest and will make available to Buyer all transferable warranties (including without limitation warranties with respect to intellectual property infringement) made to Graybar by the manufacturer of the goods. GRAYBAR MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE. UNLESS OTHERWISE AGREED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF GRAYBAR, PRODUCTS SOLD HEREUNDER ARE NOT INTENDED FOR USE IN OR IN CONNECTION WITH (1) ANY SAFETY APPLICATION OR THE CONTAINMENT AREA OF A NUCLEAR FACILITY, OR (2) IN A HEALTHCARE APPLICATION, WHERE THE GOODS HAVE POTENTIAL FOR DIRECT PATIENT CONTACT OR WHERE A SIX (6) FOOT CLEARANCE FROM A PATIENT CANNOT BE MAINTAINED AT ALL TIMES.
7. LIMITATION OF LIABILITY - Buyer's remedies under this agreement are subject to any limitations contained in manufacturer's terms and conditions to Graybar, a copy of which will be furnished upon written request. Furthermore, Graybar's liability shall be limited to either repair or replacement of the goods or refund of the purchase price, all at Graybar's option, and IN NO CASE SHALL GRAYBAR BE LIABLE FOR INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES. In addition, claims for shortages, other than loss in transit, must be made in writing not more than five (5) days after receipt of shipment.
8. WAIVER - The failure of Graybar to insist upon the performance of any of the terms or conditions of this agreement or to exercise any right hereunder shall not be deemed to be a waiver of such terms, conditions, or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right under this agreement.
9. MODIFICATION OF TERMS AND CONDITIONS - These terms and conditions supersede all other communications, negotiations, and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge, abandonment, or waiver of these terms and conditions shall be binding upon Graybar unless made in writing and signed on its behalf by a duly authorized representative of Graybar. No conditions, usage of trade, course of dealing or performance, understanding or agreement, purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by the party to be bound. Any proposed modifications or additional terms are specifically rejected and deemed a material alteration hereof. If this document shall be deemed an acceptance of a prior offer by Buyer, such acceptance is expressly conditional upon Buyer's assent to any additional or different terms set forth herein.
10. REELS - When Graybar ships returnable reels, a reel deposit may be included in the invoice. The Buyer should contact the nearest Graybar service location to return reels.
11. CERTIFICATION - Graybar hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. This agreement is subject to Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Veterans Readjustment Assistance Act of 1974, as amended, E.O. 13496, 29 CFR Part 471, Appendix A to Subpart A, and the corresponding regulations, to the extent required by law. 41 CFR 60-1.4, 60-741.5, and 60-250.5 are incorporated herein by reference, to the extent legally required.
12. FOREIGN CORRUPT PRACTICES ACT - Buyer shall comply with applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§78dd-1, et. seq.) irrespective of the place of performance, and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Buyer's country or any country where performance of this agreement or delivery of goods will occur.
13. ASSIGNMENT - Buyer shall not assign its rights or delegate its duties hereunder or any interest herein without the prior written consent of Graybar, and any such assignment, without such consent, shall be void.
14. GENERAL PROVISIONS - All typographical or clerical errors made by Graybar in any quotation, acknowledgment or publication are subject to correction. This agreement shall be governed by the laws of the State of Missouri applicable to contracts to be formed and fully performed within the State of Missouri, without giving effect to the choice or conflicts of law provisions thereof. All suits arising from or concerning this agreement shall be filed in the Circuit Court of St. Louis County, Missouri, or the United States District Court for the Eastern District of Missouri, and no other place unless otherwise determined in Graybar's sole discretion. Buyer hereby irrevocably consents to the jurisdiction of such court or courts and agrees to appear in any such action upon written notice thereof.
15. PAYMENT TERMS - Payment terms shall be as stated on Graybar's invoice or as otherwise mutually agreed. As a condition of the sales agreement, a monthly service charge of the lesser of 1-1/2% or the maximum permitted by law may be added to all accounts not paid by net due date. Visa, MasterCard, American Express, and Discover credit cards are accepted at point of purchase only.
16. EXPORTING - Buyer acknowledges that this order and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders. Buyer agrees to comply with all such laws, regulations, and orders, including, if applicable, all requirements of the International Traffic in Arms Regulations and/or the Export Administration Act, as may be amended. Buyer further agrees that if the export laws are applicable, it will not disclose or re-export any technical data received under this order to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Buyer has obtained prior written authorization from the United States Office of Export Control or other authority responsible for such matters.

Signed: _____

This equipment and associated installation charges may be financed for a low monthly payment through Graybar Financial Services (subject to credit approval). For more information call 1-800-241-7400 to speak with a leasing specialist.

To learn more about Graybar, visit our website at www.graybar.com

24-Hour Emergency Phone#: 1-800-GRAYBAR

Subject to the standard terms and conditions set forth in this document. Unless otherwise noted, freight terms are F.O.B. shipping point prepaid and bill.
 Unless noted the estimated ship date will be determined at the time of order placement.

**PHILIPS
LUMEC**

Roadway

RoadFocus

RFS (small)

QUANTITY= 438 R2M

FACTORY PRESET FOR 17W OUTPUT WITH ANSI LABEL INSTALLED, WITH OWNERSHIP LABEL INSTALLED. WITH 10KV/10KA SURGE PROTECTION



Project: _____
 Location: _____
 Cat.No: _____
 Type: _____
 Lamps: _____ Qty: _____
 Notes: _____

The Philips Lumec RoadFocus LED Cobra Head luminaires feature a sleek design that provides seamless replacement of existing HID luminaires. RoadFocus is available in three sizes, offers multiple lumen packages, and a complete array of optical distributions, making it an outstanding solution for multiple roadway applications.

Ordering guide

example: RFS-35W16LED4K-G2-R2M-UNV-DMG-HS-PH8-RCD-GY3K

Prefix	LED module	Series	Distribution	Voltage	Options		
					Controls	Luminaire	Finish
RFS	25W16	G2		UNV	17W PRESET	RCD	GY3
RFS RoadFocus Roadway, small	3000K 25W16LED3K 30W16LED3K 35W16LED3K 45W16LED3K ⁵ 54W16LED3K ⁵ 4000K 25W16LED4K 30W16LED4K 35W16LED4K 45W16LED4K ⁵ 54W16LED4K ⁵	G2 Generation 2	Type 2 R2S Type II short (ASYM) R2M Type II Medium (ASYM) Type 3 R3S Type III short (ASYM) R3M Type III Medium (ASYM) Type 4 4 Type IV (ASYM) Type 5 5 ¹ Type V (SYMM)	UNV 120-277V (50/60Hz)	AST ³ Pre-set driver for progressive start-up CDMGE25 ⁴ 8 hrs. 25% reduction CDMGE50 ⁴ 8 hrs. 50% reduction CDMGE75 ⁴ 8 hrs. 75% reduction CDMGM25 ⁴ 6 hrs. 25% reduction CDMGM50 ⁴ 6 hrs. 50% reduction CDMGM75 ⁴ 6 hrs. 75% reduction CDMGS25 ⁴ 4 hrs. 25% reduction CDMGS50 ⁴ 4 hrs. 50% reduction CDMGS75 ⁴ 4 hrs. 75% reduction CLO ³ Pre-set driver to manage lumen depreciation DALI ¹ Digitally addressable lighting interface DMG ³ 0-10V OTL ³ Pre-set driver to signal end of life of the lamp FACTORY PRESET 17W OUTPUT	API Factory installed NEMA label, ANSI C136.15 compliant FAWS ⁶ Field adjustable wattage selector HS House Side Shield, shield, 1 per 16 LED light engine PH8 Twist-lock Photoelectric Cell, UNV (120-277VAC) PHXL Twist-lock Photoelectric Cell, extended life, UNV (120-277VAC) PH9 Shorting cap RCD ^{2,4} Receptacle for twist-lock photocell or shorting cap, 5-pin (standard) RCD7 ² Receptacle for twist-lock photocell or shorting cap, 7-pin (optional) SP2 20kV / 20kA Surge Protector (optional)	Textured BK Black BZ Bronze GY3 Gray WH White

1. Not available with HS option.
2. Use of photoelectric cell or shorting cap is required to ensure proper illumination.
3. Dimming choices: Select either DMG, DALI or one of the CDMG options.

4. Please note this integrated feature come standard with RoadFocus.
5. Not available with driver options, AST, CLO, CDMG, DALI, OTL.
6. FAWS not available with CDMG options, DALI or CLO.

Accessories (must be ordered as separate line items -- quickly and easily installed in the field)

CPC or CPCD¹
 CityTouch Connector Node.

1. Contact the factory for additional support when connected lighting or additional services are desired.

**PHILIPS
LUMEC**

Roadway

RoadFocus

RFS (small)

QUANTITY= 21, TYPE 4

FACTORY PRESET FOR 17W OUTPUT WITH ANSI LABEL INSTALLED, WITH OWNERSHIP LABEL INSTALLED. WITH 10KV/10KA SURGE PROTECTION



Project: _____
 Location: _____
 Cat.No: _____
 Type: _____
 Lamps: _____ Qty: _____
 Notes: _____

The Philips Lumec RoadFocus LED Cobra Head luminaires feature a sleek design that provides seamless replacement of existing HID luminaires. RoadFocus is available in three sizes, offers multiple lumen packages, and a complete array of optical distributions, making it an outstanding solution for multiple roadway applications.

Ordering guide

example: RFS-35W16LED4K-G2-R2M-UNV-DMG-HS-PH8-RCD-GY3K

Prefix	LED module	Series	Distribution	Voltage	Options	Luminaire	Finish
RFS	25W16	G2		UNV	17W PRESET	RCD	GY3
RFS RoadFocus Roadway, small	3000K 25W16LED3K 30W16LED3K 35W16LED3K 45W16LED3K ¹ 54W16LED3K ¹ 4000K 25W16LED4K 30W16LED4K 35W16LED4K 45W16LED4K ¹ 54W16LED4K ¹	G2 Generation 2	Type 2 R2S Type II short (ASYM) R2M Type II Medium (ASYM) Type 3 R3S Type III short (ASYM) R3M Type III Medium (ASYM) Type 4 4 Type IV (ASYM) Type 5 5 Type V (SYMM)	UNV 120-277V (50/60Hz)	AST ¹ Pre-set driver for progressive start-up CDMG25 ¹ 8 hrs. 25% reduction CDMG50 ¹ 8 hrs. 50% reduction CDMG75 ¹ 8 hrs. 75% reduction CDMG25 ¹ 6 hrs. 25% reduction CDMG50 ¹ 6 hrs. 50% reduction CDMG75 ¹ 6 hrs. 75% reduction CDMG25 ¹ 4 hrs. 25% reduction CDMG50 ¹ 4 hrs. 50% reduction CDMG75 ¹ 4 hrs. 75% reduction CLO ¹ Pre-set driver to manage lumen depreciation DALI ¹ Digitally addressable lighting interface DMG ¹ 0-10V OTL ¹ Pre-set driver to signal end of life of the lamp FACTORY PRESET 17W OUTPUT	API Factory installed NEMA label, ANSI C136 IS compliant FAWS ⁶ Field adjustable wattage selector HS House Side Shield, shield, 1 per 16 LED light engine PH8 Twist-lock Photoelectric Cell, UNV (120-277VAC) PHXL Twist-lock Photoelectric Cell, extended life, UNV (120-277VAC) PH9 Shorting cap PCD ^{2,4} Receptacle for twist-lock photocell or shorting cap, 5-pin (standard) RCD ⁷ Receptacle for twist-lock photocell or shorting cap, 7-pin (optional) SP2 20kV / 20kA Surge Protector (optional)	Textured BK Black BZ Bronze GY3 Gray WH White

1. Not available with HS option.
2. Use of photoelectric cell or shorting cap is required to ensure proper illumination.
3. Dimming choices: Select either DMG, DALI or one of the CDMG options.

4. Please note this integrated feature come standard with RoadFocus.
5. Not available with driver options, AST, CLO, CDMG, DALI, OTL
6. FAWS not available with CDMG options, DALI or CLO.

Accessories (must be ordered as separate line items - quickly and easily installed in the field)

CPC or CPCD¹
 CityTouch Connector Node.

1. Contact the factory for additional support when connected lighting or additional services are desired.

**PHILIPS
LUMEC**

Roadway

RoadFocus

RFM (medium)

QUANTITY= 38, R2M

WITH ANSI LABEL INSTALLED, WITH OWNERSHIP LABEL ATTACHED, WITH 10kV/10kA SURGE PROTECTION



Project: _____
 Location: _____
 Cat.No: _____
 Type: _____
 Lamps: _____ Qty: _____
 Notes: _____

The Philips LumeC RoadFocus LED Cobra Head luminaires feature a sleek design that provides seamless replacement of existing HID luminaires. RoadFocus is available in three sizes, offers multiple lumen packages, and a complete array of optical distributions, making it an outstanding solution for all types of roadway applications.

Ordering guide

example: RFM-108W32LED3K-G2-R3M-UNV-DMG-RCD-GY3

Prefix	LED module	Series	Distribution	Voltage	Options	Luminaire	Finish
RFM		G2					
RFM RoadFocus Roadway, medium	3000K 35W32LED3K' 55W32LED3K' 55W48LED3K' 72W32LED3K 80W48LED3K 108W32LED3K 108W48LED3K 160W48LED3K 4000K 35W32LED4K' 55W32LED4K' 55W48LED4K' 72W32LED4K 80W48LED4K 108W32LED4K 108W48LED4K 160W48LED4K	G2 Generation 2	Type 2 R2S Type II short (ASYM) D2M Type II Medium (ASYM) Type 3 R3S Type III short (ASYM) R3M Type III Medium (ASYM) Type 4 4 Type IV (ASYM) Type 5 5 ¹ Type V (SYM)	UNV 120-277V HVV 347-480VAC	AST ¹⁴ Pre-set driver for progressive start-up CDMG25 ¹⁴ 8 hrs. 25% reduction CDMG50 ¹⁴ 8 hrs. 50% reduction CDMG75 ¹⁴ 8 hrs. 75% reduction CDMG25 ¹⁴ 6 hrs. 25% reduction CDMG50 ¹⁴ 6 hrs. 50% reduction CDMG75 ¹⁴ 6 hrs. 75% reduction CDMG25 ¹⁴ 4 hrs. 25% reduction CDMG50 ¹⁴ 4 hrs. 50% reduction CDMG75 ¹⁴ 4 hrs. 75% reduction CLO ¹¹ Pre-set driver to manage lumen depreciation DALI ¹⁴ Digitally addressable lighting interface DMG ⁵ 0-10V OTL ¹¹ Pre-set driver to signal end of life of the lamp	API Factory installed NEMA label, ANSI C136.15 compliant FAWS ⁶ Field adjustable wattage selector HS House Side Shield, shield, 1 per 16 LED light engine PH0 ⁸ Twist-lock Photoelectric Cell, UVV (120-277VAC) PH0/347 ⁷ Twist-lock Photoelectric Cell, 347VAC PH0/480 ⁷ Twist-lock Photoelectric Cell, 480VAC PHXL ¹ Twist-lock Photoelectric Cell, extended life, UNV (120-277VAC) PH9 Shorting cap RCD ¹³ Receptacle for twist-lock photocell or shorting cap, 5-pin (standard) RCD7 ⁷ Receptacle for twist-lock photocell or shorting cap, 7-pin (optional) SP2 20kV / 20kA Surge Protector (optional)	Textured BK Black BZ Bronze GY3 Gray WH White

- 347V and 480V not available.
- Not available with HS option.
- Use of photoelectric cell or shorting cap is required to ensure proper illumination.
- Dimming choices: Select either DMG, DALI or one of the CDMG options.
- Please note this integrated feature come standard with RoadFocus.
- FAWS not available with CDMG options, DALI or CLO.
- FAWS lumen accuracy +/- 15% on these models.

**PHILIPS
LUMEC**

Roadway

RoadFocus

RFM (medium)

QUANTITY= 5, TYPE 4

WITH ANSI LABEL INSTALLED, WITH OWNERSHIP LABEL ATTACHED, WITH 10kV/10kA SURGE PROTECTION



Project: _____
 Location: _____
 Cat.No: _____
 Type: _____
 Lamps: _____ Qty: _____
 Notes: _____

The Philips Lumec RoadFocus LED Cobra Head luminaires feature a sleek design that provides seamless replacement of existing HID luminaires. RoadFocus is available in three sizes, offers multiple lumen packages, and a complete array of optical distributions, making it an outstanding solution for all types of roadway applications.

