

RECEIVED
TOWN CLERK
TOWN OF AYER

2016 JUL -8 AM 9:25

Maura Copeland

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

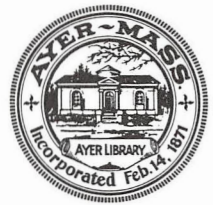


Tuesday July 12, 2016
Open Session Meeting Agenda

- 7:00 PM **Call to Order**
Pledge of Allegiance; Review and Approve Agenda; Announcements
- 7:05 PM* **Public Input**
- 7:15 PM **MART/MRPC**
1. Ayer Commuter Rail Surface Parking Lot and Access Improvement Project Update
- 7:30 PM **Mr. Alan Manoian, Economic and Community Development Director**
1. Islands of Ayer Program
2. Update on RFP for former Fire Station
- 7:45 PM **Fire Chief Robert J. Pedrazzi**
1. Approval of Radio Purchase Order
- 7:50 PM **Town Administrator's Report**
1. Administrative Update
2. Chapter 61 Nashua Street Extension Update/Working Group Proposal
3. Appointment of Chief Procurement Officer
4. Household Hazardous Waste Center Contract Amendment #4
5. Approval of Green Communities Grant Contract for \$217,046
- 8:05 PM **New Business/Selectmen's Questions**
1. FY' 17 State Budget (Selectman Luca)
- 8:15 PM **Approval Meeting Minutes**
June 21, 2016
- Adjournment**

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

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



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

MEMORANDUM

DATE: July 8, 2016

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: **Town Administrator's Report for the July 12, 2016 Board of Selectmen Meeting**

Dear Honorable Selectmen,

I am pleased to offer the following Town Administrator's Report for your July 12, 2016 Board of Selectmen Meeting. If you have any questions prior to the meeting please do not hesitate to contact me directly. Thank you.

Administrative Update:

I will offer a brief Administrative Update at the meeting regarding various administrative matters since the last Board meeting on June 21, 2016.

Chapter 61 Nashua Street Extension Update/Working Group Proposal:

As the Board is aware, the Chapter 61 Nashua Street Extension property appraisal is underway and will be completed by July 15, 2016. In terms of next steps, after the Town and property owner receive the appraisal, the Board should respectfully proceed with scheduling a public hearing regarding whether or not the Town should exercise its right of first refusal.

Additionally, per the June 21, 2016 Board Meeting, I offer the following proposal for a Chapter 61 Working Group.

- Working Group Charge: To develop a proposed comprehensive list of all Chapter 61 lands to include proposed prioritization criteria in terms of potential acquisition. Additionally the Working Group will be charged with developing a proposed policy/procedure regarding the Town's ability to timely execute the required appraisal and review processes when applicable.
- Working Group Committee: The Working Group would be convened and led by the Town Administrator and would consist of the Town Assessor; a Planning Board Member; a Conservation Member; an Open Space Committee Member; the Economic and Community Development Director; and the Town Accountant.

Appointment of Chief Procurement Officer:

As the Board is aware, the Town Administrator serves as the Town's Chief Procurement Officer. The Inspector General's Office has requested that the Board formally appoint the Town Administrator as the Town's Chief Procurement Officer. Upon Board appointment, the Inspector General's Office will be notified of said appointment (See Attached).

Household Hazardous Waste Center Contract Amendment #4:

As the Board is aware, the Town has been a member of the successful Household Hazardous Waste Center on Devens for the last six years. Recently the Center voted to accept the Town of Clinton as a Member of the Center. The Board is respectfully requested to approve and authorize the attached Amendment #4 of the Contract (signature by the Chair) which will permit the Town of Clinton to be a Member (See Attached).

Approval of Green Communities Grant Contract for \$217,046:

As the Board is aware the Town recently received a competitive grant in the amount of \$217,046 from the DOER Green Communities Program for the LED Street Light Conversion Project; LED lighting for the Fire Station; LED lighting for the DPW Garage and Main Office and the installation of a variable drive for the Grove Pond Water Treatment Plant (See Attached). The Board is respectfully requested to approve the grant contract with signature by the Chair (See Attached).

Attachment(s).

CPO Delegation Form Instructions

Chief Procurement Officer's Delegation of Procurement Powers and Duties Form

M.G.L. c. 30B, § 19, of the General Laws authorizes the Chief Procurement Officer (CPO) of a governmental body to delegate procurement powers and duties to other employees of the governmental body. The CPO makes the delegation to the position (*e.g.*, library director or school business manager) and not the individual employee. The CPO has great discretion in making a delegation — it can be very specific and limited, or very broad. Also, a CPO may issue more than one delegation at a time. Therefore, multiple positions may have delegated authority.

Keep in mind that you may only delegate powers you legally have under M.G.L. c. 30B and other applicable statutes, rules, regulations, charters, ordinances or bylaws. For example, where statutes or other rules require that a contract be approved by the mayor, city council, board of selectmen or school committee, such final approval is not the CPO's to delegate.

Please complete and sign a separate delegation form for each individual employee designated with CPO powers and duties. The CPO delegation is specific to job title/position NOT the employee.

Step-by-step instructions are listed below.

1. Check the appropriate box in step 1 on the CPO Delegation Form.
*[Amendments apply to changes in the **position's authority**, not changes in personnel filling the position. Revocation is used to permanently remove authority for that **position**.]*
2. Provide the name of the CPO, the jurisdiction name, and list the official title and department of the employee position receiving this delegation. Also, list the full name of the employee currently in this position.
[Try to avoid delegating authority to positions that oversee and/or approve expenditures (such as accountant or treasurer) to ensure proper segregation of duties.]
3. Check as many boxes (in step 3 on the CPO Delegation Form) as apply. If you wish to delegate powers and duties in addition to, or other than, those listed on the form, check "other" and specify the powers and duties you are delegating in an attachment.
4. Specify all applicable departments (line 1). Specify the applicable contract types (line 2). For example, office supplies, fire apparatus, etc. If you wish to restrict the delegation in some way other than those listed on the form, check "Other" and specify the requirements in an attachment.
5. Check as many boxes (step 5) on the CPO Delegation Form as apply. If you wish to impose requirements not listed on the form, check "Other" and specify the requirements in an attachment.
6. Enter the expiration date, if any. If there is no scheduled expiration date, enter "Not Applicable."
7. List any additional requirements. For example, prior written approval from the CPO.
8. Enter the name of your jurisdiction. Sign and date the delegation form. List your name, official title, department, office address, office telephone number and office email address. Also, indicate whether or not you have an MCPPO designation or certification.
9. Send a copy of this form to the Office of the Inspector General at the address provided on the bottom of the form.

No delegation or subsequent amendment or revocation of an original delegation shall take effect until a copy of this form has been received by the Office of the Inspector General. A copy will be retained in the Office's file.

**FOURTH AMENDMENT TO
INTERMUNICIPAL AGREEMENT**

**By and Among Communities in the Devens Region Participating in the
Devens Regional Household Hazardous Products Collection Program**

This Fourth Amendment to Intermunicipal Agreement (“Amendment #4”) is dated as of the ____ day of _____, 2016, in accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 4A, by and between the “Participating Communities” (as defined below). The effective date of Amendment #4 (the “Effective Date”) shall be July 1, 2016.

