

RECEIVED
MAR 15 2019

TOWN OF AYER
TOWN CLERK

10:40am
Shirley Copeland

Town of Ayer
Board of Selectmen
Ayer Town Hall - 1st Floor Meeting Room
1 Main Street
Ayer, MA 01432



Tuesday March 19, 2019
Open Session Meeting Agenda

- 7:00 PM **Call To Order**
Pledge of Allegiance; Review and Approve Agenda; Announcements
- 7:05 PM* **Public Input**
- Public Hearing - Application for Transfer of Beer and Wine License**
From Kyung Enterprises, Inc. d/b/a Chung Ge Market 210 West Main Street to Ayer Beer & Wine, Corp., 210D West Main Street
- 7:10 PM **Reappointment of NVTHS School Committee Members**
- 7:30 PM **Appointment of Associate Member from Ayer to the Devens Enterprise Commission**
- 7:40 PM **Alicia Hersey, Program Manager, Office of Com. & Eco. Dev.**
1. Right of First Refusal for 40B LIP Unit - 3B Bayberry Lane, Ayer
- 7:45 PM **Alan Manoiian, Director of Community and Economic Development**
1. Adopt-A-Street Program Update
- 7:50 PM **Fire Chief Robert J. Pedrazzi**
1. Fire Department Update
2. Fire Engine #2 Replacement Presentation
- 8:05 PM **Superintendent Mark Wetzel, Dept. of Public Works**
1. Execution of Contract for Prospect St. and Oak St. Infrastructure Improvements
2. Approval of Transfer Station Permit for Devens Residents
3. Equipment Standards for Water Treatment
4. Grove Pond PFAS Update
- 8:30 PM **Town Manager's Report**
1. Administrative Update/Review of Warrant(s)
2. FY 2020 Budget Update
3. FY 2020 COLA (Cost of Living Adjustment) Recommendation
4. One Day Beer and Wine Permit - Ayer Shirley Lions Club
5. Devens Permanent Government Framework Committee
- 8:45 PM **New Business/Selectmen's Questions**
1. Future Elementary School (Selectman Hillman)
2. Central Ave/Groton Harvard Rd Intersection Update (Selectman Livingston)
- 8:55 PM **Approval of Meeting Minutes**
March 5, 2019 & March 13, 2019
- 9:00 PM **Executive Session pursuant to M.G.L. c. 30A §21A**
1. Exemption #3 (Union Contract Negotiations) *Fire Union*

Adjournment**

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

** The BOS will adjourn for the evening at the conclusion of the Executive Session

The next regularly scheduled meeting of the Ayer Board of Selectmen is Tuesday April 2, 2019

**Town of Ayer
Notice of Public Hearing
Ayer Board of Selectmen**
The Ayer Board of
Selectmen will be
conducting a Public
Hearing on Tuesday March
19, 2019 at 7:05 PM at the
Ayer Town Hall, 1st Floor
Meeting Room, 1 Main
Street, Ayer, MA 01432
regarding an application
for a transfer of a Section
15 Package Store Beer
and Wine License from
Xyung Enterprises, d/b/a
Chung Ge Market 210
West Main Street Ayer to
Ayer Beer & Wine Corp
210D West Main Street
Ayer

March 8 2019



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street Boston, MA 02114
www.mass.gov/abcc

RECEIVED
 FEB 26 2019

APPLICATION FOR A TRANSFER OF LICENSE

Municipality

Ayer

TOWN OF AYER
 SELECTMEN'S OFFICE

10:05am

1. TRANSACTION INFORMATION

- Transfer of License
- Alteration of Premises
- Change of Location
- Management/Operating Agreement
- Pledge of Inventory
- Pledge of License
- Pledge of Stock
- Other
- Change of Class
- Change of Category
- Change of License Type
 (§12 ONLY, e.g. "club" to "restaurant")

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Transfer of Town of Ayer Wine and Malt Beverage License #00024-PK-0060 from Kyung Enterprise, Inc. a Massachusetts corporation with a principal place of business at 210 West Main Street, Ayer 01432 to Ayer Beer & Wine, Corp. a Massachusetts corporation with a principal place of business at 210 D West Main Street, Ayer 01432

2. LICENSE CLASSIFICATION INFORMATION

| ON/OFF-PREMISES | TYPE | CATEGORY | CLASS |
|-----------------|-------------------|--------------------------|--------|
| Off-Premises-15 | §15 Package Store | Wines and Malt Beverages | Annual |

3. BUSINESS ENTITY INFORMATION

The entity that will be issued the license and have operational control of the premises.

Current or Seller's License Number: 00024PK-0060 FEIN: 83-2980864

Entity Name: Ayer Beer & Wine, Corp.

DBA: Manager of Record: Xia Zhao

Street Address: 210 D West Main Street, Ayer, MA 01432

Phone: 617-633-2625 Email: zhsand@aol.com

Add'l Phone: Website:

4. DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. If this application alters the current premises, provide the specific changes from the last approved description. You must also submit a floor plan.

The premises is a single floor 930 square foot enclosed space with one entrance/exit and one emergency exit. The premises consists of main retail space, 1 restroom, and storage space.

| | | | | | |
|---------------------|-----|------------------|---|------------------|---|
| Total Sq. Footage | 930 | Seating Capacity | | Occupancy Number | |
| Number of Entrances | 1 | Number of Exits | 2 | Number of Floors | 1 |

APPLICATION FOR A TRANSFER OF LICENSE

5. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

| | |
|---|--|
| Transferor Entity Name <input style="width:90%;" type="text" value="Kyung Enterprise, Inc."/> | By what means is the license being transferred? <input style="width:90%;" type="text" value="Purchase"/> |
|---|--|

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

| Name of Principal | Title/Position | Percentage of Ownership |
|---|--|----------------------------------|
| <input type="text" value="Mun Hee Park"/> | <input type="text" value="President, Treasurer, Secretary, Director"/> | <input type="text" value="100"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises(Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

| | | | |
|---------------------------------------|---|---|---|
| Name of Principal | Residential Address | SSN | DOB |
| <input type="text" value="Xia Zhao"/> | <input type="text" value="[REDACTED]"/> | <input type="text" value="[REDACTED]"/> | <input type="text" value="[REDACTED]"/> |

| | | | | |
|--|----------------------------------|---|---|---|
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen | MA Resident |
| <input type="text" value="President, Treasurer, Secretary, Director"/> | <input type="text" value="100"/> | <input checked="" type="radio"/> Yes <input type="radio"/> No | <input checked="" type="radio"/> Yes <input type="radio"/> No | <input checked="" type="radio"/> Yes <input type="radio"/> No |

| | | | |
|----------------------|----------------------|----------------------|----------------------|
| Name of Principal | Residential Address | SSN | DOB |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

| | | | | |
|-----------------------|-------------------------|--|--|--|
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen | MA Resident |
| <input type="text"/> | <input type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |

| | | | |
|----------------------|----------------------|----------------------|----------------------|
| Name of Principal | Residential Address | SSN | DOB |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

| | | | | |
|-----------------------|-------------------------|--|--|--|
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen | MA Resident |
| <input type="text"/> | <input type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |

| | | | |
|----------------------|----------------------|----------------------|----------------------|
| Name of Principal | Residential Address | SSN | DOB |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

| | | | | |
|-----------------------|-------------------------|--|--|--|
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen | MA Resident |
| <input type="text"/> | <input type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |

APPLICATION FOR A TRANSFER OF LICENSE

6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST (Continued...)

| | | | |
|--|--|--|--|
| Name of Principal | Residential Address | SSN | DOB |
| <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> |
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen |
| <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |
| | | | MA Resident |
| | | | <input type="radio"/> Yes <input type="radio"/> No |

| | | | |
|--|--|--|--|
| Name of Principal | Residential Address | SSN | DOB |
| <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> |
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen |
| <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |
| | | | MA Resident |
| | | | <input type="radio"/> Yes <input type="radio"/> No |

| | | | |
|--|--|--|--|
| Name of Principal | Residential Address | SSN | DOB |
| <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> |
| Title and or Position | Percentage of Ownership | Director/ LLC Manager | US Citizen |
| <input style="width:100%;" type="text"/> | <input style="width:100%;" type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |
| | | | MA Resident |
| | | | <input type="radio"/> Yes <input type="radio"/> No |

Additional pages attached? Yes No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

Yes No

MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement.

Yes No

6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes No If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

| Name | License Type | License Name | Municipality |
|------|--------------|--------------|--------------|
| | | | |
| | | | |
| | | | |

6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes No If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

| Name | License Type | License Name | Municipality |
|------|--------------|--------------|--------------|
| | | | |
| | | | |
| | | | |

APPLICATION FOR A TRANSFER OF LICENSE

6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?
Yes No If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

| Date of Action | Name of License | City | Reason for suspension, revocation or cancellation |
|----------------|-----------------|------|---|
| | | | |
| | | | |
| | | | |

7. CORPORATE STRUCTURE

Entity Legal Structure Date of Incorporation
State of Incorporation Is the Corporation publicly traded? Yes No

8. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises.

- If the applicant entity owns the premises, a deed is required.
- If leasing or renting the premises, a signed copy of the lease is required.
- If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.
- If the real estate and business are owned by the same individuals listed in question 6, either individually or through separate business entities, a signed copy of a lease between the two entities is required.

Please indicate by what means the applicant will occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

Yes No

9. APPLICATION CONTACT

The application contact is the person who the licensing authorities should contact regarding this application.

Name:

Phone:

Title:

Email:

APPLICATION FOR A TRANSFER OF LICENSE

10. FINANCIAL DISCLOSURE

| | |
|---------------------------------------|-------------|
| A. Purchase Price for Real Estate | |
| B. Purchase Price for Business Assets | \$19,000.00 |
| C. Other (Please specify) | |
| D. Total Cost | \$19,000.00 |

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

| Name of Contributor | Amount of Contribution |
|---------------------|------------------------|
| Xia Zhao | \$19,000.00 |
| | |
| | |
| | |
| Total: | \$19,000.00 |

SOURCE OF FINANCING

Please provide signed financing documentation.

| Name of Lender | Amount | Type of Financing | Is the lender a licensee pursuant to M.G.L. Ch. 138. |
|----------------|--------|-------------------|--|
| | | | <input type="radio"/> Yes <input type="radio"/> No |
| | | | <input type="radio"/> Yes <input type="radio"/> No |
| | | | <input type="radio"/> Yes <input type="radio"/> No |
| | | | <input type="radio"/> Yes <input type="radio"/> No |

FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

The purchase will be from personal savings.

11. PLEDGE INFORMATION

Please provide signed pledge documentation.

Are you seeking approval for a pledge? Yes No

Please indicate what you are seeking to pledge (check all that apply) License Stock Inventory

To whom is the pledge being made?

12. MANAGER APPLICATION

A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed [REDACTED]

Proposed Manager Name Xia Zhao

Date [REDACTED]

F [REDACTED]

Residential Address [REDACTED]

Email [REDACTED]

Please indicate how many [REDACTED] pr [REDACTED]

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B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?*

Yes No *Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime?

Yes No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

| Date | Municipality | Charge | Disposition |
|------|--------------|--------|-------------|
| | | | |
| | | | |
| | | | |

C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

| Start Date | End Date | Position | Employer | Supervisor Name |
|------------|------------|---------------------|--------------------------|-----------------|
| April 1993 | Feb 1994 | Cashier | Anne & Hope | |
| 2000 | 2003 | Accounting Clerk | DDP Insurance | Ming Soon |
| 1994, 2004 | 1999, 2018 | House Wife | | |
| 2019 | | Sales Clerk Trainee | Chung GE Oriental Market | Mun Hee Park |

D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? Yes No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

| Date of Action | Name of License | State | City | Reason for suspension, revocation or cancellation |
|----------------|-----------------|-------|------|---|
| | | | | |
| | | | | |
| | | | | |

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature



Date

2/6/2019

APPLICANT'S STATEMENT

I, Xia Zhao the: sole proprietor; partner; corporate principal; LLC/LLP manager
Authorized Signatory

of Ayer Beer & Wine, Corp.
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date:

2/6/2019

Title:

President

CORPORATE VOTE

The Board of Directors or LLC Managers of
Entity Name
duly voted to apply to the Licensing Authority of
City/Town and the
Commonwealth of Massachusetts Alcoholic Beverages Control Commission on
Date of Meeting

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input checked="" type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/ Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest (LLC Members/ LLP Partners, Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other <input type="text"/> | <input type="checkbox"/> Change of DBA |

"VOTED: To authorize
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint
Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,


Corporate Officer /LLC Manager Signature

For Corporations ONLY

A true copy attest,


Corporation Clerk's Signature

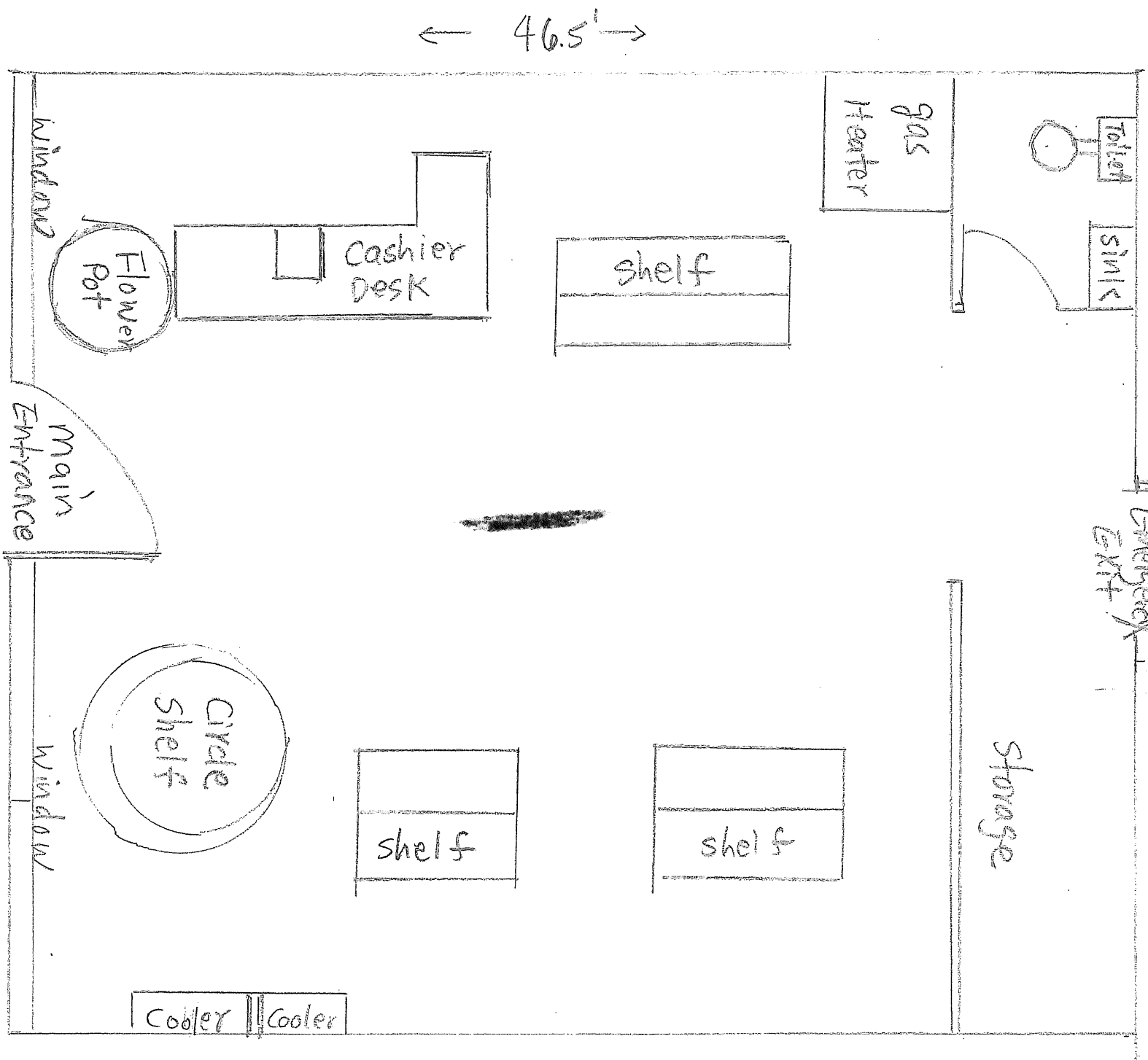
TRANSFER OF LICENSE

To apply for a transfer of alcoholic beverages retail license, you will need the following:

- **DOR Certificate of Good Standing** This must be obtained by the seller, not the buyer.
- **DUA Certificate of Compliance** This must be obtained by the seller, not the buyer.
- **Transfer Application**
- **Business Structure Documents**
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth
- **CORI Authorization Form** Complete one for each individual with financial or beneficial interest in the entity that is applying AND one for the proposed manager of record. *This form must be notarized with a stamp or raised seal.*
- **Manager Application**
- **Purchase and Sales Agreement**
- **Proof of Citizenship** for the proposed Manager of Record.
- **Vote of the Corporate Board**
- **Supporting Financial Records** for all financing and or loans, including pledge documents, if applicable.
- **Legal Right to Occupy**, a lease or deed.
- **Floor Plan**
- **Advertisement**
- **Monetary Transmittal Form**
- **\$200 Fee** paid online through our online payment portal, ePay
- **Payment Receipt**
- **Additional information, if necessary, utilizing the formats provided and or any affidavits.**
- **Management Agreement**, if applicable

Please Note: you may be requested to submit additional supporting documentation if necessary.

210 West main St D 20' X 46.5' = 930 SQ F



← 46.5' →

← 20' →



28 State Street, 12th Floor
Boston, MA 02109

To Whom It May Concern:

02/06/2019

Re: Citizens Bank account
XIA ZHAO

[REDACTED]
[REDACTED]

As of today Ms. Xia Zhao has the checking account [REDACTED] Citizens Bank. The available balance on the account is over \$19,000.

Please contact me at the number below if you have any questions.

Sincerely,

Galina Ismaylov
Branch Manager
Citizens Bank
Littleton Branch
272 Great Road
Littleton, MA 01460
617-551-6216



Purchase and Sale Agreement

1. **Parties.** This Purchase and Sale Agreement is made between Kyung Enterprise, Inc. a Massachusetts corporation with a principal place of business at 210D West Main Street, Ayer, Massachusetts 01432 ("Seller"), and Xia Zhao or Nominee of [REDACTED] Lunenburg, Massachusetts 01462 ("Buyer").
2. **Assets.** Seller agrees to sell and Buyer agrees to buy the Wine and Malt Beverage license currently issued to Kyung Enterprise, Inc. by the Town of Ayer, Massachusetts.
3. **Purchase Price.** Buyer agrees to pay Seller the sum of Nineteen Thousand and 00/100 (\$19,000.00) Dollars.
4. **Closing Adjustments.** At closing, all items normally adjusted upon the transfer of a Wine and Malt Beverage license shall be made.
5. **Closing.** The closing shall take place at the Law Office of Thomas A. Gibbons, P.C. 21 Park Street, Ayer, Massachusetts 01432 five (5) days, or the next business day thereafter, after the approval of the transfer of liquor license by the Ayer Board of Selectman and the ABCC.
6. **Instruments of Transfer.** At closing, Buyer and Seller shall execute the closing documents necessary to effectuate this Agreement.
7. **Warranties and Representations of Seller.**
 - a. **Duly Incorporated.** Kyung Enterprise, Inc. is a corporation duly organized, existing, and in good standing under the laws of the Commonwealth of Massachusetts. Seller shall provide, at the closing, an original Certificate of Good Standing for the corporation from the Massachusetts Secretary of State, if requested by the Buyer or legal counsel for the Buyer.
 - b. **Title to Assets.** Seller has good and marketable title to the Wine and Malt Beverage license and it shall not be subject to any security interest, mortgage, pledge, lien, conditional sale agreement or encumbrance whatsoever at the time of their transfer to Buyer.
 - c. **Litigation.** Seller warrants and represents that there are no claims, threatened or pending in any court against any of the Assets being sold pursuant to this Agreement.
8. **Broker.** The parties represent and warrant to each other that neither party has consulted with any broker in relation to this transaction, nor is any commission owed to any third party in relation to this transaction.
9. **Deposit.** A deposit of One Thousand and 00/100 (\$1,000.00) Dollars shall be held by the Law Office of Thomas A. Gibbons, P.C in its IOLTA account, which shall be returned to the Buyer if the transfer of the Wine and Malt Beverage license is not approved for any reason whatsoever by either or both the Local Permitting Authority or the ABCC. In the event of a

dispute, the Law Office of Thomas A. Gibbons, P.C. shall abide by written instructions agreed to by the Buyer and Seller or by a court of competent jurisdiction.