Ordering guide

example: RFM-108W32LED3K-G2-R3M-UNV-DMG-RCD-GY3

Prefix	LED module	Series	Distribution	Voltage	Options		Finish
					Controls	Luminaire	
RFM		G2					
RFM RoadFocus Roadway, medium	3000K 35W32LED3K ¹ 55W32LED3K ¹ 55W40LED3K ¹ 72W32LED3K 80W40LED3K 108W32LED3K 108W40LED3K 160W48LED3K 4000K 35W32LED4K ¹ 55W32LED4K ¹ 55W40LED4K ¹ 72W32LED4K 80W40LED4K 108W32LED4K 108W40LED4K 160W48LED4K	G2 Generation 2	Type 2 R25 Type II short (ASYM) R2M Type II Medium (ASYM) Type 3 R3S Type III short (ASYM) R3M Type III Medium (ASYM) Type 4 4 Type IV (ASYM) Type 5 5 ² Type V (SYM4)	UNV 120-277V HVV 347-480VAC	AST ¹⁴ Pre-set driver for progressive start-up CDMGE25 ¹⁴ 8 hrs. 25% reduction CDMGE50 ¹⁴ 8 hrs. 50% reduction CDMGE75 ¹⁴ 8 hrs. 75% reduction CDMG25 ¹⁴ 6 hrs. 25% reduction CDMG50 ¹⁴ 6 hrs. 50% reduction CDMG75 ¹⁴ 6 hrs. 75% reduction CDMG25 ¹⁴ 4 hrs. 25% reduction CDMG50 ¹⁴ 4 hrs. 50% reduction CDMG75 ¹⁴ 4 hrs. 75% reduction CLD ¹⁴ Pre-set driver to manage lumen depreciation DALI ¹⁴ Digitally addressable lighting interface DMG ⁵ 0-10V OTL ¹⁴ Pre-set driver to signal end of life of the lamp	API Factory installed REHA label, ANSI C136 IS compliant FAWS ⁶ Field adjustable wallage selector HS House Side Shield, shield, 1 per 16 LED light engine PH8 ¹ Twist-lock Photoelectric Cell, UNV (120-277VAC) PH8/347 ¹ Twist-lock Photoelectric Cell, 347VAC PH8/480 ¹ Twist-lock Photoelectric Cell, 480VAC PHXL ¹ Twist-lock Photoelectric Cell, extended life, UNV (120-277VAC) PH9 Shorting cap RCD ¹⁵ Receptacle for twist-lock photocell or shorting cap, 5-pin (standard) RCD7 ¹ Receptacle for twist-lock photocell or shorting cap, 7-pin (optional) SP2 20kV / 20kA Surge Protector (optional)	Textured BK Black BZ Bronze GY3 Gray WH White

1. 347V and 480V not available.
 2. Not available with HS option.
 3. Use of photoelectric cell or shorting cap is required to ensure proper illumination.

4. Dimming choices: Select either DMG, DALI or one of the CDMG options.
 5. Please note this integrated feature come standard with RoadFocus.

6. FAWS not available with CDMG options, DALI or CLO.
 7. FAWS lable accuracy +/- 15% on these models.

RFS RoadFocus

Small, LED Cobrahead

Predicted Lumen Depreciation Data

Predicted performance derived from LED manufacturer's data and engineering design estimates, based on IESNA LM-80 methodology. Actual experience may vary due to field application conditions. L₇₀ is the predicted time when LED performance depreciates to 70% of initial lumen output. Calculated per IESNA TM21-11. Published L₇₀ hours limited to 6 times actual LED test hours

Ambient Temperature °C	Driver mA	Calculated L ₇₀ Hours	L ₇₀ per TM-21	Lumen Maintenance % at 60,000 hrs
40°C	up to 1050 mA	>100,000 hours	>60,000 hours	>84%

LED Wattage and Lumen Values: 3000K

Ordering Code	Total LEDs	LED Current (mA)	Color Temp.	Average System Watts	Type R2S			Type R2M			Type R3S			Type R3M		
					Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating
RFS-25W16LED3K-G2	16	440	3000	24	2,968	123	B1-U0-G0	2,900	120	B1-U0-G1	2,948	122	B1-U0-G1	2,858	118	B1-U0-G1
RFS-30W16LED3K-G2	16	530	3000	29	3,484	121	B1-U0-G1	3,405	118	B1-U0-G1	3,460	120	B1-U0-G1	3,355	116	B1-U0-G1
RFS-35W16LED3K-G2	16	700	3000	38	4,410	116	B1-U0-G1	4,310	113	B1-U0-G1	4,381	115	B1-U0-G1	4,247	112	B1-U0-G1
RFS-45W16LED3K-G2	16	830	3000	45	5,075	112	B1-U0-G1	4,950	110	B1-U0-G1	5,041	111	B1-U0-G1	4,887	108	B1-U0-G1
RFS-54W16LED3K-G2	16	1050	3000	53	5,806	110	B2-U0-G1	5,674	107	B1-U0-G1	5,767	109	B1-U0-G1	5,590	105	B1-U0-G1

Ordering Code	Total LEDs	LED Current (mA)	Color Temp.	Average System Watts	Type 4			Type 5		
					Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating
RFS-25W16LED3K-G2	16	440	3000	24	2,822	117	B1-U0-G1	2,991	124	B2-U0-G1
RFS-30W16LED3K-G2	16	530	3000	29	3,313	115	B1-U0-G1	3,511	122	B2-U0-G1
RFS-35W16LED3K-G2	16	700	3000	38	4,194	110	B1-U0-G1	4,445	117	B3-U0-G1
RFS-45W16LED3K-G2	16	830	3000	45	4,826	107	B1-U0-G2	5,115	113	B3-U0-G1
RFS-54W16LED3K-G2	16	1050	3000	53	5,521	104	B1-U0-G2	5,851	110	B3-U0-G1

LED Wattage and Lumen Values: 4000K

Ordering Code	Total LEDs	LED Current (mA)	Color Temp.	Average System Watts	Type R2S			Type R2M			Type R3S			Type R3M		
					Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating
RFS-25W16LED4K-G2	16	440	4000	24	3,145	130	B1-U0-G0	3,073	127	B1-U0-G1	3,125	129	B1-U0-G1	3,027	125	B1-U0-G1
RFS-30W16LED4K-G2	16	530	4000	29	3,692	128	B1-U0-G1	3,607	125	B1-U0-G1	3,668	127	B1-U0-G1	3,554	123	B1-U0-G1
RFS-35W16LED4K-G2	16	700	4000	38	4,674	123	B1-U0-G1	4,566	120	B1-U0-G1	4,643	122	B1-U0-G1	4,499	118	B1-U0-G1
RFS-45W16LED4K-G2	16	830	4000	45	5,378	119	B1-U0-G1	5,255	116	B1-U0-G1	5,343	118	B1-U0-G1	5,177	114	B1-U0-G1
RFS-54W16LED4K-G2	16	1050	4000	53	6,153	116	B2-U0-G1	6,011	113	B2-U0-G1	6,113	115	B1-U0-G2	5,923	112	B1-U0-G1

Ordering Code	Total LEDs	LED Current (mA)	Color Temp.	Average System Watts	Type 4			Type 5		
					Lumen Output	Efficacy (LPW)	BUG Rating	Lumen Output	Efficacy (LPW)	BUG Rating
RFS-25W16LED4K-G2	16	440	4000	24	2,990	124	B1-U0-G1	3,170	131	B2-U0-G1
RFS-30W16LED4K-G2	16	530	4000	29	3,510	122	B1-U0-G1	3,721	129	B2-U0-G1
RFS-35W16LED4K-G2	16	700	4000	38	4,444	117	B1-U0-G1	4,711	124	B3-U0-G1
RFS-45W16LED4K-G2	16	830	4000	45	5,114	113	B1-U0-G2	5,421	120	B3-U0-G1
RFS-54W16LED4K-G2	16	1050	4000	53	5,850	110	B1-U0-G2	6,201	117	B3-U0-G1

Actual performance may vary due to installation variables including optics, mounting/ceiling height, dirt depreciation, light loss factor, etc.; highly recommended to confirm performance with a layout - contact Applications at outdoorlighting.applications@philips.com.

Note: Some data may be scaled based on tests of similar. But not identical luminaires.

RFS RoadFocus

Small, LED Cobrahead

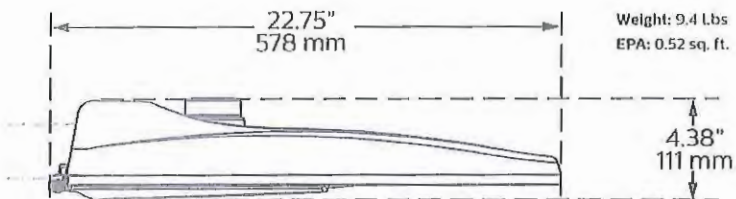
Field Adjustable Wattage (FAWS) Multiplier Chart

FAWS Position	Typical Delivered Lumens Multiplier	Typical System Wattage
1	0.31	0.28
2	0.53	0.50
3	0.62	0.58
4	0.70	0.67
5	0.78	0.75
6	0.83	0.81
7	0.89	0.87
8	0.92	0.91
9	0.96	0.95
10	1.00	1.00

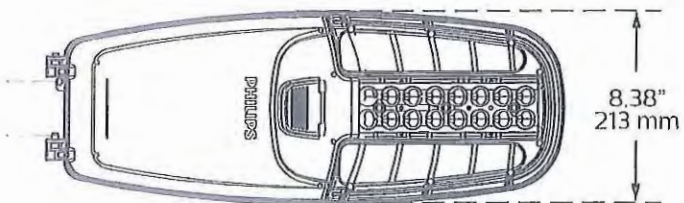
Note: Typical value accuracy +/- 5%

Dimensions

Side View



Bottom View



RFS RoadFocus

Small, LED Cobrahead

Specifications

Housing

Made of a low copper die cast Aluminum alloy (A360), 0.100" (2.5mm) minimum thickness. Fits on a 1.66" (42mm) O.D. (1.25" NPS), 1.9" (48mm) O.D. (1.5" NPS) or 2 3/8" (60mm) O.D. (2" NPS) by 5 1/2" (140mm) minimum long tenon. Comes with a zinc plated clamp fixed by 2 zinc plated hexagonal bolts 3/8 16 UNC for ease of installation. Provides an easy step adjustment of +/- 5° tilt in 2.5° increments. Includes integral bubble level standard (always included). A quick release, tool less entry, single latch, hinged, removable door opens downward to provide access to electronic components and to a terminal block. Door is secured to prevent accidental dropping or disengagement. A clearance of 13" (330mm) at the rear is required in order to remove the door. Complete with a bird guard protecting against birds and similar intruders and an ANSI label to identify wattage and source (both included in box). Housing (including electrical compartment) rated IP54 per ANSI C136.37.

Light Engine

Composed of 4 main components: LED Module / Optical System / Heat Sink / Driver.

Electrical components are RoHS compliant, IP66 sealed light engine equipped LEDs tested by ISO 17025-2005 accredited lab in accordance with IESNA LM-80 guidelines in compliance with EPA ENERGY STAR, extrapolations in accordance with IESNA TM-21. Metal core board ensures greater heat transfer and longer lifespan.

LED Module: Composed of high-performance white LEDs. Color temperature as per ANSI/NEMA bin Neutral White, 3000 Kelvin nominal (3045K +/- 175K) or 4000 Kelvin nominal (3965K +/- 275K), CRI 70 Min. 75 Typical.

Optical System: Composed of high performance UV stabilized optical grade polymer refractor lenses to achieve desired distribution optimized to get maximum spacing, target lumens and a superior lighting uniformity. System is rated IP66. Performance shall be tested per LM-G3, LM-79 and TM-15 (IESNA) certifying its photometric performance, 0% uplight and UO per IESNA TM-15.

Heat Sink: Built in the housing, designed to ensure high efficacy and superior cooling by natural vertical convection air flow pattern always close to LEDs and driver optimising their efficiency and life. Product does not use any cooling device with moving parts (only passive cooling). Wide openings enable natural cleaning and removal of dirt and debris. Entire luminaire is rated for operation to ambient temperature of -40°C / -40°F up to +40°C / +104°F.

Driver: High power factor of 90% min. Electronic driver, operating range 50/60 Hz. Auto adjusting universal voltage input from 120 to 277 VAC rated for both application line to line or line to neutral, Class I, THD of 20% max.

DMG: Dimming compatible 0-10 volts. The current supplying the LEDs will be reduced by the driver if the driver experiences internal overheating as a protection to the LEDs and the electrical components. Output is protected from short circuits, voltage overload and current overload. Automatic recovery after correction. Standard built in driver surge protection of 2.5kV (min).

Integrated Features

DMG: Dimmable driver 0-10V.

RCD7: Receptacle with 5 pins enabling dimming, can be used with a twist lock Starsense or photoelectric cell or a shorting cap.

SPI: Surge protection device tested in accordance with ANSI/IEEE C62.45 per ANSI/IEEE C62.41.2 Scenario I Category C High Exposure 10kV/10kA waveforms for Line-Ground, Line-Neutral and Neutral-Ground, and in accordance with DOE MSSLC Model Specification for LED Roadway Luminaires Appendix D Electrical Immunity High test level 10kV/10kA.

Please note that these integrated features always come with RoadFocus luminaire.

** Use of photoelectric cell or shorting cap is required to ensure proper illumination.*

Driver and Luminaire Options

AST: Pre-set driver for progressive start-up of the LED module(s) to optimize energy management and enhance visual comfort at start-up.

CLO: Pre-set driver to manage the lumen depreciation by adjusting the power given to the LEDs offering the same lighting intensity during the entire lifespan of the LED module.

DALI: Pre-set driver compatible with the DALI control system.

OTL: Pre-set driver to signal end of life of the LED module(s) for better fixture management.

CDMG: Dynadimmer standard dimming functionalities including pre-programmed scenarios to suit many applications and needs from safety to maximum energy savings.

Safety Mode:

CDMG525: 4 hours 25% power dimming
CDMG550: 4 hours 50% power dimming
CDMG575: 4 hours 75% power dimming

Median Mode:

CDMG25: 6 hours 25% power dimming
CDMG50: 6 hours 50% power dimming
CDMG75: 6 hours 75% power dimming

Economy Mode:

CDMG25: 8 hours 25% power dimming
CDMG50: 8 hours 50% power dimming
CDMG75: 8 hours 75% power dimming

FAWS: Field Adjustable Wattage Selector, pre-set to the highest position, can be easily switched in the field to the required position. This reduces total luminaire wattage consumption and reduces the light level – see the FAWS multiplier chart for more details.

Note: It is not recommended to use FAWS with other dimming or controls; if you do, set the switch to position 10 (maximum output) to enable the other dimming or controls. Switching FAWS to any position other than 10 will disable the other dimming or controls.

SP2: 20kV / 20kA surge protection device that provides extra protection beyond the SPI 10kV/10kA level.

RCD7: Receptacle with 7 pins enabling dimming and additional functionality (to be determined), can be used with a twist lock Starsense node or photoelectric cell or a shorting cap.

Please note: Additional hardware will be required to utilize the additional 2 pins on this receptacle.

HS: House side shield, 1 per 16 LED light engine.

PH8: Twist-lock Photoelectric Cell, UNV (120-277VAC).

PHX1: Twist-lock Photoelectric Cell, extended life, UNV (120-277VAC).

PH9: Shorting cap.

API: Factory installed NEMA label, ANSI C136.15 compliant

** Use of photoelectric cell or shorting cap is required to ensure proper illumination.*

RFS RoadFocus

Small, LED Cobrahead

Specifications (continued)

Luminaire Useful Life

Refer to IES files for energy consumption and delivered lumens for each option. Based on ISTMT in situ thermal testing in accordance with UL1598 and UL8750, Philips System Reliability Tool, Philips Advance data and LM-80/TM-21 data, expected to reach 100,000 + hours with >L70 lumen maintenance @ 25°C. Luminaire Useful Life accounts for LED lumen maintenance AND all of these additional factors including: LED life, driver life, PCB substrate, solder joints, on/off cycles, burning hours and corrosion.

Wiring

The connection of the luminaire is done using a terminal block connector 600V, 85A for use with #2 14 AWG. wires from the primary circuit, located inside the housing. Due to the inrush current that occurs with electronic drivers, recommend using a 10Amp time-delay fuse to avoid unwanted fuse blowing (false tripping) that can occur with normal or fast acting fuses.

Hardware

All exposed screws shall be complete with Ceramic primer seal to reduce seizing of the parts, also offers a high resistance to corrosion. All seals and sealing devices are made and/or lined with EPDM and/or silicone and/or rubber.

Finish

Color in accordance with the AAMA 2603 standard. Application of polyester powder coat paint (4 mils/100 microns) with ± 1 mils/24 microns of tolerance. The Thermosetting resins provides a discoloration resistant finish in accordance with the ASTM D2244 standard, as well as luster retention in keeping with the ASTM D523 standard and humidity proof in accordance with the ASTM D2247 standard.

The surface treatment achieves a minimum of 3000 hours for salt spray resistant finish in accordance with testing performed and per ASTM B117 standard.

LED products manufacturing standard

The electronic components sensitive to electrostatic discharge (ESD) such as light emitting diodes (LEDs) are assembled in compliance with IEC61340-5-1 and ANSI/ESD S20.20 standards so as to eliminate ESD events that could decrease the useful life of the product.