RECITALS

WHEREAS, the Massachusetts Development Finance Agency (“MassDevelopment”), acting on behalf of the Devens Regional Enterprise Zone (“Devens”), and the Towns of, Ayer, Bolton, Groton, Harvard, Lancaster, Littleton, Lunenburg, Townsend, Shirley, Ashby, and Stow (the “Participating Communities”), entered into that certain Intermunicipal Agreement dated as of March 16, 2011 (the “IMA”), First Amendment dated July 1, 2012 (“Amendment #1”), Second Amendment dated July 1, 2013 (“Amendment #2”) and Third Amendment dated June 30, 2016 (“Amendment #3”), regarding the Devens Regional Household Hazardous Products Collection Program (the “Program”) (terms used but not defined herein shall have the meaning given to them in the IMA); and

WHEREAS, the Town of Clinton desires to participate in the Program and join the Collaborative; and

WHEREAS, in a vote taken at its meeting on June 30, 2016, the Oversight Committee voted to admit the Town of Clinton into the Collaborative; and

WHEREAS, admittance of an additional municipality into the Collaborative requires an amendment to the IMA,

NOW THEREFORE, the Participating Communities and the Town of Clinton agree as follows:

AGREEMENT

1. The term “Participating Communities” as set forth in the first recital of the IMA shall now be defined as: the Massachusetts Development Finance Agency (“MassDevelopment”), acting on behalf of the Devens Regional Enterprise Zone (“Devens”), and the Towns of Ayer, Bolton, Groton, Harvard, Lancaster, Littleton, Lunenburg, Townsend, Shirley, Ashby, Stow, and Clinton.

IN WITNESS WHEREOF this Fourth Amendment to Intermunicipal Agreement is executed in the name of each named municipality by a duly authorized officer of such municipality as of the date written above.

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY

BY:

_____, duly authorized

Name:

Title:

Date:

TOWN OF AYER
BY:

_____, duly authorized.

Name:
Title:
Date:

TOWN OF BOLTON
BY:

_____, duly authorized.

Name:
Title:
Date:

TOWN OF GROTON
BY:

_____, duly authorized.

Name:
Title:
Date:

TOWN OF HARVARD
BY:

_____, duly authorized.

Name:
Title:
Date:

TOWN OF LANCASTER
BY:

_____, duly authorized.

Name:
Title:
Date:

TOWN OF LITTLETON
BY:

_____, duly authorized.

Name:
Title:
Date:

TOWN OF LUNENBURG

BY:

_____, duly authorized.

Name:

Title:

Date:

TOWN OF TOWNSEND

BY:

_____, duly authorized.

Name:

Title:

Date:

TOWN OF SHIRLEY

BY:

_____, duly authorized.

Name:

Title:

Date:

TOWN OF ASHBY

BY:

_____, duly authorized.

Name:

Title:

Date:

TOWN OF STOW

BY:

_____, duly authorized.

Name:

Title:

Date:

TOWN OF CLINTON

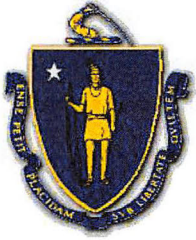
BY:

_____, duly authorized.

Name:

Title:

Date:



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES
100 CAMBRIDGE ST., SUITE 1020
BOSTON, MA 02114
Telephone: 617-626-7300
Facsimile: 617-727-0030

Charles D. Baker
Governor

Matthew A. Beaton
Secretary

Karyn E. Polito
Lt. Governor

Judith F. Judson
Commissioner

June 28, 2016

Gary J. Luca, Chair, Board of Selectmen
Town of Ayer
1 Main Street
Ayer, MA 01432

Dear Chair Luca:

I am pleased to inform you that the Department of Energy Resources (DOER) Green Communities Division has approved an award of \$217,046 for the following projects proposed in the Town of Ayer's Green Communities Competitive Grant application.

List of projects funded:

- • \$147,510.00, Town wide—Streetlight LED Upgrade
- • \$22,338, Spectacle Pond WTP—Spec Pond Well 1 Pump VFD
- • \$13,301, DPW Highway Garage and Main Office— Interior and Exterior Lighting Upgrade
- • \$20,886, Grove Pond Water Treatment Plant—Interior and Exterior Lighting Upgrade
- • \$13,011, Fire Station—Exterior Lighting Upgrade

The Division reviewed Ayer's grant application and has determined these are viable projects that meet the eligibility requirements of our Competitive Grant program. **Please note that, due to the competitive nature of this grant program, the use of these funds is restricted to the specifically- approved projects listed above.**

Jane Pfister, Green Communities Grant Coordinator, will follow up with the contact listed in your competitive grant application to discuss next steps, including coordination of the grant contract process. The Green Communities Division looks forward to working with the Town of Ayer on your grant projects. We congratulate you on your grant award, and applaud your efforts to create a cleaner energy future for your community and the Commonwealth as a whole.

Please do not hesitate to contact me at 617-626-7358 or by email at dan.knapik@state.ma.us with any questions you may have regarding your grant award.

Sincerely,

A handwritten signature in black ink, appearing to read 'DMK', written in a cursive style.

Daniel M. Knapik, Director
Green Communities Division

CC: Robert Pontbriand, Town Administrator

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the [Executive Office for Administration and Finance \(ANF\)](#), the [Office of the Comptroller \(CTR\)](#) and the [Operational Services Division \(OSD\)](#) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: Town of Ayer (and d/b/a):	COMMONWEALTH DEPARTMENT NAME: Department of Energy Resources MMARS Department Code:
Legal Address: (W-9, W-4,T&C): 1 Main Street, Ayer, MA 01432	Business Mailing Address: 100 Cambridge Street, Suite 1020, Boston, MA 02114
Contract Manager: Robert Pontbriand	Billing Address (if different):
E-Mail: ta@ayer.ma.us	Contract Manager: Jane Pfister
Phone: 978-772-8210 Fax: 978-772-3017	E-Mail: jane.pfister@state.ma.us
Contractor Vendor Code: VC6000191709	Phone: 617-626-1194 Fax: 617-727-0030
Vendor Code Address ID (e.g. "AD001"): AD 001 (Note: The Address Id Must be set up for EFT payments.)	MMARS Doc ID(s): RFR/Procurement or Other ID Number: PON-ENE-2016-009
<p align="center"><input checked="" type="checkbox"/> NEW CONTRACT</p> PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)	<p align="center"><input type="checkbox"/> CONTRACT AMENDMENT</p> Enter Current Contract End Date Prior to Amendment: _____, 20____. Enter Amendment Amount: \$ _____. (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services	
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or new Total if Contract is being amended). \$ <u>217,046</u>	
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___% PPD; Payment issued within 15 days ___% PPD; Payment issued within 20 days ___% PPD; Payment issued within 30 days ___% PPD. If PPD percentages are left blank, identify reason: <input checked="" type="checkbox"/> agree to standard 45 day cycle ___ statutory/legal or Ready Payments (G.L. c. 29, § 23A); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy .)	
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) The purpose of this Contract is to award a grant to the Town of Ayer ("Grantee") for a maximum obligation amount not to exceed \$217,046 for Fiscal Year 2017 to fund energy conservation measures in the following Ayer municipal facilities: town wide streetlights, Spectacle Pond and Grove Pond Water Treatment Plants, PDW Highway Garage and Main Office, and the Fire Station, as described in Attachment C (Scope of Grant).	
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input checked="" type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 3. were incurred as of _____, _____, a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.	
CONTRACT END DATE: Contract performance shall terminate as of <u>May 31, 2017</u> , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.	
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the " Effective Date " of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions , this Standard Contract Form including the Instructions and Contractor Certifications , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.	
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Gary J. Luca</u> Print Title: <u>Chair, Board of Selectmen</u>	AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Stephen A. White</u> Print Title: <u>Chief Operating Officer</u>

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



INSTRUCTIONS AND CONTRACTOR CERTIFICATIONS

The following instructions and terms are incorporated by reference and apply to this Standard Contract Form. Text that appears underlined indicates a "hyperlink" to an Internet or bookmarked site and are unofficial versions of these documents and Departments and Contractors should consult with their legal counsel to ensure compliance with all legal requirements. Using the Web Toolbar will make navigation between the form and the hyperlinks easier. Please note that not all applicable laws have been cited.