10. **Entire Agreement.** This agreement, together with the attached Addendum and exhibits if any, contains the entire agreement between the parties and is intended as a final expression of their agreement and a complete statement of the terms thereof and may not be modified except in a writing signed by the parties hereto. Writings signed by the attorneys representing the parties, including such writings received by fax transmission, shall be binding upon the parties hereto.

11. **Notices.** All notices under this Purchase and Sale Agreement shall be given by certified mail

To Buyer: 

Lunenburg, MA 01462

With a copy to: Thomas A. Gibbons, Esq.
21 Park Street
Ayer, MA 01432
tgibbons@tgibbonslaw.com
978-772-2284 (PH)
978-772-0802 (Fax)

To Seller: Kyung Enterprise, Inc.
210D West Main Street
Ayer, MA 01432
Attn: Munhee Park

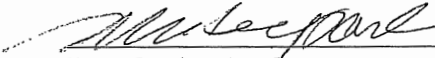
With a copy to:

21. **Severability and Governing Law**

Each provision of this agreement shall be enforceable independently of any other provision of this agreement and independent of any other claim or cause of action. In the event of any dispute arising under this agreement, it is agreed between the parties that the law of the Commonwealth of Massachusetts will govern the interpretation, validity and effect of this agreement without regard to the place of execution or place of performance thereof.

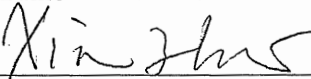
SELLER:

Kyung Enterprise, Inc. FEIN: 32 0104155

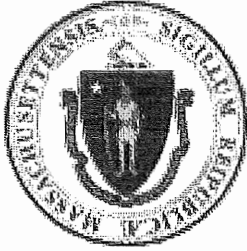

By: Munhee Park
President and Treasurer

BUYER:

Xia Zhao or Nominee


By: Xia Zhao or Nominee

January 18, 2019



**The Commonwealth of Massachusetts
William Francis Galvin**

Minimum Fee: \$250.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Articles of Organization

(General Laws, Chapter 156D, Section 2.02; 950-CMR 113.13)

Identification Number: 001367050

ARTICLE I

The exact name of the corporation is:

AYER BEER & WINE, CORP.

ARTICLE II

Unless the articles of organization otherwise provide, all corporations formed pursuant to G.L. C156D have the purpose of engaging in any lawful business. Please specify if you want a more limited purpose:

ARTICLE III

State the total number of shares and par value, if any, of each class of stock that the corporation is authorized to issue. All corporations must authorize stock. If only one class or series is authorized, it is not necessary to specify any particular designation.

| Class of Stock | Par Value Per Share Enter 0 if no Par | Total Authorized by Articles of Organization or Amendments | | Total Issued and Outstanding Num of Shares |
|----------------|--|---|-----------------|--|
| | | Num of Shares | Total Par Value | |
| CNP | \$0.00000 | 275,000 | \$0.00 | 0 |

G.L. C156D eliminates the concept of par value, however a corporation may specify par value in Article III. See G.L. C156D Section 6.21 and the comments thereto.

ARTICLE IV

If more than one class of stock is authorized, state a distinguishing designation for each class. Prior to the issuance of any shares of a class, if shares of another class are outstanding, the Business Entity must provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of that class and of each other class of which shares are outstanding and of each series then established within any class.

ARTICLE V

The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are:

ANY HOLDER OF COMMON STOCK OF THE CORPORATION WHO DESIRES TO SELL OR TRANSFER ANY SHARES OF THAT STOCK SHALL OFFER TO SELL THE SHARES TO THE CORPORATION OR ITS NOMINEE IN ACCORDANCE WITH THESE RESTRICTIONS. ANY EXECUTOR, ADMINISTRATOR, TRUSTEE IN BANKRUPTCY, ASSIGNEE IN INSOLVENCY, RECEIVER, OR ANY OTHER PERSON WHO SHALL BECOME THE HOLDER OF ANY SHARES OF THAT STOCK OF

HERWISE THAN BY ISSUE OR SALE BY THE CORPORATION OR BY TRANSFER IN ACCORDANCE WITH THESE RESTRICTIONS SHALL OFFER TO SELL THEM TO THE CORPORATION OR ITS NOMINEE IN ACCORDANCE WITH THESE RESTRICTIONS. IF THE DIRECTORS OF THE CORPORATION DECIDE TO ENFORCE THESE RESTRICTIONS AS TO ALL OR ANY PART OF THE SHARES THUS OFFERED OR ACQUIRED, THEY SHALL, WITHIN TEN DAYS AFTER RECEIPT OF SUCH OFFER, OR AT ANY TIME IF THE HOLDER FAILS TO MAKE THE OFFER, MAIL TO THE HOLDER NOTICE OF THEIR DECISION. IF THE VALUE OF THE SHARES IS NOT AGREED UPON BY THE HOLDER AND THE DIRECTORS, EACH SHALL WITHIN TEN DAYS AFTER THE MAILING OF NOTICE BY THE DIRECTORS APPOINT ONE APPRAISER. IF THESE TWO SHALL NOT AGREE THEY SHALL FORTHWITH APPOINT A THIRD. IF NOT SO APPOINTED WITHIN TWENTY DAYS FROM THE MAILING OF THIS NOTICE, THE THIRD APPRAISER SHALL BE APPOINTED BY THE THEN COMMISSIONER OF CORPORATIONS AND TAXATION OF MASSACHUSETTS. WITHIN THIRTY DAYS FROM THE MAILING OF THE NOTICE, THE VALUE SHALL BE FIXED BY AT LEAST TWO OF THE APPRAISERS AND THAT VALUATION SHALL BIND BOTH PARTIES. THE APPRAISERS SHALL GIVE IMMEDIATE NOTICE OF THEIR VALUATION TO THE HOLDER AND TO THE CORPORATION. FOR A PERIOD OF TWENTY DAYS AFTER THE MAILING OF NOTICE OF VALUATION BY THE APPRAISERS, OR AFTER THE AGREEMENT, IF ANY, AS TO VALUE, THE CORPORATION SHALL HAVE AN OPTION TO HAVE ALL OR PART OF THE SHARES CONVEYED AT THE VALUE DETERMINED, WITHOUT INTEREST, TO ANY NOMINEE OR NOMINEES OF THE DIRECTORS, AND ANY NOMINEE MAY BE A STOCKHOLDER, DIRECTOR, OFFICER OR EMPLOYEE OF THE CORPORATION, THE CORPORATION, OR ANY OTHER PERSON OR ORGANIZATION. IF THE OPTION IS EXERCISED, PAYMENT FOR SHARES TO BE CONVEYED MAY BE MADE BY THE DEPOSIT OF THE PURCHASE PRICE IN ANY COMMERCIAL BANK IN MASSACHUSETTS UNDER AN ARRANGEMENT BY WHICH THE STOCKHOLDER WILL RECEIVE THE PRICE UPON SURRENDER OF THE CERTIFICATE OR CERTIFICATES FOR THE SHARES PROPERLY ENDORSED, AND NOTICE OF THIS DEPOSIT SHALL BE MAILED TO THE STOCKHOLDER. AFTER DEPOSIT OF THE PURCHASE PRICE, THE CORPORATION SHALL NOT PAY ANY DIVIDEND TO THE FORMER HOLDER OF THE SHARES OR PERMIT HIM TO EXERCISE ANY OF THE PRIVILEGES OF A STOCKHOLDER, BUT MAY SO FAR AS PERMITTED BY LAW TREAT THE DEPOSITOR OF THE PURCHASE PRICE AS THE OWNER OF THE SHARES. THE CORPORATION SHALL HAVE THE RIGHT TO ISSUE BY SALE OR BY TRANSFER IN ACCORDANCE WITH THESE RESTRICTIONS THE RIGHT TO VOTE, RECEIVE DIVIDENDS OR ENJOY ANY PRIVILEGE OF A STOCKHOLDER. A PLEDGE OR HYPOTHECATION OF SHARES SHALL NOT BE DEEMED A SALE, BUT NO TRANSFER OF SHARES PLEDGED OR HYPOTHECATED SHALL BE MADE BY THE CORPORATION ON ITS BOOKS (EXCEPT TO THE EXTENT REQUIRED BY GENERAL LAWS), UNLESS THE PLEDGE OR HYPOTHECATION IS FORECLOSED, AND THEN THE TRANSFER SHALL BE SUBJECT TO THESE RESTRICTIONS. IF (A) THE DIRECTORS SHALL VOTE NOT TO ENFORCE THESE RESTRICTIONS, OR (B) THEY FAIL TO MAIL NOTICE OF THEIR DECISION TO ENFORCE THESE RESTRICTIONS WITHIN THE TEN-DAY PERIOD HEREIN PROVIDED FOR, OR (C) THE CORPORATION SHALL FAIL TO EXERCISE ITS OPTION AS HEREIN PROVIDED, THEN THE HOLDER OF THE COMMON STOCK MUST OFFER THE STOCK CERTIFICATES TO THE OTHER HOLDERS OF THE STOCK ISSUED AND OUTSTANDING UNDER THE SAME TERMS AND CONDITIONS AS HEREIN STATED FOR AN OFFER TO THE CORPORATION. IF MORE THAN ONE STOCKHOLDER WANTS TO PURCHASE THE STOCK OFFERED, THEN THE STOCK SHALL BE PURCHASED BY THE MULTIPLE STOCKHOLDERS IN PROPORTION THE AMOUNT OF COMMON STOCK THEY PRESENTLY HOLD. IF THE OPTION IS NOT EXERCISED BY ANY OF THE OTHER STOCKHOLDERS OF THE COMMON STOCK, THEN THE HOLDER MAY EITHER RETAIN ALL OR ANY PART OF THE SHARES OFFERED OR WHICH SHOULD HAVE BEEN OFFERED, WITH ALL RIGHTS THERETO APPERTAINING, OR TRANSFER THE SAME TO ANY PERSON OR ORGANIZATION WITHIN SIX MONTHS FROM THAT VOTE OR FROM THE EXPIRATION OF THE TEN-DAY OR TWENTY-DAY PERIOD APPLICABLE. ALL OFFERS AND NOTICES SHALL BE SENT BY REGISTERED MAIL POSTPAID TO THE CORPORATION AT ITS PRINCIPAL PLACE OF BUSINESS OR TO THE HOLDER OF STOCK AT HIS LAST KNOWN ADDRESS OR AT THE ADDRESS APPEARING ON THE BOOKS OF THE CORPORATION.

ARTICLE VI

Other lawful provisions, and if there are no provisions, this article may be left blank.

THE FOLLOWING PROVISIONS ARE HEREBY ESTABLISHED FOR THE CONDUCT AND REGULATION OF THE BUSINESS AND AFFAIRS OF THE CORPORATION, FOR ITS VOLUNTARY DISSOLUTION, OR FOR LIMITING, DEFINING OR REGULATING THE POWERS OF THE CORPORATION, OR OF ITS DIRECTORS OR STOCKBROKERS. THE CORPORATION MAY BE A PARTNER IN ANY BUSINESS ENTERPRISE WHICH THE CORPORATION HAS POWER TO CONDUCT BY ITSELF. MEETING OF STOCKHOLDERS MAY BE HELD ANYWHERE IN THE UNITED STATES AS SHALL BE DETERMINED FROM TIME TO TIME BY THE PRESIDENT OR THE DIRECTORS AND STATED IN THE NOTICE OF THE MEETING. THE BY-LAWS MAY PROVIDE THAT THE DIRECTORS MAY MAKE, AMEND OR REPEAL THE BY-LAWS, IN WHOLE OR IN PART, EXCEPT WITH RESPECT TO ANY PROVISION THEREOF WHICH BY LAW, BY THE ARTICLES OF ORGANIZATION OR BY THE BY-LAWS REQUIRES ACTION BY THE STOCKHOLDERS. EXCEPT AS SPECIFICALLY AUTHORIZED BY STATUTE NO STOCKHOLDER SHALL HAVE ANY RIGHT TO EXAMINE ANY PROPERTY OR ANY BOOKS, ACCOUNTS OR OTHER WRITINGS OF THE CORPORATION IF THERE IS REASONABLE GROUND FOR BELIEF THAT SUCH EXAMINATION WILL FOR ANY REASON BE ADVERSE TO THE INTERESTS OF THE CORPORATION, AND A VOTE OF THE DIRECTORS REFUSING PERMISSION TO MAKE SUCH EXAMINATION AND SETTING FORTH THAT IN THE OPINION OF THE DIRECTORS SUCH EXAMINATION WOULD BE ADVERSE TO THE INTERESTS OF THE CORPORATION SHALL BE PRIMA FACIE EVIDENCE THAT SUCH EXAMINATION WOULD BE ADVERSE TO THE INTERESTS OF THE CORPORATION. EVERY SUCH EXAMINATION SHALL BE SUBJECT TO SUCH REASONABLE REGULATIONS AS THE DIRECTORS MAY ESTABLISH IN REGARD THERETO. THE CORPORATION MAY ENTER INTO CONTRACTS AND OTHERWISE TRANSACT BUSINESS AS VENDOR, PURCHASER OR OTHERWISE WITH ITS DIRECTORS, OFFICERS AND STOCKHOLDERS AND WITH CORPORATIONS, JOINT STOCK COMPANIES, TRUSTS, FIRMS AND ASSOCIATIONS IN WHICH THEY ARE OR MAY BE OR BECOME INTERESTED AS DIRECTORS, OFFICERS, SHAREHOLDERS, MEMBERS, TRUSTEES, BENEFICIARIES OR OTHERWISE AS FREELY AS THOUGH SUCH ADVERSE INTEREST DID NOT EXIST EVEN THOUGH THE VOTE ACTION OR PRESENCE OF SUCH DIRECTOR, OFFICER OR STOCKHOLDER MAY BE NECESSARY TO OBLIGATE THE CORPORATION UPON SUCH CONTRACT OR TRANSACTION; AND NO SUCH CONTRACT OR TRANSACTION SHALL BE AVOIDED AND NO SUCH DIRECTOR, OFFICER OR STOCKHOLDER SHALL BE HELD LIABLE TO ACCOUNT TO THE CORPORATION OR TO ANY CREDITOR OR STOCKHOLDER OF THE CORPORATION FOR ANY PROFIT OR BENEFIT REALIZED BY HIM THROUGH ANY SUCH CONTRACT OR TRANSACTION BY REASON OF SUCH ADVERSE INTEREST NOR BY REASON OF ANY FIDUCIARY RELATIONSHIP OF SUCH DIRECTOR, OFFICER OR STOCKHOLDER TO THE CORPORATION ARISING OUT OF SUCH OFFICER'S OR STOCKHOLDER'S OWNERSHIP PROVIDED (IN THE CASE OF DIRECTORS AND OFFICERS BUT NOT IN THE CASE OF A STOCKHOLDER WHO IS NOT A DIRECTOR OR OFFICER OF THE CORPORATION) THE NATURE OF THE INTEREST OF SUCH DIRECTOR OR OFFICER, THOUGH NOT NECESSARILY THE DETAILS OR EXTENT THEREOF, BE KNOWN BY OR DISCLOSED TO THE DIRECTORS. OWNERSHIP OF A BENEFICIAL INTEREST IN A MINORITY OF THE STOCK OR SECURITIES OF A ANOTHER CORPORATION, JOINT STOCK COMPANY, TRUST, FIRM OR ASSOCIATION SHALL NOT BE DEEMED TO CONSTITUTE AN INTEREST ADVERSE TO THIS CORPORATION IN SUCH OTHER CORPORATION, JOINT STOCK COMPANY, TRUST, FIRM OR ASSOCIATION AND NEED NOT BE DISCLOSED. A GENERAL NOTICE THAT A DIRECTOR OR OFFICER OF THE CORPORATION IS INTERESTED IN ANY CORPORATION, JOINT STOCK COMPANY, TRUST, FIRM OR ASSOCIATION SHALL BE SUFFICIENT DISCLOSURE AS TO SUCH DIRECTOR OR OFFICER WITH RESPECT TO ALL CONTRACTS AND TRANSACTIONS WITH THAT CORPORATION, JOINT STOCK COMPANY, TRUST, FIRM OR ASSOCIATION. IN ANY EVENT THE AUTHORIZATION OR RATIFYING VOTE OF A MAJORITY OF THE CAPITAL STOCK OF THE CORPORATION OUTSTANDING AND ENTITLED TO VOTE PASSED AT A MEETING DULY CALLED AND HELD FOR THE PURPOSE SHALL VALIDATE ANY SUCH C