Vibration Resistance

The RFS meets the ANSI C136.31, American National Standard for Roadway Luminaire Vibration specifications for Bridge/overpass applications. (Tested for 3G over 100,000 cycles by independent lab)

Certifications and Compliance

cULus Listed for Canada and USA. Luminaire meets DOE and MSSLC Model Specification for LED Roadway Luminaires. RoadFocus LED Cobrahead luminaires are DesignLights Consortium qualified. Luminaire complies with or exceeds the following ANSI C136 standards: .2, .3, .10, .14, .15, .22, .25, .31, .37, .41.

Limited Warranty

10-year limited warranty.
See philips.com/warranties for details and restrictions.

Brackets/Arms

For brackets / arms available with this luminaire, see Lumec 3D for details.





Limited Warranty: Outdoor Professional Luminaires

Philips Lighting North America Corporation ("Philips") warrants to the original purchaser ("Purchaser") that the Philips branded outdoor professional luminaires identified on Schedule 1 ("Products") will be free from defects in material and workmanship which cause the Product to fail to operate in accordance with the performance specifications set forth in documentation published for or provided with the Product ("Specifications") for the applicable period and subject to the additional terms and conditions set forth on Schedule 1 from the date of purchase (as set forth in the applicable invoice) ("Warranty Period"). Unless otherwise noted on Schedule 1, Philips warrants that any standard finish on a Product will be free of cracking, peeling, excessive fading, and corrosion defects during the applicable Warranty Period. To the extent that an authorized Philips distributor is the Purchaser of the Products, such distributor may transfer this limited warranty to subsequent purchasers of the Products, provided that such Products are resold in new condition and in their original packaging. For LED Products, the Product shall be considered defective only if 10% or more of the LED components fail for such Product.

Photocells (standard issue NEMA and button type), occupancy sensors, low voltage indicators, fuses, surge suppressors and other third party accessories that are not manufactured by Philips are excluded from this warranty, but may be covered by a third party manufacturer. Such third party manufacturer shall be solely responsible for the costs related to any claims associated with any such accessories. Extended life photocells carry a 10-year limited warranty from the third party manufacturer. Emergency battery packs and polycarbonate lenses (used on vandal resistant products or as vandal resistant covers or options) have a Warranty Period of 1 year.

If any Product covered by this limited warranty is returned by Purchaser in accordance with Philip's Terms and Conditions of Sale (available at www.philips.com/termsandconditionsprofessional) within the Warranty Period, and Philips determines to its satisfaction that such Product failed to satisfy this warranty, Philips will, at its option, repair or replace the Product or the defective part thereof, or reimburse Purchaser for the purchase price, subject to the terms and conditions set forth herein. For purposes of clarity, "repair or replace the Product or the defective part thereof" does not include any removal or reinstallation costs or expenses, including, without limitation, any labor costs or expenses, shipping costs to return non-conforming Products or any damages that may occur during the return of Product to Philips. If Philips chooses to replace the Product and is not able to do so because it has been discontinued or is not available, Philips may replace it with a comparable product. Philips reserves the right to use new, reconditioned, refurbished, repaired or remanufactured products or parts in the repair or replacement of any Product covered by this limited warranty.

This limited warranty is subject to the following additional conditions:

- The Products have been properly handled, stored, wired, transported, installed, operated and maintained in accordance with the applicable Specifications.
- A Philips representative will have access to the failed Products and the fixtures used to operate them. If the fixture or other parts become suspect, the representative shall have the right to invite other manufacturers' representatives to evaluate the lighting system components.
- The Product has been purchased directly from an authorized Philips distributor/dealer for use in regions that are within the jurisdiction of the United States or Canada.
- Purchase receipt for the Product is available for inspection by Philips.

This limited warranty does not apply to damage or failure to perform arising as a result of any acts of God or from any abuse, misuse, abnormal use, improper power supply, power surges or fluctuations, corrosive environments, neglect, exposure or any use or installation in violation of the instructions or restrictions prescribed by Philips or any applicable standard or code, including those contained in the latest National Electrical Code, Standards for Safety of Underwriters Laboratory, Inc. (UL), the American National Standards Institute (ANSI), or, in Canada, the Canadian Standards Association (CSA). No agent, distributor or dealer is authorized to change, modify or extend the terms of this limited warranty on behalf of Philips. THIS LIMITED WARRANTY IS VOID IF THE PRODUCT IS NOT USED FOR THE PURPOSE FOR WHICH IT IS DESIGNED OR IF ANY REPAIRS OR ALTERATIONS ARE MADE BY ANY PERSON NOT AUTHORIZED BY PHILIPS IN WRITING.

THIS LIMITED WARRANTY IS THE ONLY WARRANTY GIVEN BY PHILIPS WITH RESPECT TO THE PRODUCTS AND THE SOLE REMEDY FOR ANY AND ALL CLAIMS, IN CONTRACT, IN TORT OR OTHERWISE ARISING FROM THE FAILURE OF PRODUCT AND IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. PURCHASER'S EXCLUSIVE REMEDY FOR ANY NONCONFORMITY OR DEFECT IN ANY PRODUCT SHALL BE ONLY AS EXPLICITLY SET FORTH HEREIN. UNDER NO CIRCUMSTANCES SHALL PHILIPS' AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH A DEFECTIVE PRODUCT, IN CONTRACT, TORT OR OTHERWISE, EXCEED THE PURCHASE PRICE OF THE PRODUCT TO WHICH SUCH LIABILITY RELATES. IN NO EVENT SHALL PHILIPS BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR COMPENSATORY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM LOSS OF USE, PROFITS, BUSINESS OR



GOODWILL EVEN IF PHILIPS WAS ADVISED OF OR WAS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

Special conditions related to all solar Products:

- The Warranty Period for batteries, pole/finish and solar panel racking is 1 year.
- Batteries are fully charged when shipped to the Purchaser or installation site. The batteries must be installed and operational no later than 2 months from the day of shipment. If stored beyond such time period, the Purchaser is responsible for recharging the batteries according to battery manufacturer's instructions at 2 months and every two month thereafter. This limited warranty does not cover batteries if: (i) program has been altered without Philips' authorization, (ii) systems that have not been designed or sized according to Philips standard design practices, or (iii) systems where Philips has conveyed as per specific sales orders, that battery life and other components will be less than the Warranty Period.
- Improper installation includes but is not limited to improper placement, orientation, tilt and/or shading conditions not considered in the energy profile and design conditions.

This limited warranty is effective for the purchases of the Product on or after the effective date set forth herein and is in consideration of and is expressly subject to and conditioned by the terms set forth herein. Philips reserves the right to modify this warranty from time to time and any modifications shall be effective for all orders placed on or after the effective date of such revised warranty.





Limited Warranty: Outdoor Professional Luminaires




Schedule 1


OUTDOOR PROFESSIONAL LUMINAIRES (EXCLUDING POLES AND BRACKETS)			
All Philips outdoor professional luminaires not otherwise described below shall have a warranty period of 1 year			
Philips Brand	LED	Non-LED	Special Conditions
PHILIPS Stonco	5 years	1 year	<u>Standard finishes:</u> 5 year warranty on finish for LED products and 1 year warranty on all other products. <u>Custom finishes:</u> 1 year warranty on the finish on all products. Optical color filters made from glass or polymeric materials such as acrylic, polyester or polycarbonate have a Warranty Period of 1 year from the date of original shipment. Color fading of the lens material of any kind is not covered under this limited warranty.
PHILIPS 	5 years	5 years	<u>Standard finishes:</u> 5 year warranty on finish. <u>Custom finishes:</u> 1 year warranty on finish. Optical color filters made from glass or polymeric materials such as acrylic, polyester or polycarbonate have a Warranty Period of 1 year from the date of original shipment. Color fading of the lens material of any kind is not covered under this limited warranty.
Urban PHILIPS HABCO PHILIPS LUMEC	5 years	3 years	<u>Standard finishes:</u> 5 year warranty on finish. <u>Custom finishes:</u> 1 year warranty on finish.
Landscape and Residential PHILIPS HABCO	5 years	3 years	<u>Landscape Products:</u> Warranty Period for all grade mounted composite luminaires, copper luminaires and transformers is 10 years. Lifetime warranty offered on the finish for all cast bronze and stainless steel housing. <u>Residential Products:</u> Lifetime warranty offered on the finish to all original Purchasers on residential lighting fixtures and posts.
Roadway PHILIPS LUMEC	10 years	3 years	<u>Standard finishes:</u> 10 year warranty on the finish for LED products and 5 year warranty on the finish for all other products. <u>Custom finishes:</u> 1 year warranty on finish.
Sports Lighting PHILIPS	5 years	N/A	<u>Standard finishes:</u> 5 year warranty on finish. <u>Custom finishes:</u> 1 year warranty on finish.
PHILIPS	5 years	N/A	<u>Standard finishes:</u> 5 year warranty on finish.



PHILIPS

Limited Warranty: Outdoor Professional Luminaires

POLES AND BRACKETS			
Philips Brand	Aluminum	Steel	Special Conditions
PHILIPS  PHILIPS  PHILIPS 	3 years	1 year	Standard finishes on aluminum: 5 year warranty on finish. Custom finishes on aluminum: 1 year warranty on finish. Standard finishes on steel: 1 year warranty on finish. Custom finishes on steel: 1 year warranty on finish. High Mast poles and raising/lowering devices have a 1 year Warranty Period.

COLOR KINETICS			
Philips Brand			Special Conditions
PHILIPS 	ALL PRODUCTS	5 years	Warranty Period for products purchased or used for touring and / or rental purposes is three (3) years.
	VAYA WHITE UL PRODUCTS	5 years ¹	Warranty Period for products purchased or used for touring and / or rental purposes is one (1) year.
	VAYA ALL OTHER PRODUCTS	3 years	¹ Warranty Period assumes that the Products are operated for less than 12 hours per day.



Item 3



SECTION 00510

AGREEMENT

THIS AGREEMENT is by and between The Town of Ayer, Massachusetts ("Owner") and
Commonwealth Construction and Utilities Inc., PO Box 972 Watertown, MA 02472 ("Contractor").

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The work involves the installation / transfer of eight water services on Snake Hill Road. The work includes the tapping the existing water main, installation of new pipe and curb stops and reconnection the pipe at the property line. Paving and loam and seeding is also included.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

- A. Tap existing 12-inch water main.
- B. Install 8 water services with curb stop and box at property line and reconnect existing services.
- C. Remove existing hydrant and cut and cap existing water main at Sandy Pond Rd.
- D. Clean-up, loam and seed and temporary and final paving.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Ayer DPW (Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work will be substantially completed within 60 days after the date when the Contract Times commence to run as provided in Paragraph 3 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 3.9 of the General Conditions within 75 days after the date when the Contract Times commence to run. If weather conditions require a winter shut-down, this time will not be included.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays,

expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$500 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$500 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.01A.

A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 5 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with the General Conditions:

a. 95 percent of Work completed (with the balance being retainage); and

b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98 percent of the Work completed, less such amounts as Engineer shall determine in accordance with the General Conditions.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with the General Conditions and the Supplementary Conditions, Owner shall pay the remainder of the Contract Price as recommended by the Engineer and as provided in the General Conditions, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

ARTICLE 7 -- INTEREST

7.01 Not Applicable

ARTICLE 8 -- CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities).
- E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 -- CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 1. This Agreement (pages 1 to 6, inclusive).
 2. Performance bond and Payment bond
 3. General Conditions
 4. Supplementary Conditions

5. Specifications as listed in the table of contents of the Project Manual.
6. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages ____ to ____, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (pages ____ to ____, inclusive).
 - c. ____.
7. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages ____ to ____, inclusive).
 - b. Work Change Directives.
 - c. Change Order(s).
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in four copies. One counterpart each has been delivered to Owner, Contractor, Engineer, and Agency. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor or identified by Engineer on their behalf.

This Agreement is dated 10/8/2017

OWNER:

Board of Selectmen
Town of Ayer
Ayer, Massachusetts

By: _____

Title: Chairman

CONTRACTOR

Commonwealth Construction & Utilities, Inc

By: [Signature]

Title: President

[CORPORATE SEAL]

Attest: _____

Title: Superintendent of Public Works

Attest: [Signature]

Title: Office Manager

Address for giving notices:

Address for giving notices:

15 Progress Ave
Chelmsford, MA 01824

Agent for service of process:

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

**PRESERVATION RESTRICTION
AGREEMENT
between the
AYER HOUSING AUTHORITY
and the
TOWN OF AYER,
Acting by and through the AYER HISTORICAL COMMISSION**

The parties to this Agreement are the **Town of Ayer**, acting by and through the Ayer Historical Commission, by authority of G.L. c. 40, §8D, hereinafter referred to as the "Grantee," its successors and permitted assigns, located at One Main Street, Ayer, Massachusetts 01432, and the **Ayer Housing Authority**, a public body politic and corporate organized pursuant to G.L. c. 121B, §3, hereinafter referred to as the "Grantor," its successors and assigns, located at 18 Pond Street, Ayer, Massachusetts 01432.

WHEREAS, the Grantor is the owner in fee simple of certain real property with improvements thereon commonly known as the Pleasant Street School, located at 62 Pleasant Street, Ayer, Massachusetts, hereinafter referred to as the "Premises," as described in a deed from the Town of Ayer, acting by and through its Board of Selectmen, dated June 3, 2008 recorded in the Middlesex South District Registry of Deeds at Book 51467, Page 130 and in a confirmatory deed from the Town of Ayer, acting by and through its Board of Selectmen, dated September 23, 2008 recorded in said Registry at Book 51727, Page 59 (together, the "Deed"), said Premises more particularly described in Exhibit A, attached hereto and incorporated herein;

WHEREAS, the Premises is improved by one building (the "Building"), described in Exhibit B, attached hereto and incorporated herein, said Building depicted in photographic evidence on file with the Town Clerk of the Town of Ayer;

WHEREAS, the Premises includes an approximately 29,700 S.F. (0.68 acres) area of open space (the "Conservation Land"), shown as "Passive Park 29,700 S.F. +/-" on a plan entitled "Pleasant Street Senior Housing," Sheet C-1, dated February 5, 2007, prepared by Cornerstone Land Consultants, LLC, attached hereto as Exhibit C, and incorporated herein;

WHEREAS, by vote under Article 37 of the 2005 Spring Annual Meeting, as amended by the vote under Article 19 of the October 24, 2016 Special Town Meeting (together, the "Vote"), certified copies attached hereto as Exhibit D, and incorporated herein, the Town of Ayer approved the conveyance of the Premises from the Town to the Ayer Housing Authority, subject to recordation of a preservation restriction on the exterior envelope of the Building, to be held by the Town acting by and through its Historical Commission, pursuant to G.L. c. 40, §8D (the "Preservation Restriction"), and to recordation of a conservation restriction upon a portion of the Premises (the "Conservation Restriction," together with the "Preservation Restriction," the "Restriction"), said Restriction to last for a term of ninety-nine (99) years;

WHEREAS, the Vote further required that the foregoing transfer of the Premises from the Town of Ayer to the Board of Selectmen, for the purpose of conveyance to the Ayer Housing Authority, was conditional upon the enactment of special legislation, said Premises to be restricted to the development of senior housing units, which special legislation was passed as Chapter 89 of the Acts of 2006, entitled "An Act Authorizing the Town of Ayer to Convey Certain Land," approved May 19, 2006;

WHEREAS, it is the intent of Grantor and Grantee that the Building be rehabilitated for use as senior housing following plans and specifications that include alterations to the exterior of the Building as shown in a set of drawings entitled "Pleasant Street Senior Housing Build Out & Construction, 62 Pleasant Street, Ayer, Massachusetts 01432", incorporated herein and attached hereto as Exhibit E;

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Premises and on its assigns and successors to its right, title and interest therein, with respect to maintenance, protection, and preservation of the Building in order to protect the architectural, archaeological and historical integrity thereof;

WHEREAS, the preservation of the Building is important to the public for the enjoyment and appreciation of its architectural, archaeological and historical heritage and will serve the public interest in a manner consistent with the purposes of G.L. c. 184, Sections 31, 32 and 33, hereinafter referred to as the Act;

WHEREAS, the Premises was individually listed in the National and State Registers of Historic Places on January 23, 1986;

WHEREAS, the Grantor, acting pursuant to the Act, wishes to impose a preservation restriction on the Premises and a conservation restriction on the Conservation Land;

WHEREAS, the Grantee is an instrumentality of the Town of Ayer and is authorized to accept the preservation restriction and the conservation restriction set forth herein under the Act, G.L. c. 40, §8D and the Vote for the purposes of, *inter alia*, preserving the architectural, historic and cultural features of the Building, conserving the Conservation Land and providing open space for public access.

NOW, THEREFORE, in consideration of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the Grantee the following preservation restriction upon the Premises and the following conservation restriction upon the Conservation Land.