CONTRACTOR LEGAL NAME (AND D/B/A): Enter the Full Legal Name of the Contractor's business as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#). If Contractor also has a "doing business as" (d/b/a) name, BOTH the legal name and the "d/b/a" name must appear in this section.

Contractor Legal Address: Enter the Legal Address of the Contractor as it appears on the Contractor's [W-9](#) or [W-4 Form](#) (Contract Employees only) and the applicable [Commonwealth Terms and Conditions](#), which must match the legal address on the 1099 table in MMARS (or the Legal Address in HR/CMS for Contract Employee).

Contractor Contract Manager: Enter the authorized Contract Manager who will be responsible for managing the Contract. The Contract Manager should be an Authorized Signatory or, at a minimum, a person designated by the Contractor to represent the Contractor, receive legal notices and negotiate ongoing Contract issues. The Contract Manager is considered "Key Personnel" and may not be changed without the prior written approval of the Department. If the Contract is posted on [COMMBUYS](#), the name of the Contract Manager must be included in the Contract on COMMBUYS.

Contractor E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Contractor Contract Manager. This information must be kept current by the Contractor to ensure that the Department can contact the Contractor and provide any required legal notices. Notice received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any written legal notice requirements.

Contractor Vendor Code: The Department must enter the [MMARS Vendor Code](#) assigned by the Commonwealth. If a Vendor Code has not yet been assigned, leave this space blank and the Department will complete this section when a Vendor Code has been assigned. The Department is responsible under the [Vendor File and W-9s Policy](#) for verifying with authorized signatories of the Contractor, as part of contract execution, that the legal name, address and Federal Tax Identification Number (TIN) in the Contract documents match the state accounting system.

Vendor Code Address ID: (e.g., "AD001") The Department must enter the MMARS Vendor Code Address Id identifying the payment remittance address for Contract payments, which MUST be set up for EFT payments PRIOR to the first payment under the Contract in accordance with the [Bill Paying](#) and [Vendor File and W-9](#) policies.

COMMONWEALTH DEPARTMENT NAME: Enter the full Department name with the authority to obligate funds encumbered for the Contract.

Commonwealth MMARS Alpha Department Code: Enter the [three \(3\) letter MMARS Code](#) assigned to this Commonwealth Department in the state accounting system.

Department Business Mailing Address: Enter the address where all formal correspondence to the Department must be sent. Unless otherwise specified in the Contract, legal notice sent or received by the Department's Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address for the Contract Manager will meet any requirements for legal notice.

Department Billing Address: Enter the Billing Address or email address if invoices must be sent to a different location. Billing or confirmation of delivery of performance issues should be resolved through the listed Contract Managers.

Department Contract Manager: Identify the authorized Contract Manager who will be responsible for managing the Contract, who should be an authorized signatory or an employee designated by the Department to represent the Department to receive legal notices and negotiate ongoing Contract issues.

Department E-Mail Address/Phone/Fax: Enter the electronic mail (e-mail) address, phone and fax number of the Department Contract Manager. Unless otherwise specified in the Contract, legal notice sent or received by the Contract Manager (with confirmation of actual receipt) through the listed address, fax number(s) or electronic mail address will meet any requirements for written notice under the Contract.

MMARS Document ID(s): Enter the MMARS 20 character encumbrance transaction number associated with this Contract which must remain the same for the life of the Contract. If multiple numbers exist for this Contract, identify all Doc Ids.

RFR/Procurement or Other ID Number or Name: Enter the Request for Response (RFR) or other Procurement Reference number, Contract ID Number or other reference/tracking number for this Contract or Amendment and will be entered into the Board Award Field in the MMARS encumbrance transaction for this Contract.

NEW CONTRACTS (left side of Form):

Complete this section ONLY if this Contract is brand new. (Complete the CONTRACT AMENDMENT section for any material changes to an existing or an expired Contract,

and for exercising options to renew or annual contracts under a multi-year procurement or grant program.)

PROCUREMENT OR EXCEPTION TYPE: Check the appropriate type of procurement or exception for this Contract. Only one option can be selected. See [State Finance Law and General Requirements, Acquisition Policy and Fixed Assets](#), the [Commodities and Services Policy](#) and the [Procurement Information Center \(Department Contract Guidance\)](#) for details.

Statewide Contract (OSD or an OSD-designated Department): Check this option for a Statewide Contract under OSD, or by an OSD-designated Department.

Collective Purchase approved by OSD. Check this option for Contracts approved by OSD for collective purchases through federal, state, local government or other entities.

Department Contract Procurement. Check this option for a Department procurement including state grants and federal sub-grants under [815 CMR 2.00](#) and [State Grants and Federal Subgrants Policy](#), Departmental Master Agreements (MA). If multi-Department user Contract, identify multi-Department use is allowable in Brief Description.

Emergency Contract. Check this option when the Department has determined that an unforeseen crisis or incident has arisen which requires or mandates immediate purchases to avoid substantial harm to the functioning of government or the provision of necessary or mandated services or whenever the health, welfare or safety of clients or other persons or serious damage to property is threatened.

Contract Employee. Check this option when the Department requires the performance of an [Individual Contractor](#), and when the planned Contract performance with an Individual has been classified using the [Employment Status Form](#) (prior to the Contractor's selection) as work of a Contract Employee and not that of an Independent Contractor.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Supporting documentation must be attached to explain and justify the exemption.

CONTRACT AMENDMENT (Right Side of Form)

Complete this section for any Contract being renewed, amended or to continue a lapsed Contract. All Contracts with available options to renew must be amended referencing the original procurement and Contract doc ids, since all continuing contracts must be maintained in the same Contract file (even if the underlying appropriation changes each fiscal year.) (See [Amendments, Suspensions, and Termination Policy](#).)

Enter Current Contract End Date: Enter the termination date of the Current Contract being amended, even if this date has already passed. (Note: Current Start Date is not requested since this date does not change and is already recorded in MMARS.)

Enter Amendment Amount: Enter the amount of the Amendment increase or decrease to a Maximum Obligation Contract. Enter "no change" for Rate Contracts or if no change.

AMENDMENT TYPE: Identify the type of Amendment being done. Documentation supporting the updates to performance and budget must be attached. **Amendment to Scope or Budget.** Check this option when renewing a Contract or executing any Amendment ("material change" in Contract terms) even if the Contract has lapsed. The parties may negotiate a change in any element of Contract performance or cost identified in the RFR or the Contractor's response which results in lower costs, or a more cost-effective or better value performance than was presented in the original selected response, provided the negotiation results in a better value within the scope of the RFR than what was proposed by the Contractor in the original selected response. Any "material" change in the Contract terms must be memorialized in a formal Amendment even if a corresponding MMARS transaction is not needed to support the change. Additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in [801 CMR 21.07](#), incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.

Interim Contracts. Check this option for an Interim Contract to prevent a lapse of Contract performance whenever an existing Contract is being re-procured but the new procurement has not been completed, to bridge the gap during implementation between an expiring and a new procurement, or to contract with an interim Contractor when a current Contractor is unable to complete full performance under a Contract.

Contract Employee. Check this option when the Department requires a renewal or other amendment to the performance of a Contract Employee.

Legislative/Legal or Other. Check this option when legislation, an existing legal obligation, prohibition or other circumstance exempts or prohibits a Contract from being competitively procured, or identify any other procurement exception not already listed. Legislative "earmarks" exempt the Contract solely from procurement requirements, and all other Contract and state finance laws and policies apply. Attach supporting documentation to explain and justify the exemption and whether Contractor selection has been publicly posted.