CONTRACT OR TRANSACTION AS AGAINST ALL STOCKHOLDERS OF THE CORPORATION, WHETHER OF RECORD OR NOT AT THE TIME OF SUCH VOTE, AND AS AGAINST ALL CREDITORS AND OTHER CLAIMANTS, UNDER THE CORPORATION, AND NO CONTRACT OR TRANSACTION SHALL BE AVOIDED BY REASON OF ANY PROVISION OF THIS PARAGRAPH WHICH WOULD BE VALID BUT FOR THESE PROVISIONS. THE CORPORATION SHALL, TO THE EXTENT LEGALLY PERMISSIBLE, INDEMNIFY EACH OF ITS DIRECTORS AND OFFICERS AND PERSONS WHO SERVE AT ITS REQUEST AS DIRECTORS OR OFFICERS OF ANOTHER ORGANIZATION IN WHICH IT DIRECTLY OR INDIRECTLY OWNS SHARES OR OF WHICH IT IS A CREDITOR, AGAINST ALL LIABILITIES (INCLUDING EXPENSES) IMPOSED UPON OR REASONABLY INCURRED BY HIM IN CONNECTION WITH ANY ACTION, SUIT OR OTHER PROCEEDING IN WHICH HE MAY BE INVOLVED OR WITH WHICH HE MAY BE THREATENED, WHILE IN OFFICE OR THEREAFTER, BY REASON OF HIS ACTS OR OMISSION AS SUCH DIRECTOR OR OFFICER, UNLESS IN ANY PROCEEDING HE SHALL BE FINALLY ADJUDGED NOT TO HAVE ACTED IN GOOD FAITH IN THE REASONABLE BELIEF THAT HIS ACTION WAS IN THE BEST INTEREST OF THE CORPORATION PROVIDED HOWEVER, THAT SUCH INDEMNIFICATION SHALL NOT COVER LIABILITIES IN CONNECTION WITH ANY MATTER WHICH SHALL BE DISPOSED OF THROUGH A COMPROMISE PAYMENT BY SUCH DIRECTOR OR OFFICER, PURSUANT TO A CONSENT DECREE OR OTHERWISE, UNLESS SUCH COMPROMISE SHALL BE APPROVED AS IN THE BEST INTEREST OF THE CORPORATION, AFTER NOTICE THAT IT INVOKES SUCH INDEMNIFICATION, (A) BY A VOTE OF THE DIRECTORS IN WHICH NO INTERESTED DIRECTOR PARTICIPATES, OR (B) BY VOTE OF THE WRITTEN APPROVAL OF THE HOLDER OF A MAJORITY OF THE OUTSTANDING STOCK AT THE TIME HAVING THE RIGHT TO VOTE FOR DIRECTORS, NOT COUNTING AS OUTSTANDING ANY STOCK OWNED BY ANY INTERESTED DIRECTOR OR OFFICER. SUCH INDEMNIFICATION MAY INCLUDE PAYMENT BY THE CORPORATION OF EXPENSES INCURRED IN DEFENDING A CIVIL OR CRIMINAL ACTION OR PROCEEDING IN ADVANCE OF THE FINAL DISPOSITION OF SUCH ACTION OR PROCEEDING, UPON RECEIPT OF AN UNDERTAKING BY THE PERSON INDEMNIFIED TO REPAY SUCH PAYMENT IF HE SHALL BE ADJUDICATED TO BE NOT ENTITLED TO INDEMNIFICATION. THE RIGHT TO INDEMNIFICATION HEREBY PROVIDED SHALL NOT BE EXCLUSIVE OF OR AFFECT OTHER RIGHTS TO WHICH ANY DIRECTOR OR OFFICER MAY BE ENTITLED. AS USED IN THIS PARAGRAPH, THE TERMS "DIRECTOR" AND "OFFICER" INCLUDE THEIR RESPECTIVE HEIRS, EXECUTORS AND ADMINISTRATORS, AND AN "INTERESTED" DIRECTOR OR OFFICER IS ONE AGAINST WHOM AS SUCH THE PROCEEDING IN QUESTION OR A ANOTHER PROCEEDING ON THE SAME OR SIMILAR GROUNDS IS THEN PENDING. INDEMNIFICATION OF EMPLOYEES AND OTHER AGENTS OF THE CORPORATION (INCLUDING PERSONS WHO SERVE AT ITS REQUEST AS EMPLOYEES OR OTHER AGENTS OF ANOTHER ORGANIZATION IN WHICH IT OWNS SHARES OR OF WHICH IT IS A CREDITOR) MAY BE PROVIDED BY THE CORPORATION TO WHATEVER EXTENT SHALL BE AUTHORIZED BY THE DIRECTORS BEFORE OR AFTER THE OCCURRENCE OF ANY EVENT AS TO OR IN CONSEQUENCE OF WHICH INDEMNIFICATION MAY BE SOUGHT. AN INDEMNIFICATION TO WHICH A PERSON IS ENTITLED UNDER THESE PROVISIONS MAY BE PROVIDED ALTHOUGH THE PERSON TO BE INDEMNIFIED IS NO LONGER A DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF THE CORPORATION OR OF SUCH OTHER ORGANIZATION. THE TERMS AND CONDITIONS UPON WHICH A SALE OR EXCHANGE OF ALL PROPERTY AND ASSETS INCLUDING THE GOOD WILL OF THE CORPORATION OR ANY PART THEREOF, IS VOTED MAY INCLUDE THE PAYMENT THEREFORE IN WHOLE OR IN PART IN SHARES, NOTES, BONDS OR OTHER CERTIFICATES OF INTEREST OR INDEBTEDNESS OF ANY VOLUNTARY ASSOCIATION, TRUST, JOINT STOCK COMPANY OR CORPORATION. SUCH VOTE OR SUBSEQUENT VOTE MAY IN THE EVENT OF OR IN CONTEMPLATION OF PROCEEDINGS FOR THE DISSOLUTION OF THE CORPORATION ALSO PROVIDE, SUBJECT TO THE RIGHTS OF CREDITORS AND PREFERRED STOCKHOLDERS, FOR THE DISTRIBUTION PRO RATA ANY SUCH SALE OR EXCHANGE WHETHER SUCH PROCEEDS BE IN CASH OR IN SECURITIES AS AFORESAID (AT VALUES TO BE DETERMINED BY THE DIRECTORS).

Note: The preceding six (6) articles are considered to be permanent and may be changed only by filing appropriate articles of amendment.

ARTICLE VII

The effective date of organization and time the articles were received for filing if the articles are not rejected within the time prescribed by law. If a *later* effective date is desired, specify such date, which may not be later than the *90th day* after the articles are received for filing.

Later Effective Date: Time:

ARTICLE VIII

The information contained in Article VIII is not a permanent part of the Articles of Organization.

a,b. The street address of the initial registered office of the corporation in the commonwealth and the name of the initial registered agent at the registered office:

Name: XIA ZHAO
No. and Street: [REDACTED]
City or Town: LUNENBURG State: MA Zip: 01462 Country: USA

c. The names and street addresses of the individuals who will serve as the initial directors, president, treasurer and secretary of the corporation (an address need not be specified if the business address of the officer or director is the same as the principal office location):

| Title | Name | Address (no PO Box) Address, City or Town, State, Zip Code |
|-----------|------------|---|
| PRESIDENT | [REDACTED] | [REDACTED] LUNENBURG, MA 01462 USA |
| TREASURER | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |
| SECRETARY | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |
| DIRECTOR | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |

d. The fiscal year end (i.e., tax year) of the corporation:
December

e. A brief description of the type of business in which the corporation intends to engage:

BEER AND WINE SALES

f. The street address (post office boxes are not acceptable) of the principal office of the corporation:

No. and Street: 210 D WEST MAIN STREET
City or Town: AYER State: MA Zip: 01432 Country: USA

g. Street address where the records of the corporation required to be kept in the Commonwealth are located (post office boxes are not acceptable):

No. and Street: 210 D WEST MAIN STREET
City or Town: AYER State: MA Zip: 01432 Country: USA
which is

its principal office

an office of its transfer agent

an office of its secretary/assistant secretary

its registered office

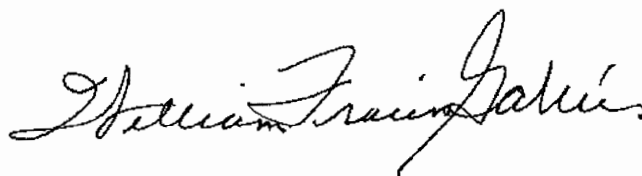
Signed this 4 Day of February, 2019 at 2:48:37 PM by the incorporator(s). *(If an existing corporation is acting as incorporator, type in the exact name of the business entity, the state or other jurisdiction where it was incorporated, the name of the person signing on behalf of said business entity and the title he/she holds or other authority by which such action is taken.)*

XIA ZHOU

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

February 04, 2019 02:47 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, prominent initial "W".

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

Certificate of Completion

This Certificate of Completion of
eTIPS Off Premise 3.0
For coursework completed on December 29, 2018
provided by Health Communications, Inc.
is hereby granted to:

Xia Zhao

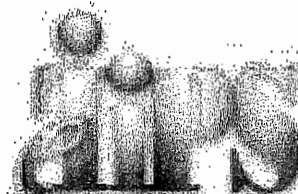
Certification to be sent to:

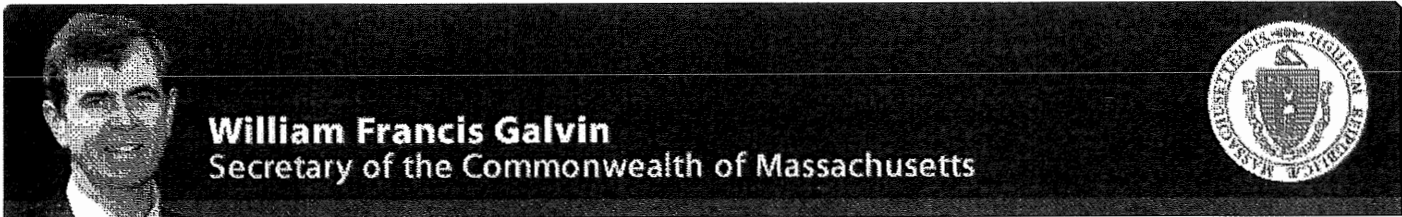
**198 Hollis Rd
Lunenburg MA, 01462-2224 USA**



HEALTH COMMUNICATIONS, INC.

This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be returned to you.





Corporations Division

Business Entity Summary

ID Number: 001367050

[Request certificate](#)

[New search](#)

Summary for: AYER BEER & WINE, CORP.

| The exact name of the Domestic Profit Corporation: AYER BEER & WINE, CORP. | | |
|--|-----------------|------------------------------------|
| Entity type: Domestic Profit Corporation | | |
| Identification Number: 001367050 | | |
| Date of Organization in Massachusetts: 02-04-2019 | | |
| Last date certain: | | |
| Current Fiscal Month/Day: 12/31 | | |
| The location of the Principal Office: | | |
| Address: 210 D WEST MAIN STREET | | |
| City or town, State, Zip code, AYER, MA 01432 USA | | |
| Country: | | |
| The name and address of the Registered Agent: | | |
| Name: XIA ZHAO | | |
| Address: [REDACTED] | | |
| City or town, State, Zip code, LUNENBURG, MA 01462 USA | | |
| Country: | | |
| The Officers and Directors of the Corporation: | | |
| Title | Individual Name | Address |
| PRESIDENT | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |
| TREASURER | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |
| SECRETARY | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |
| DIRECTOR | XIA ZHAO | [REDACTED] LUNENBURG, MA 01462 USA |
| Business entity stock is publicly traded: <input type="checkbox"/> | | |
| The total number of shares and the par value, if any, of each class of stock which this business entity is authorized to issue: | | |

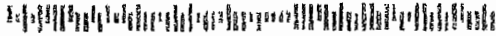


Commonwealth of Massachusetts
Department of Revenue
Christopher C. Harding, Commissioner

Letter ID: L0841161083
Notice Date: February 7, 2019
Case ID: 0-000-523-288

mass.gov/dor

CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



KYUNG ENTERPRISE INC
210D W MAIN ST
AYER MA. 01432-1226



Why did I receive this notice?

The Commissioner of Revenue certifies that, as of the date of this certificate, KYUNG ENTERPRISE INC is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

This certificate doesn't certify that the taxpayer is compliant in taxes such as unemployment insurance administered by agencies other than the Department of Revenue, or taxes under any other provisions of law.

This is not a waiver of lien issued under Chapter 62C, section 52 of the Massachusetts General Laws.

What if I have questions?

If you have questions, call us at (617) 887-6367 or toll-free in Massachusetts at (800) 392-6089, Monday through Friday, 8:30 a.m. to 4:30 p.m..

Visit us online!

Visit mass.gov/dor to learn more about Massachusetts tax laws and DOR policies and procedures, including your Taxpayer Bill of Rights, and MassTaxConnect for easy access to your account:

- Review or update your account
- Contact us using e-message
- Sign up for e-billing to save paper
- Make payments or set up autopay

Edward W. Coyle, Jr., Chief
Collections Bureau

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



Board of Health
 Department of Public Works
 Police Department
 Fire Department
 Building Inspector/Zoning Enforcement Officer
 Conservation Committee
 Treasurer/Tax Collector
 Town Clerk
 Assessor's Office
 Town Planner
 Economic & Community Development Office

Review Deadline Date March 13, 2019
Public Hearing Date March 19, 2019

Notice - This document contains
CONFIDENTIAL banking/personal
information and should be treated as such.
Socials and dates of birth have been
redacted.

Thank you!

Permit Sought Transfer of a Section 15 Package Store Beer and Wine License

Description from Kyung Enterprises, d/b/a Chung Ge Market, 210 West Main Street to Ayer Beer & Wine, Corp., 210D West Main Street

Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments:

** IF Applicant is selling food (Retail that requires refrigeration) or preparing food - they will need a food permit from BOTH*

Signed *Bridgette Nally*

Title *Health Agent*

Date *3/5/19*

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



- Board of Health
- Department of Public Works
- Police Department
- Fire Department
- Building Inspector/Zoning Enforcement Officer
- Conservation Committee
- Treasurer/Tax Collector
- Town Clerk
- Assessor's Office
- Town Planner
- Economic & Community Development Office

Review Deadline Date March 13, 2019

Public Hearing Date March 19, 2019

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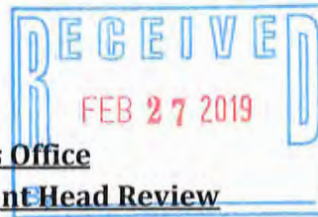
Comments: DPW has no issues

Signed

Title 2/28/19

Date 2/28/19

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



- Board of Health
- Department of Public Works
- Police Department
- Fire Department
- Building Inspector/Zoning Enforcement Officer
- Conservation Committee
- Treasurer/Tax Collector
- Town Clerk
- Assessor's Office
- Town Planner
- Economic & Community Development Office

Review Deadline Date March 13, 2019

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Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments:

Signed [Signature]
Date 2/20/2019

Title Chief of Police

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



_____ Board of Health
_____ Department of Public Works
_____ Police Department
_____ Fire Department
 Building Inspector/Zoning Enforcement Officer
_____ Conservation Committee
_____ Treasurer/Tax Collector
_____ Town Clerk
_____ Assessor's Office
_____ Town Planner
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Description from Kyung Enterprises, d/b/a Chung Ge Market, 210 West Main Street to Ayer Beer & Wine, Corp., 210D West Main Street

Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments: No issues - pending Final Inspection -

Signed [Signature]

Title Building/Zoning

Date 2/26/19

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



| | |
|--|--|
| <input type="checkbox"/> Board of Health | Review Deadline Date <u>March 13, 2019</u> |
| <input type="checkbox"/> Department of Public Works | |
| <input type="checkbox"/> Police Department | Public Hearing Date <u>March 19, 2019</u> |
| <input checked="" type="checkbox"/> Fire Department | |
| <input type="checkbox"/> Building Inspector/Zoning Enforcement Officer | |
| <input type="checkbox"/> Conservation Committee | |
| <input type="checkbox"/> Treasurer/Tax Collector | |
| <input type="checkbox"/> Town Clerk | |
| <input type="checkbox"/> Assessor's Office | |
| <input type="checkbox"/> Town Planner | |
| <input type="checkbox"/> Economic & Community Development Office | |

Notice - This document contains
CONFIDENTIAL banking/personal
information and should be treated as such.
Socials and dates of birth have been
redacted.

Thank you!

Permit Sought Transfer of a Section 15 Package Store Beer and Wine License

Description from Kyung Enterprises, d/b/a Chung Ge Market, 210 West Main Street to Ayer Beer & Wine, Corp., 210D West Main Street

Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments: No issues from Fire Department

Signed [Signature]

Title Fire Chief

Date 2-1-19

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



| | |
|--|--|
| <input type="checkbox"/> Board of Health | Review Deadline Date <u>March 13, 2019</u> |
| <input type="checkbox"/> Department of Public Works | |
| <input type="checkbox"/> Police Department | Public Hearing Date <u>March 19, 2019</u> |
| <input type="checkbox"/> Fire Department | |
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Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments:
conservation has no concerns with this application.

Signed J. Melnyk

Title conservation administrator

Date 3/12/19

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



Board of Health
 Department of Public Works
 Police Department
 Fire Department
 Building Inspector/Zoning Enforcement Officer
 Conservation Committee
 Treasurer/Tax Collector
 Town Clerk
 Assessor's Office
 Town Planner
 Economic & Community Development Office

Review Deadline Date March 13, 2019
Public Hearing Date March 19, 2019

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Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments:
RE fo 21 Park paid up to date through 2/1/19. Next due 5/1/2019

Signed Barbara Trickey

Title Treasurer/Tax Collector

Date 2/28/2019

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



- Board of Health
- Department of Public Works
- Police Department
- Fire Department
- Building Inspector/Zoning Enforcement Officer
- Conservation Committee
- Treasurer/Tax Collector
- Town Clerk
- Assessor's Office
- Town Planner
- Economic & Community Development Office

Review Deadline Date March 13, 2019

Public Hearing Date March 19, 2019

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Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments: Business Certificate should be updated to reflect new owners and name change of business.

Signed *Susan Popland*
Date *3/26/2019*

Title *Town Clerk*

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



| | |
|--|--|
| <input type="checkbox"/> Board of Health | Review Deadline Date <u>March 13, 2019</u> |
| <input type="checkbox"/> Department of Public Works | |
| <input type="checkbox"/> Police Department | Public Hearing Date <u>March 19, 2019</u> |
| <input type="checkbox"/> Fire Department | |
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| <input type="checkbox"/> Economic & Community Development Office | |

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Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments:

Signed Thomas Hogan
Date 2/28/19

Title Assessing Administrator

From: [Mark Archambault](#)
To: [Carly Antonellis](#)
Cc: [Robert Pontbriand](#)
Subject: 210 D. West Main Street
Date: Friday, March 15, 2019 11:53:56 AM

Dear Carly,

As Town Planner, I have no issues with the transfer of an alcoholic beverage license for 210 West Main St. at the Devens Plaza.

That location is zoned for General Business which is supportive of this request.

Sincerely,

Mark Archambault
Ayer Town Planner

Town of Ayer
Board of Selectmen's Office
Transmittal Form - Department Head Review



Board of Health
 Department of Public Works
 Police Department
 Fire Department
 Building Inspector/Zoning Enforcement Officer
 Conservation Committee
 Treasurer/Tax Collector
 Town Clerk
 Assessor's Office
 Town Planner
 Economic & Community Development Office

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Public Hearing Date March 19, 2019

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Submitted by Attorney Kyle Croteau, Law Office of Attorney Tom Gibbons

Address 21 Park Street Telephone 978-772-2284

This plan is submitted for your review, comments, and recommendations. Please return to the Board of Selectmen's Office by the Review Deadline Date so that the Board of Selectmen can consider your recommendation.

Comments: Recommended APPROVAL.

Signed *[Signature]*

Title Dir. Community + ECD Dev.

Date 3/4/2019

Nashoba Valley TECHNICAL SCHOOL DISTRICT

100 Littleton Road • Westford, Massachusetts 01886
Telephone: 978.692.4711 • Fax: 978.392.0570 • www.nashobatech.net

Dr. Denise P. Pigeon
Superintendent

RECEIVED
FEB 13 2019

TOWN OF AYER
SELECTMEN'S OFFICE

Date: February 7, 2019

MEMORANDUM

To: Ayer Town Moderator
From: Dr. Denise P. Pigeon
Subject: District School Committee Appointment

This is a reminder that our records show that the Nashoba Valley Technical District School Committee term of Andrea Fontaine will expire on March 31, 2019.

As outlined in our District Agreement members of the Nashoba Valley Technical School District Committee shall be appointed by an Appointing Committee comprised of the Town Moderator, Selectmen, and the local School Committee. The Moderator shall serve as Chairman of the Appointing Committee.

This appointment is made for a three-year term commencing April 1, 2019 through March 31, 2022.

cc: ✓ Chairman, Board of Selectmen
Chairman, Ayer Shirley Regional School District Committee



Serving the towns of Ayer, Chelmsford, Groton, Littleton, Pepperell, Shirley, Townsend, Westford

Nashoba Valley TECHNICAL SCHOOL DISTRICT

100 Littleton Road • Westford, Massachusetts 01886
Telephone: 978.692.4711 • Fax: 978.392.0570 • www.nashohatech.net

Dr. Denise P. Pigeon
Superintendent

RECEIVED
FEB 13 2019

Date: February 7, 2019

TOWN OF AYER
SELECTMEN'S OFFICE

MEMORANDUM

To: Ayer Town Moderator
From: Dr. Denise P. Pigeon
Subject: District School Committee Appointment

This is a reminder that our records show that the Nashoba Valley Technical District School Committee term of Chris Prehl will expire on March 31, 2019.