ARTICLE I. Preservation Restriction

The Preservation Restriction below is set forth so as to ensure the preservation of those characteristics which contribute to the architectural, archaeological and historical integrity of the Premises and the exterior envelope of the Building, under applicable state and federal legislation. Characteristics which contribute to the architectural, archaeological and historical integrity of the Premises and the exterior envelope of the Building include, but are not limited to,

the artifacts, features, materials, appearance, and workmanship of the exterior of the Building, including those characteristics which originally qualified the Premises and the Building for listing in the National and State Registers of Historic Places. For the purposes of this Agreement, the exterior envelope of the Building should be considered to include all exterior surfaces and features, including but not limited to walls, roofs, dormers, chimneys, foundations, windows, doors, gutters, downspouts, porches, and associated hardware and visible details which are in contact with the exterior of the Building (collectively referred to herein as "Façade").

The terms of this Preservation Restriction are as follows:

1. Purpose. It is the Purpose of this Preservation Restriction to assure that the architectural, historic, and cultural features of the exterior of the Building will be retained and maintained for preservation purposes and to prevent any use or change of the exterior of the Building that will significantly impair or interfere with its preservation values.
2. Protected Features. Grantor agrees to protect and preserve the exterior envelope of the Building as it is described in Exhibit B with consideration and inclusion of the restoration and rehabilitation of the exterior as it is illustrated in the four elevation drawings from Jeffrey J. Cook Architects, Inc., included herein as Exhibit E.
3. Grantor's Covenant to Maintain. Grantor agrees at all times to maintain the Façade in at least as good structural condition and state of repair as required by this Preservation Restriction. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the Façade, and any such maintenance shall be performed in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR 67 and 68), as these may be amended from time to time (hereinafter the "Secretary's Standards"). In addition, Grantor covenants to maintain the Building and the Façade thereof in good repair. The Grantor may seek financial assistance from any source available to it. The Grantee does not assume any obligation for maintaining, repairing or administering the Building or the Premises.
4. Prohibited Activities. The following acts or uses are expressly forbidden, except as otherwise conditioned in this Section:
 - (a) the Building shall not be demolished, removed or razed except as provided in Sections 9 and 10;
 - (b) nothing shall be erected or allowed to grow on the Premises which would impair the visibility of the Building from street level;
 - (c) the dumping of ashes, trash, rubbish, or any other unsightly or offensive materials on the Premises; and

(d) no above ground utility transmission lines, except those reasonably necessary for the existing Building or allowed under a utility easement already recorded, may be created on the Premises.

5. Conditional Rights Requiring Approval by the Grantee. Without the prior written approval of the Grantee, which approval may not be unreasonably withheld but which may be subject to such reasonable conditions as the Grantee in its discretion may determine, Grantor shall not make any changes to the Façade, including additions to and the alteration, partial removal, construction, remodeling, or other physical or structural change to the Façade, and any change in design, material or color thereof outside of the restoration/rehabilitation work completed to the specifications of Exhibit E. Activities by Grantor to perform routine maintenance of the Façade, which are done in accordance with the provisions of Section 3 above, and which are of a minor nature, shall not require prior approval of the Grantee. For the purposes of this section, interpretation of what constitutes ordinary maintenance of a minor nature is governed by the Secretary's Standards.

6. Review of Grantor's Requests for Approval. Grantor shall submit to the Grantee, for the Grantee's approval of those conditional rights set out at Section 5 above, two copies of information (including plans, specifications, and designs where the Grantee deems appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to the Grantee a timetable for the proposed activity sufficient to permit the Grantee to monitor such activity. In deciding whether to grant such approval, the Grantee shall consider, among other things, the historical and architectural value and significance of the Façade and the general design, arrangement, texture, material, and color of these features. The Grantee shall not consider interior arrangements or architectural features not subject to public view. Within forty-five (45) days of the Grantee's receipt of any plan or written request for approval hereunder, the Grantee shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the Grantee shall provide Grantor with written suggestions for modification or a written explanation for the Grantee's disapproval. Any failure by the Grantee to act within forty-five (45) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by the Grantee of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted, so long as the request sets forth the provisions of this section relating to deemed approval after forty-five (45) days in the notice, and the proposed activity is not contrary to the Secretary's Standards and the preservation values of the Façade.

7. Standard for Review. In exercising any authority created by this Preservation Restriction to inspect the Façade; to review any construction, alteration, repair, or maintenance; or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, the Grantee shall apply the Secretary's Standards.

8. Grantor's Reserved Rights Not Requiring Further Approval by the Grantee. Subject to the provisions of Sections 3, 4 and 5, the following rights, uses, and activities of or by Grantor on, over, or under the Premises are permitted by this Preservation Restriction without further approval by the Grantee:

- (a) the right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; (ii) do not substantially impair the preservation values of the Façade; and (iii) are not inconsistent with the Purpose of this Preservation Restriction;
- (b) pursuant to the provisions of Section 3, the right to maintain and repair the Façade strictly in accordance with the Secretary's Standards. As used in this subparagraph, the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Façade. The right to maintain and repair as used in this section shall not include the right to make changes in appearance, materials, colors, and workmanship for that existing prior to maintenance and repair without the prior approval of the Grantee in accordance with the provisions of Section 5; and
- (c) the right to make changes of any kind to the interior of the Building, provided such changes do not alter the Façade in contravention of this Preservation Restriction.

9. Casualty Damage or Destruction. In the event that the Building or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify the Grantee in writing within fourteen (14) days of the damage or destruction, such notification to include what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building and to protect public safety, shall be undertaken by Grantor without the Grantee's prior written approval of the work. Within forty-five (45) days of the date of damage or destruction, Grantor at its expense shall submit to the Grantee a written report prepared by a qualified restoration architect and an engineer who are acceptable to Grantor and the Grantee, which report shall include the following:

- (a) an assessment of the nature and extent of the damage;
- (b) a determination of the feasibility of the restoration of the Building, and/or reconstruction of damaged or destroyed portions of the Building; and
- (c) a report of such restoration/reconstruction work necessary to return the Building to the condition existing at the date hereof.

10. Review After Casualty Damage or Destruction. If, after reviewing the report provided in Section 9 and assessing the availability of insurance proceeds after satisfaction of any mortgage's/lender's claims under Section 11, Grantor and the Grantee agree that the Purpose of the Restriction (see Section 1, above) will be served by such restoration/reconstruction, Grantor and the Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Grantor.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Section 11, Grantor and the Grantee agree that restoration/reconstruction of the Building is impractical or impossible, or agree that the Purpose of the Preservation Restriction would not be served by such restoration/reconstruction, Grantor may, with the prior written permission of the Grantee, alter, demolish, remove or raze the Building, and/or construct new improvements on the Premises. Grantor and the Grantee may agree to extinguish this Preservation Restriction in accordance with the laws of the Commonwealth of Massachusetts and Section 15 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Section 11, Grantor and the Grantee are unable to agree that the Purpose of the Preservation Restriction will or will not be served by such restoration/reconstruction, Grantor and the Grantee agree that they shall engage in non-binding mediation, with each party paying half the reasonable cost of mediation by a mediator reasonably acceptable to both Grantor and the Grantee.

11. Insurance. Grantor shall keep the Building insured by an insurance company rated "A-1" or better by Best's for the full replacement value against loss from perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to the Grantee, within ten (10) business days of the Grantee's written request therefore, certificates of such insurance coverage. Provided, however, that whenever the Premises is encumbered with a mortgage, nothing contained in this section shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

12. Evidence of Compliance. Upon request by Grantor, the Grantee shall promptly furnish Grantor with certification that, to the best of the Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidences the status of this Preservation Restriction to the extent of the Grantee's knowledge thereof.

13. Inspection. With the consent of Grantor, the Grantee or its representatives shall be permitted at reasonable times to inspect the Building on an annual basis, and at such other times as the Grantee may reasonably request. Grantor covenants not to withhold its consent unreasonably in determining dates and times for such inspections.

14. Notice from Government Authorities. Grantor shall deliver to the Grantee copies of any notice of violation or lien relating to the Building received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by the Grantee, Grantor shall promptly furnish the Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

15. Extinguishment. Grantor and the Grantee hereby recognize that an unexpected change in the conditions surrounding the Premises may make impossible the continued ownership or use of

the Premises for the Purpose of this Preservation Restriction and necessitate extinguishment of the Preservation Restriction. Such a change in conditions may include, but is not limited to, partial or total destruction of the Building resulting from casualty. Such an extinguishment shall meet all the requirements of the Act and the laws of the Commonwealth for extinguishment, including a public hearing by the Town of Ayer to determine that the extinguishment is in the public interest.

16. Condemnation. If all or any part of the Premises is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and the Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Premises that are subject to the taking and all incidental and direct damages resulting from the taking. All expenses reasonably incurred by Grantor and the Grantee in connection with such taking shall be paid out of the recovered proceeds. Such recovered proceeds shall be paid to Grantor.

17. Baseline Documentation. Additional original copies of the Baseline Documentation attached hereto as part of Exhibit B, in the form of a set of high resolution photographic documentation depicting the exterior of the Building, have been filed with and shall be maintained by Grantee in archival print and digital CD format by the Town Clerk of the Town of Ayer, together with a numbered list of photographs indicating photographic view and date taken, said documentation to be used in the administration and enforcement of the purposes and terms of this Agreement.

ARTICLE II. Conservation Restriction

This Conservation Restriction is defined in and authorized by the Act and otherwise by law. The purpose of this Conservation Restriction is to assure that the Conservation Land will be maintained in its current condition and for conservation purposes, predominantly in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values.

These values include the following:

- *Open Space Preservation.* The Conservation Land contains open fields with older trees on the edges, and the public is hereby granted access to said open space and walking paths for passive recreation.
- *Preservation of Historic Landscape.* The preservation of the Conservation Land, together with the protection of the Building, collectively conserve the historical context in which the Building existed. The Conservation Restriction further protects the historical landscape surrounding the Building.
- *Furtherance of Government Policy.* Protection of the Conservation Land furthers the Town's 2005 Comprehensive Plan, in particular, the following item:

Resource Protection, Community Facilities	Plan for and fund community and cultural amenities at the Town's historic public buildings such as the pocket park beside Ayer Town Hall, community gardens at the Pleasant Street School or picnic tables at the Ayer Public Library.
---	--

The terms of this Conservation Restriction are as follows:

1. Prohibited Acts and Uses, Exceptions Thereto, and Permitted Uses

A. Prohibited Acts and Uses

Subject to the exceptions set forth herein, the Grantor will neither perform nor allow others to perform the following acts and uses which are prohibited on, above, or below the Conservation Land:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, basketball court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above or under the Conservation Land;
- (2) Mining, excavating, dredging or removing from the Conservation Land of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise make topographical changes to the area;
- (3) Placing, filling, storing or dumping on the Conservation Land of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, or archaeological conservation;
- (6) No snowmobiles, motorcycles, mopeds, all-terrain vehicles, bicycles, trail bikes, or any other motorized or non-motorized vehicles of any kind shall be used, parked, stored, maintained, operated or otherwise allowed on the Conservation Land except for motorized wheelchairs and vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials in carrying out their lawful duties);
- (7) Conveyance of all, a part or portion of the Conservation Land alone, or division or subdivision of the Conservation Land (as compared to conveyance of the Property in its entirety which shall be permitted), and no portion of the Conservation Land may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Conservation Land for more than a *de minimis* commercial recreation, business or industrial use;

(9) Any other use of the Conservation Land or activity thereon which is inconsistent with the purpose of this Conservation Restriction or which would materially impair its conservation interests unless necessary in an emergency for the protection of the conservation interests that are the subject of this Conservation Restriction;

B. Reserved Rights and Exceptions to Otherwise Prohibited Acts and Uses

Notwithstanding Section 1.A, above, the Grantor reserves the right to conduct or permit the following activities and uses on the Conservation Land, but only if such uses and activities do not materially impair the purpose of this Conservation Restriction or other significant conservation interests:

- (1) Recreational Activities. Hiking, walking, cross-country skiing and other non-motorized (except motorized wheelchairs) outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than *de minimis* use for commercial recreational activities;
- (2) Landscape construction and maintenance. Construction and maintenance of footpaths, lawn, trees, shrubs, flower beds, and/or community gardens and associated structures including, but not limited to, fences, retaining walls, gazebos, benches, and playground equipment in accordance with a landscape plan approved by the Grantee;
- (3) Non-native flora. The removal of non-native or invasive flora and inter-planting of indigenous species;
- (4) Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Conservation Land, provided that such stockpiling and composting is in locations where the presence of such activities will not have a deleterious impact on the purposes (including scenic values) of this Conservation Restriction;
- (5) Wildlife Habitat Improvement. With the prior written permission of Grantee; measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (6) Trails and Related Improvements. The marking, clearing and maintenance of paved or unpaved footpaths, and the installation and maintenance of benches and perimeter fencing; and
- (7) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, the Grantee's interest in the Conservation Land, and the protected conservation values.

Permits. The exercise of any right reserved by Grantor under this Section 1.B shall be in compliance with the then-current zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right

requiring a permit from a public agency does not imply that the Grantee takes any position as to whether such permit should be issued.

C. Notice and Approval.

Whenever notice to or approval by the Grantee is required under the provisions of this Article, Grantor shall notify the Grantee in writing not less than forty-five (45) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where the Grantee's approval is required, the Grantee shall grant or withhold approval in writing within forty-five (45) days of receipt of Grantor's request. The Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction. Failure of the Grantee to respond in writing within forty-five (45) days shall be deemed to constitute approval by the Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after forty-five (45) days in the notice, and the proposed activity is not contrary to the conservation values of this Conservation Restriction.

2. Access

The public shall have access to the Conservation Land, which shall be maintained as public open space, with walking trails. The Grantor may establish reasonable hours of access, to prevent unnecessary disturbance of the adjoining residences, to allow maintenance, and for one-time special events.

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Conservation Land upon reasonable notice and at reasonable times, for the purpose of inspecting the Conservation Land to determine compliance with this Conservation Restriction. The Grantor also grants to the Grantee, after thirty (30) days notice of a violation and failure of the Grantor to cure said violation, the right to enter the Conservation Land for the purpose of taking any and all actions with respect to the Conservation Land as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to have a survey of boundary lines conducted at the Grantee's expense.

3. Extinguishment

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then the Grantee, on a subsequent sale, exchange, or involuntary conversion of the Conservation Land, shall be entitled to a portion of the proceeds in accordance with paragraph B below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds. The Grantee shall use its

share of the proceeds in a manner consistent with the conservation purpose set forth herein. The parties shall comply with any gift, grant or funding requirements, and the requirements of Article 97 of the Amendments to the Massachusetts Constitution, if applicable.

B. Proceeds. Grantor and the Grantee agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the gift, bears to the value of the unrestricted property at that time. Such proportionate value of the Grantee's property right shall remain constant.

C. Grantor/Grantee Cooperation Regarding Public Action

Whenever all or any part of the Conservation Land or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and the Grantee in shares equal to such proportionate value. If less than a fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant. The parties shall comply with any gift, grant or funding requirements, and the requirements of Article 97 of the Amendments to the Massachusetts Constitution, if applicable.

ARTICLE III. General Provisions

1. Runs with the Land. Except as otherwise expressly provided herein, the obligations imposed by this Restriction shall be effective for a term of ninety-nine (99) years, and shall be deemed to run as a binding servitude with the Premises. This Restriction shall extend to and be binding upon Grantor and the Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor and the Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title, or interest herein granted to the Grantee also shall be deemed granted to each successor and assign of the Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of the Premises shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Premises by reason of a *bona fide transfer*. The restrictions, stipulations and covenants contained in this Restriction shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Premises or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Premises.

The rights, liabilities, restrictions, agreements and obligations herein set forth shall run with the Premises and any portion thereof and bind the Grantor, its successors and assigns, and benefit the

Grantee for a period of ninety-nine (99) years from the recording of this Agreement. The Grantor agrees that this Restriction shall be considered an "other restriction held by a governmental body," as that term is used in G.L. c. 184, § 26, and thus not subject to the limitations on the enforceability of restrictions in G.L. c. 184, § 26-30. Nevertheless, if recording of a notice is ever needed to extend the time period for enforceability of this Restriction, the Grantor agrees to execute and record such notice upon request, failing which the Grantor appoints the Grantee, acting by and through its Historical Commission, as its attorney-in-fact to execute and record such notice.

2. Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of this Restriction:

- (a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of the Premises shall not apply in the construction or interpretation of this Restriction and this instrument shall be interpreted broadly to effect its purpose and the transfer of rights and the restrictions on use herein contained.
- (b) This instrument may be executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by the Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the entire agreement of the parties.
- (c) It is intent of the parties to agree and to bind themselves, their successors and their assigns to each term of this instrument whether this instrument be enforceable by reason of any statute, common law or private agreement either in existence now or at any time subsequent hereto.
- (d) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantor promptly shall notify the Grantee of such conflict and shall cooperate with the Grantee and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.

3. Grantee's Remedies. The Grantee may, following thirty (30) days' written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Restriction by *ex parte* temporary, preliminary and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Premises to the condition and appearance required under this Restriction. The Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder.