COMMONWEALTH TERMS AND CONDITIONS

Identify which [Commonwealth Terms and Conditions](#) the Contractor has executed and is incorporated by reference into this Contract. This Form is signed only once and recorded on

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



the Vendor Customer File (VCUST). See [Vendor File and W-9s Policy](#).

COMPENSATION

Identify if the Contract is a **Rate Contract** (with no stated Maximum Obligation) or a **Maximum Obligation Contract** (with a stated Maximum Obligation) and identify the Maximum Obligation. If the Contract is being amended, enter the new Maximum Obligation based upon the increase or decreasing Amendment. The Total Maximum Obligation must reflect the total funding for the dates of service under the contract, including the Amendment amount if the Contract is being amended. The Maximum Obligation must match the MMARS encumbrance. Funding and allotments must be verified as [available and encumbered](#) prior to incurring obligations. If a Contract includes both a Maximum Obligation component and Rate Contract component, check off both, specific Maximum Obligation amounts or amended amounts and Attachments must clearly outline the Contract breakdown to match the encumbrance.

PAYMENTS AND PROMPT PAY DISCOUNTS

Payments are processed within a 45 day payment cycle through EFT in accordance with the Commonwealth [Bill Paying Policy](#) for investment and cash flow purposes. Departments may NOT negotiate accelerated payments and Payees are NOT entitled to accelerated payments UNLESS a prompt payment discount (PPD) is provided to support the Commonwealth's loss of investment earnings for this earlier payment, or unless a payments is legally mandated to be made in less than 45 days (e.g., construction contracts, Ready Payments under [G.L. c. 29, s. 23A](#)). See [Prompt Pay Discounts Policy](#). PPD are identified as a percentage discount which will be automatically deducted when an accelerated payment is made. Reduced contracts rates may not be negotiated to replace a PPD. If PPD fields are left blank please identify that the Contractor agrees to the standard 45 day cycle; a statutory/legal exemption such as Ready Payments ([G.L. c. 29, § 23A](#)); or only an initial accelerated payment for reimbursements or start up costs for a grant, with subsequent payments scheduled to support standard EFT 45 day payment cycle. Financial hardship is not a sufficient justification to accelerate cash flow for all payments under a Contract. Initial grant or contract payments may be accelerated for the first invoice or initial grant installment, but subsequent periodic installments or invoice payments should be scheduled to support the Payee cash flow needs and the standard 45 day EFT payment cycle in accordance with the Bill Paying Policy. Any accelerated payment that does not provide for a PPD must have a legal justification in Contract file for audit purposes explaining why accelerated payments were allowable without a PPD.

BRIEF DESCRIPTION OF CONTRACT PERFORMANCE

Enter a brief description of the Contract performance, project name and/or other identifying information for the Contract to specifically identify the Contract performance, match the Contract with attachments, determine the appropriate expenditure code (as listed in the [Expenditure Classification Handbook](#)) or to identify or clarify important information related to the Contract such as the Fiscal Year(s) of performance (ex. "FY2012" or "FY2012-14"). Identify settlements or other exceptions and attach more detailed justification and supporting documents. Enter "Multi-Department Use" if other Departments can access procurement. For Amendments, identify the purpose and what items are being amended. Merely stating "see attached" or referencing attachments without a narrative description of performance is insufficient.

ANTICIPATED START DATE

The Department and Contractor must certify WHEN obligations under this Contract/Amendment may be incurred. Option 1 is the default option when performance may begin as of the [Effective Date](#) (latest signature date and any required approvals). If the parties want a new Contract or renewal to begin as of the upcoming fiscal year then list the fiscal year(s) (ex. "FY2012" or "FY2012-14") in the Brief Description section. Performance starts and encumbrances reflect the default [Effective Date](#) (if no FY is listed) or the later FY start date (if a FY is listed). Use Option 2 only when the Contract will be signed well in advance of the start date and identify a specific future start date. Do not use Option 2 for a fiscal year start unless it is certain that the Contract will be signed prior to fiscal year. Option 3 is used in lieu of the [Settlement and Release Form](#) when the Contract/Amendment is signed late, and obligations have already been incurred by the Contractor prior to the [Effective Date](#) for which the Department has either requested, accepted or deemed legally eligible for reimbursement, and the Contract includes supporting documents justifying the performance or proof of eligibility, and approximate costs. Any obligations incurred outside the scope of the [Effective Date](#) under any Option listed, even if the incorrect Option is selected, shall be automatically deemed a settlement included under the terms of the Contract and upon payment to the Contractor will release the Commonwealth from further obligations for the identified performance. All settlement payments require justification and must be under same encumbrance and object codes as the Contract payments. Performance dates are subject to [G.L. c.4, § 9](#).

CONTRACT END DATE

The Department must enter the date that Contract performance will terminate. **If the Contract is being amended and the Contract End Date is not changing, this date must be re-entered again here.** A Contract must be signed for at least the initial duration but not longer than the period of procurement listed in the RFR, or other solicitation document (if applicable). No new performance is allowable beyond the end date without an amendment, but the Department may allow a Contractor to complete minimal close out

performance obligations if substantial performance has been made prior to the termination date of the Contract and prior to the end of the fiscal year in which payments are appropriated, provided that any close out performance is subject to appropriation and funding limits under state finance law, and CTR may adjust encumbrances and payments in the state accounting system to enable final close out payments. Performance dates are subject to [G.L. c.4, § 9](#).

CERTIFICATIONS AND EXECUTION

See [Department Head Signature Authorization Policy](#) and the [Contractor Authorized Signatory Listing](#) for policies on Contractor and Department signatures.

Authorizing Signature for Contractor/Date: The Authorized Contractor Signatory must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Contract Start Date](#)". Acceptance of payment by the Contractor shall waive any right of the Contractor to claim the Contract/Amendment is not valid and the Contractor may not void the Contract. **Rubber stamps, typed or other images are not acceptable.** Proof of Contractor signature authorization on a [Contractor Authorized Signatory Listing](#) may be required by the Department if not already on file.

Contractor Name /Title: The Contractor Authorized Signatory's name and title must appear legibly as it appears on the [Contractor Authorized Signatory Listing](#).

Authorizing Signature For Commonwealth/Date: The [Authorized Department Signatory](#) must (in their own handwriting and in ink) sign AND enter the date the Contract is signed. See section above under "[Anticipated Start Date](#)". **Rubber stamps, typed or other images are not accepted.** The Authorized Signatory must be an employee within the Department legally responsible for the Contract. See [Department Head Signature Authorization](#). The Department must have the legislative funding appropriated for all the costs of this Contract or funding allocated under an [approved Interdepartmental Service Agreement \(ISA\)](#). A Department may not contract for performance to be delivered to or by another state department without specific legislative authorization (unless this Contract is a Statewide Contract). For Contracts requiring Secretariat signoff, evidence of Secretariat signoff must be included in the Contract file.

Department Name /Title: Enter the Authorized Signatory's name and title legibly.

CONTRACTOR CERTIFICATIONS AND LEGAL REFERENCES

Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified, subject to any required approvals. The Contractor makes all certifications required under this Contract under the pains and penalties of perjury, and agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein:

Commonwealth and Contractor Ownership Rights. The Contractor certifies and agrees that the Commonwealth is entitled to ownership and possession of all "deliverables" purchased or developed with Contract funds. A Department may not relinquish Commonwealth rights to deliverables nor may Contractors sell products developed with Commonwealth resources without just compensation. The Contract should detail all Commonwealth deliverables and ownership rights and any Contractor proprietary rights.