As outlined in our District Agreement members of the Nashoba Valley Technical School District Committee shall be appointed by an Appointing Committee comprised of the Town Moderator, Selectmen, and the local School Committee. The Moderator shall serve as Chairman of the Appointing Committee.

This appointment is made for a three-year term commencing April 1, 2019 through March 31, 2022.

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Chairman, Ayer Shirley Regional School District Committee



Serving the towns of Ayer, Chelmsford, Groton, Littleton, Pepperell, Shirley, Townsend, Westford

Nashoba Valley

TECHNICAL SCHOOL DISTRICT

100 Littleton Road • Westford, Massachusetts 01886
Telephone: 978.692.4711 • Fax: 978.392.0570 • www.nashobatech.net

Dr. Denise P. Pigeon
Superintendent

Date: February 7, 2019

RECEIVED
FEB 13 2019

TOWN OF AYER
SELECTMEN'S OFFICE

MEMORANDUM

To: Ms. Andrea Fontaine
From: Dr. Denise P. Pigeon
RE: Expiration of Term

Attached is a copy of the memorandum sent to the Town Moderator notifying him/her that your term as member on Nashoba Valley Technical School District Committee will expire on March 31, 2019. Copies have been sent to the Selectmen and Local School Committee since both groups comprise the Appointing Committee along with the Moderator as Chairman.

It is recommended, if you are considering reappointment, you send a letter to the Town Moderator apprising him/her of your intention. Copies should also be sent to the Selectmen and Local School Committee.

cc: ✓ Chairman, Board of Selectmen
Chairman, Ayer Shirley Regional School District Committee



Nashoba Valley TECHNICAL SCHOOL DISTRICT

100 Littleton Road • Westford, Massachusetts 01886
Telephone: 978.692.4711 • Fax: 978.392.0570 • www.nashobatech.net

Dr. Denise P. Pigeon
Superintendent

RECEIVED
FEB 13 2019

Date: February 7, 2019

TOWN OF AYER
SELECTMEN'S OFFICE

MEMORANDUM

To: Mr. Chris Prehl
From: Dr. Denise P. Pigeon
RE: Expiration of Term

Attached is a copy of the memorandum sent to the Town Moderator notifying him/her that your term as member on Nashoba Valley Technical School District Committee will expire on March 31, 2019. Copies have been sent to the Selectmen and Local School Committee since both groups comprise the Appointing Committee along with the Moderator as Chairman.

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cc: ✓ Chairman, Board of Selectmen
Chairman, Ayer Shirley Regional School District Committee



The Honorable Members of the Board of Selectpersons
Of the Town of Ayer
Ayer Town Hall,
One Main Street
Ayer, Mass. 01432



Appointment to the Devens Enterprise Commission
As the Alternate Member from the Town of Ayer

Dear Members of the Board of Selectpersons,

I am submitting this letter as my application for appointment to the position of Alternate Member from the Town of Ayer, on the Devens Enterprise Commission. I have been intricately involved with Devens from my days as a school boy in the 1950's and 1960's. I attended school in the Ayer Public School System, which had the responsibility of educating the military dependents to my time as a Municipal official in the 1990's addressing the closure and reutilization of the military base.


I was privileged and honored to be chosen by Governor William Weld to an appointment to the Board of Directors of the Massachusetts Government Land Bank and subsequently to an appointment by Governor A. Paul Cellucci to an appointment to the Board of Directors of the Massachusetts Development Finance Agency. Each of these State Agencies were responsible for the reutilization of Devens after its closure as an active military base. Membership in each of the state agencies provided me with a wealth of experience for the civilian use and reuse of Devens.

Also, as a lifelong resident of the greater Devens community and a long time resident, in excess of sixty years, of Town of Ayer, I believe that I possess a unique perspective of the goals of the residents of the Town of Ayer and the Devens area for continued redevelopment.

In addition, as a recent retiree from State Service with the Department of the Trial Court, I have ample time to dedicate to the Commission.

If you have any questions, or would like more information, please do not hesitate to contact me at [REDACTED] or by email address [REDACTED]

Very truly yours,


Robert W. Gardner, Jr.

Robert W. Gardner, Jr.
78 Sandy Pond Rd.
Ayer, MA 01432

PROFILE SUMMARY

Serving as District Court Trial Judge for seventeen years for the Department of Trial Court, Commonwealth of Massachusetts. Prior to becoming a judge I was an Attorney in private practice for 26 years.

Objective

Upon retiring from the bench in June, I would like to teach or mentor others hoping for a future in the field of law, as an Adjunct Faculty Member within a Higher Education Institution. Particular areas of expertise / interest would be to offer instruction on the history and formation of the common and statutory law as well as the application of said law in clinical programs.

PROFESSIONAL EXPERIENCE

Commonwealth of Massachusetts, department of Trial Court 2001 - 2018
First Justice, Clinton District Court (2014 - May 31, 2018 date of retirement)
Trial Judge, Clinton District Court (2001 - 2014)
Member of the Appellate Division (2009 - 2012)

- Conducted Court Sessions involving a diverse array of both criminal and civil cases, including mental health commitments within the jurisdiction of the District Court.
- Sat as a member of a three judge panel to decide appeals brought by aggrieved parties from judgements in civil cases.
- Responsible for the orderly administration of justice in the Clinton District Court, including appointing the Chief Probation Officer, approving certain fiscal expenditures, scheduling hearings / trials and assigning judges to sessions.
- Participate as a Mentor Judge in the First Year Summer Internship Program for judicial interns.
- Supervised and mentored rising second year law students as interns in the Court System, providing instruction, guidance and critique of their work.
- Moot Court Competition Judge in Law School and College venues, conducting a hearing for students to present and argue either side of an agreed upon set of facts. Evaluate, analyze and grade the performance and provide constructive advice / feedback for use in regional and national competitions.

Practicing Attorney, Ayer, MA

1975 - 2001

Law Offices of Robert W. Gardner (1975 - 1982) & (1995 - 2001)

Gardner, Brown & Williams, Attorneys-At-Law, Senior Partner (1993 - 1995)

Gardner & Brown, Attorneys-At-Law, Senior Partner (1988 - 1993)

Gardner, Finkle, Attorneys-At-Law, Senior Partner (1982 - 1988)

- Practicing law in all the courts in Massachusetts.
- Work closely with clients on a variety of legal cases.

Additional experience:

1978 - 1997

Town Counsel for the municipality Ayer

- Representing the municipality of Ayer in all facets of municipal law including litigation, civil rights, zoning and other land use matters, tort claims and arbitration.
- Represented the Town of Ayer in Federal and State Court before numerous State and Federal Agencies.
- Counseled numerous boards, commissions and officials in the conduct and execution of their various functions and duties.

PROFESSIONAL ASSOCIATIONS

| | |
|--|-------------------------------|
| Member of the Massachusetts Bar Association | 1975 - Present |
| Member of the Suffolk University Law School (Alumni Association Board of Directors) | 1994 - Present 1995 - 1996 |
| Member of Board of Trustees, Suffolk University | 1999 - 2012 |
| Member of the Boston Bar Association | 1995 - Present |
| New Hampshire Bar Association | 1995 - Present |
| Board of Bar Overseers Hearing Officer For Eastern Region | 1994 - 2001 |
| Gubernatorial Appointment to the Board Of the Massachusetts Government Land Bank (Now known as the Mass. Development Finance Agency) | 1994 - 2001 |

COMMUNITY INVOLVEMENT

| | |
|--|----------------|
| Fort Devens Museum Board of Directors | 2018 - Present |
| Volunteer at Dana Faber Cancer Institute | 2018 - Present |
| Member of the Ayer / Shirley Lions Club | 1991 - 2001 |
| Member of the Nashoba Valley Chamber of Commerce | 1985 - 2001 |
| Member of the Nashua River Watershed Association | 1983 - 2001 |
| Association of the United States Army | 1992 - 2001 |
| Member of the Executive Board (Nashua Valley Council, Inc. & Boy Scouts of America) | 1995 - 2001 |

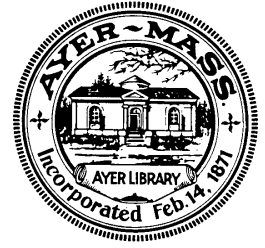
EDUCATION

| | |
|---|------|
| Suffolk University Law School, Boston MA <i>Juris Doctor</i> | 1975 |
| University of Massachusetts, Amherst, MA <i>Bachelor of Arts, Cum Laude, Economics Major</i> | 1970 |

Town of Ayer

Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8221 ♦ 978-772-3017(fax)



MEMORANDUM

TO: Board of Selectmen

CC: Robert A. Pontbriand, Town Manager

FROM: Alicia Hersey, Program Manager

DATE: March 12, 2019

RE: Sale of 40B LIP unit at 3B Bayberry Lane, Ayer, MA

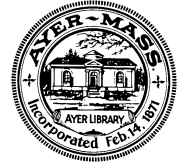
The Town have been notified by CHAPA (Citizens' Housing and Planning Association) of proposed re-sale of the LIP unit at 3B Bayberry Lane, Ayer, MA. Since this is an affordable unit, they have contacted DHCD and are following the procedures required for this sale. Per the deed rider the Town of Ayer can elect to purchase this unit for the maximum resale price of \$185,000.00.

Due to the fact that this is an affordable unit, the Town has the right of first refusal on this property. In order for the home owner to move forward with the sale of her property the Town must vote on exercising or waiving their right to purchase the property.

Request the Board of Selectmen vote to exercise or waive the Right of First Refusal for the purchase of the home at 3B Bayberry Lane, Ayer, MA.

Town of Ayer Board of Selectmen

Town Hall ♦ One Main Street ♦ Ayer, MA 01432
978-772-8220 ♦ 978-772-3017 (fax) ♦ Town Administrator 978-772-8210



March 12, 2019

Elizabeth Palma-Diaz
Senior Program Manager
CHAPA
One Beacon Street, 5th Floor
Boston, MA 02108

**RE: Waiver of Right of First Refusal
3B Bayberry Lane, Ayer MA (The Willows)**

Dear Ms. Palma-Diaz:

Based upon the information received from your office, and the information contained within your correspondence dated March 11, 2019, the Ayer Board of Selectmen hereby decline to exercise the Town's right of first refusal in this matter.

The Board will encourage potential eligible buyers to contact the housing agent of your choice (to be determined) with interest in purchasing this affordable housing unit.

Thank you for your assistance.

AYER BOARD OF SELECTMEN

Jannice L. Livingston, Chairman

Christopher R. Hillman, Vice-Chairman

Scott A. Houde, Clerk

cc: Alicia S. Hersey, Program Manager
Office of Community Development

Town of Ayer

Office of Community & Economic Development

Town Hall • One Main Street • Ayer, MA 01432 • 978-772-8206 • Fax: 978-772-8208



To: Robert Pontbriand, Ayer Town Manager
From: Alan S. Manoian AICP, Dir. Community & Economic Development
Date: 3/14/2019
Re: Proposed Town of Ayer Roadway Litter-Removal/Sponsor-A-Roadway Program

The Ayer Office of Community & Economic Development (AOCED) has been tasked by the Office of the Town Manager with researching, formulating, developing, & organizing (a) proposed Town of Ayer “Roadway Litter-Removal Program” – (AOCED) respectfully submits the following outline to advance the process and proposed program:

PILOT

Proposed Pilot Program Location: **Westford Rd. Corridor** (*from Groton Town Line to Sandy Pond Rd.*);

SPONSORSHIP APPROACH

The proposed program to be set-up as a “Sponsor-a-Roadway” approach; meaning private companies/businesses/corporations located on Westford Rd./Nemco Way/New England Way and within Ayer’s Westford Rd. Industrial Park would be requested to make monetary contributions to fund a contracted professional Roadway Litter Removal Service to conduct the scheduled clean-up/s (*no volunteers/organizations/residents on the extremely-dangerous roadway*); the participating companies will be recognized as “Sponsors” through highly-visible sponsorship signage at the Gateways to Westford Rd. and/or along Westford Rd. – Sponsors will also be recognized through various municipal informational/promotional platforms, including social media platforms, municipal website, etc.

CONTRACT with PROFESSIONAL LITTER REMOVAL COMPANY

The Dir. of AOCED has successfully researched, assessed and made contact with Adopt-A-Highway Litter Removal Service of America, Inc.; a national firm with a 30+ year record of providing professional Roadway & Highway litter removal services across the United States. The Adopt-A-Highway Litter Removal Service of America, Inc. has a Massachusetts regional representative. The Dir. of AOCED has been working with Ms. Michelle Waldron, Executive VP of Adopt-A-Highway Litter Removal Service of America, Inc. regarding the proposed Ayer Program.

COST ESTIMATE PROVIDED: The Litter Removal Service of America, Inc. has surveyed the Westford Rd. Corridor and has provided a Cost Estimate of **\$550.00 per Roadway Clean-Up** of both sides of Westford Rd. from the Groton Town Line to Sandy Pond Rd. The (AOCED) believes this to be a favorable and manageable cost quote.

RECOMMENDATION: The (AOCED) recommends proceeding with the Westford Rd. Corridor Pilot Program; to contract with American Litter Removal Service of America, Inc. for (2-3) Clean-Up Days per year; and for the (AOCED) to commence company/business/corporation Sponsorship attraction and commitment. Proposed Program Launch: June 2019.

AYER FIRE DEPARTMENT

Robert J. Pedrazzi
Chief

1 West Main Street
Ayer, Massachusetts 01432
Tel. (978) 772-8231
Fax (978) 772-8230

March 13, 2019

Informational reasons for replacement of Engine #2

- Engine #2 has been the first out apparatus on any fire incident for the last 19 years responding to every emergency call.
- Engine 2 was looked at by Greenwood Fire Apparatus as a candidate for refurbishment and due to age and condition was not recommended to be rehabbed. When Engine #4 was rehabbed it had only been the front line piece for 7 years and did not have the additional wear that Engine #2 has incurred. If Engine #2 were to be rehabbed it would necessitate the use of Engine #4 to be used as the first out apparatus on every call for approximately 6 to 10 months. Engine #4 was rehabbed four years ago adding many safety features but the major components; engine and transmission were not rebuilt at that time. Engine #4 is 26 years old and parts are becoming hard to source.
- Due to the age parts are becoming scares and take additional time to source.
- Repairs are becoming more frequent and costly. There have been two major repairs this year to Engine #2.
 - i. Major pump rebuild at a cost of \$18,415.33 for this repair the Engine was out of service for over one month.
 - ii. Engine: Intake manifold pressure sensor \$637.87 for this repair the Engine was out of service for one week.
- Both Engines were out of service for a period of weeks this summer necessitating the borrowing of a reserve Engine Pumper from the Town of Shirley.
- Engine #2 does not have the safety features of the current version of an NFPA 1901 pumper specification.

"When Should Our Fire Apparatus be Replaced?"

by Carl E. Peterson, Assistant Director, Public Fire Protection Division

Whether they're in the office or on the road, members of the NFPA's Public Fire Protection division are often asked questions about various fire service operational issues. One common question revolves around the replacement of fire apparatus. Carl Peterson, assistant director of the NFPA's Public Fire Protection division, addresses this question in the following article:

Many issues surround the question of when to replace your fire apparatus. Economic pressures at local government levels require that replacements be made on solidly based, cost-effective grounds. Yet it is poor economics not to have dependable fire apparatus, since its cost is a small part of the overall fire department budget, and it has a relatively long life expectancy. Apparatus replacement should be a regular item in a fire department capital budget.

The life expectancy of apparatus depends on many factors including the frequency and time of use; road, traffic and weather conditions; maintenance and repair; the availability of replacement parts; personnel safety; and overloading or other misuse. Factors affecting your decision to replace apparatus might include design advancements; operating efficiency; maintenance costs; accidents; the unreliability of current apparatus; and the availability of back-up or supporting units.

The NFPA's *Fire Protection Handbook* (17th edition) states the following: "In general, a 10 to 15 year life expectancy is considered normal for first line pumping engines. First line ladder trucks should have a normal life expectancy of at least 15 years. In fire departments where ladder trucks make substantially fewer responses to alarms than engines, a planned first line service of 20 years may be warranted for ladder trucks. Some smaller fire departments that have infrequent alarms operate pumping engines up to 20 years with reasonable efficiency, although obsolescence will make the older apparatus less desirable even if it is mechanically functional. In some types of service, including areas of high fire frequency, a limit of only 10 years may be reasonable for first line service. The older apparatus may be maintained as part of the reserve fleet as long as it is in good condition, but in almost no case should much reliance be placed on any apparatus more than 25 years of age."

All apparatus should be tested at least annually as required by NFPA 1911; *Standard for Service Tests of Pumps on Fire Department Apparatus*, and NFPA 1914, *Standard for Testing Fire Department Aerial Devices*. These tests help determine the current condition of your apparatus and potential decreasing performance over time. These tests, together with your records of maintenance, should be used to determine the cost trend in maintaining the apparatus. As costs increase and the value of the apparatus decreases, you'll reach a point where it is not economical to continue investing in repairs.

As your apparatus gets older, replacement parts may become more difficult to obtain, leading to longer periods of "down time."

A number of apparatus manufacturers have gone out of business in recent years and replacement parts may have to be specially built. This takes time and can be extremely expensive.

Consideration should be given as to how critical the piece of apparatus is to your mission. What operations cannot be accomplished if that apparatus is not available? Is there sufficient reserve apparatus available or can neighboring communities cover your assignments? Mutual aid plans are generally formulated for use during major emergencies, not to provide day to day coverage. Many times, mutual aid apparatus does not have the same tools and capabilities as your apparatus. How willing are other communities to provide this coverage on a continuing basis?

As fire departments assume expanding roles in emergency management and mitigation, the design of apparatus purchased 15 to 20 years ago may no longer be suitable. Additional equipment and tools must be carried which may lead to overloading the apparatus. Braking and steering problems, as well as other safety and liability problems, may also result. Overloading can also significantly reduce the apparatus's life expectancy.

NFPA 1500, *Standard on Fire Service Occupational Safety and Health Program*, requires all fire fighters to ride apparatus in a seated position with seat belts fastened. Apparatus that cannot accommodate this requirement should be scheduled for replacement.

Emergency response puts a lot of "wear and tear" on your apparatus. It is started and driven at high speeds, often without proper engine warm-up. The apparatus frequently decelerates rapidly, stops, and quickly accelerates. Pumpers are expected to operate on high speed for long periods of time. Aerial devices are exposed to icing in winter conditions, adding greatly to the weight they must support.

The time required to develop a good set of specifications, get competitive bids, have the apparatus built, take delivery, train personnel, and put the apparatus in service is often well over 12 months. Apparatus built for demonstration purposes or for stock is sometimes available quicker and cheaper, but it may not fulfill your department's exact needs.

If you delay replacing fire apparatus, you may find yourself replacing a lot of equipment at one time. There may be a slight cost savings per unit for quantity purchases, but your entire fleet will age at the same rate. A more scheduled approach allows desired design changes to be evaluated on an individual basis and provide that some newer and more reliable vehicles will be on hand at all times.

A good program for procuring appropriate fire apparatus, training the operators, maintaining the apparatus, and replacing it before it becomes unreliable is vital to the protection of your community. Without the apparatus and the tools it carries, fire fighters cannot do their job.

Annex C Weights and Dimensions for Common Equipment

This annex is not a part of the requirements of this NFPA document but is included for informational purposes only.