Exercise by the Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

Grantor covenants and agrees to reimburse to the Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred.

4. Amendment. If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, Grantor and the Grantee may by mutual written agreement jointly amend this Restriction, provided that no amendment shall be made that will adversely affect the qualification of this Restriction or the status of the Grantee under any applicable law. Any such amendment shall be consistent with the protection of the preservation values of the Building and the conservation values of the Conservation Land; shall not affect its duration; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall preservation and conservation values protected by this Restriction. Any such amendment shall be effective when the requirements of the Act with respect to amendments have been met and the amendment is recorded with the Middlesex County Registry of Deeds. Nothing in this Section shall require Grantor or the Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

5. Notice of Proposed Conveyance. Grantor shall promptly notify the Grantee in writing of any proposed conveyance of the Premises or any portion thereof and provide the opportunity for the Grantee to explain the terms of this Restriction to potential new owners prior to conveyance.

6. Assignment. The Grantee may convey, assign, or transfer this Restriction to (a) a unit of federal, state, or local government, or (b) to a local, state or national organization that is a charitable corporation or trust qualified under the Act, and whose purposes include the preservation of buildings or sites of historical significance.

7. Recording and Effective Date. The Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this instrument with the Middlesex County Registry of Deeds. Grantor and the Grantee intend that the restrictions arising under this Restriction take effect on the day and year this instrument is recorded with said Registry.

8. Non Merger. The parties intend that any future acquisition of the Premises shall not result in a merger of the Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title to, any part of the Premises without having first assigned this Restriction to ensure that merger does not occur. If it is determined that a transfer or assignment of any interest will result in a merger, no deed shall be effective until this Restriction has been assigned or other action taken to avoid a merger and preserve the terms and enforceability of this Restriction.

9. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Executive Director
Ayer Housing Authority
18 Pond Street
Ayer, MA 01432

To the Grantee: Ayer Historical Commission
Ayer Town Hall
One Main Street
Ayer, MA 01432

With a copy to: Ayer Board of Selectmen
Ayer Town Hall
One Main Street
Ayer, MA 01432

or to such other address as any of the above parties shall designate from time to time by written notice to the other or that is reasonably ascertainable.

10. Archaeological Activities. The conduct of archaeological activities on the Premises, including without limitation, survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by Grantor and approved in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (G.L. c. 9, § 27C; 950 C.M.R. 70.00).

11. General Provisions.

A. Controlling Law

The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to effect the purpose of this Restriction and the policy and purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to this Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Restriction, all of which are merged herein.

12. Non-Waiver.

Enforcement of the terms of this Restriction shall be at the discretion of the Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

13. Disclaimer of Liability.

By acceptance of this Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts which are not caused by the Grantee or anyone acting under the direction of the Grantee.

14. Prior Encumbrances. Grantor represents that the Premises are subject to a lease as evidenced by Memorandum of Ground Lease recorded with the Registry in Book 51467, Page 133, a Mortgage recorded with the Registry in Book 51739, Page 219 and a Mortgage recorded with the Registry in Book 51872, Page 199.

[Signature Page Follows]

IN WITNESS WHEREOF, pursuant to a vote taken at a public meeting held on _____, 2017, a certified copy of which is attached hereto, the Ayer Housing Authority has hereunto set its hand and seal this _____ day of _____, 2017.

GRANTOR:

AYER HOUSING AUTHORITY

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this ___ day of _____, 2017, before me, the undersigned Notary Public, personally appeared _____, a Director of the Ayer Housing Authority, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Ayer Housing Authority.

Notary Public
My Commission Expires:

ACCEPTANCE OF PRESERVATION RESTRICTION AGREEMENT

The Town of Ayer, acting by and through the Ayer Historical Commission, pursuant to G.L. c. 40, §8D, the vote of the 2005 Spring Annual Town Meeting under Article 37, the vote of the October 24, 2016 Special Town Meeting under Article 9, and a vote taken at a public meeting held on _____, 2017, hereby accepts the foregoing Preservation Restriction Agreement on this _____ day of _____, 2017.

TOWN OF AYER

By and through the AYER HISTORICAL COMMISSION

George D. Bacon, Jr.

Barry W. Schwarzel

Ruth E. Rhonemus

Tom McClain

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2017, before me, the undersigned Notary Public, personally appeared _____, Member of the Ayer Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Ayer Historical Commission.

Notary Public

My Commission Expires:

APPROVAL OF ACCEPTANCE OF PRESERVATION RESTRICTION AGREEMENT

The Town of Ayer, acting by and through the Board of Selectmen, approves the acceptance by the Ayer Historical Commission of the foregoing Preservation Restriction Agreement on this 21st day of November, 2017.

TOWN OF AYER

By and through the AYER BOARD OF
SELECTMEN

Christopher R. Hillman

Jannice L. Livingston

Gary J. Luca

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 21st day of November, 2017, before me, the undersigned Notary Public, personally appeared _____, Selectmen of the Town of Ayer, as aforesaid, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Ayer.

Notary Public
My Commission Expires:

EXHIBIT A
Premises

The land shown on a plan of land entitled "Plan of Land, Scale: As Shown, Date: July 15, 2008, 62 Pleasant Street, Ayer, Massachusetts" prepared for Montachusett Home Care, Inc., 680 Mechanic Street, Leominster, Mass. 01453 by Cornerstone Land Consultants, Inc., Civil Engineering, Land Surveying, Land Planning, P.O. Box 657, Pepperell MA 01463, recorded with the Middlesex South District Registry of Deeds as Plan 603 of 2008; being more particularly described as follows:

Beginning at a Point lying along the Westerly Right of Way of Pleasant Street, a public, variable width way, and the Southerly Right of Way of Howard Street, a public, thirty five foot wide way, thence running in a Southerly direction along said Pleasant Street westerly right of way line approximately five hundred fifty three and six tenths feet to a point being a stone bound lying at Northeasterly corner and the "Point of Beginning" of the herein described parcel of land;

Thence S 01-07-59 W, a distance of 460.00', along the Westerly right of way of said Pleasant Street to an iron rod set, and being the Southeasterly corner of the herein described parcel of land;

Thence N 75-13-15 W, a distance of 185.23', along land shown upon assessors map 19 as parcels 110 and 108, to stone bound lying at the Easterly right of way line of Jackson Street, a public way, and being the Southwesterly corner of the herein described parcel of land;

Thence N 01-07-59 E, a distance of 416.30', along said Jackson Street easterly right of way line to a point lying on a tipped stone bound and being the Northwesterly corner of the herein described parcel of land;

Thence S 88-52-01 E, a distance of 180.00', along land shown upon assessors map 19 as parcels 105 and 106 to the "Point of Beginning" of the herein described parcel of land;

Said parcel contains a calculated area of 1.81 acres (78,865 S.F.), more or less.

EXHIBIT B ARCHITECTURAL AND HISTORICAL FEATURES OF THE BUILDING¹

The Pleasant Street School is a large two-story frame Classical-Revival building. Rectangular in form with stairhall projections at each end, the building rises to a broad hipped roof with large gabled dormers. The school faces east and occupies a generous lot which is bordered by a low chain link fence, large deciduous trees and shrubbery. The area immediately surrounding the school is paved while the northern half of the lot is an open, grassy field. The school is located in the midst of a neighborhood of late 19th century residences that constitute Ayer's town center. Less than a half mile to the south is the main shopping and commercial district of Ayer, a small working class community some 35 miles northwest of Boston.

The Pleasant Street School exhibits a symmetrical four bay by three bay rectangular plan that is the result of two major builds. The design was pragmatically conceived in two sections, the first constructed in 1893, and the second to be constructed when needed. The southern half was built first with the northern half added in 1906. The building, which is sheathed in narrow clapboards, rises two stories from an exposed fieldstone foundation to a broad hipped roof with a central deck. A narrow central chimney and seven gable roof dormers pierce the roof, which is sheathed with asphalt shingles. Originally the deck was encircled by an open balustrade. Projecting from the north and south walls are two flat-roofed stair towers supported on piers. At the rear, a one story enclosed staircase leads from the first floor to the basement level. On the façade, a flat-roofed open porch (1953-1954) shelters the offset entrance to the school.

Detailing throughout the school is Classical-Revival in style. Narrow cornerboards define the corners of the building and support a wide fascia encircling the building. A deep boxed cornice with dentils surmounts the fascia. Similar dentilated cornices frame the large dormers and their pediments. Contained within the pediments of the façade dormers are wooden torches in relief. On the façade, remnants of ionic capitals top the cornerboards. In the main block and stairtowers, the windows contain wooden double-hung 6/2 sash, while dormers are set with smaller 8/2 double-hung sash. A distinctive feature of the building is the pattern created by combinations of banded windows in sets of three, four, and five. Small square fixed sash with radiating starburst mullions further enliven the front and rear building exteriors.

The main (east) elevation is six bays wide. The central two bays contain, on the second floor, a pair of tripartite windows. These consist of a central rectangular window flanked by smaller windows set over fielded panels. On the first floor, a flat roofed porch with clustered columns shelters the school's entrance. Balustrades once circled the roof and base of the porch. Large pedimented dormers with four banded windows surmount the next two bays while the outermost bays contain banded sets of four windows on the first and second floors.

The north elevation, of three bays width, is dominated by the projecting stairtower in the central bay. Centered above the stairtower on the roof is a pedimented dormer containing a band of three small 6/2 windows. A shed-roofed extension gives access from the dormer to the stairtower. A stairtower is gained by a flight of steps leading to a door in the base of the tower.

¹ Source: Pleasant Street School, National Register of Historic Places Inventory-Nomination Form

The stairtowers were added at both ends when the north half of the school was built in 1906. Classroom bays, marked by long bands of five windows each, flank the stairtower on both floors.

The rear (west) elevation has seen the greatest alteration. A protecting metal ventilator stack (for the cafeteria kitchen) and an enclosed stair leading from the first floor to the basement detract from the appearance of this elevation. Though also six bays in width, the rear wall lacks the symmetry of the façade. The outer two bays contain five-part window bands lighting corner classrooms. However, the interior bays are unevenly filled with tripartite window bands on the second floor and a four-part window and the projecting stair enclosure on the first. Because the site slopes down to the west, the basement story on the west is exposed and finished with clapboards. The basement level contains two windows and three doors.

The three-bay-wide south elevation, part of the original build, differs slightly from its northern counterpart. Two classroom bays with four, rather than five, windows flank the central stairtower. Another difference is the placement of two smaller dormers to either side of the stairtower rather than a single large dormer above the stairtower, as on the north wall.

Once completed in 1906, the only major alterations to the school occurred in 1953-1954. Exterior alterations done at that time include the addition of the present entrance porch and the closing of one of the two entrances to leave a single offset entrance in the fourth (from the left) façade bay. The need to upgrade means of egress from the school seems to account for changes made to the north stairtower and dormer, and to the west wall with its enclosed stair.

The Pleasant Street School is a large, well detailed example of Classical-Revival school architecture. Though modest in design, the school is, within the local context, one of Ayer's three outstanding municipal buildings, the others being the town's 1876 High Style Gothic-Revival Town Hall, and 1894 Renaissance Revival Library. Historically, the school is notable as the town's last remaining intact 19th century school building. (While an earlier, mid-19th century frame school also stands in town, it has been converted to residential use and no longer retains integrity as a school.) The Pleasant Street School reflects the late 19th century prosperity of Ayer, an important railroad transportation center in Middlesex County throughout the last half of the 19th century. The school retains integrity of location, design, materials setting, workmanship, and association.

The Pleasant Street School was built on a site donated to the town by John A. Park, a local doctor whose family was prominent in the early history of the area. Park donated the site as an expression of his support for free public education. The school was constructed to house both grade and high school classes. It continued its dual function until 1931, when a separate high school building was constructed. Elementary-level classes were held in the school until its closing in 1981.

Architecturally, the school far surpasses its neighbors in scale and architectural distinction. Conceived of as a two-part design, the school was pragmatically planned to be expanded as an increasing population of school children demanded.

At the time of its construction, the Pleasant Street School was the fourth school standing in the town. The other three were simpler district schools of brick (1859; 1867) or frame (1852; raised to two stories, 1865) construction. The Pleasant Street School was by far the most sophisticated of these and incorporated an up-to-date plan with large well-lighted classrooms and a modern ventilation and heating system. The architect of this building is unknown, but early photographs of the building show it to be a handsome and carefully executed structure with Georgian Revival roof balustrades and porch detail.

Copy

EXHIBIT B
Photographic Index & Images

Pleasant Street School Building
62 Pleasant St.
Ayer, MA 01432

Architectural Photographic Survey Index

Restored Façade/Existing Conditions (11/8/2017)

Ayer Office of Community & Economic Development

- Image #1: Front Façade – Southeast Elevation
- Image #2: Front Façade – Northeast Elevation
- Image #3: Front Façade – East Elevation
- Image #4: Rear Façade – West Elevation (South End)
- Image #5: Rear Façade – West Elevation (Center)
- Image #6: Rear Façade – West Elevation (North End)
- Image #7: Side Façade – North Elevation
- Image #8: Side Façade – South Elevation
- Image #9: Front Façade Portico/2nd Story – East Elevation
- Image #10: Front Façade Front Door/South Side – East Elevation
- Image #11: Front Façade Front Door/North Side – East Elevation
- Image #12: Front Façade 1st Story Window Square/South Side – East Elevation
- Image #13: Front Façade 1st Story Window Square/North Side – East Elevation
- Image #14: Front Façade 2nd Story Window Square & Dormer/South Side – East Elevation
- Image #15: Front Façade 2nd Story Window Square & Dormer/North Side – East Elevation
- Image #16: Front Façade 1st & 2nd Story Window Bank/South Side – East Elevation
- Image #17: Front Façade 1st & 2nd Story Window Bank/North Side – East Elevation
- Image #18: Foundation Wall – Northeast Corner
- Image #19: Foundation Wall – Front Façade/North Side – East Elevation
- Image #20: Foundation Wall – Rear Ell/North Side – Northwest Elevation
- Image #21: Foundation Wall – Rear Corner/North Side – Northwest Elevation

Image #22: Foundation Wall & Windows – Rear Corner/Southwest Elevation

Image #23: Foundation Wall & Rear Corner Windows – Southwest Elevation

Image #24: Cornice Dentils & Window Surrounds 2nd Story – Front Façade – East Elevation

Image #25: Detail Window Surround

Image #26: Detail Pilaster & Clapboards

Image #27: Detail Roof Dormer

Image #28: Detail Chimney/Roof Balustrade/Cornice/Dormers

Image #29: Entrance Pleasant Street Park

Image #30: Pleasant Street Park – East Orientation

Image #31: Pleasant Street Park – Looking Southward at Pleasant St. School Building

The above-listed photographs in archival print and digital CD format are on file with the Town Clerk of the Town of Ayer, MA.

Copy

EXHIBIT C
Conservation Land

The land shown as "Passive Park," on a plan of land entitled "Pleasant Street Senior Housing Map 19/Lot 107" (Sheet C-1), dated February 5, 2007, prepared by Cornerstone Land Consultants, LLC, being more particularly described as follows:

Beginning at a point lying along the westerly right of way of Pleasant Street, and being the northwesterly corner of the herein described parcel of land;

Thence southerly a distance of 140.00 feet, along the westerly right of way of said Pleasant Street, to a corner bound set, and being the southeasterly corner of the herein described parcel of land;

Thence in a westerly direction, a distance of 90.00 feet, to a corner bound set;

Thence in a southerly direction, a distance of 50.00 feet, to a corner bound set;

Thence in a westerly direction a distance of 90.00 feet, to a corner bound set in the easterly right of way of Jackson Street, and being the southwesterly corner of the herein described parcel of land;

Thence a distance of 190.00 feet, along said Jackson Street easterly right of way line to a point lying on a tipped stone-bound and being the northwesterly corner of the herein described parcel of land;

Thence a distance of 180.00 feet, to the point of beginning.

Said parcel contains a calculated area of 29,700 S.F., more or less.

Direct costs of \$1,241,965 of which \$986,446 is to come from water revenue, \$93,556 is to come from other available funds (UDAG), and \$ 161,963 is to come from the tax levy, Indirect costs of \$129,700 of which \$109,700 is to come from water revenue, and \$20,000 is to come from funds surplus.

under the direction of the Water Commissioners, or take any action thereon or in relation thereto.

Sponsor: Board of Selectmen

Simple Majority Vote Required

Finance Committee Recommendation: Recommended

Note: Handouts shall be provided at Town Meeting which explain this in more detail.

Passed with 5, 6, and 7.

Motion by Robert Isaacs to take article #37 out of order. 2/3 vote required. Yes 129 No 4.