Qualifications. The Contractor certifies it is qualified and shall at all times remain qualified to perform this Contract; that performance shall be timely and meet or exceed industry standards for the performance required, including obtaining requisite licenses, registrations, permits, resources for performance, and sufficient professional, liability; and other appropriate insurance to cover the performance. If the Contractor is a business, the Contractor certifies that it is listed under the [Secretary of State's website](#) as licensed to do business in Massachusetts, as required by law.

Business Ethics and Fraud, Waste and Abuse Prevention. The Contractor certifies that performance under this Contract, in addition to meeting the terms of the Contract, will be made using ethical business standards and good stewardship of taxpayer and other public funding and resources to prevent fraud, waste and abuse.

Collusion. The Contractor certifies that this Contract has been offered in good faith and without collusion, fraud or unfair trade practices with any other person, that any actions to avoid or frustrate fair and open competition are prohibited by law, and shall be grounds for rejection or disqualification of a Response or termination of this Contract.

Public Records and Access The Contractor shall provide full access to records related to performance and compliance to the Department and officials listed under [Executive Order 195](#) and [G.L. c. 11, s.12](#) seven (7) years beginning on the first day after the final payment under this Contract or such longer period necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Contract. Access to view Contractor records related to any breach or allegation of fraud, waste and/or abuse may not be denied and Contractor can not claim confidentiality or trade secret protections solely for viewing but not retaining documents. Routine Contract performance compliance reports or documents related to any alleged breach or allegation of non-compliance, fraud, waste, abuse or collusion may be provided electronically and shall be provided at Contractor's own expense. Reasonable costs for copies of non-routine Contract related records shall not exceed the rates for public records under [950 C.M.R. 32.00](#).

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



Debarment. The Contractor certifies that neither it nor any of its subcontractors are currently debarred or suspended by the federal or state government under any law or regulation including, [Executive Order 147](#); [G.L. c. 29, s. 29F](#) [G.L. c.30, § 39R](#), [G.L. c.149, § 27C](#), [G.L. c.149, § 44C](#), [G.L. c.149, § 148B](#) and [G.L. c. 152, s. 25C](#).

Applicable Laws. The Contractor shall comply with all applicable state laws and regulations including but not limited to the applicable [Massachusetts General Laws](#); the Official [Code of Massachusetts Regulations](#); [Code of Massachusetts Regulations](#) (unofficial); [801 CMR 21.00](#) (Procurement of Commodity and Service Procurements, Including Human and Social Services); [815 CMR 2.00](#) (Grants and Subsidies); [808 CMR 1.00](#) (Compliance, Reporting and Auditing for Human And Social Services); [AICPA Standards](#); confidentiality of Department records under [G.L. c. 66A](#); and the [Massachusetts Constitution Article XVIII](#) if applicable.

Invoices. The Contractor must submit invoices in accordance with the terms of the Contract and the Commonwealth [Bill Paying Policy](#). Contractors must be able to reconcile and properly attribute concurrent payments from multiple Departments. Final invoices in any fiscal year must be submitted no later than August 15th for performance made and received (goods delivered, services completed) prior to June 30th, in order to make payment for that performance prior to the close of the fiscal year to prevent reversion of appropriated funds. Failure to submit timely invoices by August 15th or other date listed in the Contract shall authorize the Department to issue an estimated payment based upon the Department's determination of performance delivered and accepted. The Contractor's acceptance of this estimated payment releases the Commonwealth from further claims for these invoices. If budgetary funds revert due to the Contractor's failure to submit timely final invoices, or for disputing an estimated payment, the Department may deduct a penalty up to 10% from any final payment in the next fiscal year for failure to submit timely invoices.

Payments Subject To Appropriation. Pursuant to [G.L. c. 29 § 26, § 27](#) and [§ 29](#), Departments are required to expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment and subsidiary, including mandated allotment reductions triggered by [G.L. c. 29, § 9C](#). A Department cannot authorize or accept performance in excess of an existing appropriation and allotment, or sufficient non-appropriated available funds. Any oral or written representations, commitments, or assurances made by the Department or any other Commonwealth representative are not binding. The Commonwealth has no legal obligation to compensate a Contractor for performance that is not requested and is intentionally delivered by a Contractor outside the scope of a Contract. Contractors should verify funding prior to beginning performance.

Intercept. Contractors may be registered as Customers in the Vendor file if the Contractor owes a Commonwealth debt. Unresolved and undisputed debts, and overpayments of Contract payments that are not reimbursed timely shall be subject to intercept pursuant to [G.L. c. 7A, s. 3](#) and [815 CMR 9.00](#). Contract overpayments will be subject to immediate intercept or payment offset. The Contractor may not penalize any state Department or assess late fees, cancel a Contract or other services if amounts are intercepted or offset due to recoupment of an overpayment, outstanding taxes, child support, other overdue debts or Contract overpayments.

Tax Law Compliance. The Contractor certifies under the pains and penalties of perjury tax compliance with [Federal tax laws](#); [state tax laws](#) including but not limited to [G.L. c. 62C, G.L. c. 62C, s. 49A](#); compliance with all state tax laws, reporting of employees and contractors, withholding and remitting of tax withholdings and child support and is in good standing with respect to all state taxes and returns due; reporting of employees and contractors under [G.L. c. 62E](#), withholding and remitting [child support](#) including [G.L. c. 119A, s. 12](#); [TIR 05-11](#); [New Independent Contractor Provisions](#) and applicable [TIRs](#).

Bankruptcy, Judgments, Potential Structural Changes, Pending Legal Matters and Conflicts. The Contractor certifies it has not been in bankruptcy and/or receivership within the last three calendar years, and the Contractor certifies that it will immediately notify the Department in writing **at least 45 days prior** to filing for bankruptcy and/or receivership, any potential structural change in its organization, or if there is **any risk** to the solvency of the Contractor that may impact the Contractor's ability to timely fulfill the terms of this Contract or Amendment. The Contractor certifies that at any time during the period of the Contract the Contractor is required to affirmatively disclose in writing to the Department Contract Manager the details of any judgment, criminal conviction, investigation or litigation pending against the Contractor or any of its officers, directors, employees, agents, or subcontractors, including any potential conflicts of interest of which the Contractor has knowledge, or learns of during the Contract term. Law firms or Attorneys providing legal services are required to identify any potential conflict with representation of any Department client in accordance with Massachusetts Board of Bar Overseers (BBO) rules.

Federal Anti-Lobbying and Other Federal Requirements. If receiving federal funds, the Contractor certifies compliance with federal anti-lobbying requirements including [31 USC 1352](#); [other federal requirements](#); [Executive Order 11246](#); [Air Pollution Act](#); [Federal Water Pollution Control Act](#) and [Federal Employment Laws](#).

Protection of Personal Data and Information. The Contractor certifies that all steps will be taken to ensure the security and confidentiality of all Commonwealth data for which the Contractor becomes a holder, either as part of performance or inadvertently during performance, with special attention to restricting access, use and disbursement of personal data and information under [G.L. c. 93H](#) and [c. 66A](#) and [Executive Order 504](#). The Contractor is required to comply with [G.L. c. 93I](#) for the proper disposal of all paper and

electronic media, backups or systems containing personal data and information, provided further that the Contractor is required to ensure that any personal data or information transmitted electronically or through a portable device be properly encrypted using (at a minimum) [Information Technology Division \(ITD\) Protection of Sensitive Information](#), provided further that any Contractor having access to credit card or banking information of Commonwealth customers certifies that the Contractor is PCI compliant in accordance with the [Payment Card Industry Council Standards](#) and shall provide confirmation compliance during the Contract, provide further that the Contractor shall immediately notify the Department in the event of any security breach including the unauthorized access, disbursement, use or disposal of personal data or information, and in the event of a security breach, the Contractor shall cooperate fully with the Commonwealth and provide access to any information necessary for the Commonwealth to respond to the security breach and shall be fully responsible for any damages associated with the Contractor's breach including but not limited to [G.L. c. 214, s. 3B](#).

Corporate and Business Filings and Reports. The Contractor certifies compliance with any certification, filing, reporting and service of process requirements of the [Secretary of the Commonwealth](#), the [Office of the Attorney General](#) or other Departments as related to its conduct of business in the Commonwealth; and with its incorporating state (or foreign entity).

Employer Requirements. Contractors that are employers certify compliance with applicable state and [federal employment laws](#) or regulations, including but not limited to [G.L. c. 5, s. 1](#) (Prevailing Wages for Printing and Distribution of Public Documents); [G.L. c. 7, s. 22](#) (Prevailing Wages for Contracts for Meat Products and Clothing and Apparel); [minimum wages and prevailing wage programs and payments](#); [unemployment insurance and contributions](#); [workers' compensation and insurance](#), [child labor laws](#), [AGO fair labor practices](#); [G.L. c. 149](#) (Labor and Industries); [G.L. c. 150A](#) (Labor Relations); [G.L. c. 151](#) and [455 CMR 2.00](#) (Minimum Fair Wages); [G.L. c. 151A](#) (Employment and Training); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); [G.L. c. 152](#) (Workers' Compensation); [G.L. c.153](#) (Liability for Injuries); [29 USC c. 8](#) (Federal Fair Labor Standards); [29 USC c. 28](#) and the [Federal Family and Medical Leave Act](#).

Federal And State Laws And Regulations Prohibiting Discrimination including but not limited to the [Federal Equal Employment Opportunity \(EEO\) Laws](#) the [Americans with Disabilities Act](#); [42 U.S.C Sec. 12,101, et seq.](#), the [Rehabilitation Act](#), [29 USC c. 16 s. 794](#); [29 USC c. 16, s. 701](#); [29 USC c. 14, 623](#); the [42 USC c. 45](#); (Federal Fair Housing Act); [G.L. c. 151B](#) (Unlawful Discrimination); [G.L. c. 151E](#) (Business Discrimination); the Public Accommodations Law [G.L. c. 272, s. 92A](#); [G.L. c. 272, s. 98](#) and [98A](#), [Massachusetts Constitution Article CXIV](#) and [G.L. c. 93, s. 103](#); [47 USC c. 5, sc. II, Part II, s. 255](#) (Telecommunication Act; Chapter 149, [Section 105D](#), [G.L. c. 151C](#), [G.L. c. 272, Section 92A](#), [Section 98](#) and [Section 98A](#), and [G.L. c. 111, Section 199A](#), and [Massachusetts Disability-Based Non-Discrimination Standards For Executive Branch Entities](#), and related Standards and Guidance, authorized under Massachusetts Executive Order or any disability-based protection arising from state or federal law or precedent. See also [MCAD](#) and [MCAD links and Resources](#).

Small Business Purchasing Program (SBPP). A Contractor may be eligible to participate in the SBPP, created pursuant to [Executive Order 523](#), if qualified through the SBPP COMMBUYs subscription process at: [www.commbuys.com](#) and with acceptance of the terms of the SBPP participation agreement.

Limitation of Liability for Information Technology Contracts (and other Contracts as Authorized). The [Information Technology Mandatory Specifications](#) and the [IT Acquisition Accessibility Contract Language](#) are incorporated by reference into Information Technology Contracts. The following language will apply to Information Technology contracts in the U01, U02, U03, U04, U05, U06, U07, U08, U09, U10, U75, U98 object codes in the [Expenditure Classification Handbook](#) or other Contracts as approved by CTR or OSD. Pursuant to Section 11. Indemnification of the Commonwealth Terms and Conditions, the term "other damages" shall include, but shall not be limited to, the reasonable costs the Commonwealth incurs to repair, return, replace or seek cover (purchase of comparable substitute commodities and services) under a Contract. "Other damages" shall not include damages to the Commonwealth as a result of third party claims, provided, however, that the foregoing in no way limits the Commonwealth's right of recovery for personal injury or property damages or patent and copyright infringement under Section 11 nor the Commonwealth's ability to join the contractor as a third party defendant. Further, the term "other damages" shall not include, and in no event shall the contractor be liable for, damages for the Commonwealth's use of contractor provided products or services, loss of Commonwealth records, or data (or other intangible property), loss of use of equipment, lost revenue, lost savings or lost profits of the Commonwealth. In no event shall "other damages" exceed the greater of \$100,000, or two times the value of the product or service (as defined in the Contract scope of work) that is the subject of the claim. Section 11 sets forth the contractor's entire liability under a Contract. Nothing in this section shall limit the Commonwealth's ability to negotiate higher limitations of liability in a particular Contract, provided that any such limitation must specifically reference Section 11 of the Commonwealth Terms and Conditions. In the event the limitation of liability conflicts with accounting standards which mandate that there can be no cap of damages, the limitation shall be considered waived for that audit engagement. These terms may be applied to other Contracts only with prior written confirmation from the Operational Services Division or the Office of the Comptroller. The terms in this Clarification may not be modified.

Northern Ireland Certification. Pursuant to [G.L. c. 7 s. 22C](#) for state agencies, state

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



authorities, the House of Representatives or the state Senate, by signing this Contract the Contractor certifies that it does not employ ten or more employees in an office or other facility in Northern Ireland and if the Contractor employs ten or more employees in an office or other facility located in Northern Ireland the Contractor certifies that it does not discriminate in employment, compensation, or the terms, conditions and privileges of employment on account of religious or political belief; and it promotes religious tolerance within the work place, and the eradication of any manifestations of religious and other illegal discrimination; and the Contractor is not engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland.

Pandemic, Disaster or Emergency Performance. In the event of a serious emergency, pandemic or disaster outside the control of the Department, the Department may negotiate emergency performance from the Contractor to address the immediate needs of the Commonwealth even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

Consultant Contractor Certifications (For Consultant Contracts "HH" and "NN" and "U05" object codes subject to [G.L. Chapter 29, s. 29A](#)). Contractors must make required disclosures as part of the RFR Response or using the [Consultant Contractor Mandatory Submission Form](#).

Attorneys. Attorneys or firms providing legal services or representing Commonwealth Departments may be subject to [G.L. c. 30, s. 65](#), and if providing litigation services must be approved by the Office of the Attorney General to appear on behalf of a Department, and shall have a continuing obligation to notify the Commonwealth of any conflicts of interest arising under the Contract.

Subcontractor Performance. The Contractor certifies full responsibility for Contract performance, including subcontractors, and that comparable Contract terms will be included in subcontracts, and that the Department will not be required to directly or indirectly manage subcontractors or have any payment obligations to subcontractors.

EXECUTIVE ORDERS

For covered Executive state Departments, the Contractor certifies compliance with applicable [Executive Orders](#) (see also [Massachusetts Executive Orders](#)), including but not limited to the specific orders listed below. A breach during period of a Contract may be considered a material breach and subject Contractor to appropriate monetary or Contract sanctions.

Executive Order 481. Prohibiting the Use of Undocumented Workers on State Contracts. For all state agencies in the Executive Branch, including all executive offices, boards, commissions, agencies, Departments, divisions, councils, bureaus, and offices, now existing and hereafter established, by signing this Contract the Contractor certifies under the pains and penalties of perjury that they shall not knowingly use undocumented workers in connection with the performance of this Contract; that, pursuant to federal requirements, shall verify the immigration status of workers assigned to a Contract without engaging in unlawful discrimination; and shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker

Executive Order 130. Anti-Boycott. 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 (See [IRC § 999\(b\)\(3\)-\(4\)](#), and [IRS Audit Guidelines Boycotts](#)) or engages in conduct declared to be unlawful by [G.L. c. 151E, s. 2](#). A breach in the warranty, representation, and agreement contained in this paragraph, without limiting such other rights as it may have, the Commonwealth 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.

Executive Order 346. Hiring of State Employees By State Contractors Contractor certifies compliance with both the conflict of interest law [G.L. c. 268A specifically s. 5 \(f\)](#) and this order, and includes limitations regarding the hiring of state employees by private companies contracting with the Commonwealth. A privatization contract shall be deemed to include a specific prohibition against the hiring at any time during the term of Contract, and for any position in the Contractor's company, any state management employee who is, was, or will be involved in the preparation of the RFP, the negotiations leading to the awarding of the Contract, the decision to award the Contract, and/or the supervision or oversight of performance under the Contract.

Executive Order 444. Disclosure of Family Relationships With Other State Employees. Each person applying for employment (including Contract work) within the Executive Branch under the Governor must disclose in writing the names of all immediate family related to immediate family by marriage who serve as employees or elected officials of the Commonwealth. All disclosures made by applicants hired by the Executive Branch under the Governor shall be made available for public inspection to the extent permissible by law by the official with whom such disclosure has been filed.

Executive Order 504. Regarding the Security and Confidentiality of Personal Information. For all Contracts involving the Contractor's access to personal information, as defined in [G.L. c. 93H](#), and personal data, as defined in [G.L. c. 66A](#), owned or controlled by Executive Department agencies, or access to agency systems containing such information or data (herein collectively "personal information"), Contractor certifies under the pains and

penalties of perjury that the Contractor (1) has read Commonwealth of Massachusetts Executive Order 504 and agrees to protect any and all personal information; and (2) has reviewed all of the Commonwealth [Information Technology Division's Security Policies](#). Notwithstanding any contractual provision to the contrary, in connection with the Contractor's performance under this Contract, for all state agencies in the Executive Department, including all executive offices, boards, commissions, agencies, departments, divisions, councils, bureaus, and offices, now existing and hereafter established, the Contractor shall: (1) obtain a copy, review, and comply with the contracting agency's Information Security Program (ISP) and any pertinent security guidelines, standards, and policies; (2) comply with all of the Commonwealth of Massachusetts Information Technology Division's "[Security Policies](#)") (3) communicate and enforce the contracting agency's ISP and such Security Policies against all employees (whether such employees are direct or contracted) and subcontractors; (4) implement and maintain any other reasonable appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access by the contracting agency from the unauthorized access, destruction, use, modification, disclosure or loss; (5) be responsible for the full or partial breach of any of these terms by its employees (whether such employees are direct or contracted) or subcontractors during or after the term of this Contract, and any breach of these terms may be regarded as a material breach of this Contract; (6) in the event of any unauthorized access, destruction, use, modification, disclosure or loss of the personal information (collectively referred to as the "unauthorized use"): (a) immediately notify the contracting agency if the Contractor becomes aware of the unauthorized use; (b) provide full cooperation and access to information necessary for the contracting agency to determine the scope of the unauthorized use; and (c) provide full cooperation and access to information necessary for the contracting agency and the Contractor to fulfill any notification requirements. Breach of these terms may be regarded as a material breach of this Contract, such that the Commonwealth may exercise any and all contractual rights and remedies, including without limitation indemnification under Section 11 of the [Commonwealth's Terms and Conditions](#), withholding of payments, Contract suspension, or termination. In addition, the Contractor may be subject to applicable statutory or regulatory penalties, including and without limitation, those imposed pursuant to G.L. c. 93H and under [G.L. c. 214, § 3B](#) for violations under M.G.L. c. 66A.

Executive Orders 523, 524 and 526. Executive Order 526 (Order Regarding Non-Discrimination, Diversity, Equal Opportunity and Affirmative Action which supersedes [Executive Order 478](#)), [Executive Order 524](#) (Establishing the Massachusetts Supplier Diversity Program which supersedes Executive Order 390), [Executive Order 523](#) (Establishing the Massachusetts Small Business Purchasing Program.) All programs, activities, and services provided, performed, licensed, chartered, funded, regulated, or contracted for by the state shall be conducted without unlawful discrimination based on race, color, age, gender, ethnicity, sexual orientation, gender identity or expression, religion, creed, ancestry, national origin, disability, veteran's status (including Vietnam-era veterans), or background. The Contractor and any subcontractors may not engage in discriminatory employment practices; and the Contractor certifies compliance with applicable federal and state laws, rules, and regulations governing fair labor and employment practices; and the Contractor commits to purchase supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities. These provisions shall be enforced through the contracting agency, OSD, and/or the Massachusetts Commission Against Discrimination. Any breach shall be regarded as a material breach of the contract that may subject the contractor to appropriate sanctions.

Town of Ayer

Board of Selectmen Meeting Minutes For
Tuesday, June 21, 2016

Attendance: Gary J. Luca, Chairman; Christopher R. Hillman, Vice Chairman (Arrived at 7:05pm);
Jannice L. Livingston, Clerk

Robert A. Pontbriand, Town Administrator

Call to Order: The meeting was called to order at 7pm by Chairman Luca.

Chairman Luca led the Pledge of Allegiance.

MOTION: A motion was made by J. Livingston and seconded by G. Luca to approve the meeting agenda. Motion passed (2-0).

Chairman Luca read various announcements including the mandatory water ban and the upcoming Fourth of July events in Town.

[C. Hillman arrived at 7:05pm]

Public Input:

Mr. Pat Kelly, member of the Ayer Shirley Regional School District Committee and Mr. Murray Clark, Chairman of the High School Building Project appeared before the Board seeking a waiver for the mandatory water ban between the hours of 9am to 12pm Monday thru Friday for the purposes of watering the new hydro-seed on the high school campus. This is necessary to not only insure that the grass grows but to maintain the warranty on the hydro-seed. DPW Superintendent, Mark Wetzel addressed the Board stating that he was not in favor of granting the waiver as the season has been very dry and there are concerns on the Town's wells which could also be further stressed in the event of a fire. He stated that the mandatory ban is in place for a reason and that the School District should discuss other options with the contractor including the contractor bringing water onto to the site.

C. Hillman stated that he could see both sides of the issue. On the one hand concerns about the water and upholding the mandatory ban but also we do not want a dust bowl after a 56 million dollar project.

G. Luca stated that we cannot afford not to allow the new grass to be watered.

J. Livingston stated that though she could see both sides of the issue, we should grant the waiver and monitor the situation and review the matter at the July 12th Board Meeting.

MOTION: A motion was made by C. Hillman and seconded by J. Livingston to grant a waiver to the mandatory water ban between the hours of 9am to 12pm for the ASRSD High School project and to review the waiver request at the July 12th Board Meeting. Motion passed 3-0.

4th of July Committee Update and Recognition of Grand Marshall

Mr. Jim Fay, Chair of the Fourth of July Committee appeared before the Board to give an update of the upcoming July 2nd Fourth of July Festivities and to announce the 2016 Fourth of July Parade Grand Marshall as Ms. Dottie Marino who was presented flowers by the Committee and a certificate from the Board.

DPW Superintendent Mark Wetzel appeared before the Board regarding the following items:

New Wastewater Utility Truck Purchase Order in the amount of \$67,756 as authorized by Town Meeting.

MOTION: A motion was made by C. Hillman and seconded by J. Livingston to approve the purchase order in the amount of \$67,756 for the new wastewater utility truck with signature by the Chair. **Motion passed 3-0.**

Sidewalk Snow Blower/Mower Purchase Order in the amount of \$142,235 as authorized by Town Meeting.

MOTION: A motion was made by C. Hillman and seconded by J. Livingston to approve the purchase order in the amount of \$142,235 with signature by the Chair. **Motion passed 3-0.**

Complete Streets Prioritization Plan Engineering Agreement

Superintendent Wetzel presented the Complete Streets Prioritization Plan Engineering Agreement in the amount of \$49,900 for Worldtech. The agreement will be funded by the Complete Streets Program Grant which the Town received.

MOTION: A motion was made by J. Livingston and seconded by C. Hillman to approve the Complete Streets Prioritization Plan Engineering Agreement in the amount of \$49,900 for Worldtech with signature by the Chair. **Motion passed 3-0.**

East Main Street Contract Change Order #1 in the amount of \$33,807.22

Superintendent Wetzel presented a change order for the East Main Street Contract in the amount of \$33,807.22. He explained that the change order was the result of some additional, unforeseen work regarding the water connection for the Courthouse and additional work to locate water connections in the street. The change order will be covered by the USDA Grant funding received for the project.

MOTION: A motion was made by G. Luca and seconded by J. Livingston to approve the East Main Street Change Order #1 in the amount of \$33,807.22 as presented by the DPW Superintendent. **Motion passed 3-0.**

Contract Amendment with TI-Sales for water meters, radios and related equipment in the amount of \$34,220.71

Superintendent Wetzel presented a contract amendment in the amount of \$34,220.71 for TI-Sales for water meters, radios and related equipment as part of the Town's Water Meters and Automatic Meter Reading System Project.

MOTION: A motion was made by J. Livingston and seconded by C. Hillman to approve the contract amendment with TI-Sales in the amount of \$34,220.71 for signature by the Chair as presented by the Superintendent. **Motion passed 3-0.**

Ms. Lisa Gabree, Town Accountant appeared before the Board regarding the following item:

MUNIS Contract Renewal in the amount of \$119,364.00

L. Gabree presented a contract renewal for three years in the total amount of \$119,364 for the Town's MUNIS system used for accounts payables, payroll, and various municipal accounting systems. The contract is for three years with a cost of \$39,788 per year for a total of \$119,364.

MOTION: A motion was made by J. Livingston and C Hillman to approve the MUNIS Contract Renewal in the amount of \$119,364 for three years as presented by the Town Accountant. **Motion passed 3-0.**

Conservation Commission

Mr. Bill Daniels and Ms. Jess Gugino of the Conservation Commission appeared before the Board to request increasing the Conservation Agent's hours from 20 hours a week to 40 hours a week with benefits. Mr. Daniels explained that the needs of the Commission have changed since 2005 when the position was first created and that the Commission continues to struggle to attract and retain qualified candidates for the position as it is currently not full time nor benefitted. Mr. Daniels further explained that with many new projects in addition to the day-to-day needs of the Conservation Office and an increase in economic growth, part time hours are no longer sufficient.

G. Luca asked if the issue had been raised with the Finance Committee?

B. Daniels stated they have not at this time as they wanted to start with the Board in terms of process.

R. Pontbriand explained the procedural issues that because the position is under the AFSCME 93 Town Hall Clerical Union, the Board would have to negotiate the increase of hours with the Union. The main issue is the funding for the increased hours and the benefits. There is no appropriation in the FY 2017 Budget for this request so if the Board seeks to make it a full-time benefitted position than the funding would need to be authorized by the Special Fall Town Meeting on October 24, 2016.

G. Luca asked if the Town Administrator could get all of the financial information for the Board and Commission regarding this request and that the matter would be taken under advisement. The earliest anything could be done in terms of the funding would be the Special Fall Town Meeting.

Town Administrator' Report

The Town Administrator presented an oral administrative update including a brief project update for the Ayer Commuter Rail Surface Parking Lot project.

G. Luca asked if MART could appear before the Board on July 12th to further discuss the project.

Chapter 61 Nashua Street Extension Update

R. Pontbriand advised that the appraisal was underway and would be ready by July 15th. He explained that the property owner agreed to an extension with the Town beyond the 30-day legal requirement. He further explained that moving forward the Town needs to establish a working group that is tasked with putting in place a definitive policy that would enable the Town to act in a timely manner when receiving a notice for conversion under Chapter 61. Additionally the working group would be tasked with putting together a master inventory and prioritization list of all of the Town's potential Chapter 61 lands and other lands that could be considered for acquisition.

C. Hillman stated that he was not opposed to a working group as long as it was objective and did not just consist of a bunch of abutters or property owners with agendas.

J. Livingston stated that having a master list that prioritized the properties makes sense as well as having a mechanism in place that allows the Town to act timely in terms of an appraisal in the event that the Town wishes to consider exercising its right of first refusal.

R. Pontbriand stated that he would put together a draft proposal for the working group for the Board to consider at the July 12th Board Meeting.

Appointments

The Town Administrator presented the following appointments for Board consideration and approval.

MOTION: A Motion was made by C. Hillman and seconded by J. Livingston to approve the appointments as presented by the Town Administrator. Motion passed 3-0.

UDAG Planning Board Support Vote Amendment

The Town Administrator asked the Board to amend its previous vote to authorize up to \$5,000 in UDAG funds for Planning Board support to read up to five hours a month and until the \$5,000 has been spent. He further explained that this would enable the Planning Board (as they requested) to have their meeting minutes taken without having to pay an overtime rate to the Administrative Coordinator. Additionally this will enable the Planning Board to finish up some of their organizational projects which are underway.

MOTION: A motion was made by C. Hillman and seconded by J. Livingston to amend the previous UDAG vote to authorize up to \$5,000 in UDAG funds for Planning Board support to ready up to five hours a month and until the \$5,000 has been spent. Motion passed 3-0.

New Business / Selectmen's Questions

Playground at Prione Park (Selectman Luca)

The Board discussed with the Parks Director, Mr. Jeff Thomas and Parks Commissioners Jason Mayo and Sarah Gibbons the idea of replacing the playground (Kiddie Junction) at Pirone Park. Mr. Thomas explained that the structure was built in 1989 and though the wood was purchased to be arsenic free it was not. An 2005 EPA study indicated that the arsenic from the wood leached into the soil. Though this does not pose any harm to the public, the structure and the soil upon removal would need to be remediated. Estimated costs for removal and remediation would be approximately \$150,000 and another \$150,000 to replace the playground structure. The Parks Department agreed to work with the Economic and Community Development Department and the Town Administrator to develop a plan for removal, remediation, and replacement.

C. Hillman announced the completion of the 6th Season of the Unlimited Baseball program and how the program has grown from six to 72 kids over the years. It is a great program, free of charge.

Approval of June 7, 2016 Meeting Minutes

MOTION: A motion was made by J. Livingston and seconded by C. Hillman to approve the June 7, 2016 meeting minutes. Motion passed 3-0.

G. Luca mentioned the recent massacre in Orlando, Florida and that our thoughts and prayers are with the victims and families during this difficult time.

MOTION: A motion was made by C. Hillman and seconded by J. Livingston to adjourn from Open Session and to enter into Executive Session pursuant to MGL Chapter 30A, Section 21A, Exemption #3 for the purposes of two fire department union grievances. To hold the meeting in Open Session would be detrimental to the Town's position and interests. The Board will adjourn for the evening at the conclusion of the Executive Session.

Roll Call Vote: G. Luca, Y; C.Hillman, Y; J.Livingston, Y. Motion passed 3-0

The Board adjourned from Open Session and entered into Executive Session at 9:00pm.

Minutes Recorded and Submitted by: Robert A. Pontbriand, Town Administrator

Minutes Approved: _____
Jannice L. Livingston, Clerk Dated