C.1 The Fire Apparatus Manufacturers Association (FAMA) provides a worksheet for use by purchasers to calculate the portable equipment load anticipated to be carried on an apparatus. To ensure that the apparatus chassis is capable of carrying the installed equipment (pump, tank, aerial device, etc.) plus the specified portable equipment load with an appropriate margin of safety, the purchaser should use this worksheet to provide apparatus vendors with the weight of the equipment they anticipate carrying when the apparatus is placed in service.

C.1.1 The approximate measurements and weights of equipment that are commonly available and used during fire department operations are listed on the worksheet. The purchaser should fill in the number of units of each piece of anticipated equipment in the column titled "Quantity" and multiply that by the weight per unit to get the total weight. The dimensions of each piece of equipment are given to assist in planning compartment size or the location on the fire apparatus. Where the purchaser wants to carry specific equipment in a specific compartment, that compartment designation should be shown in the column titled "Compartment Location."

C.1.2 The worksheet can be downloaded as an Excel spreadsheet from the FAMA website, www.fama.org, and customized to show only the equipment a department expects to carry. There are additional columns on the spreadsheet to assist the fire department in maintaining records of the equipment it carries on the apparatus.

Annex D Guidelines for First-Line and Reserve Fire Apparatus

This annex is not a part of the requirements of this NFPA document but is included for informational purposes only.

D.1 General. To maximize fire fighter capabilities and minimize risk of injuries, it is important that fire apparatus be equipped with the latest safety features and operating capabilities. In the last 10 to 15 years, much progress has been made in upgrading functional capabilities and improving the safety features of fire apparatus. Apparatus more than 15 years old might include only a few of the safety upgrades required by the recent editions of the NFPA fire department apparatus standards or the equivalent Underwriters Laboratories of Canada (ULC) standards. Because the changes, upgrades, and fine tuning to NFPA 1901 have been truly significant, especially in the area of safety, fire departments should seriously consider the value (or risk) to fire fighters of keeping fire apparatus more than 15 years old in first-line service.

It is recommended that apparatus more than 15 years old that have been properly maintained and that are still in serviceable condition be placed in reserve status; be upgraded in accordance with NFPA 1912; and incorporate as many features as possible of the current fire apparatus standard (see Section D.3). This will ensure that, while the apparatus might not totally comply with the current editions of the automotive fire apparatus standards, many of the improvements and upgrades required by the current editions of the standards are available to the fire fighters who use the apparatus.

Apparatus that were not manufactured to the applicable NFPA fire apparatus standards or that are over 25 years old should be replaced.

D.2 Evaluating Fire Apparatus. It is a generally accepted fact that fire apparatus, like all types of mechanical devices, have a finite life. The length of that life depends on many factors, including vehicle mileage and engine hours, quality of the preventative maintenance program, quality of the driver training program, whether the fire apparatus was used within the design parameters, whether the apparatus was manufactured on a custom or commercial chassis, quality of workmanship by the original manufacturer, quality of the components used, and availability of replacement parts, to name a few.

In the fire service, there are fire apparatus with 8 to 10 years of service that are simply worn out. There are also fire apparatus that were manufactured with quality components, that have had excellent maintenance, and that have responded to a minimum number of incidents that are still in serviceable condition after 20 years. Most would agree that the care of fire apparatus while being used and the quality and timeliness of maintenance are perhaps the most significant factors in determining how well a fire apparatus ages.

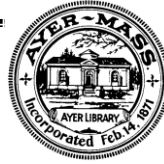
Critical enhancements in design, safety, and technology should also play a key role in the evaluation of an apparatus' life cycle. Previous editions of the fire department apparatus standards featured many requirements advancing the level of automotive fire apparatus safety and user friendliness. Contained within the 2009 edition were requirements for roll-over stability; tire pressure indicators; seat belt warning systems requiring all occupants be properly seated and belted; extended seat belt length requirements resulting from an in-depth anthropometric study evaluating the average size of today's fully dressed firefighter; roadability, including minimum accelerations and top speed limitations; enhanced step and work surface lighting; cab integrity testing; increased use of retro-reflective striping in the rear of apparatus, providing a consistent identifiable set of markings for all automotive fire apparatus; and enhanced aerial control technologies, enabling short jacking and envelope controls.

D.3 Upgrading Fire Apparatus. Any apparatus, whether in first-line or reserve service, should be upgraded in accordance with NFPA 1912, as necessary, to ensure that the following features are included as a minimum:

- (1) Seat belts with seat belt warning systems are available for every seat and are new or in serviceable condition.
- (2) Warning lights meet or exceed the current standard.
- (3) Reflective striping meets or exceeds the current standard.
- (4) Slip resistance of walking surfaces and handrails meets the current standard.
- (5) A low-voltage electrical system load manager is installed if the total connected load exceeds the alternator output.
- (6) The alternator output is capable of meeting the total continuous load on the low voltage electrical system.
- (7) Where the gross vehicle weight rating (GVWR) is 36,000 lb (16,000 kg) or more, an auxiliary braking system is installed and operating correctly.
- (8) Ground and step lighting meets or exceeds the current standard.

DEPARTMENT OF PUBLIC WORKS

Mark L. Wetzel, P.E., Superintendent
Daniel Van Schalkwyk, P.E., Town Engineer



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

MEMORANDUM

Date: March 14, 2019
To: Board of Selectmen
From: Mark Wetzel, P.E. Superintendent of Public Works
Subject: **March 19, 2019 Meeting Agenda Items**

1. **Execution of Contract for Prospect Street and Oak Street Infrastructure Improvements–**

General bids for the Prospect and Oak Street Infrastructure Project were received at the DPW on February 27th. We received 6 bids ranging from \$649,703 to \$848,720 for the base bid. We also included add alternates for granite curbing and concrete sidewalks which result in a low bid of \$691,253.34. The low bidder is J. D’Amico, Inc. They have performed quality work on recent projects they have completed for the DPW.

We recommend executing the contract with J. D’Amico, Inc. for the base bid plus add alternates 1 and 2, a total of \$691,253.34. Please note \$560,000 of the project is funded from the CDBG grant with the remainder from water, sewer, and Chapter 90.

Requested Motion – Vote to execute the Contract with J. D’Amico, Inc. for Prospect and Oak Street Infrastructure Project.
(5 originals for signature by the Board).

2. **Approval of Transfer Station Permit for Devens Residents** – See attached memo.
3. **Equipment Standards for Water Treatment** – The Ayer DPW Water Division has standardized on specific equipment for our water treatment system. This is for the purpose of compatibility with existing systems and equipment, reliability and stocking of spare parts. In order to specify specific equipment, the Board of Selectmen, as the Water Commissioners, must vote on use of proprietary specifications. As we are finalizing the bid documents for the PFAS Removal Water Treatment Addition at the Grove Pond Water Treatment Plan, we need to specify proprietary equipment. Attached is a more detailed memo for approval by the Board.
4. **Grove Pond PFAS Update** – I will present a detailed update on the Town’s water quality, impacts of PFAS contamination, actions by the DPW to date and the proposed treatment. Questions from the Board and public are welcome.

SECTION 00300

FORM OF GENERAL BID

Proposal of _____ (hereinafter called "Bidder")* J. DAMICO, INC

a corporation, organized and existing under the laws of the State of MA

a joint venture

a partnership

an individual doing business as _____

To the Town of Ayer (hereinafter called the Owner).

The Bidder, in compliance with your invitation for bids for the construction of the PROSPECT AND OAK STREET INFRASTRUCTURE PROJECT, having examined the plans and specifications with related documents and the site of the proposed work and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies and to construct the project in accordance with the contract documents, as prepared by the Town of Ayer Department of Public Works, within the time set forth therein and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this proposal is a part.

The Bidder hereby agrees to commence work under this contract on or before a date to be fixed in the written "Notice to Proceed" given by the Owner to the Contractor and to fully complete the project within 150 consecutive days of the start date fixed in the "Notice to Proceed." The Bidder further agrees to pay as liquidated damages the sum of \$1,000.00 for each consecutive calendar day thereafter during which the work has not been fully completed.

*Insert corporation, partnership, joint venture, or individual as applicable.

This project is funded by a grant program, which includes a very strict schedule for the completion of the project. The work described in this agreement must be completed no later than three days prior to the scheduled completion date, and a final payment request and all project documentation submitted by the completion date. Failure to meet these dates may result in a loss of grant funding reimbursement.

Bidder acknowledges receipt of the following addenda:

No. 1 Dated: 2/21/19

No. _____ Dated: _____

No. _____ Dated: _____

No. _____ Dated: _____

The Bidder agrees to perform the work described in the specifications and shown on the plans for the lump sum or unit prices in the following Bid Form:

(All entries shall be made clearly in ink or typewritten. Amounts are to be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern)

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|--|---|--|--|
| | | Estimated Quantity, Unit | Total in Figures |
| The base bid price of Items 1 through 14, is: | | | 649,703.34 |
| | | | <i>Total Base Bid in Figures</i> |
| SIX HUNDRED FORTY NINE THOUSAND SEVEN HUNDRED THREE & 34/100 DOLLARS | | | <i>Total Base Bid, Dollars and Cents (in Words)</i> |
| The add alternate bid price of Items A1 through A4, is: | | | 134,415.00 |
| | | | <i>Total Add Alternate Bid in Figures</i> |
| ONE HUNDRED THIRTY FOUR THOUSAND FOUR HUNDRED FIFTEEN & 00/100 DOLLARS | | | <i>Total Add Alternate Bid, Dollars and Cents (in Words)</i> |
| 1 WATER MAIN AND FITTINGS | | | |
| 1a. | 8-inch ductile Iron pipe and fittings, per linear foot | | |
| | SEVENTYNINE DOLLARS | 1,080 LF | \$ 85,320 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 79 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 2 HYDRANTS AND VALVES | | | |
| 2a. | Hydrant assembly, per hydrant assembly | | |
| | SIXTY FIVE HUNDRED DOLLARS | 2 EA | \$ 13,000 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 6,500 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 2b. | 8-inch gate valves, per valve | | |
| | FIFTEEN HUNDRED DOLLARS | 6 EA | \$ 9,000 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 1,500 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|-----------------------------|--|--|------------------------|
| | | Estimated Quantity, Unit | Total In Figures |
| 2c. | 8-inch by 6-inch tapping sleeve and valve, per valve | | |
| | <p style="font-size: 1.2em; margin: 0;">SIXTY FIVE HUNDRED DOLLARS</p> <p style="font-size: 0.8em; margin: 0;">Unit Price, Dollars and cents (words)</p> | 1 EA | \$ 6,500 ⁻ |
| | <p style="font-size: 1.2em; margin: 0;">\$ 6,500⁻</p> <p style="font-size: 0.8em; margin: 0;">Unit Price In Figures</p> | | |
| 3 WATER SERVICE CONNECTIONS | | | |
| 3a. | 1-inch corporation stops, per stop | | |
| | <p style="font-size: 1.2em; margin: 0;">SIXTEEN HUNDRED DOLLARS</p> <p style="font-size: 0.8em; margin: 0;">Unit Price, Dollars and cents (words)</p> | 10 EA | \$ 16,000 ⁻ |
| | <p style="font-size: 1.2em; margin: 0;">\$ 1,600⁻</p> <p style="font-size: 0.8em; margin: 0;">Unit Price In Figures</p> | | |
| 3b. | 1-inch curb stops, per stop | | |
| | <p style="font-size: 1.2em; margin: 0;">THREE HUNDRED FIFTY DOLLARS</p> <p style="font-size: 0.8em; margin: 0;">Unit Price, Dollars and cents (words)</p> | 10 EA | \$ 3,500 ⁻ |
| | <p style="font-size: 1.2em; margin: 0;">\$ 350⁻</p> <p style="font-size: 0.8em; margin: 0;">Unit Price In Figures</p> | | |
| 3c. | 1-inch copper tubing, per linear foot | | |
| | <p style="font-size: 1.2em; margin: 0;">FIFTEEN DOLLARS</p> <p style="font-size: 0.8em; margin: 0;">Unit Price, Dollars and cents (words)</p> | 175 LF | \$ 2,625 ⁻ |
| | <p style="font-size: 1.2em; margin: 0;">\$ 15⁻</p> <p style="font-size: 0.8em; margin: 0;">Unit Price In Figures</p> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|----------|---|--|------------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 4 | DRAINAGE PIPE COMPLETE IN PLACE | | |
| 4a. | 8-Inch HDPE drain pipe, per linear foot | | |
| | SEVENTY FIVE DOLLARS | 20 LF | \$ 1,500 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 75 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 4b. | 12-Inch HDPE drain pipe, per linear foot | | |
| | SEVENTY DOLLARS | 350 LF | \$ 24,500 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 70 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 4c. | 15-inch HDPE drain pipe, per linear foot | | |
| | NINETY FIVE DOLLARS | 185 LF | \$ 17,575 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 95 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 4d. | 15-inch PVC drain pipe, per linear foot | | |
| | NINETY FIVE DOLLARS | 120 LF | \$ 11,400 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 95 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|---------------------------------------|--|--|------------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 5 SEWER REHABILITATION | | | |
| 5a. | Furnish and install cured-in-place pipe lining, per linear foot | | |
| | SEVENTY DOLLARS | 685 LF | \$ 47,950 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 70 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 5b. | Furnish and install new manhole frame and cover, per frame and cover | | |
| | FIVE HUNDRED FIFTY DOLLARS | 6 EA | \$ 3,300 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 550 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 6 ROCK EXCAVATION AND DISPOSAL | | | |
| 6a. | Rock excavation, disposal, and replacement backfill, per cubic yard | | |
| | ONE HUNDRED DOLLARS | 25 CY | \$ 2,500 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 100 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|----------|---|--|------------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 7 | MISCELLANEOUS EARTHWORK | | |
| 7a. | Unclassified excavation, per cubic yard | | |
| | ONE CENT | 250 CY | \$ 2 ⁵⁰ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 0.01 | | |
| | <i>Unit Price in Figures</i> | | |
| 7b. | Test pits, per cubic yard | | |
| | ONE CENT | 25 CY | \$ 0.25 |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 0.01 | | |
| | <i>Unit Price in Figures</i> | | |
| 8 | SIDEWALK CONSTRUCTION AND REPLACEMENT | | |
| 8a. | Cement concrete sidewalk, per square yard | | |
| | ONE HUNDRED THIRTY DOLLARS | 300 SY | \$ 39,000 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 130 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |
| 8b. | Cement concrete sidewalk at driveways, per square yard | | |
| | ONE HUNDRED NINETY DOLLARS | 45 SY | \$ 8,550 ⁻ |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 190 ⁻ | | |
| | <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|----------|---|--|------------------------|
| | | Estimated Quantity, Unit | Total In Figures |
| 8c. | Cement concrete wheelchair ramp, per square yard | | |
| | ONE HUNDRED TWO NINETY DOLLARS | 65 SY | \$ 12,350 ⁻ |
| | Unit Price, Dollars and cents (words) | | |
| | \$ 190 ⁻ | | |
| | Unit Price in Figures | | |
| 8d. | Hot mix asphalt walk, per square yard | | |
| | NINETY | 320 SY | \$ 28,800 ⁻ |
| | Unit Price, Dollars and cents (words) | | |
| | \$ 90 ⁻ | | |
| | Unit Price in Figures | | |
| 9 | CURB | | |
| 9a. | Granite curb - straight, per linear foot | | |
| | FIFTY FIVE DOLLARS | 550 LF | \$ 30,250 ⁻ |
| | Unit Price, Dollars and cents (words) | | |
| | \$ 55 ⁻ | | |
| | Unit Price in Figures | | |
| 9b. | Granite curb - curved, per linear foot | | |
| | SEVENTY FIVE DOLLARS | 90 LF | \$ 6,750 ⁻ |
| | Unit Price, Dollars and cents (words) | | |
| | \$ 75 ⁻ | | |
| | Unit Price in Figures | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|----------|--|--|------------------------|
| | | Estimated Quantity, Unit | Total In Figures |
| 9c. | Granite transition curb - straight, per linear foot | | |
| | FIFTY FIVE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 190 LF | \$ 10,450 ⁻ |
| | \$ 55 ⁻ <small>Unit Price In Figures</small> | | |
| 9d. | Cape cod berm, per linear foot | | |
| | NINE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 210 LF | \$ 1,890 ⁻ |
| | \$ 9 ⁻ <small>Unit Price In Figures</small> | | |
| 9e. | HMA Curb Type 3, per linear foot | | |
| | NINE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 625 LF | \$ 5,625 ⁻ |
| | \$ 9 ⁻ <small>Unit Price In Figures</small> | | |
| 10 | LOAMING AND SEEDING | | |
| 10a. | Loam borrow and seed, per square yard | | |
| | FIVE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 800 SY | \$ 4,000 ⁻ |
| | \$ 5 ⁻ <small>Unit Price In Figures</small> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|--------------------------------|--|--|------------------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 11 PAVEMENT REPLACEMENT | | | |
| 11a. | Temporary trench pavement, per square yard | | |
| | THIRTYFIVE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 875 SY | \$ 30,625⁻ |
| | \$ 35⁻ <small>Unit Price in Figures</small> | | |
| 11b. | Reclaimed pavement for base course, per square yard | | |
| | NINE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 3200 SY | \$ 28,800⁻ |
| | \$ 9⁻ <small>Unit Price in Figures</small> | | |
| 11c. | 2-1/2-inch binder course pavement, per ton | | |
| | EIGHTYFIVE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 450 ton | \$ 38,250⁻ |
| | \$ 85⁻ <small>Unit Price in Figures</small> | | |
| 11d. | 1-1/2-inch top course pavement, per ton | | |
| | ONEHUNDREDSIXTYFIVE DOLLARS <small>Unit Price, Dollars and cents (words)</small> | 270 ton | \$ 44,550⁻ |
| | \$ 165⁻ <small>Unit Price in Figures</small> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|----------|---|--|------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 11e. | Driveway aprons where sidewalk present, per square yard | | |
| | SIXTYFIVE DOLLARS <i>Unit Price, Dollars and cents (words)</i> | 176 SY | \$ 11,440 - |
| | \$ 65 - <i>Unit Price in Figures</i> | | |
| 11f. | Driveway aprons where no sidewalk present, per square yard | | |
| | SIXTYFIVE DOLLARS <i>Unit Price, Dollars and cents (words)</i> | 150 SY | \$ 9,750 - |
| | \$ 65 - <i>Unit Price in Figures</i> | | |
| 11g. | Additional bituminous pavement, per ton | | |
| | ONE CENT <i>Unit Price, Dollars and cents (words)</i> | 50 ton | \$ 0.50 |
| | \$ 0.01 <i>Unit Price in Figures</i> | | |
| 11h. | Permanent trench pavement, per ton | | |
| | THREEHUNDREDFIFTY DOLLARS <i>Unit Price, Dollars and cents (words)</i> | 40 ton | \$ 14,400 - |
| | \$ 350 - <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|---|---|--|------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 12 PAVEMENT MARKINGS AND SIGNAGE | | | |
| 12a. | 12-inch reflectorized white line (painted), per linear foot | | |
| | TEN DOLLARS | 35 LF | \$ 350 - |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 10 - | | |
| | <i>Unit Price in Figures</i> | | |
| 12b. | Sign and post removed and reset, per each | | |
| | ONE CENT | 6 EA | \$ 0.06 |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 0.01 | | |
| | <i>Unit Price in Figures</i> | | |
| 12c. | Sign and post removed and discarded, per each | | |
| | ONE CENT | 3 EA | \$ 0.03 |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 0.01 | | |
| | <i>Unit Price in Figures</i> | | |
| 12d. | Furnish and install new traffic signs and posts, per each | | |
| | FOUR HUNDRED DOLLARS | 15 EA | \$ 6,000 - |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 400 - | | |
| | <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|--|---|--|------------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| 13 MANHOLES, CATCH BASINS AND APPURTENANCES | | | |
| 13a. | Precast concrete manhole - drainage, per manhole | | |
| | TWENTYEIGHT HUNDRED DOLLARS <i>Unit Price, Dollars and cents (words)</i> | 7 EA | \$ 19,600 ⁻ |
| | \$ 2,800 ⁻ <i>Unit Price in Figures</i> | | |
| 13b. | Precast concrete catch basin, per basin | | |
| | FOUR THOUSAND DOLLARS <i>Unit Price, Dollars and cents (words)</i> | 11 EA | \$ 44,000 ⁻ |
| | \$ 4,000 ⁻ <i>Unit Price in Figures</i> | | |
| 14 MOBILIZATION | | | |
| 14a. | Mobilization, per lump sum (not to exceed 2%) | | |
| | TENTHOUSAND DOLLARS <i>Unit Price, Dollars and cents (words)</i> | 1 LS | \$ 10,000 ⁻ |
| | \$ 10,000 ⁻ <i>Unit Price in Figures</i> | | |

Bid Form
Prospect and Oak Street Infrastructure Project Ayer, MA

| Item No. | Brief Description, Unit or Lump Sum Price (In Both Words and Figures) | Pleasant Street Reconstruction Project | |
|-----------------------|--|--|------------------|
| | | Estimated Quantity, Unit | Total in Figures |
| ADD ALTERNATES | | | |
| A1 | Substitute granite curbing for of HMA curb type 3, per linear foot | | |
| | FIFTY FIVE DOLLARS | 625 LF | \$ 34,375 - |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 55 - | | |
| | <i>Unit Price in Figures</i> | | |
| A2 | Substitute cement concrete sidewalk for HMA walk, per square yard | | |
| | ONE HUNDRED THIRTY DOLLARS | 320 SY | \$ 41,600 - |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 130 - | | |
| | <i>Unit Price in Figures</i> | | |
| A3 | Substitute cement concrete sidewalk at driveways where sidewalk present, per square yard | | |
| | ONE HUNDRED NINETY DOLLARS | 176 SY | \$ 33,440 - |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 190 - | | |
| | <i>Unit Price in Figures</i> | | |
| A4 | Right-of-Way Bioswale, per lump sum | | |
| | TWENTY FIVE THOUSAND DOLLARS | 1 LS | \$ 25,000 - |
| | <i>Unit Price, Dollars and cents (words)</i> | | |
| | \$ 25,000 - | | |
| | <i>Unit Price in Figures</i> | | |

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

The Bidder understands that all bids for this project are subject to the applicable bidding laws of the Commonwealth of Massachusetts, including General Laws Chapter 30, Section 39M, as amended.