ARTICLE 37:

To see if the Town will vote to transfer from the Ayer Historical Commission for preservation purposes to the Board of Selectmen for the purpose of conveyance to the Ayer Housing Authority the property known as the Pleasant Street School, located at 62 Pleasant Street, described: (1) in a deed from John G. Park, et al. to the Town of Ayer, dated May 16, 1893 recorded with the Middlesex South District Registry of Deeds, Book 2200, Page 510; (2) in a deed from Mary G. Paine to the Town of Ayer, dated May 7, 1906 recorded with said Deeds, Book 3229, Page 526; and (3) in a deed from Levi W. Phelps to the Town of Ayer, dated April 30, 1906 recorded with said Deeds, Book 3229, Page 533; and to authorize the Board of Selectmen to convey such property on such terms and conditions as the Selectmen shall determine, provided that such conveyance shall be subject to the following terms and conditions:

1. the premises shall be subject to a recorded Preservation Restriction on the exterior envelope of the building, in perpetuity, to be held by the Town acting by and through its Historical Commission, approved by the Massachusetts Historical Commission;
2. the premises shall be subject to a recorded Conservation Restriction on such portion of the premises as the Selectmen deem to be in the best interest of the Town while still permitting the development of the Property for senior housing, in perpetuity, to be held by the Town approved by the Secretary of the Executive Office of Environmental Affairs;
3. the premises shall be restricted to the development of senior housing units, which may include ancillary facilities such as a community room or other room or rooms to be used for public or community purposes, of which 100% shall be subject to a perpetual Affordable Housing Restriction acceptable to the Board of Selectmen and approved by the United States Department of Housing and Urban Development;
4. the premises shall be conveyed subject to a right of reverter which may be exercised by the Town if the Housing Authority does not obtain sufficient funding for the development of the premises for affordable senior housing within three years of the conveyance;

and further to vote to instruct its representative in the General Court to file a home rule petition for a special act to read as follows:

Spring Annual Town Meeting
Ayer, Massachusetts
2005

SECTION 1. Notwithstanding the provisions of Chapter 270 of the Acts of 1953 or any other general or special law to the contrary and Article 97 of the Amendments to the Massachusetts Constitution, the Town of Ayer is hereby authorized to transfer from the Ayer Historical Commission for historic preservation purposes to the Board of Selectmen for the purpose of conveyance to the Ayer Housing Authority the property known as the Pleasant Street School, located at 62 Pleasant Street, described: (1) in a deed from John G. Park, et al. to the Town of Ayer, dated May 16, 1893 recorded with the Middlesex South District Registry of Deeds, Book 2200, Page 510; (2) in a deed from Mary G. Paine to the Town of Ayer, dated May 7, 1906 recorded with said Deeds, Book 3229, Page 526; and (3) in a deed from Levi W. Phelps to the Town of Ayer, dated April 30, 1906 recorded with said Deeds, Book 3229, Page 533, such sale to be subject to the following terms and conditions:

1. the premises shall be subject to a recorded Preservation Restriction on the exterior envelope of the building, in perpetuity, approved by the Massachusetts Historical Commission;
2. the premises shall be restricted to the development of senior housing units, which may include ancillary facilities such as a community room or other room or rooms to be used for public or community purposes, of which 100% shall be subject to a perpetual Affordable Housing Restriction acceptable to the Board of Selectmen and approved by the United States Department of Housing and Urban Development;

SECTION 2. This act shall take effect upon its passage. The General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the general court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition; or to take any other action relative thereto and to authorize the Board of Selectmen to enter into all agreements and execute any and all instruments as may be necessary to convey such property, or to take any other action relative thereto.

Sponsor: Historical Commission

2/3 Vote Required

Motion by Cornelius Sullivan. Seconded. Counted votes. Yes 154 No 2.

Quorum count: Required number for quorum is 50. Count 153. There is a quorum

REVOLVING FUND ARTICLES

ARTICLE 9:

To see if the Town will vote to authorize a new Revolving Fund, pursuant to G.L. Chapter 39B 1/2, for the purpose of supporting the town website, printing and mailing various and other town-wide informational mailings from the Communication Committee. Credits to the account shall be revenues from ads placed in said mailings and the town Communication Committee is authorized to expend monies from this fund. In no event shall the total amount of monies expended from the Communications Revolving Fund exceed twenty thousand dollars (\$20,000) in FY2005; further that no Board, Department or Officer shall be authorized to expend in any one fiscal year more than one percent of the amount raised from the Revolving Funds under its direct control more than one percent of the amount raised from the Town in the most recent fiscal year for which a tax rate has been certified under Article Three of Chapter Fifty Nine, or take any action thereon or in relation thereto.

Sponsor: Communication Committee

Simple Majority Vote Required

Finance Committee Recommendation: Recommended

Spring Annual Town Meeting
Ayer, Massachusetts
2005

A TRUE COPY, ATTEST

Sumner C. Conner
TOWN CLERK

ARTICLE 9: PLEASANT STREET SCHOOL PRESERVATION RESTRICTION & CONSERVATION RESTRICTION

To see if the Town will vote to amend the vote taken under Article 37, of the Spring 2005 Annual Town Meeting as follows:

Revise condition 1 of said vote which stated:

“the premises shall be subject to a recorded Preservation Restriction on the exterior envelope of the building, **in perpetuity**, to be held by the Town acting by and through its Historical Commission, approved by the Massachusetts Historical Commission”;

to state the following:

“the premises shall be subject to a recorded Preservation Restriction on the exterior envelope of the building **for a Term of 99 years**, to be held by the Town acting by and through its Historical Commission”;

and;

Revise condition 2 of said vote which stated:

“the premises shall be subject to a recorded Conservation Restriction on such portion of the premises as the Selectmen deem to be in the best interest of the Town while still permitting the development of the Property for senior housing, **in perpetuity**, to be held by the Town, approved by the Secretary of the Executive Office of Environmental Affairs”;

to state the following:

“the premises shall be subject to a recorded Conservation Restriction on such portion of the premises as the Selectmen deem to be in the best interest of the Town while still permitting the development of the property for senior housing, **for a Term of 99 years**, to be held by the Town acting by and through its Conservation Commission”;

Or take any action thereon or in relation thereto.

Selectman Hillman read the motion:

I move that the Town vote to amend the vote taken under Article 37, of the spring 2005 Annual Town Meeting as printed in the warrant and read by the Moderator. Seconded.

Discussion as follows: Jeff Hayes asking why this is coming up, Alan Manioan of Economic Development explained this was passed but needing updating to clean up loose ends.

No further discussion. Aye's passed. No opposed. Article Passed.

Explanatory Note: This article will implement the Historic Pleasant Street School Building Preservation Restriction & Conservation Restriction with a legal instrument containing a "Term of 99 years" which will resolve the long-standing subordination requirement impasse with regard to the legal recording and settlement of the property deed.

A TRUE COPY, ATTEST

AYER

Suzanne Copeland

TOWN CLERK

November 14, 2017

Special Fall Town Meeting Warrant

October 24, 2016

Page 7 of 10

Sponsor: Board of Selectmen

Finance Committee: No Vote Taken Simple Majority Vote Required

ARTICLE 10: BY-LAW AMENDMENT (ARTICLE 3, SECTION 3): NO DOG LICENSE FEE FOR A DOG OWNED BY A PERSON AGED 70 YEARS OR OLDER

To see if the Town will vote to accept the provisions of MGL Chapter 140, Section 139 and to amend Article III, Section 3 of the Town's Bylaws by inserting the following language at the end thereof:

"No fee shall be charged for a license for a dog owned by a person aged 70 years or over."

Or take any action thereon or in relation thereto.

Selectman Gary Luca read the motion:

I move that the Town vote to accept the provision of MGL Chapter 140, Section 139 and to amend Article III, Section 3 of the Town's Bylaws as printed in the warrant and read by the Moderator. Seconded. Discussion as follows: Carolyn McCreary spoke and does not support. Carol Boisquet spoke and supports whole heartedly. Frank Maxant spoke in favor for those that could take advantage of the fee break but it wasn't mandatory. No further discussion. Aye's passed with scattering of No's. Article Passed.

Explanatory Note: This article would amend the Town's Bylaw III, Section 3 by accepting the provision of MGL Chapter 140, Section 139 allowing that no fee be charged for a license for a dog owned by a person 70 years or older.

Sponsor: Board of Selectmen

Finance Committee: Recommends

Simple Majority Vote Required

ARTICLE 11: AUTHORIZATION TO GRANT ONE ADDITIONAL ALL ALCOHOL LICENSE

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to authorize the Town to grant one additional license for the sale of all alcoholic beverages not to be drunk on the premises, in the form set forth below; and provided further that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition:

AN ACT AUTHORIZING THE TOWN OF AYER TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

A TRUE COPY, ATTEST

[Signature]

TOWN CLERK

November 11, 2016

EXHIBIT E

Plans of Pleasant Street Senior Housing Build Out & Construction

Drawings:

“PLEASANT STREET SENIOR HOUSING, BUILD-OUT & CONSTRUCTION,
62 PLEASANT STREET AYER, MA”

Drawing Nos.

A-06, May 30, 2007

A-07, May 20 2007

A-08, May 30, 2007

A-09, May 30, 2007

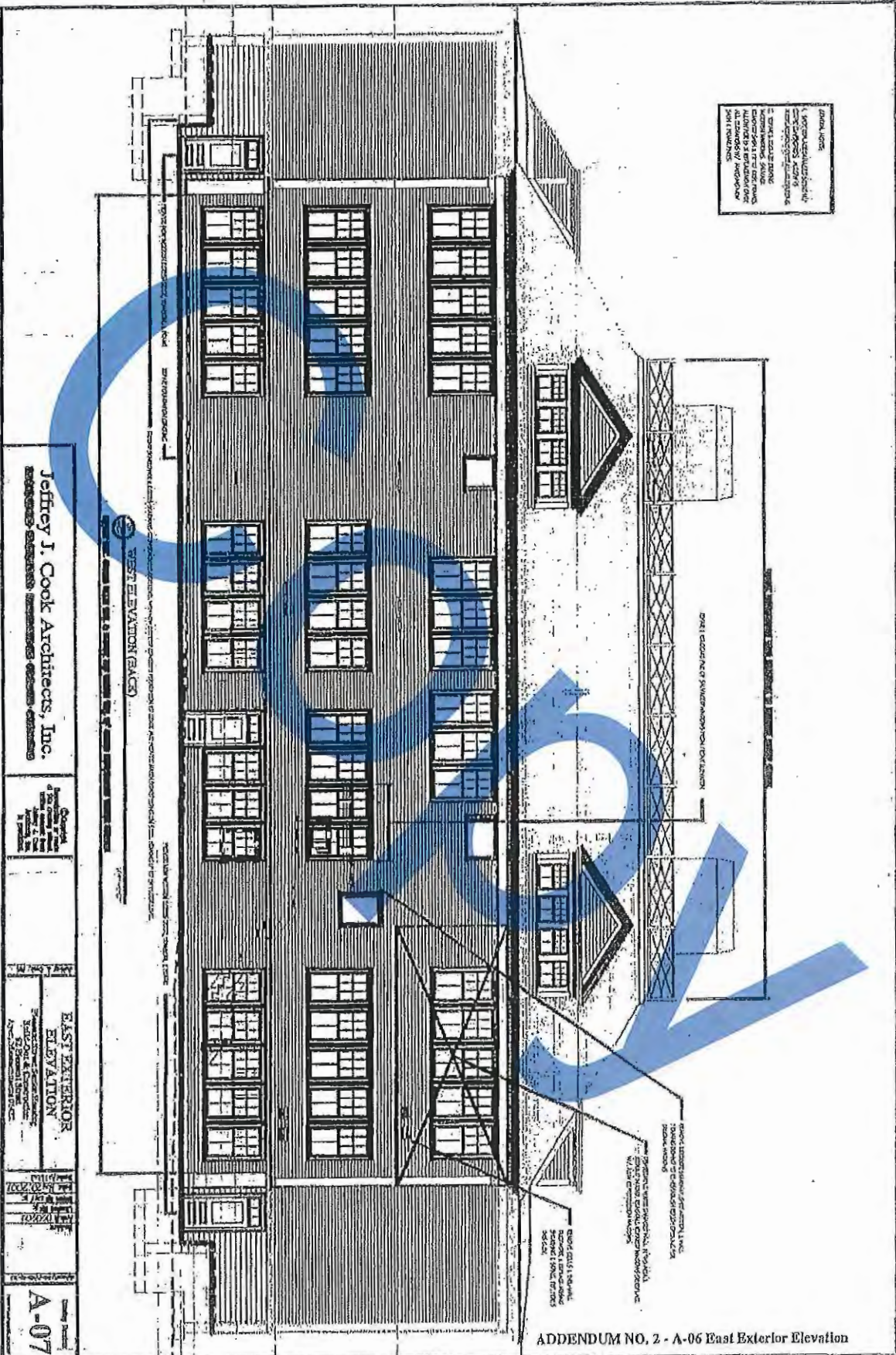
prepared by Jeffrey Cook Architects, Inc.

COPY



<p>Jeffrey J. Cook Architects, Inc.</p> <p>1000 North Main Street Suite 200 Chicago, IL 60610 Tel: 312.329.1234 Fax: 312.329.1235 www.jjca.com</p>	<p>Contract</p> <p>Architectural Services for the exterior elevation of the building located at 1000 North Main Street, Chicago, IL 60610. - 12/15/2006 -</p>	<p>EAST EXTERIOR ELEVATION</p> <p>Project: 1000 North Main Street Drawn: JJC Date: 12/15/2006</p>	<p>1000 NORTH MAIN STREET CHICAGO, IL 60610 TEL: 312.329.1234 FAX: 312.329.1235 WWW.JJCA.COM</p>	<p>A-06</p>
--	---	--	--	--------------------

GENERAL NOTES:
 1. REFER TO ALL DRAWINGS FOR MATERIALS AND FINISHES.
 2. VERIFY ALL DIMENSIONS AND CONDITIONS ON SITE.
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
 5. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.



WEST ELEVATION (BACK)

Jeffrey J. Cook Architects, Inc.
 ARCHITECTS

Project:
 1000 N. ...
 ...
 ...

EAST EXTERIOR
 ELEVATION

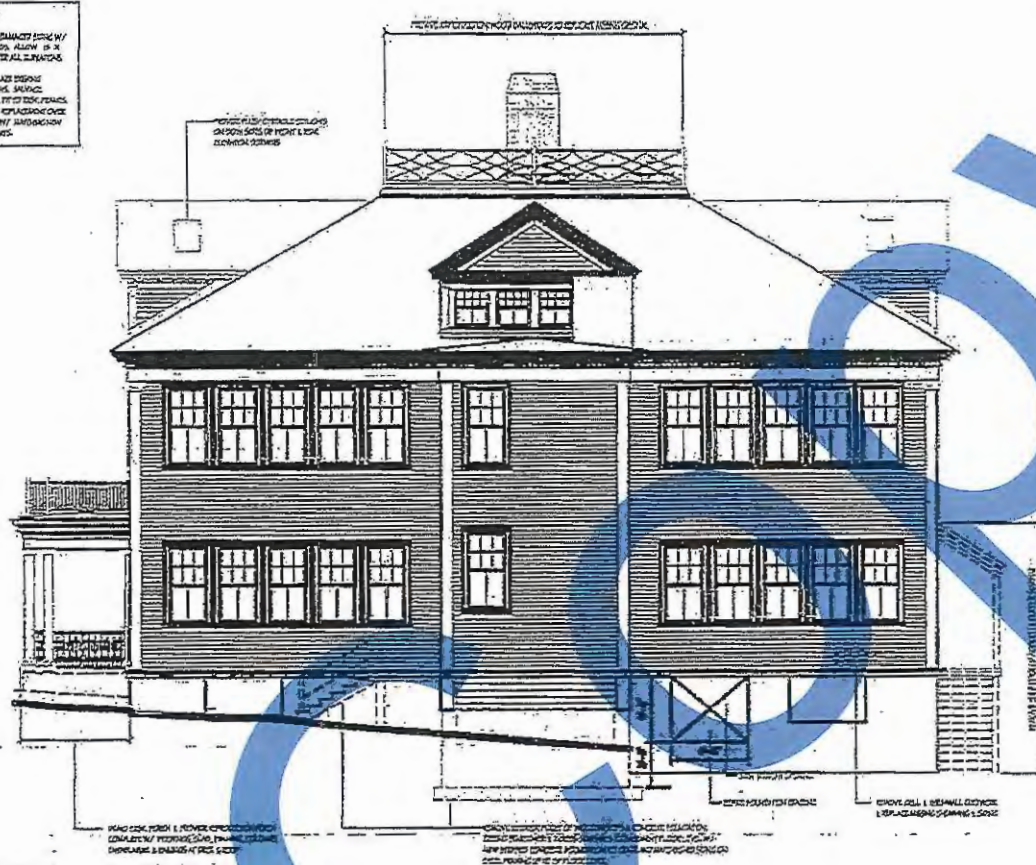
DATE: 10/22/2021
 DRAWN BY: JJC
 CHECKED BY: JJC

A-07

ADDENDUM NO. 2 - A-06 East Exterior Elevation

GENERAL NOTES

1. VERIFY EXISTING DIMENSIONS PRIOR TO CONSTRUCTION. ALLOW 1/8" TOLERANCE OVER ALL DIMENSIONS.
2. EXISTING EXTERIOR FINISHES TO REMAIN UNLESS OTHERWISE NOTED. ALLOW 1/8" TOLERANCE OVER ALL DIMENSIONS. VERIFY DIMENSIONS OF EXISTING FINISHES.



NORTH ELEVATION (RIGHT SIDE)



NORTH ELEVATION ENLARGEMENT

ADDENDUM NO. 2 - A-06 East Exterior Elevation

Jeffrey J. Cook Architects, Inc.
 100 WEST 42ND STREET - 12TH FLOOR - NEW YORK, NY 10018-3601

Copyright
 Invention of the
 drawing is the
 property of
 Jeffrey J. Cook
 Architects, Inc.
 All rights reserved.

**NORTH
 EXTERIOR ELEVATION & ELEVATION
 ENLARGEMENTS**
 Prepared for: **Secker Holdings
 Trust Co. & Corporation**
 625 West 11th Street
 New York, NY 10011

A-09

TOWN OF AYER

FY2018 TAX CLASSIFICATION HEARING

OPEN SPACE DISCOUNT

❖ **What is open space?**

- Land maintained in an open or natural condition which contributes significantly to the benefit and enjoyment of the public.

❖ **Exclusions:**

- Land taxable under the provisions of chapter land.
- Land under a permanent conservation restriction.
- Land held for the production of income.

❖ **Board of Selectmen:**

- Selectmen may discount up to 25% of the open space percentage share of the tax levy.

RESIDENTIAL EXEMPTION

❖ **What is a residential exemption?**

- Applied to every residential property which is the principal residence of a taxpayer.
- The exemption is subtracted from the assessed value of eligible parcels.

❖ **Exclusions:**

- Accessory residential land & seasonal homes.
- Non-owner-occupied residential property.

❖ **Board of Selectmen:**

- Selectmen may adopt a discount of up to 35% of the average residential valuation.

SMALL COMMERCIAL EXEMPTION

❖ **What is a small commercial exemption?**

- Designed to provide tax relief for small businesses.
- The tax burden is shifted within the C&I class.

❖ **Qualifying criteria:**

- Eligible properties must be included on the list provided annually to the Assessors by the DLWD.
- Qualifying properties must have a valuation of less than one million dollars and an average annual employment of 10 or fewer people.

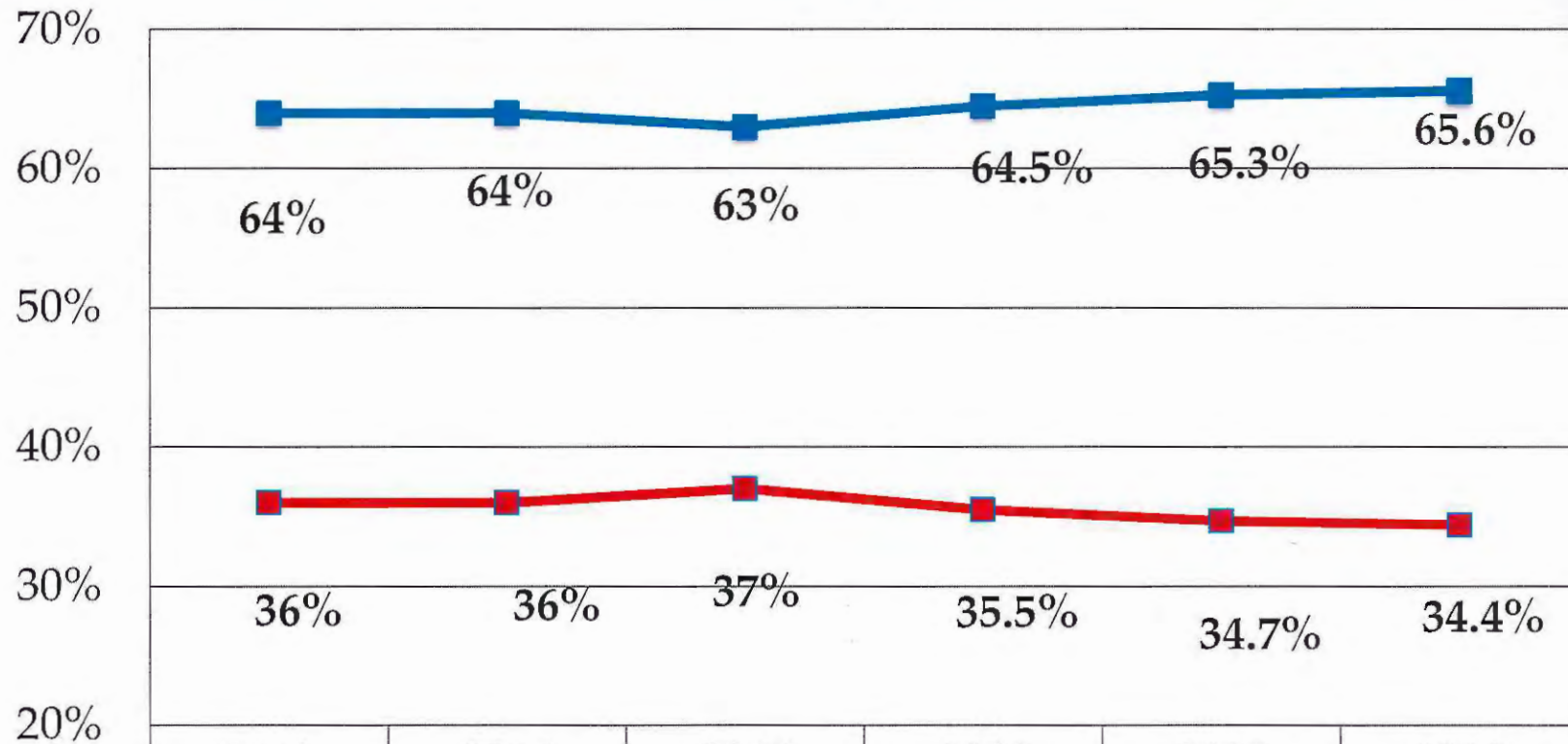
❖ **Board of Selectmen:**

- Selectmen may adopt an exemption of up to 10% of the value of eligible parcels.

SMALL COMMERCIAL EXEMPTION

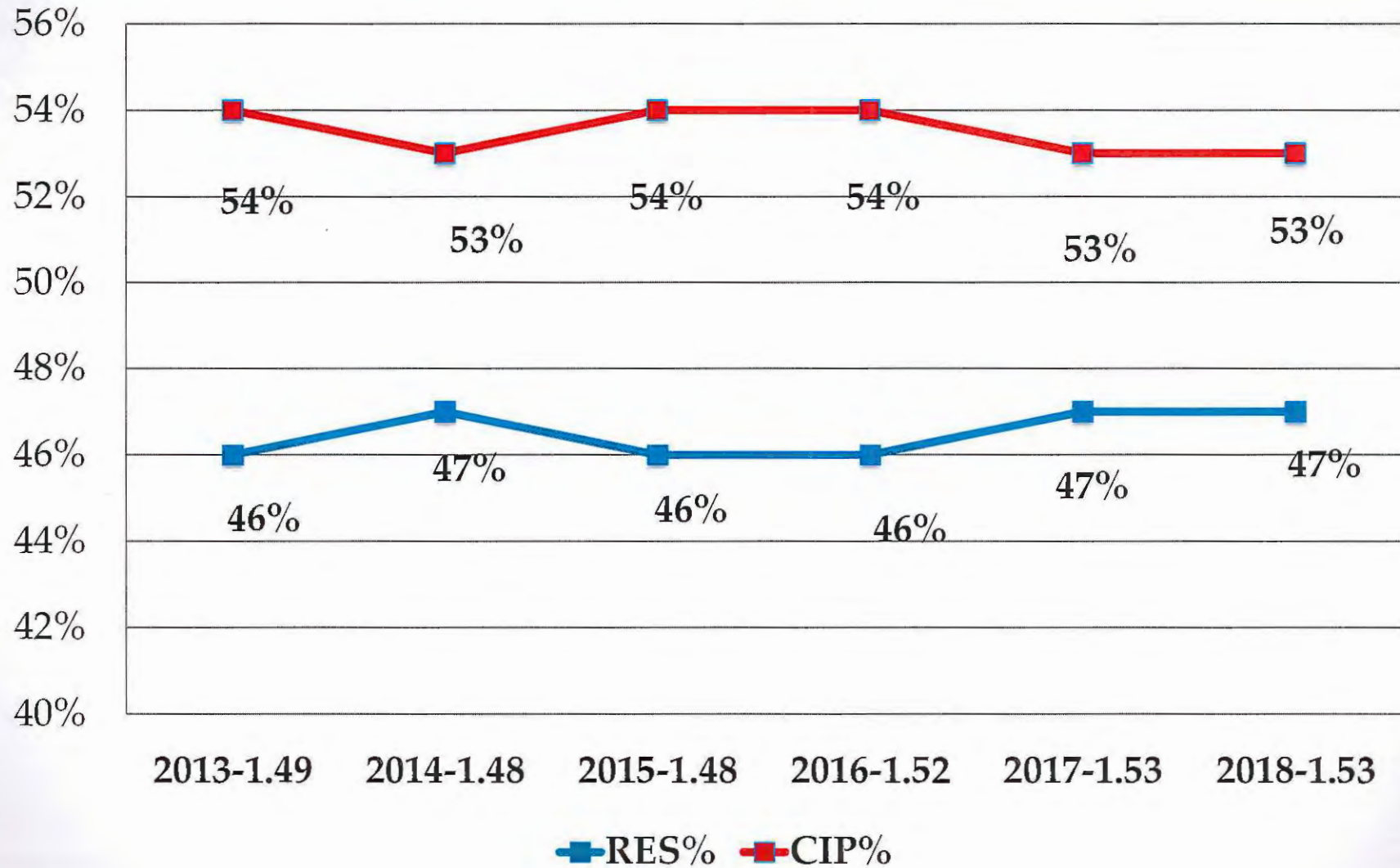
Total number of C&I Parcels.	326
Total number of C&I Parcels (with less than 1 million dollar valuation).	278
Estimated Number of Eligible Parcels per DLWD List.	44
Total Loss in Commercial Valuation @ 10% S.C.E.	\$1,742,620
FY18 Commercial/Industrial Tax Rate	\$30.80
FY18 Commercial/Industrial Rate with S.C.E.	\$31.00

FY2018 VALUATION PERCENTAGES



	2013	2014	2015	2016	2017	2018
■ RES%	64%	64%	63%	64.5%	65.3%	65.6%
■ CIP%	36%	36%	37%	35.5%	34.7%	34.4%

FY2018 TAX LEVY PERCENTAGES





FY2018 VALUATION SUMMARY

<u>Class</u>	<u>Valuation</u>	<u>Percent</u>	<u>%</u>
Residential	756,632,300	66%	65.6%
Commercial	112,845,500	10%	
Industrial	150,479,600	13%	
Personal	<u>133,618,860</u>	<u>12%</u>	<u>34.4%</u>
Totals:	1,153,576,260	100%	100%
FY2018 Total Value	1,153,576,260		
FY2017 Total Value	1,098,119,600		
% Change	5.1%		
Avg. Single Family – 2018	312,800		
Avg. Single Family – 2017	297,600		
% Change	5.1%		

FY2018 TAX LEVY SUMMARY

FY2017 Levy Limit	\$21,315,781
Increased 2.5%	\$532,895
FY2017 Growth	\$960,356
FY2017 Debt Exclusions	\$2,065,900
General Override	<u>0</u>
FY2018 Maximum Tax Levy	\$24,874,932
FY2018 Actual Tax Levy	\$23,219,741
Excess Levy Capacity	\$1,655,191
FY2017 Tax Levy	\$21,988,989
% Change	5.6%

FY2018 SINGLE TAX RATE

FY2018 Tax Levy \$23,219,741
FY2017 Valuation \$1,153,576,260  1,000  \$20.13

Single Tax Rate 2018 \$20.13

Single Tax Rate 2017 \$20.03

% Change 0.5%

FY2017 CLASSIFICATION DATA

<u>Class</u>	<u>Valuation</u>	<u>%</u>	<u>Levy%</u>	<u>Tax Rate</u>
Residential	717,378,800	65.3%	47%	\$14.39
<u>C,I,P</u>	<u>380,740,800</u>	<u>34.7%</u>	<u>53%</u>	\$30.64
Totals:	1,098,119,600	100%	100%	

- * Single Tax Rate \$20.03
- * CIP Shift Factor 1.53
- * Residential Factor 0.718708

FY2018 ESTIMATED TAX RATES

(A)	(B)	(C)	(D)	(E)					
CIP Shift Factor	Residential Factor	CIP Levy%	Res Levy%	Res. Tax Rate	CIP Tax Rate	Avg. Res Bill \$Ch	Avg. CIP Bill \$Ch	Avg. Res Bill %Ch	Med. C&I Bill %Ch
1.00	1.000000	34.4%	65.6%	\$20.13	\$20.13	\$2,014	(\$2,702)	47.0%	-33.7%
1.05	0.973769	36.1%	63.9%	\$19.60	\$21.13	\$1,848	(\$2,438)	43.2%	-30.4%
1.10	0.947538	37.9%	62.1%	\$19.07	\$22.14	\$1,683	(\$2,171)	39.3%	-27.1%
1.15	0.921307	39.6%	60.4%	\$18.54	\$23.15	\$1,517	(\$1,904)	35.4%	-23.7%
1.20	0.895076	41.3%	58.7%	\$18.02	\$24.15	\$1,354	(\$1,639)	31.6%	-20.4%
1.25	0.868845	43.0%	57.0%	\$17.49	\$25.16	\$1,188	(\$1,372)	27.8%	-17.1%
1.30	0.842614	44.7%	55.3%	\$16.96	\$26.17	\$1,023	(\$1,105)	23.9%	-13.8%
1.35	0.816383	46.5%	53.5%	\$16.43	\$27.17	\$857	(\$841)	20.0%	-10.5%
1.40	0.790152	48.2%	51.8%	\$15.90	\$28.18	\$691	(\$574)	16.1%	-7.2%
1.45	0.763921	49.9%	50.1%	\$15.38	\$29.19	\$528	(\$307)	12.3%	-3.8%
1.50	0.737690	51.6%	48.4%	\$14.85	\$30.19	\$363	(\$42)	8.5%	-0.5%
1.51	0.732444	52.0%	48.0%	\$14.74	\$30.39	\$328	\$11	7.7%	0.1%
1.52	0.727198	52.3%	47.7%	\$14.64	\$30.60	\$297	\$63	6.9%	0.8%
1.53	0.721952	52.6%	47.4%	\$14.53	\$30.80	\$263	\$119	6.1%	1.5%
1.54	0.716706	53.0%	47.0%	\$14.43	\$31.00	\$231	\$172	5.4%	2.1%
1.55	0.711459	53.3%	46.7%	\$14.32	\$31.20	\$197	\$225	4.6%	2.8%
1.56	0.706213	53.7%	46.3%	\$14.21	\$31.40	\$162	\$278	3.8%	3.5%
1.57	0.700967	54.0%	46.0%	\$14.11	\$31.60	\$131	\$330	3.1%	4.1%
1.58	0.695721	54.4%	45.6%	\$14.00	\$31.80	\$97	\$383	2.3%	4.8%
1.59	0.690475	54.7%	45.3%	\$13.90	\$32.00	\$65	\$436	1.5%	5.4%
1.60	0.685228	55.1%	44.9%	\$13.79	\$32.21	\$31	\$489	0.7%	6.1%
1.65	0.658997	56.8%	43.2%	\$13.26	\$33.21	(\$135)	\$756	-3.1%	9.4%
1.70	0.632766	58.5%	41.5%	\$12.74	\$34.22	(\$297)	\$1,023	-6.9%	12.8%
1.75	0.606535	60.2%	39.8%	\$12.21	\$35.22	(\$463)	\$1,288	-10.8%	16.0%

Office of the Ayer Board of Selectmen
Office of the Ayer Town Administrator



Town of Ayer | Ayer Town Hall | 1 Main Street | Ayer, MA 01432 | 978-772-8220 | Fax 978-772-3017 | www.ayer.ma.us

MEMORANDUM

DATE: November 17, 2017

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Town Administrator's Report for the November 21, 2017 BOS Meeting

Dear Honorable Selectmen,

I am pleased to transmit to you the following Town Administrator's Report for the November 21, 2017 BOS Meeting. If you have any questions prior to the meeting, please do not hesitate to contact me directly. Thank you.

Administrative Update:

- I will offer a brief Administrative Update at the BOS meeting of the various activities and projects of the Administration since the last BOS meeting on November 7, 2017.

Proposed Ayer Shirley Regional Dispatch Update:

- I will offer a brief update on the status of the proposed Ayer Shirley Regional Dispatch.