The contract will be awarded to the lowest responsible and eligible bidder.

The Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays and legal holidays excluded, after the opening of bids.

Within 10 days of receipt of the written notice of acceptance of this bid, the Bidder will execute the formal agreement attached in Section 00510, AGREEMENT.

Bid security is attached in the sum of five percent (5%) of the total bid in accordance with the conditions of Section 00200, INSTRUCTIONS TO BIDDERS. The bid security may become the property of the Owner in the event the contract and bond are not executed within the time set forth above.

The selected Contractor shall furnish a performance bond and a payment bond in an amount at least equal to one hundred percent (100%) of the contract prices in accordance with Section 00610, PERFORMANCE BOND and Section 00615, PAYMENT BOND, of these specifications.

3. The Bidder is requested to state below what work of a similar character to that included in the proposed contract has references that will enable the Owner to judge his experience, skill and business standing (add supplementary page if

Completion Date Project Name Contract Amount Design Engineer Reference Name

a. SEE ATTACHED SHEET

b. _____

c. _____

d. _____

e. _____

f. _____

Bank reference

Mr. JAMES MURPHY
(Name)

EASTERN BANK
(Bank)

265 FRANKLIN ST BOSTON, MA
(Address)

617-897-1069

(Telephone No.)

Pursuant to M.G.L. CH. 62C, Sec 49A, the undersigned Bidder certifies under the penalties of perjury that he is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that he will comply fully with all laws and regulations applicable to awards made subject to section 44A.

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the Commonwealth of Massachusetts under the provisions of Section Twenty-Nine F of Chapter Twenty-Nine, or any other applicable debarment provisions of any other Chapter of the General Laws or any rule or regulations promulgated thereunder.

Respectfully submitted:

Date 2/27/19

By 
(Signature)

Nick Biello
(Name - Type or Printed)

Vice President
(Title)

(SEAL - if bid is by a corporation)

J. D'Amico, Inc
(Business Name)

04-206-3146
(Federal ID Number)

10 York Avenue
(Business Address)

RANDOLPH, MA 02368
(City and State)

781-961-3700
(Telephone Number)

781-986-4667
(Fax Number)

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 \$1,000 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 \$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 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 25 and Exhibits A through P, inclusive).
 2. Performance bond and Payment bond
 3. General Conditions

4. Supplementary Conditions
5. Contract Conditions
6. Specifications as listed in the table of contents of the Project Manual.
7. Drawings consisting of 3 sheets with each sheet bearing the following general title: Pleasant Street Water Main.
8. Addenda (numbers 1 to 1, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 00300-1 to 00300-10, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (see Exhibits, Schedules of Participation, Letters of Intent, inclusive).
 - c. _____.
10. 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 _____.

OWNER:

Board of Selectmen
Town of Ayer
Ayer, Massachusetts

By: _____

Title: Chairman

By: _____

Title: Member

By: _____

Title: Member

CONTRACTOR

By: _____

Title: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Approved: _____

Title: Treasurer

Attest: _____

Title: Clerk

Address for giving notices:

Attest: _____

Title: _____

Address for giving notices:

Agent for service of process:

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

This page intentionally left blank

CONTRACT CONDITIONS (see also general conditions, special supplemental conditions)

1. *Intentionally left blank*

2. Notice to Award and Notice to Proceed & Preconstruction Conference A written Notice to Proceed shall be issued to the Contractor after receipt of the following: acceptance of the Notice of Award, the payment and performance bonds, proof of required insurances, and the completed contract documents. These items must be completed within fifteen (15) days of the receipt of a Notice of Award from the Owner.

No work shall be performed by the Contractor until he has received the Notice to Proceed.

Prior to the start of construction, the Contractor, all subcontractors, the project manager, and the owner shall attend a preconstruction conference. The conference will serve to acquaint the participants with the general plan of contract administration and requirements under which the construction operation is to proceed, and will inform the Contractor, in detail, of the obligations imposed on him and his subcontractors by the Executive Orders concerning Equal Employment Opportunity and Davis-Bacon Act requirements and other Federal labor standards requirements.

The Resident Inspector or the Clerk of the Works will furnish the date, time, and place of the preconstruction conference to the Contractor.

3. Funding Source

The project to be constructed and pursuant to this Contract will be financed with assistance from the (Massachusetts Community Development Block Grant Program) and the Department of Housing and Community Development (DHCD) and is subject to all applicable Federal, State, and local regulations.

4. Contract Plans and Specifications

All plans, specifications and addenda, hereinafter enumerated or referenced in this contract, shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein set fully forth. The tables of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

5. Additional Instructions and Detail Drawings

The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the Engineer will prepare jointly: (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Engineer in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with the progress of the

work.

6. Shop Drawings

The Contractor shall submit promptly to the Engineer three (3) copies of each shop drawing prepared in accordance with the schedule predetermined as aforesaid and one electronic copy. After examination of such drawings by the Engineer and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Engineer with two corrected copies. If requested by the Engineer, the Contractor must furnish additional copies. Regardless of corrections made in or approval given to such drawings by the Engineer, the Contractor will nevertheless be responsible for the accuracy of such drawings and for their conformity to the plans and specifications, unless he notifies the Engineer in writing of any deviations at the time he furnishes such drawings.

7. Materials, Services and Facilities

- (a) It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature and all other services and facilities of every nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- (b) Any work necessary to be performed after regular working hours, on Sunday or Legal Holidays, shall be performed without additional expense to the Owner.

8. Contractor's Title to Materials

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

9. Title to Work

The title to all work completed and in the course of construction and of all material on account of which any payment has been made shall be in the Owner.

10. Inspection and Testing of Materials

- (a) All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. The Owner will pay for all laboratory inspection service direct, and not as a part of the Contract.
- (b) Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

11. Express Warranty

The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Contractor also guarantees that all work will be done in a workmanlike manner, free from defects, and in conformance with any specifications mentioned in this contract.

12. Maintenance and Guarantee

The Contractor hereby guarantees that the entire work constructed by him under the contract will meet fully all requirements thereof as to quality of workmanship and of materials furnished by him. The Contractor hereby agrees to make at his/her own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein for any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with the respect to any provisions of the specifications. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the owner for the cost thereof

13. Or "Equal" Clause

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended merely to establish a standard; and, any materials, article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed is, in the opinion of the Architect of equal substance and function. It shall not be purchased or installed by the Contractor without the Architect's written approval.

14. Surveys, Permits and Regulations

Unless otherwise expressly provided for in the specifications, the Owner will furnish to the Contractor all surveys necessary for the execution of the work. The Contractor shall procure and pay for all permits, licenses and approvals necessary for the execution of his contract as part of their cost, and shall comply with the provisions of HUD 24 CFR 85.36 Parts 1-3 and Massachusetts General Laws with respect to bonding or other insurance requirements.

The Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work, the protection of adjacent property and the maintenance of passageways, guard fences or other protective facilities.

15. Contractor's Obligations

The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified, in accordance with the provisions of this Contract and said specifications and in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Engineer as given from time to time during the progress of the work. (S)he shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required.

The contractor shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the Contract and specifications, and shall do, carry on and complete the entire work to the satisfaction of the Engineer and the Owner.

16. Weather Conditions

In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

17. Protection of Work and Property -Emergency

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Contract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such is caused directly by errors contained in the Contract or by the Owner, or his duly authorized representatives.

In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Engineer, in a diligent manner.

He shall notify the Engineer immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Engineer for approval. Where the Contractor has not taken action but has notified the Engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the Engineer.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 21 below.

18. Inspection

The authorized representatives and agents of the Owner, the Executive Office of Communities and Development, the Commonwealth, the grantee, and the Department of Housing and Urban Development shall be permitted to inspect all work.

19. Reports, Records and Data

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request concerning work performed or to be performed under this Contract. The Contractor must retain all records for a period of (7) seven years from completion of the work.

20. Superintendence by Contractor

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Engineer and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

21. Changes in Work

No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
 - (1) Labor, including foremen.
 - (2) Materials entering permanently into the work.
 - (3) The ownership or rental cost of construction plant and equipment during the time of use on the extra work.
 - (4) Power and consumable supplies for the operation of power equipment.
 - (5) Insurance.
 - (6) Wages to be paid.

To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

22. Time for Completion and Liquidated Damages

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion of the work to be done hereunder are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the "Notice to Proceed."

The Contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a partial consideration for the awarding of this Contract, to pay to the Owner the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount of liquidated damages is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in such event and said amount shall be retained from time to time by the Owner from current periodic estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

(a) To any preference, priority or allocation order duly issued by the Government.

(b) To unforeseeable cause beyond the control and without the fault of negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and severe weather.

(c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

Provided further, that the Contractor shall within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the Contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

23. Correction of Work

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Engineer who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture and methods of construction for the purposes for which they are used. Should they fail to meet his approval, they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected materials shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Engineer shall be equitable.

24. Subsurface Conditions Found Different

Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, he shall immediately give notice to the Engineer of such conditions before they are disturbed. The Engineer will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the plans or indicated in the specifications, he will at once make such changes in the plans and/or specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 21 of the General Conditions.

25. Right of Owner to Terminate Contract

The Owner may terminate this Contract by providing the Contractor and the Surety with 10 days

written notice specifying the reasons for termination as outlined below:

- (a) Violation of any of the provisions of this Contract by the Contractor or any of his/her subcontractors.
- (b) A determination by the Owner that the Contractor has engaged in fraud, waste, mismanagement, misuse of funds, or criminal activity with any funds provided by this Contract.
- (c) Failure of the Contractor, for any reason, to fulfill in a timely and proper manner its obligations under this Contract including compliance with applicable federal, state or local laws or regulations, and such procedures or guidelines as may be established for the Massachusetts Community Development Block Grant by EOCD;
- (d) Cancellation, revocation, suspension or termination by HUD of the grant agreements to the Commonwealth under which the Owner's Community Development Block Grant Agreement is made, or the portion thereof funding this contract.

In the event of any such termination, the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion at the expense of the Contractor and the Contractor and his Surety shall be liable to the Owner for any excess cost occasioned by the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefore.

If the Owner determines that a continuation of work on the project would endanger the life, health, or safety of those working or living at or near the project site, or that immediate action is necessary to protect public funds and/or property, the Owner may suspend work or terminate this agreement by providing notice to the Contractor in the form of telegram, mailgram, hand-carried letter, or other appropriate written means.

26. Payments to Contractor

The OWNER may retain a portion of the amount otherwise due the Contractor except the amount the OWNER retains shall be limited to the following:

- (a) Withholding of not more than 5 percent of the payment claimed until work is substantially complete.
- (b) When the work is substantially complete (operational or beneficial occupancy), the withheld amount shall be further reduced below 1 percent (1 %) or to only that amount necessary to assure completion.
- (c) The OWNER may reinstate up to 5 percent (5%) withholding if the OWNER determines, at its discretion that the CONTRACTOR is not making satisfactory progress or there is other specific cause for such withholding.
- (d) The OWNER may accept securities negotiable without recourse, condition or restrictions, a release of retainage bond, or an irrevocable letter of credit provided by the CONTRACTOR instead of all or part of the cash retainage.
- (e) NON PAYMENT PROVISION: The OWNER will not make a payment to the Contractor if they have determined that the Contractor has not provided them with current certified payrolls on the Federal Form WH-347 attached, provided the accompanying Federal Compliance Statement(s), it has

been determined that an employee is not being paid the correct wage rate for this project, or the Contractor has failed to provide the State Compliance Statement(s) at least once by the end of the job. And further that the Contractor and/or subcontractors shall submit certified payrolls marked "No Work this Week" for each of the weeks where no work was performed.

(a) Not later than the tenth day of each calendar month the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this Contract, but to insure the proper performance of this Contract, the Owner shall retain five percent (5%) of the amount of each estimate until final completion and acceptance of all work covered by this Contract. The Contractor shall submit his estimate not later than the first day of the month; provided further, that on completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon, less authorized deductions.

(b) In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.

(c) Payment for this project is directly tied to the funding schedule of the funding sources. Not later than the tenth day of receipt of payment from the funding sources (or other fixed date to be mutually established prior to commencing work) the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this Contract, but to insure the proper performance of this Contract, the Owner shall retain five (5%) of the amount of each estimate upon final completion and acceptance of all work covered by this Contract; provided that the Contractor shall submit his estimate not later than the first day of the month; provided, further that on completion and acceptance of each separate building, public work or other division of the Contract, on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon, less authorized deductions.

(d) The General Contractor is responsible for informing Filed Sub Contractors of the specific amounts approved by the architect. If this amount differs from the amount the Filed Sub contractor has invoiced the General Contractor, there shall NOT be a claim for direct payment levied to the Town. The General Contractor is responsible for coordinating this information.

(e) In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.

(f) Contractor is to provide a detailed Schedule of Values that is directly tied to available funds from each funding source. Architect, Project Manager and Grant Administrator can assist in organizing and approving this document. This document must be submitted for approval no later than ten (10) days after receipt of Notice to Proceed.

27. Indemnification.

The Contractor shall comply with the requirements of all applicable laws, rules and regulations in connection with the services of the Contractor, and shall exonerate, indemnify and hold harmless the Owner's officers, agents, the Town and its agents, and all project employees from and against them, and local taxes or contributions imposed or required under the Social Security, Worker's

Compensation, and Income Tax laws. Further, the Contractor shall exonerate, indemnify and hold harmless the Owner with respect to any damages, expenses or claims arising from or in connection with any of the work performed or to be performed under this Contract. This shall not be construed as a limitation of the Contractor's liability under the Contract or as otherwise provided by law.

28. Acceptance of Final Payment Constitutes Release

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor. No payment, however, final or otherwise, shall operate to release the Contractor or his Sureties from any obligations under this Contract or the performance and payment bond.

29. Insurance

Refer to Section 00800 for requirements and guidance.

30. Flood Disaster Protection

The owner of land subject to acquisition or improvement under this contract, and its successors or assigns, are hereby obligated to obtain and maintain, during ownership of the land which is the subject of this contract, such flood insurance as is required with respect to financial assistance for acquisition or construction purposes under section 102 (a) of the Flood Disaster protection Act of 1973. This obligation is binding notwithstanding the fact that construction on the land which is the subject of this contract is not itself funded out of assistance provided under the Housing and Community Development Act of 1974, as amended.

31. Contract Security

The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this Contract and also a payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State or local law, as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract.

32. Assignments

The Contractor shall not assign or subcontract the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this Contract.

33. Engineer's Authority

The Engineer shall give all orders and directions contemplated under this Contract and specifications relative to the execution of the work. The Engineer shall determine the amount, quality, acceptability and fitness of the several kinds of work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Engineer's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said

Contract and specifications, the determination or decision of the Engineer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.

The Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute.

34. Notice and Service Thereof

Thereof Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address, or delivered in person to the said Contractor or his authorized representative on the work.

35. Subcontract

The Contractor will insert in any subcontracts the Federal Labor Standards Provisions contained herein and such other clauses as the Department of Housing and Urban Development may, by instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

36. Interest of Member of or Delegate to Congress

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit that may arise there from, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

37. Other Prohibited Interests

No official of the Owner, project team, or the Town who is authorized in such capacity and on behalf of the Town to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, Architect or inspector of or for the Town who is authorized in such capacity and on behalf of the Town to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract or any other contract pertaining to the project.

38. Suspension of Work

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

39. Access to Roads

The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Owner to assure proper accounting for all project funds -

both CDBG and non-CDBG shares. These records will be made available for audit purposes to the Owner or any authorized representative, and will be retained for seven years after final Mass. CDBG audit.

40. Age Discrimination Act of 1976 (for contracts over \$2,000)

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination from receiving Federal financial assistance.

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975 (42 USC. 6101 et seq.). The Age Discrimination in Employment Act prohibits arbitrary age discrimination in employment.

41. Non-Discrimination

The Contractor shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD (24 CFR Part 1); Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; Section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); Executive Order II 246 and the rules, regulations and relevant orders of the U.S. Secretary of Labor, if applicable; The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Massachusetts General Laws Chapter 151 B, section 1 et seq.; State Executive Order 74 as amended and revised by Executive Orders II 6,143' and 227, and Massachusetts CDBG regulations, procedures or guidelines as contained in the CDBG Manual; Title 11 of the Uniform Relocation Assistance and Real Property, Acquisition Policies Act of 1979; and MASS CDBG guidelines, procedures, or regulations including the CDBG Manual.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, veteran's status, national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color-religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship.

The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this non-discrimination clause. The Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, veteran's status, or national origin. The Contractor shall incorporate the foregoing requirements of this paragraph in all contracts for work to be performed in this paragraph in all contracts for work to be performed in accordance with this Contract and will require all of its subcontractors to incorporate such requirements in all subcontracts for program work.

Contract subject to Federal Executive Order 111246 as amended, shall be subject to HUD Equal Employment Opportunity regulation at 24 CFR Part 130 applicable to HUD assisted construction contracts.

The Contractor shall send to each labor union or representative or workers with which they have a collective bargaining agreement or other contract or understanding, a notice advertising the said labor union or worker's representatives of the Contractor's commitment under this subsection and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

In the event of noncompliance by the Contractor with the nondiscrimination clauses of this Agreement or with any such rules, regulations, or orders of the Secretary of Labor, the Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contract or federally assisted construction contract procedures authorized in Executive Order 11246, or by rules, regulations, or orders of the Secretary of Labor, as otherwise provided by law.

The Contractor shall include the provisions set forth herein in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such actions with respect to any subcontract or purchase order as HUD or MASS CDBG may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

42. Termination of Contract

The Owner may suspend or terminate this Contract by providing the recipient with ten-(10) day's written notice for reasons outlined as follows:

1. Failure of the Grantee, for any reason, to fulfill in a timely and proper manner its obligations under this Contract including compliance with applicable federal, state or local laws or regulations, and such procedures or guidelines as may be established for the Massachusetts Community Development Block Grant;
2. Cancellation, revision, suspension or termination by HUD of the grant agreements to the Commonwealth under which the Owner's Community Development Block Grant Agreement is made, or the portion thereof funding this contract.

43. Non Federal Labor-Standards Provisions

The Massachusetts Labor-Standards Provisions, including the provisions concerning maximum hours of work, minimum rates of pay, and overtime compensation, with respect to the categories and classifications of employees hereinafter mentioned are included in this Contract pursuant to the requirements of applicable State or local laws. The inclusion of such provisions shall not be construed to relieve the Contractor or any Subcontractor from the pertinent requirements of any corresponding Federal Labor-Standards Provisions of this Contract. If the minimum rates of pay set forth below are higher than the minimum rates of pay required by or set forth in the Federal Labor Standards Provisions of this Contract for corresponding classifications, the minimum rates of pay set forth below shall, for the purposes of this Contract, be the applicable minimum rates of pay for such

classifications. The limitations, if any, in these Massachusetts Labor-Standards Provisions upon the hours per day, per week or per month which employees engaged on the work covered by this Contract may be required or permitted to work thereon shall not be exceeded.

44. Schedule of Salaries and Wages

The minimum wage rates and health and welfare fund contributions applicable to this Contract as determined by the HUD/Davis Bacon Wage rates and the Massachusetts Wage Rates for the project, whichever is higher, and contained in the bid documents and other regulations and shall be paid under this contract and reported as required. In the case of federal wage rates the hourly wage shall consist of the hourly rate plus the amount identified for benefits. It shall be the responsibility of the Contractor to comply with the appropriate and current wage rate for this project.

45. Labor Provisions

- (a) In the employment of mechanics and apprentices, teamsters, chauffeurs and laborers by the Contractor and Subcontractors, preference shall first be given to citizens of the Commonwealth who have been residents of the Commonwealth for at least six months at the commencement of their employment, who are male veterans as defined in clause forty-third of M.G.L. c. 4, s. 7 and who are qualified to perform the work to which the employment relates; and secondly, to citizens of the Commonwealth generally who have been residents of the Commonwealth for at least six months at the commencement of their employment, and if they cannot be obtained in sufficient numbers, then to citizens of the United States, in accordance with M.G.L. c. 149, s.26.
- (b) The minimum rates of wages to be paid mechanics and apprentices, chauffeurs, teamsters and laborers shall be set forth in the schedule of rates of wages determined by the Commissioner of Labor and Industry unless the Federal rates are higher.
- (c) In accordance with M.G.L. c. 149, s 34A, the Contractor shall, before commencing performance of the contract, provide by insurance for the payment of compensation and the furnishing of other benefits under M. G. L. c. 152 to all persons to be employed under the contract, and the Contractor shall continue such insurance in full force and effect during the terms of the contract. Sufficient proof of compliance with this section must be furnished at the time of execution of this contract. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of the contract and shall operate as an immediate termination thereof. The attention of the Contractor is directed to that portion of G.L. c. 149, s. 34A which provides that whoever violates any of its provisions shall be punished by a fine of not more than one hundred dollars or by imprisonment for six months, or both; and, in addition, any Contractor who violates any provision of this section shall be prohibited from contracting, directly or indirectly, with the Commonwealth or any political subdivision thereof for the construction, alteration, demolition, maintenance or repair of, or addition to, any public works or public building for a period of two years from the date of conviction of said violation.
- (d) The Contractor shall pay to any reserve police officer employed by him the prevailing rate of wage paid to regular police officers, as required by M.G.L. c. 149, s. 34B.
- (e) The Contractor shall provide the Owner with copies of each current permanent OSHA card or temporary OSHA certificate for each employee working on this project with the initial

payment request; along with each journeyman's certificate for each employee claiming this work category.

46. Environmental Requirements

The Contractor shall comply, where applicable, with: federal Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.) particularly section 2 (a); the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.), as amended, particularly section 307 (c) and (d) (16 U.S.C. 1456 (c) and (d)); the Safe Water Drinking Act of 1974 (42 U.S.c. 201, 300 (f) et seq., and 21 U.S.C. 349), as amended; the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536; the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7 (b) and (c) (16 U.S.c. 1278 (b) and (c)); the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, particularly section 176 (c) and (d) (42 U.S.c. 7506 (c) and (d)); HUD Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); "The American Standard Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," Number A-117.4-R 1971, subject to the exceptions contained in 41 CFR 101-19-604; and any corresponding provisions of State and local laws and regulations. The Contractor shall also comply, where applicable, with the National Environmental Policy Act of 1969, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Flood Disaster Protection Act of 1973, National Flood Insurance Act of 1968, and Protection of Wetlands Laws.

47. Responsibility to the Public Wage Rates

A. Laws to be Observed

The Contractor shall keep him/herself fully informed of all existing and future State and National laws and Municipal ordinances and regulations in any manner affecting those engaged or employed in the work or the materials used or employed in the work, or in any way affecting the conduct of the work, and all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and of all provisions required by law to be made a part of this Contract, all of which provisions are hereby incorporated by reference and made a part thereof. If any discrepancy or inconsistency is discovered in the plans, drawings or specifications or Contract for this work in relation to any such law, ordinance, regulation, order or decree, he shall forthwith report the same to the Department in writing. S/He shall cause all his/her agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees.

B. Anti-Boycott Covenant (Executive Order # 130)

The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereafter defined, participates in or cooperates with an international boycott, as defined in Section 9999 (b), (3) and (4) of the Internal Revenue Code of 1954, as amended. If there shall be a breach in the warranty, representation and agreement contained in this paragraph then without limiting such other rights as it may have the Town shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the Ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51 % of the ownership interests of the Contractor or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

48. Environmental Requirements

The Contractor shall comply where applicable, with Federal Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.) particularly section 2 (a); the Coastal Zone Management Act of 1972 (16 U.S.C. 14-51 et. seq.), as amended, particularly section 307 (c) and (d) (16 U.S.C. 1456 (c) and (d)); the Safe Water Drinking Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 USC 349), as amended, the Endangered Species Act of 1973 (16 USC 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536; the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7 (b) and (c) (16 U.S.C. 1278 (b) and (c)); the Clean Air Act (42 U. S. C. 7401 et seq.), as amended, particularly section 176 (c) and (d) (42 U.S.C. 7506 (c) and (d)); HUD Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); "The American Standard Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," Number A-11 7.4-R 1971, subject to the exceptions contained in 41 CFR 101-19-604; and any corresponding provisions of State and local laws and regulations. HUD lead protocols and hazardous materials laws particularly those regarding residential rehabilitation. The Contractor shall also comply, where applicable, with the National Environmental Policy Act of 1969, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Flood Disaster Protection Act of 1973, National Flood Insurance Act of 1968, Protection of Wetlands Laws, and HUD Lead Abatement contained in 24 CFR Sec. 35.

49. Historic Preservation

The Contractor shall, in the performance of environmental assessments under the National Policy Act, and the Massachusetts Environmental Policy Act, comply with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), federal Executive Order 11593, and the Preservation of Archaeological and Historic Data Act of 1966(17 U.S.C. 469 a-I et seq.), by (a) consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the proposed activity, and (b) complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.

50. Compliance with Air and Water Acts (for contracts exceeding \$100,000)

In addition to the foregoing requirements, all nonexempt Contractors and Subcontractors shall furnish to the Owner, the following:

- A. A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 11 4 and Section 308, and all regulations and guidelines issued there under.
- C. A stipulation that as a condition for the award of the Contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such actions as the Government may direct as a means

of enforcing such provisions.

51. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention

A. Lead-Based Paint Hazards (applicable to contracts for construction or rehabilitation of residential structures)

B. The construction or rehabilitation of residential structures is subject to the HUD-Lead Based Paint regulations, 24 CFR Part 35, and the parts relating to the rehabilitation of federally funded projects. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under subpart B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(5) thereof, and requirements of M.G. L. Ch. 111, Sec. 190-19 1, and the regulations for Lead Poisoning.

52. Compliance with the Massachusetts Community Development Block Grant Program Contract (Grant Agreement)

Unless modified or changed by any special terms or conditions set forth in the Grant Contracts, all activities authorized by this Contract shall be subject to and performed in accordance with Appendix A (The Town's Grant Agreement), including approval by DHCD of any Special Conditions and completion of the Environmental Review and all other provisions of said Grant Contact, and all applicable federal, state, and local laws and regulations, including but not limited to those cited within the said Agreement, and any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time, and any procedures and guidelines as may be established by MASS CDBG for the Massachusetts Community Development Block Grant Program.

53. Interest of Contractor and Employees

The Contractor covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this contract no person having any such interest shall be employed on this project. Further, the Contractor shall adhere to the provisions of the Hatch Act (5 U.S.C. 1501 et seq.) which limits political activities by employees whose principal employment is in connection with an activity which is financed in whole or in part by federal funds.

54. Severability

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

55. GOVERNING LAW

This Agreement is to be governed by the laws of the Commonwealth of Massachusetts.

56. DISPUTE RESOLUTION

All disputes arising under this Agreement shall be resolved through Arbitration subject to the following:

a. In the event the CONSULTANT intends to bring a claim under this Agreement, the CONSULTANT shall notify the TOWN in writing of its intent to Arbitrate. The TOWN may, within 30 days from receipt of such notice, give notice to the Consultant that it rejects arbitration. In the event the TOWN rejects arbitration, and the CONSULTANT intends to pursue its claim, the

CONSULTANT shall bring suit in the Trial Court for Bristol County, Massachusetts.

b. In the event the TOWN intends to bring a claim under this Agreement, the TOWN may elect to either arbitrate the claim or bring its claim directly in the Trial Court for Bristol County, Massachusetts.

c. Unless otherwise agreed in writing by the parties, arbitration shall be governed by the rules of the American Arbitration Association."

57. Statement -Political Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Contract may be used for any partisan political activity or to further the election or defeat of any candidate for public office.

58. Statement -Lobbying Prohibited

None of the funds provided under this Contract shall be used for publicity purposes designed to support or defeat legislation pending before the Congress.

59. Identification

All advertisements, notifications, publications, signs, brochures, and other promotional or informational material shall identify the project as being funded by the Town and a Small Cities grant from the Massachusetts Department of Housing and Community Development.

60. Grant Close-out Procedures

The Owner reserves the right to issue procedures to close out the Grant Project; the observance of which would be mandatory. This contract shall remain in full force and effect until DHCD closes out the project in writing to the Owner.

61. Availability of Funds

The compensation provided by this agreement is subject to the continued availability of federal funds for the Massachusetts Small Cities Program (MASS CDBG -HDSP Program), and to the continued eligibility of the Commonwealth and the Owner to receive such funds.

62. Confidentiality

The Contractor will protect the privacy of, and respect the confidentiality of information provided by, program participants, consistent with applicable federal and state regulations, including M.G.L. c.66, section 10, regarding access to public records.

63. Project Sign and EEO Poster

A project sign displaying information related to the work contemplated under this Contract shall be fabricated by the Contractor at their expenses and erected at a location acceptable to the Owner. The names and agencies funding this project are to be included, the name of the project, individual names of each member of the Board of Selectmen, the Owner's representative, the name of the engineering firm, and the contractor on the project sign. This information shall be provided to the Contractor by the Owner at the preconstruction meeting. The project sign shall be constructed of the materials and to the dimensions as prescribed by the Owner. No separate payment shall be made for this work, the costs of which shall be deemed included in the various unit and lump sum prices contained in the

Contractor's Bid.

The successful contractor must post on the project site an EEO poster in a conspicuous place at the job site, the Contractor has designated an EEO Coordinator, the State and Federal Wage Decision has been posted in a conspicuous place, the Contractors Certification Concerning Labor Standards and Prevailing Wage Requirements has been submitted to the project manager, and the Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements has been submitted to the awarding authority.

64. Construction Schedule

A Bar Chart or Gant chart type construction schedule shall be submitted for approval no later than ten (10) days following receipt of Notice to Proceed. Schedule is to indicate major milestones, critical selling dates, lead time items, etc. Construction Schedule is to be updated monthly for project meetings.

65. Fair Housing

In addition to the Federal laws and regulations, particularly those under Title VII of 1988 as revised; Section 109 of the Housing and Community Development Act of 1974, as amended, and actions taken by the owner and contractor to further fair housing under Section 104(b) of the Housing and Community Development Action of 1974, as set forth herein with respect to ensuring fair housing opportunities, the contractor shall adhere to the provisions of State Executive Orders 215 and 227.

66. Conflict Of Interest

Each party shall adhere to the provisions of the Massachusetts and the federal Conflict of Interest Provisions at 24 CFR 570.489 and the federal Hatch Act, S US.c. ss 1501 et seq. with respect to the Conduct of Public Employees. In addition, no member, officer, or employee of either party, or its designee, or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter shall have any interest in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Contract. Each party shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest, pursuant to the purposes of this subsection.

67. Copyright

No material prepared in whole or in part under this agreement shall be subject to copyright in the United States of America or in any other country except with the prior written approval of the Massachusetts Community Development Block Grant.

EXHIBITS ATTACHED TO THIS AGREEMENT:

Exhibit A: State Wage Rates

Exhibit B: Federal Wage Rates

Exhibit C: Certification of Bidder Regarding Equal Employment Opportunity

Exhibit D: Assurance of Compliance (Section 3, HUD Act of 1968)

Exhibit E: Certification of Bidder Regarding Section 3

Exhibit F: Certificate of Owner's Attorney Regarding Contract Execution

Exhibit G: Federal Labor Standards Provisions

Exhibit H: Attachment to Federal Labor Standards Provisions

Exhibit I: EO 481 Form

Exhibit J: HUD Financial Disclosure Form

Exhibit K: State Certification of Non-Collusion and Tax Compliance

Exhibit L: Certificate of Corporate Vote of Authorization

Exhibit M: Certification of Bidder OSHA Ten-hour Course in Construction Safety and Health

Exhibit N: Debarment Certification

Exhibit O: Certification of Drug-Free Workplace

Exhibit P: Registration of Foreign Corporation

DEPARTMENT OF PUBLIC WORKS

Mark L. Wetzel, P.E., Superintendent
Dan Van 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: March 14, 2019

To: Ayer Board of Selectmen.

From: Mark Wetzel P.E.

Re: Transfer Station Permit Fee for Devens Residents

The DPW occasionally has requests from residents in Devens, who are within the boundaries of Ayer, to use the Ayer Transfer Station. At the request of the Board, I have calculated a permit fee for the Devens residents.

The permit and bag fees are a partial Enterprise and partial General Fund funded. As Devens residents are not Ayer tax payers, I recommend that the permit fee for Devens residents include the amount equal to the tax subsidy. In addition, we cannot charge Devens residents more for bags, the subsidized portion of the bag fee should be included in the permit fee. Based on the current rates, revenues and budget, I recommend that the Devens Transfer Station Permit Fee be set at \$175.00.

In addition, I do not recommend that we have a senior permit fee and the Devens residents must provide proof that they are registered voters in Ayer.

DEPARTMENT OF PUBLIC WORKS

Mark L. Wetzel, P.E., Superintendent
Dan Van 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: March 14, 2019

To: Ayer Board of Selectmen.

From: Mark Wetzel P.E.

Re: Proprietary Specifications in Public Construction Projects

The Ayer Department of Public Works – Water Division is completing design of an addition to the Grove Pond Water Treatment Plant. This addition is required to remove chemicals, known as PFAS from Ayer’s water supply. As we are integrating the PFAS treatment into the existing water treatment system, we must specify compatible equipment. Under Massachusetts construction bidding laws, M.G.L. c.30, §39M and M.G.L. c.149, §§44A-M, material and equipment specifications must be written to promote completion. However, the Inspector General issued a guidance document to be used when proprietary materials or equipment must be specified.

The guidance states that proprietary specifications for public construction projects, including buildings,² shall only be used “... for sound reasons in the public interest stated in writing in the public records of the awarding authority ... such writing to be prepared after reasonable investigation.” A governmental body must document the reasons and provide them in writing to anyone making a written request for the information.

For the Grove Pond Water Treatment Plant PFAS Treatment Facilities project, we are specifying the following proprietary items.

- a. Dowex ion exchange resin media and related elements of AIX system furnished by Evoqua Water Technologies. This resin was one of 4 media tested in the pilot plant testing required by the MassDEP. It was the most effective and was the only media approved for this treatment process by the MassDEP. Therefore, no other ion exchange media can be specified.
- b. Chlorine Residual and ORP water quality analyzers manufactured by HACH Company. The Grove Pond Water Treatment Plant has 3 existing HACH analyzers. These analyzers require regular calibration and maintenance. Standardizing on these important analyzers allows the DPW to stock calibration chemicals and maintenance parts, as well as having consistent operation and maintenance.
- c. Milton Roy mRoy chemical metering pumps. Grove Pond Water Treatment Plant has 6 mRoy chemical feed pumps. Standardizing on this pump allows the DPW to stock parts, interchange pumps between applications and efficiently calibrate the pumps.
- d. CTI Dynamix X Drive control stations for chemical metering pumps. These are required by MaDEP as safety features to prevent over pumping of chemicals into the water. The DPW has standardized on this model for all chemical feed systems
- e. Allen Bradley Programmable Logic Controllers (PLC). The water treatment control system has Allen Bradley PLC control modules for all well and plant control functions. Integrating additional PLCs into the control system will require the same, compatible PLC brand.

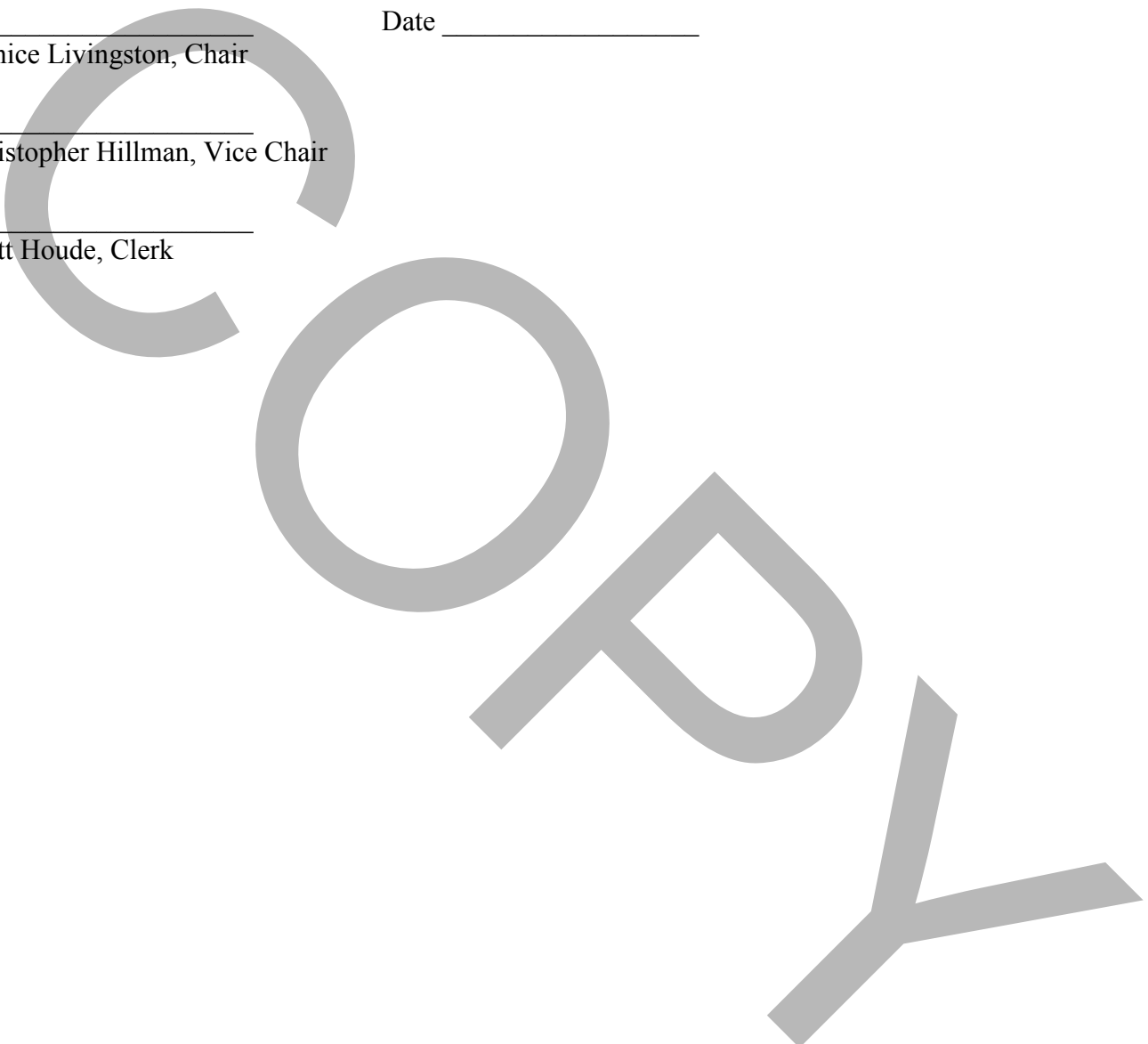
The Ayer Board of Selectmen / Water Commissioners, after a reasonable investigation and for water treatment reliability, safety and efficiency have determined that the Grove Pond Water Treatment Plant PFAS Treatment Facilities project requires use of proprietary specifications for the above five items.

Date _____

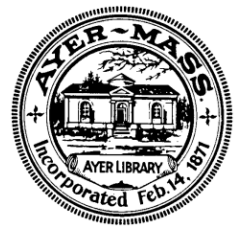
Jannice Livingston, Chair

Christopher Hillman, Vice Chair

Scott Houde, Clerk



**Office of the Board of Selectmen
Office of the Town Manager**



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

MEMORANDUM

DATE: March 15, 2019

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Manager

SUBJECT: Town Manager's Report for the March 19, 2019 BOS Meeting

Dear Honorable Selectmen,

I am pleased to transmit to you the following Town Manager's Report for the March 19, 2019 BOS Meeting. If you have any questions prior to the meeting, please do not hesitate to contact me directly. Thank you.

Administrative Update/Review of Warrant(s):

- I will provide the BOS with a brief Administrative Update at the meeting regarding the various activities, initiatives and projects since the BOS last met on March 5, 2019.
- Review of Warrant(s): I have reviewed, approved and signed the following Town Warrants since the BOS last met on March 5, 2019:
 - *Payroll Warrant #19-18 in the amount of \$338,949.25* was reviewed, approved and signed on March 12, 2019
 - *Accounts Payable Warrant #19-18 in the amount of \$1,765,839.34* was reviewed, approved and signed on March 5, 2019

FY 2020 Budget Update:

- I will present a brief FY 2020 Budget Update to the BOS at the meeting.

FY 2020 COLA (Cost of Living Adjustment) Recommendation:

- Please see the attached Memo regarding the recommendation for the FY 2020 COLA (See attached).

One Day Beer and Wine Permit – Ayer Shirley Lions Club:

- The Ayer Shirley Lions Club is asking for a one day beer and wine license for its Annual Pasta Night at Karin's Kitchen at 200 West Main Street on April 18, 2019 (See attached).

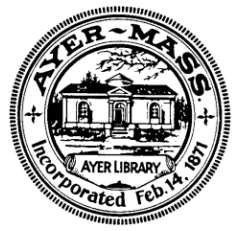
Devens Permanent Government Framework Committee:

- I would like to discuss with the BOS the attached proposal of forming a Devens Permanent Government Framework Committee. Additionally I will provide an update on the efforts to form the Ayer Devens Disposition Study Committee (See attached).

Thank you.

Attachment(s): --FY 2020 COLA Recommendation Memo from the Town Manager
 --One Day Beer and Wine Permit – Ayer Shirley Lions Club
 --Devens Permanent Government Framework Committee Letter (March 4,
 2019 from Town of Harvard)

**Office of the Board of Selectmen
Office of the Town Manager**



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

MEMORANDUM

DATE: March 15, 2019

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Manager

SUBJECT: FY 2020 COLA Recommendation

Dear Honorable Selectmen,

I am respectfully recommending that the Board of Selectmen vote to adopt an FY 2020 Cost of Living Adjustment (COLA) of two percent (2%) subject to approval of the FY 2020 Omnibus Budget by Town Meeting on May 13, 2019. This recommended COLA would be applied to all non-union employees as well as all Ayer Call Firefighters. Additionally, as is past practice, it would be recommended that this COLA be applied to the respective stipends of the Selectmen, Assessors, and Moderator. As the Board is aware, the salaries of elected officials are ultimately approved by Town Meeting by specific warrant article.

Please see the attached memo from Mr. Kevin Johnston, Benefits and Payroll Manager who researched and compiled the information at my request to support this FY 2020 COLA recommendation (See attached). I look forward to further discussing this recommendation with the Board of Selectmen at your meeting on March 19, 2019. Please note that the estimated FY 2020 Budget impact of this two percent (2%) COLA recommendation is approximately \$36,000.

If you have any questions prior to the meeting regarding this recommendation and/or the supporting information, please do not hesitate to contact me directly.

Thank you.

Attachment: COLA Memo from Mr. Kevin Johnston, Benefits and Payroll Manager

Cc: Ayer Finance Committee
Benefits and Payroll Manager
Finance Manager

Town of Ayer

Benefits and Payroll Department



1 Main Street – Ayer, Massachusetts - 01432
Kevin A. Johnston, Benefits and Payroll Manager

Tel: (978) 772-8248
Fax: (978) 772-3017

Memorandum

Date: March 15, 2019

To: Robert Pontbriand, Town Manager

From: Kevin A. Johnston *KAJ*

Subject: Cost of Living Adjustment (COLA) for Non-Union Personnel for FY 2020

To assist in the annual COLA recommendation for Non-Union Personnel for the FY 2020 budget, I am providing the following information for your consideration:

- The Consumer Price Index (CPI) for the Boston-Cambridge-Newton area has increased 2.5% from one year ago. (Bureau of Labor Statistics CPI Boston-Cambridge-Newton, including all of Middlesex County, news release February 14, 2019)
- Responses from a survey of neighboring communities conducted by the Benefits and Payroll Office are:
 - 2 communities more than 2% (Harvard & Stow)
 - 3 communities at 2% (Lancaster, Groton, Lunenburg)
 - 1 community less than 2% (Clinton)
- The Massachusetts Municipal Personnel Association (MMPA) COLA survey of communities includes:
 - 14 communities more than 2%
 - 14 communities at 2%
 - 3 communities less than 2%
- Social Security Benefits are increasing 2.8% in 2019
- Ayer's Collective Bargaining Agreements include 2% COLA adjustments for FY 2020

I am available to discuss this further and answer any questions at your convenience.

Thank you.

Ayer Board of Selectman

March 5, 2019

The Ayer Shirley Lions Club is asking for a one-day beer and wine license. The club is having its annual Pasta Night at Karin's Kitchen at 200 West Main St. on April 18, 2019

I will be managing the beer and wine sales.

Thank you



Calvin Moore
39 Main St.
Suite 204
Ayer, Ma 01432
978.772.1300

**OFFICES OF THE
SELECT BOARD AND
TOWN ADMINISTRATOR**

13 Ayer Road, Harvard, Massachusetts 01451
(978) 456-4100

www.harvard.ma.us
(978) 456-4107 fax



March 4, 2019



Town of Ayer
Town Manager Robert Pontbriand
Board of Selectmen Janice Livingston
1 Main Street
Ayer, MA 01432

Subject: Devens Permanent Government Framework Committee

Dear Mr. Pontbriand & Ms. Livingston,

Thank you for taking the time during this busy budget season to meet with us. We greatly appreciated your questions and input, and look forward to future opportunities to meet with you regarding resolution of Devens permanent governance.

We are writing you now to see if the Selectmen in your town would agree to participate in a special committee to work with MassDevelopment and the Devens Enterprise Commission (DEC) on advancing this planning for the future of Devens.

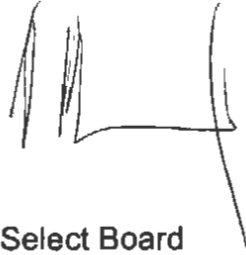
Lauren Liss, President of MassDevelopment has responded to the January 8, 2019 letter sent by the Town of Harvard and the Harvard/Devens Jurisdiction Committee. She agreed that "time spent now cooperatively developing a mutual framework for identifying issues" would be worthwhile. Ms. Liss suggested that all parties get together to work toward "cooperatively developing a mutual framework" that would facilitate the eventual establishment of permanent governance at Devens. In the letter, on which each town was copied, Ms. Liss acknowledges that consultant services would be procured to analyze the implications of such a transition, but only after all parties are able to agree upon and execute a Memorandum of Agreement which would set forth the "agreed upon planning process."

At this time, we would like to suggest that the Towns of Ayer, Harvard and Shirley form such a committee comprised of the Chair of the Board of Selectmen, Town Administrator and the Chair of a citizens committee such as the Harvard/Devens Jurisdiction Committee. We would also invite MassDevelopment and the DEC to be represented. The individual citizens committees could be constituted however each town desires; the purpose of those committees would be to facilitate public and town government input and communication within their respective towns. In addition, Harvard has encouraged participation in its committee by appointing two Devens residents; Ayer may elect to do the same should it form a similar committee.

The Harvard Select Board will be asked to take up the matter and consider a vote to participate in an ad hoc "Devens Permanent Government Framework Committee" constituted as described above in the near future. We would be pleased to work with Ayer and Shirley should your Town agree with this initiative.

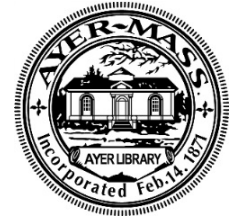
Thank you for your consideration of this, and as always, we are available at your convenience to discuss this further.

Sincerely,



Lucy B. Wallace, Chair, Select Board
Victor Normand, Chair, Harvard-Devens Jurisdiction Committee

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



Broadcast and Recorded by APAC

Tuesday March 5, 2019
Open Session Meeting Minutes

BOS Present: Jannice L. Livingston, Chair; Christopher R. Hillman, Vice – Chair; Scott A. Houde, Clerk

Also Present: Robert A. Pontbriand, Town Manager
Carly M. Antonellis, Assistant Town Manager

Call to Order: J. Livingston called the meeting to order at 7:00 PM.

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

Approval of Agenda:

Motion: A motion was by S. Houde and seconded by C. Hillman to approve the agenda. **Motion passed 3-0.**

Announcements: J. Livingston announced that the BOS will be holding a Special Meeting on at 6:00 PM on Wednesday March 27, 2019 regarding the proposed Ayer Green Residences 40B project located at 0 Washington Street.

Public Input: None

Ms. Alicia Hersey, Community Development Office: *Lien Subordination Request CASE #04-258E & 05-285 –A.* Hersey presented a lien subordination request (line of credit) and explained that it was to consolidate debt for the homeowner. The Town's liens are in effect on the property until July 2020 and February 2021, respectively.

Motion: A motion was made by S. Houde and seconded by C. Hillman to approve Lien Subordination Request Cases #04-258E and 05-285 as presented. **Motion passed 3-0.**

Town Manager's Report: *Administrative Update/Review of Warrant(s)* – R. Pontbriand referenced the Town Warrants in the meeting packet that he reviewed, approved and signed since the BOS last met on February 19, 2019. R. Pontbriand provided a brief Administrative Update to the BOS regarding the various activities, initiatives, and projects of the Administration since the BOS last met on February 19, 2019. He advised that the primary focus of the Administration has been the on-going preparation of the FY 2020 Budget. He advised that the Town's Open Space and Recreation Plan has been completed and submitted to the State for final approval. He advised that union contract negotiations are almost completed. The Master Plan Implementation Plan continues to be a focus of the Administration. The Town's OSHA compliance plan is underway as is the consultant selection process for the Senior Center Feasibility Study. The Administration continues to work on updating the Town's ADA with Pirone Park and Sandy Pond Beach already being completed as part of the Open Space Plan. The Town is waiting on official word as to when the retail marijuana facility will open and the Town is actively working on the proposed Marijuana Bylaw for the Special Town Meeting on June 10, 2019.

FY 2020 Budget Update – R. Pontbriand focused on the proposed FY 2020 Capital Project Budget for his FY 2020 Budget Update. He reviewed the projects and amounts recommended by the Capital Planning Committee and discussed the recommendation of the Capital Planning Committee for a Capital Exclusion for the \$650,000 Fire Engine #2 Replacement. A Capital Exclusion requires passage at both a ballot and at Town Meeting. The ballot would be part of the Annual Town Election on April 22, 2019. A Capital Exclusion unlike a Debt Exclusion, would ask voters to fund the \$650,000 from the tax levy in one year as opposed to borrowing over the course of years like a debt exclusion. Additionally he explained that a Capital Exclusion is not a permanent increase on the tax levy; it is only for one year. R. Pontbriand explained that the reasoning behind the Capital Exclusion from the Capital Planning

Committee is that in two years from now another Fire Truck is going to need to be replaced and it makes financial sense to pay for Engine #2 in one year. R. Pontbriand stated that according to the Assessor's Office, the estimated, one-time cost impact of the Capital Exclusion for Engine #2 would be \$126 for the average residential tax bill and \$223 for the average commercial tax bill.

S. Houde stated that the key to a successful Capital Exclusion will be in the public information and public messaging so voters understand it.

C. Hillman thanked the Capital Planning Committee for all of their hard work.

Request for One Day Beer/Wine License – St. Mary's Parish - R. Pontbriand presented a request from St. Mary's Parish for a one day beer/wine license for Saturday March 16, 2019 from 4:30pm to 9:30pm for a St. Patrick's Day Supper in the Parish Hall.

Motion: A motion was made by S. Houde and seconded by J. Livingston to approve the one day beer/wine license for St. Mary's Parish as presented by the Town Manager. **Motion passed 3-0.**

Approval of MassWorks/MART Invoice – Depot Square - R. Pontbriand requested BOS approval for the MassWorks/MART Invoice in the amount of \$126,284.12 for the Ayer Commuter Rail Parking Project for the MassWorks Grant. Because the grant has been awarded to the Town of Ayer, Ayer must reimburse MART for the completed work, and then once the fund have been paid to MART, the Commonwealth will reimburse the Town the same amount.

Motion: A motion was made by S. Houde and seconded by C. Hillman to approve the MassWorks/MART Invoice in the amount of \$126,284.12 as requested by the Town Manager. **Motion passed 3-0.**

Approval of Representation for KP Law (Police Details Mutual Aid Agreement – Pepperell, Boxborough, Groton and Shirley) - At the request of Town Counsel, R. Pontbriand recommended that the BOS vote to approve the disclosure that Town Counsel, KP Law is currently doing legal work for the Towns of Pepperell, Boxborough, Groton, Shirley and Ayer at the request of the Town of Pepperell regarding the potential development of a mutual aid agreement for police details among regional Towns.

Motion: A motion was made by S. Houde and seconded by C. Hillman to approve the disclosure as requested by Town Counsel, KP Law and presented by the Town Manager. **Motion passed 3-0.**

New Business/Selectmen's Questions: Bi-Board Update (Selectman Houde)- S. Houde provided the BOS with an update of the ongoing activities of the Executive Bi-Board which include, updating the Town's Financial Policies; developing a budget book modelled after the Town of Northborough for Town Meeting; and ongoing efforts to improve public outreach, education, and information on the Town's budget and financial matters.

Approval of Meeting Minutes:

Motion: A motion was made by J. Livingston and seconded by C. Hillman to approve the meeting minutes from February 19, 2019. **Motion passed 3-0.**

Executive Session: A motion was made by J. Livingston at 7:42 PM and seconded by C. Hillman to enter into Executive Session pursuant to M.G.L. c. 30A §21A Exemption #3 (Union Contract Negotiations) *DPW Union*, Exemption #2 (Non-Union Contract Negotiations) *Town Manager* 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 Vote:** J. Livingston, aye; C. Hillman aye; S. Houde, aye. **Motion passed by Roll Call Vote 3-0.**

Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by BOS: _____

Signature Indicating Approval: _____

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



Broadcast and Recorded by APAC

**Wednesday March 13, 2019
Open Session Meeting Minutes**

BOS Present: Jannice L. Livingston, Chair; Scott A. Houde, Clerk

BOS Absent: Christopher R. Hillman, Vice-Chair

Also Present: Robert A. Pontbriand, Town Manager
Susan E. Copeland, Town Clerk
Fire Chief Robert J. Pedrazzi

Call to Order: J. Livingston called the meeting to order at 6:00 PM.

Fire Engine Capital Outlay Expenditure Exclusion: J. Livingston explained the purposes of this BOS Meeting is to authorize a date for a Special Election for the purposes of the Fire Engine Capital Outlay Expenditure Exclusion and to approve the form of the ballot question for this Special Election.

R. Pontbriand stated that it is recommended that the BOS vote to authorize the Special Election for the Fire Engine Capital Exclusion to coincide with the Town's Annual Election on Monday, April 22, 2019 from 7am to 8pm.

Motion: A motion was made by S. Houde and seconded by J. Livingston to schedule a Special Election to be held on Monday, April 22, 2019 from 7am to 8pm at the Ayer Town Hall, 1 Main Street, Ayer, MA 01432 and to include the following question on the ballot for said election:

Shall the Town of Ayer be allowed to assess an additional \$650,000 in real estate and personal property taxes for the purposes of purchasing a fire engine for the fiscal year beginning July first, two thousand and nineteen?

Yes ___ No ___

and that the Board direct the Town Manager to notify the Town Clerk of this vote in writing. **Motion passed 2-0.**

Motion: A motion was made by S. Houde and seconded by J. Livingston to adjourn the meeting. **Motion passed 2-0.**

Meeting adjourned at 6:04pm.

Minutes Recorded and Submitted by Robert A. Pontbriand Town Manager

Date Minutes Approved by BOS: _____

Signature Indicating Approval: _____