Town Counsel Disclosure Authorization:

- With respect to the proposed Ayer Shirley Regional Dispatch, since the Town of Shirley and the Town of Ayer both use KP Law as Town Counsel; I am respectfully requesting that the BOS vote to approve the attached Town Counsel Disclosure Authorization so that Town Counsel can work on and review the proposed draft Inter-Municipal Agreement for regional dispatch services. (See Attached).

Thank you.

Attachment(s)



The Leader in Public Sector Law

101 Arch Street, Boston, MA 02110
Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

November 16, 2017

Mark R. Reich
mreich@k-plaw.com

Hon. Gary J. Luca and
Members of the Board of Selectmen
Ayer Town Hall
One Main Street
Ayer, MA 01432

Re: Determination and Consent Pursuant to the Massachusetts Rules of Professional Conduct
Rule 1.7 - Representation of Town of Ayer and Town of Shirley in Review of Regional
Dispatch Agreement

Dear Members of the Board of Selectmen:

The Town has requested that KP Law, P.C. review and provide comments on a draft agreement ("Agreement") between the Town of Ayer and the Town of Shirley related to a regional dispatch facility. KP Law, P.C. currently serves as Town Counsel for both Towns.

With respect to the firm's ability to represent the Town of Ayer to review and provide an opinion relative to the Agreement, our relationship with the Town of Shirley, as Town Counsel, requires disclosure pursuant to the Rules of Professional Conduct of the Massachusetts Bar. We must also obtain the express permission of the Town of Shirley. The purpose of this letter is to make such disclosure and request that you determine whether you will permit such representation for this purpose. In addition, while the State Ethics Commission has determined that KP Law, P.C. and its individual attorneys are not "municipal employees" pursuant to the Conflict of Interest Law, we provide this letter to dispel any appearance of conflict on the firm's behalf in this matter.

MULTIPLE REPRESENTATION DISCLOSURE

The representation of multiple clients is regulated under the Massachusetts Rules of Professional Conduct. The relevant provision, Rule 1.7, states that an attorney may not represent multiple clients if doing so involves a concurrent conflict of interest. The standard for determining whether a concurrent conflict of interest exists is: (1) will the representation of one client be directly adverse to another client; or (2) is there a significant risk that the representation of one or more clients will be materially limited by our responsibilities to another client, a former client, a third person, or our own personal interest. Even where a concurrent conflict of interest exists, we may still undertake the simultaneous representation if: we reasonably believe that we will be able to provide competent and diligent representation to each client; there is no legal prohibition on the simultaneous representation; the simultaneous representation does not involve the assertion of a claim by one client against another in a single piece of litigation or other proceeding before a tribunal; and each client gives informed consent, confirmed in writing.



Hon. Gary J. Luca and
Members of the Board of Selectmen
November 16, 2017
Page 2

I do not foresee any material limitation in the firm's ability to serve as Town Counsel for the Town of Ayer as a result of the firm's additional service as Town Counsel for the Town of Shirley in connection with the review of the Agreement. In light of this, I do not believe that our role as Town Counsel to the Town of Shirley in review of the Agreement creates a concurrent conflict of interest with the firm's service as Town Counsel for the Town of Ayer. Furthermore, even if a concurrent conflict of interest is present, I do not believe that our ability to provide competent and diligent representation to the Town of Ayer would be affected by our representation of the Town of Shirley in connection with the Agreement.

While I do not reasonably anticipate the existence of concurrent conflicts of interest in these circumstances, should such a situation arise in the future, we will immediately notify you and discuss whether such a conflict prevents the firm's representation of the Town of Ayer in any particular matter. Please note that if the interests of the Town of Ayer and the Town of Shirley should become adverse to one another in connection with the Agreement, we may be limited or precluded by the Rules of Professional Conduct from representing either client against the other.

DETERMINATION

It is my belief that the firm's representation of the Town of Ayer as Town Counsel and of the Town of Shirley as Town Counsel, in connection with the firm's review of the Agreement, does not constitute a concurrent conflict of interest. It is my further belief that even if a concurrent conflict of interest exists, our ability to provide competent and diligent representation to the Town of Ayer will not be negatively impacted by our simultaneous representation of the Town of Shirley. It is, however, for you to determine, as Appointing Authority, as to whether the representation described herein will not impair the integrity of this firm's services to the Town of Ayer.

Therefore, I request that you, on behalf of the Town of Ayer, consent to KP Law's simultaneous representation of the Town of Ayer and the Town of Shirley in connection with our review of the Agreement. Should you so consent, I ask that you sign the enclosed determination as required by the Rules of Professional Conduct. Please sign the two originals provided, return one copy to me, and retain one copy for your records.



Hon. Gary J. Luca and
Members of the Board of Selectmen
November 16, 2017
Page 3

Thank you for your consideration. Please do not hesitate contact me with any questions you have in this regard.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Mark R. Reich'.

Mark R. Reich

MRR/bp

Enc. Massachusetts Rule of Professional Conduct 1.7; Determination

cc: Town Clerk

597090/90001/0025

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the Town of Ayer hereby consents to KP Law, P.C. representing the Town of Ayer as Town Counsel, notwithstanding that KP Law, P.C. also serves as Town Counsel to the Town of Shirley, in connection with a regional dispatch facility agreement, as disclosed in a letter to the Board of Selectmen of the Town of Ayer dated November 16, 2017.

Dated: November __, 2017

TOWN OF AYER
BOARD OF SELECTMEN

DETERMINATION

It is determined, pursuant to Rule 1.7 of the Massachusetts Rules of Professional Conduct, that the Town of Ayer hereby consents to KP Law, P.C. representing the Town of Ayer as Town Counsel, notwithstanding that KP Law, P.C. also serves as Town Counsel to the Town of Shirley, in connection with a regional dispatch facility agreement, as disclosed in a letter to the Board of Selectmen of the Town of Ayer dated November 16, 2017.

Dated: November __, 2017

TOWN OF AYER
BOARD OF SELECTMEN

Rules of Professional Conduct Rule 1.7: Conflict of Interest: Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or
- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law;
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
- (4) each affected client gives informed consent, confirmed in writing.

Adopted March 26, 2015, effective July 1, 2015.

Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Broadcast and Recorded by APAC

Tuesday November 7, 2017
Open Session Meeting Minutes

Present: Christopher R. Hillman, Chair; Jannice L. Livingston, Vice – Chair

Robert A. Pontbriand, Town Administrator
Carly M. Antonellis, Assistant to the Town Administrator

Not Present: Gary J. Luca, Clerk

Call to Order: C. Hillman called the meeting to order at 7:00 PM.

Pledge of Allegiance: BOS members and meeting attendees stood and recited the Pledge of Allegiance.

Announcements: C. Hillman announced the following:

- There will be an Election Tuesday November 28, 2017 from 7:00 AM – 8:00 PM to consider the adoption of a recreational marijuana general and zoning bylaw. More information can be found on the homepage on Town of Ayer's website www.ayer.ma.us
- The winter parking ban will be in effect from November 15, 2017 – April 15, 2018. On street parking is prohibited between midnight and 6:00 AM and during active snowstorms.

Review of Warrants: J. Livingston stated that G. Luca signed the following warrants on behalf of the BOS:

- | | | | |
|--------------|------------------|-------|--------------|
| • 2017-17-03 | Accounts Payable | 18-07 | \$325,549.06 |
| • 2017-10-25 | Payroll | 18-08 | \$303,349.64 |
| • 2017-10-31 | Accounts Payable | 18-08 | \$473,646.62 |

Review and Approve Agenda: R. Pontbriand asked to amend the agenda removing item #1 (Contract with Triumph Modular for DPW Operations Center) under the DPW Superintendent's report.

Motion: A motion was made by C. Hillman and seconded by J. Livingston to approve the agenda, as amended. **Motion passed 2-0.**

Public Input: R. Rhonemus, 8 Oak Street, member of the Historical Commission, asked the BOS for an update on the Pleasant Street School Historic Restriction. R. Pontbriand will get a status update from Town Counsel.

Chief William A. Murray, Ayer Police Department: *Appointment of Sergeant* – Chief Murray introduced Officer Eric Pearson, his recommended candidate for the position of Sergeant. Officer Pearson has worked for the Town since 2011. He was chosen from a field of 5 candidates. Chief Murray is requesting the appointment be effective immediately with a one year probationary period.

Motion: A motion was made by J. Livingston and seconded by C. Hillman to appoint Officer Eric J. Pearson to the position of Sergeant effective immediately with a one year probationary period. **Motion passed 2-0.**

Cameras in the Downtown (Selectman Hillman) – C. Hillman took his inquiry out of order to ask the Chief his thoughts about putting cameras in the Downtown at busy intersections and/or on streetlight poles. Chief Murray said he is interested in the idea, but his initial research indicates there is a significant cost and requirement to store data.

Joint Appointment of Planning Board Member: J. Fay called the Planning Board to order at 7:13 PM. The BOS and Planning Board are filling the Planning Board seat vacated by Jenn Gibbons. R. Pontbriand stated that each applicant will be asked to join the table to introduce themselves and explain their interest in serving on the Planning Board.

Mr. Ken Diskin, 180 Washington Street stated he has been a resident of Ayer for the past 17 years and that he has recently had the opportunity to be involved with the Planning Board as an abutter to a project. He is recently retired and has the time and knowledge to serve on the Planning Board.

Mr. Jonatban Kranz, 46 Washington Street stated that he and his family are relatively new to Town and he is interested in serving the Town.

Mr. Shawn Merrit had sent a letter of interest but did not attend the joint meeting.

Mr. Richard Zolla, 5 Patricia Drive stated that it was time for him to be more involved in the community and he would like to do more community service.

BOS members and Planning Board members were pleased with the interest of those willing to serve on the Planning Board and urged all candidates to look at other volunteer opportunities within Town government.

Motion: A motion was made by J. Fay and seconded by G. Tillotson to appoint Mr. Ken Diskin to the Planning Board with the term to expire at the next Town election in April of 2018. **Motion passed 5-0.** (Planning Board members voting Jim Fay, Geoff Tillotson, Sue Kennedy).

Motion: A motion was made by J. Fay and seconded by G. Tillotson to adjourn the Planning Board at 7:35 PM. **Motion passed 3-0.**

DPW Superintendent Mark Wetzel: M. Wetzel thanked the Ayer Recycling Committee for a very successful “Recycle your Reusables” event held on October 21, 2017.

Grove Pond Well Field - M. Wetzel stated that there was recently a meeting with the Environmental Protection Agency, the Massachusetts Department of Environmental Protections and the Army of Corp. of Engineers, and Town officials to discuss recent findings from testing at Grove Pond Wells, which provides approximately 60% of the Town’s water supply. The testing results were positive for unregulated contaminants PFOA and PFAS in September of 2016. Because the Town of Ayer’s water is mixed prior to treatment and distribution, the water supply is below the healthy advisory limit. Test results will continue to be monitored by federal, state and local officials.

Update of LED Streetlight Conversion – M. Wetzel gave a presentation on the status of the conversion of the streetlights to LED’s. The DPW have received bids for and are in the process of product selection.

Discussion of Town’s Management Letter: Mr. Jim Giusti, from Giusti, Hingston & Company C.P.A. was in attendance for the discussion about the Town’s Audit Management letter. J. Giusti and R. Pontbriand went over the items contained in the letter: uniform guidance; I-9 forms; cash reconciliation and implementation of new GASB pronouncements. J. Giusti also presented a two year contract extension for

consideration by the Town's Management Team. R. Pontbriand stated that he'll review with the Town Accountant.

Nasoya Odor Issue Update: Mr. Ross Gatta, CEO, Daniel Jung and Elvin Moquette were all in attendance to meet with the BOS. Mr. Gatta thanked the BOS for inviting him to attend and stated that the periodic odor issues are unacceptable to the company and he apologized. He reported that Nasoya has signed a consent order with the Massachusetts Department of Environmental Protection and was issued a \$27,000 fine. He also reported that they have brought on a 3rd party odor verification company to verify odors when they are received.

C. Hillman stated that when the media got involved the issue got better. R. Gatta said that the company didn't take the issue any less seriously when the media wasn't involved.

J. Livingston expressed her concern with the upcoming winter months stating that because people's windows will be closed she hopes that the company will continue to make the odor issue a priority.

Mr. Don Osmer, 1 Mulberry Circle, stated that the neighborhood continues to suffer. Mr. Osmer stated that he sick of apologies and no changes.

E. Moquette gave a presentation of the timelines associated with the plant improvements.

Treasurer Susan Copeland and Fin. Mgt./Town Accountant Lisa Gabree: *Vote/Authorization of Municipal Bonds (BANs)*

Motion: A motion was made by J. Livingston and seconded by C. Hillman Clerk of the Board of Selectmen of the Town of Ayer, Massachusetts (the "Town"), certify that at a meeting of the board held November 7, 2017, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear 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 borrowings authorized by the votes of the Town identified is hereby determined pursuant to G.L. c.44, §7(1) to be as follows:

<u>Authorization</u>	<u>Purpose</u>	<u>Amount</u>	<u>Maximum Useful Life</u>
May 9, 2016 (Article 20)	Fire Dept. Ladder Truck #1	\$248,000	10 years
October 24, 2016 (Article 5)	PD radio coverage improvements	\$222,000	10 years

Further Voted: that the sale of the \$3,420,000 General Obligation Municipal Purpose Loan of 2017 Bonds of the Town dated November 17, 2017 (the "Bonds"), to UBS Financial Services Inc. at the price of \$3,666,294.35 and accrued interest, if any, is hereby approved and confirmed. The Bonds shall be payable on November 15 of the years and in the principal amounts and bear interest at the respective rates, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2018	\$490,000	4.00%	2028	\$100,000	2.00%
2019	410,000	4.00	2029	95,000	2.25

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2021	365,000	4.00	2031	65,000	3.00
2022	220,000	4.00	2032	65,000	3.00
2023	195,000	4.00	2033	60,000	3.00
2024	185,000	4.00	2034	60,000	3.00
2025	185,000	4.00	2035	60,000	3.00
2026	150,000	4.00	2036	55,000	3.00
2027	125,000	4.00	2037	50,000	3.00

Further Voted: to approve the sale of a \$1,245,351 1.30 percent General Obligation Bond Anticipation Note of the Town dated November 17, 2017, and payable March 30, 2018 (the "Note"), to Eastern Bank at par and accrued interest, if any, plus a premium of \$119.62.

Further Voted: that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated October 24, 2017 and a final Official Statement dated November 1, 2017 (the "Official Statement"), each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated October 24, 2017 and a final Official Statement dated November 1, 2017, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Bonds shall be subject to redemption, at the option of the Town, upon such terms and conditions as are set forth in the Official Statement.

Further Voted: that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver continuing and Significant events disclosure undertakings in compliance with SEC Rule 15c2-12 in such forms as may be approved by bond counsel to the Town, which undertakings shall be incorporated by reference in the Bonds and Notes, as applicable, for the benefit of the holders of the Bonds and Notes from time to time.

Further Voted: that we authorize and direct the Treasurer to establish post issuance federal tax compliance procedures in such form as the Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Bonds and Notes

Further Voted: that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was 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 votes) 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 sale of the Bonds or the Notes were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended. **Motion passed 2-0.**

Town Administrator's Report: *Administrative Update* - R. Pontbriand stated that the FY '19 Capital Planning and Water and Sewer Rate processes were underway. He also announced the Veteran's Day ceremony happening on November 11, 2017 at 11:00 AM in the Memorial Garden.

Warrant Signing Authority Delegation – R. Pontbriand is recommending that another BOS member be named as the warrant signing authority, as G. Luca will be unavailable.

Motion: A motion was made by J. Livingston and seconded by C. Hillman to assign J. Livingston the warrant signing authority delegation pursuant to the Massachusetts Municipal Modernization Act. **Motion passed 2-0.**

New Business/Selectmen's Questions: *Advocates Building Demolition Update (Selectman Hillman)* – R. Pontbriand reported that the demolition will be completed by the end of the year according to MART.

Approval of Meeting Minutes:

Motion: A motion was made by J. Livingston and seconded by C. Hillman to approve the meeting minutes of October 11, 2017; October 17, 2017; October 23, 2017; October 24, 2017. **Motion passed 2-0.**

Executive Session:

Motion: A motion was made by J. Livingston and seconded by C. Hillman to enter into Executive Session at 9:50 PM pursuant to G. L. c. 30A, sec. 21(a) Exemption #3 (Litigation Strategy) to discuss enforcement litigation regarding the property and commercial business Bikeworx located 211 West Main Street and to adjourn at the conclusion of Executive Session. J. Livingston further stated that to discuss these matters in Open Session would be detrimental to the Town's negotiating strategy. **By Roll Call: C. Hillman, aye; J. Livingston, aye. Motion passed 2-0, by Roll Call Vote.**

Minutes Recorded and Submitted by Carly M. Antonellis

Date Minutes Approved by BOS:

Signature Indicating Approval:
