



# PUBLIC NOTICE POSTING REQUEST OFFICE OF THE LEICESTER TOWN CLERK

**ORGANIZATION:** Select Board/Advisory Committee/School  
Committee

**MEETING:** X

**PUBLIC HEARING:**

**DATE:** August 9, 2021

**TIME:** 6:30pm

**LOCATION:** Select Board Conference Room, 3 Washburn Sq -OR- Virtual (see below)

**REQUESTED BY:** Kristen L. Forsberg

*Agenda packet and associated documents can be found at [www.leicesterma.org/bos](http://www.leicesterma.org/bos). This agenda lists all matters anticipated for discussion; some items may be passed over, and other items not listed may be brought up for discussion to the extent permitted by law. Select Board meetings are recorded by LCAC. Any member of the public planning to record the meeting must first notify the Chair. **PLEASE SILENCE ALL CELL PHONES DURING THE MEETING***

<https://global.gotomeeting.com/join/951716957>

-OR-

(571) 317-3112; Access Code: 951-716-957

## CALL TO ORDER/OPENING

### 1. SCHEDULED ITEMS

- a. 6:30pm - Retirement of Detective Timothy Fontaine
- b. 6:30pm - Becker College Town Meeting Discussion
- c. 7:00pm - Discussion/Vote Moose Hill Water Commission Grant

### 2. PUBLIC COMMENT PERIOD

### 3. REPORTS & ANNOUNCEMENTS

- a. Student Liaison Reports
- b. Town Administrator Report
- c. Select Board Reports

### 4. RESIGNATIONS & APPOINTMENTS

- a. Resignation – Kelley Southwick – Health Insurance Advisory Committee (Teachers Union Rep)
- b. Appointment – Kimberly Ferdella – Health Insurance Advisory Committee (Teachers Union Rep)
- c. Appointment – Interim EMS Director - Brian Kelley

### 5. OTHER BUSINESS

- a. Execute Contract – Interim EMS Director – Brian Kelley
- b. Accept Senior Center Donation
- c. Award IT Managed Services Contract and Authorize Town Administrator to Sign Contract (ClearCom IT)
- d. Award Highway Materials Bids and Sign Contracts (Indus & Atlantic Line Painting)
- e. Set Date, Time and Location for Fall Special Town Meeting – October 26, 2021 at 7pm, Town Hall Gym
- f. Close the Fall Special Town Meeting Warrant on September 8, 2021 at 5pm
- g. Discuss/Vote on FY22 Town Administrator Goals

**ADJOURN**

**From:** [Genereux, David](#)  
**Subject:** FW: Infrastructure Funding--New Source Approval Study  
**Date:** Wednesday, July 28, 2021 1:19:56 PM

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All,

See below. This is the proposed scope of work on the project application for Moose Hill.

*David A. Genereux*

David A. Genereux  
Town Administrator  
Town of Leicester  
3 Washburn Square  
Leicester, MA 01524  
Telephone: (508) 892-7000  
Fax: (508) 892-7070  
Email: [genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)

"Please remember that the Secretary of State has determined that email is a public record"

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**From:** Mark Thompson <MThompson@kleinfelder.com>  
**Sent:** Wednesday, July 28, 2021 9:52 AM  
**To:** Genereux, David <genereuxd@leicesterma.org>  
**Cc:** Attorney Michael J. Shivick <attorney.shivick@aol.com>; Buck, Michelle <BuckM@leicesterma.org>; fwlyon@verizon.net  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

As was the case with the "One Stop" grant application submitted in early June, the purpose of the funding application is to fund the planning and permitting associated with designating the Moose Hill Reservoir as a Class A drinking water supply. The final product of the project would be a report that would include the following major components:

- Determines the "firm yield" of the reservoir.
- Estimates the cost to establish a water treatment plant and associated facilities.
- Provides the technical basis for design for the water treatment facility.
- Addresses DEP's requirements for designating the Moose Hill Reservoir as a Class A drinking water supply.
- Identifies all necessary permits, including a permitting schedule.

Mark J. Thompson, P.E.  
Kleinfelder

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**From:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Sent:** Wednesday, July 28, 2021 8:41 AM  
**To:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

**External Email**

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Hi Mark,

Sorry for not being clear. My question is, what would the actual project be?

Regards,

*David A. Genereux*

David A. Genereux  
Town Administrator  
Town of Leicester  
3 Washburn Square  
Leicester, MA 01524  
Telephone: (508) 892-7000  
Fax: (508) 892-7070  
Email: [genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)

"Please remember that the Secretary of State has determined that email is a public record"

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**From:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Sent:** Wednesday, July 28, 2021 8:13 AM  
**To:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

David—the DEP SRF funding is typically a 0 to 2% low interest loan with a small grant (<10%).

**HOWEVER**, the plan is that the state and federal infrastructure funding will be distributed to the projects on the SRF list. That's why we're advising our clients to get their projects on it. It's currently unknown what the grant % will be but the hope is that it will be significant.

Mark J. Thompson, P.E.  
Kleinfelder

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**From:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Sent:** Tuesday, July 27, 2021 5:23 PM  
**To:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

**External Email**

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Hi Mark,

What do part of the project are you anticipating the grant will cover?

Regards,

*David A. Genereux*

David A. Genereux  
Town Administrator  
Town of Leicester  
3 Washburn Square  
Leicester, MA 01524  
Telephone: (508) 892-7000  
Fax: (508) 892-7070  
Email: [genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)

"Please remember that the Secretary of State has determined that email is a public record"

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**From:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Sent:** Tuesday, July 27, 2021 4:23 PM  
**To:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

OK, let me know when it's decided.

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**From:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Sent:** Tuesday, July 27, 2021 4:20 PM  
**To:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

**External Email**

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Hi Mark,

Depending on the Board's vote, it would be me or the Chair.

*David A. Genereux*

David A. Genereux  
Town Administrator  
Town of Leicester  
3 Washburn Square  
Leicester, MA 01524  
Telephone: (508) 892-7000  
Fax: (508) 892-7070  
Email: [genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)

"Please remember that the Secretary of State has determined that email is a public record"

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**From:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Sent:** Tuesday, July 27, 2021 4:19 PM  
**To:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** RE: Infrastructure Funding--New Source Approval Study

David—please confirm you will be the Town's Authorized Representative for filing the funding request.

Mark J. Thompson, P.E.  
Kleinfelder

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**From:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Sent:** Tuesday, July 27, 2021 3:59 PM  
**To:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>  
**Cc:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** Re: Infrastructure Funding--New Source Approval Study

**External Email**

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Thank you, Mark

David

On Jul 27, 2021, at 3:58 PM, Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)> wrote:

More details on the submittal requirements are provided at this link.

[dwplanpef \(srfmadep.com\)](#)

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**From:** Mark Thompson

**Sent:** Tuesday, July 27, 2021 3:53 PM

**To:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>; Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>

**Cc:** Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)

**Subject:** RE: Infrastructure Funding--New Source Approval Study

David—link below.....Mark

[pefnotice.pdf \(srfmadep.com\)](#)

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**From:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>

**Sent:** Tuesday, July 27, 2021 3:49 PM

**To:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>

**Cc:** Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>; Buck, Michelle <[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)

**Subject:** RE: Infrastructure Funding--New Source Approval Study

**External Email**

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Hi Mark,

Do you have a grant announcement or other information from the Trust regarding this funding opportunity? I would like to place it in the Board packet for next week.

Regards,

*David A. Genereux*

David A. Genereux

Town Administrator

Town of Leicester

3 Washburn Square

Leicester, MA 01524

Telephone: (508) 892-7000

Fax: (508) 892-7070

Email: [genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)

"Please remember that the Secretary of State has determined that email is a public record"

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**From:** Attorney Michael J. Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>  
**Sent:** Tuesday, July 27, 2021 11:46 AM  
**To:** Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
**Cc:** [MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com); Buck, Michelle  
<[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net)  
**Subject:** Re: Infrastructure Funding--New Source Approval Study

Ok thank you for notifying the intramunicipal liaison

\

Sincerely,

Michael J. Shivick, Esq.  
Attorney at Law

[info@shivicklaw.com](mailto:info@shivicklaw.com)  
[www.shivicklaw.com](http://www.shivicklaw.com)

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-----Original Message-----

From: Genereux, David <[genereuxd@leicesterma.org](mailto:genereuxd@leicesterma.org)>  
To: Attorney Shivick <[attorney.shivick@aol.com](mailto:attorney.shivick@aol.com)>  
Cc: Mark Thompson <[MThompson@kleinfelder.com](mailto:MThompson@kleinfelder.com)>; Buck, Michelle  
<[BuckM@leicesterma.org](mailto:BuckM@leicesterma.org)>; [fwlyon@verizon.net](mailto:fwlyon@verizon.net) <[fwlyon@verizon.net](mailto:fwlyon@verizon.net)>  
Sent: Tue, Jul 27, 2021 11:36 am  
Subject: RE: Infrastructure Funding--New Source Approval Study

Dear Mr. Shivick,

The Moose Hill Water Commission is hereby invited to attend the August 2, 2021 Select Board meeting to discuss this latest grant opportunity, among other items. This will be an in person meeting, which will be broadcast live through LCAC and Go-To-Meeting. The Commission is requested to appear in person, in order to avoid extended remote discussion, which sometimes does not broadcast well. We will post it as a joint meeting, starting at 6:00 PM.

Michelle, please notify the other two members of the Commission, please.

Please contact me with any questions.



## Town of Leicester

### OFFICE OF THE TOWN ADMINISTRATOR

Town Hall, 3 Washburn Square  
Leicester, Massachusetts 01524-1333  
Phone: (508) 892-7000 Fax: (508) 892-7070  
[www.leicesterma.org](http://www.leicesterma.org)

August 09, 2021

To: Select Board  
From: David Genereux, Town Administrator  
**RE: Town Administrator's report**

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The following is a report on the general activities of the Town Administrator through August 5, 2021.

#### **Citizen issues:** Topics discussed with various citizens

- I have had several conversations with residents regarding the Becker purchase. There still seems to be some confusion as to what the purchase is for and what advantage is it to the Town, so we have a way to go to get the message out.
- There also has been discussions regarding the water and sewer study and how it relates to Moose Hill. Again, this can be confusing if the viewer is not watching every meeting. We will have to have more outreach regarding recommendations when the process is complete.

#### **Meetings:**

- In preparation for the Town's vote on the acquisition of Becker College's Leicester campus, two dates have been set to open the campus for public viewing. These "Open Houses" will take place on August 10<sup>th</sup> and September 7<sup>th</sup> from 5:00 to 7:00 P.M., and will feature Fire, Police, and Highway vehicles, as well as representatives from other state agencies being on site. We hope that people come out and have a look at the campus.
- Held a Department Head meeting to discuss the effects of the Becker purchase on Free Cash and the Capital Plan.
- Met with our insurance advisor to discuss the changeover from Fallon in FY23. We are scheduling an Insurance Advisory Committee meeting.

#### **Activities:**

- Had a review of Dude Solutions software for buildings and vehicles. It looks like that it will be sufficient for our needs. I need to look at the balance in the warrant article, as Fire/EMS needed a different software package that would not work with the rest of the municipal buildings and equipment.
- Met with Mass Development to look at the Becker Campus.
- Set up the mattress recycling grant with the Recycling Committee. We are awaiting word on when the container for the mattresses will arrive.
- We concluded the IT three-year contract bid. Clearcom was the winner.
- Concluded management training courses held run by the Collins Center.
- Assembled and issued the Parcs RFP for courts at Towtaid and reissued the Complete winter streets project for curbs and parking at the Park.
- We have no one from the last Cable Advisory Committee available for this negotiation.



**From:** [Kelley Southwick](#)  
**To:** [Forsberg, Kristen](#)  
**Cc:** [Kimberly Ferdella](#); [Genereux, David](#)  
**Subject:** Re: Health Insurance Advisory Committee  
**Date:** Wednesday, August 4, 2021 8:20:29 AM

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Hi Kristen

Hope you are well! I just wanted to let you know that as of 7/1/21, KImberly Ferdella is now President of the EAL. I will include her in this email so you can invite her to any upcoming Health Advisory meetings! It was great working with you! Thank you

Kelley

Past President, EAL

On Tue, Aug 3, 2021 at 4:57 PM Forsberg, Kristen <[forsbergk@leicesterma.org](mailto:forsbergk@leicesterma.org)> wrote:

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Please see our [Participation in Online Learning Services Statement](#)  
Please see our [Nondiscrimination Statement](#)

July 14, 2021

**TO:** Human Resources  
**FROM:** Brian D. Kelley  
**SUBJ:** Interim EMS Director

Please accept this letter, along with my resume, as my formal application for employment with the Town of Leicester, for the Interim EMS Director position. The Fire and Emergency Medical Services have been a passion of mine since I was a young child – I grew up in and around the public safety sector as my father was a Lieutenant/EMT on a local Fire Department as well as a Emergency Communications Operator/Dispatcher.

Currently I am employed as a Career Firefighter Paramedic serving as a Shift Officer, working an 8-day rotating schedule, on 24-Hour shifts (1 day on, 2 days off, 1 day on and 4 days off) which gives me a relatively large amount of flexibility to accept a part-time position, if offered, as the Interim EMS Director for Leicester EMS – to include both in person and online (remote) work.

Learning and professional development is and always has been a lifelong passion for me. Since my inception into the public safety field in 2006 as an Emergency Medical Technician (EMT) I have had a thirst for knowledge thus fueling my drive to continuously challenge myself by seeking out any available training opportunities and taking advantage of them when accepted. I currently hold a Master of the Arts in Organizational Leadership with a concentration in Fire-Rescue Executive Leadership in addition to a plethora of Fire and EMS credentials/certifications. I have a special interest in leading complex organizational change – my capstone project for my master's degree was focused around increasing morale and motivation at a small combination Fire and EMS Department. In addition, I recently completed the Massachusetts Firefighting Academy and Chief Fire Officer III program and am awaiting the opportunity to take the certification exam.

In 2011 I began teaching Public Fire and Life Safety courses as the Assistant SAFE Coordinator at the local elementary school (Kindergarten through 6<sup>th</sup> Grade) for the Fire Department. I was immediately captivated with providing education in formal settings and found that I enjoyed teaching students of all ages. I applied for and accepted a promotion as the SAFE Coordinator in 2014. Over the next several years I expanded the program to include our Public Pre-School as well as the Junior and Senior High School (7<sup>th</sup> Grade through 12<sup>th</sup> Grade) through obtaining annual grants from the Massachusetts Department of Fire Services: Student Awareness of Fire Education program. In addition to Public Fire and Life Safety Education, I have experience teaching adult students in a private vocational/trade setting in Emergency Medical Services (EMS) related topics. Furthermore, in addition to providing internal instruction on Firefighting and EMS related topics, over the last five years I have developed and implemented an online training platform for Hopedale Fire Department that includes both EMS and Firefighting Courses.

I have served in administrative and supervisory roles since 2013 – when I applied for and accepted a promotion to fill the EMS Coordinator position at Hopedale Fire Department. As the

EMS Coordinator I successfully developed, applied for, and obtained licensure for our Ambulance Service to the Advanced Life Support (ALS – Paramedic) Level, and have maintained the services licensure since 2014. Additional duties include serving as the Liaison between the Massachusetts Office of Emergency Medical Services (OEMS) and our Affiliate Hospital Medical Director (AHMD), as well as the development of an EMS budget, policies and procedures, obtaining grants/funding to replace and/or purchase new EMS equipment, continuous quality improvement/assurance program, teaching Basic Life Support (BLS) and Advanced Life Support (ALS) continuing education courses and coordinating/scheduling additional courses outside my area of expertise. In addition to my duties as the EMS Coordinator, I was appointed a Shift Officer in 2016. The Hopedale Fire Department does not have career officers other than the Fire Chief and Deputy Fire Chief – a Shift Officer is the departments equivalent to a Lieutenant and serves as a Shift Commander and is responsible for the day today and fire ground operations of the Fire Department in the absence of a Chief Officer. Day to Day operations include but are not limited to overseeing daily activities within the Fire Station, but as well as the discipline and training of other career staff. As a first due officer, the Shift Officer is responsible for scene size-up and development of the initial incident action plan, and frequently serves as the Incident Commander (IC). Lastly, in addition to EMS and Fire Service duties, I frequently assist the Fire Chief (who serves concurrently as the Emergency Management Director) with the Hopedale Emergency Management Agency (HEMA), recently obtaining a Pre-Disaster Mitigation (PDM) Grant to update the Hopedale Hazard Mitigation Plan.

The opportunity to transition from a line supervisor to a managerial setting is enticing and exciting; especially in an area that I already have over 15 years of experience and comfort in. I hope to continue to further expand my interpersonal, administrative, and managerial capabilities in the Emergency Medical Services field. I am eager for the opportunity to meet with you and discuss our future endeavors together – I look forward to hearing from you!

Respectfully,

A handwritten signature in dark ink, appearing to read "Brian D. Kelley". The signature is fluid and cursive, with the first name "Brian" and last name "Kelley" clearly distinguishable.

Brian D. Kelley

# BRIAN D. KELLEY

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## FIRE & EMS CAREER:

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I have been serving in the Fire Service since 2007 and the EMS Field since 2006 (2006 as an EMT and 2012 as a Paramedic). I have been teaching EMS related courses including initial EMT & Paramedic Courses, EMT & Paramedic NCCR, CPR/AED, First Aid, ACLS, PALS and various continuing education courses since 2008. I have been teaching courses related to Firefighting since 2013.

## EDUCATION:

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<b>Waldorf University</b> <i>Forest City, IA – Master of Arts in Organizational Leadership with concentration in Fire Rescue Executive Leadership</i>	<b>2019 – 2020</b>
<b>Columbia Southern University</b> <i>Orange Beach, AL – Bachelor of Science in Fire Administration with concentration in Fire Investigation</i>	<b>2017 – 2018</b>
<b>Columbia Southern University</b> <i>Orange Beach, AL – Associate of Science in Fire Science</i>	<b>2016 – 2017</b>
<b>First Response Emergency Medical Education</b> <i>Norwood, MA – Emergency Medical Technician – Paramedic</i>	<b>2010 – 2012</b>
<b>Massachusetts Firefighting Academy</b> <i>Stow, MA – Firefighting</i>	<b>2007 – Present</b>
<b>Massachusetts Emergency Care Training Academy</b> <i>Shrewsbury, MA – Emergency Medical Technician – Basic</i>	<b>2006</b>
<b>Marian High School</b> <i>Framingham, MA – High School Diploma</i>	<b>2002 – 2006</b>

## EMPLOYMENT EXPERIENCE:

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<b>Hopedale Fire Department; Hopedale, MA</b> <i>Career Firefighter/Paramedic Shift Officer, EMS Coordinator, SAFE Coordinator</i> <ul style="list-style-type: none"><li>• Provide Advanced Life Support Care</li><li>• Provide Cardiac Monitoring, 12-Lead ECG Interpretation, Performing peripheral and intraosseous vascular access, medication administration, advanced airway management (ETT, King Airway &amp; CPAP)</li><li>• Provide primary 911 coverage for the Town of Hopedale</li><li>• Respond to and mitigate Fire/Hazmat related emergencies</li><li>• Serve as Shift Commander and initial Incident Commander for Fire/Hazmat related emergencies</li><li>• Coordinate Hopedale Fire Department: Public Education Division</li><li>• Develop/Conduct/Provide Fire &amp; Life Safety Education Pre-K to 12<sup>th</sup> Grade as well as for Senior Citizens</li><li>• Fire Prevention Supply Purchasing</li><li>• Coordinate Hopedale Fire Department: Emergency Medical Services Division</li><li>• Develop/Conduct/Provide EMS Training to Hopedale Fire Department</li><li>• EMS Supply Purchasing</li><li>• Medical Director: Dr James Courtney (Milford Regional Medical Center, Milford MA)</li></ul>	<b>02/2013 – Present</b>
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**First Response EME; Stoughton, MA****11/2015 – 05/2021***Instructor/Coordinator**Teaching Assistant**Clinical Coordinator*

- Conduct lectures utilizing pre-developed course materials for EMT and Paramedic Students
- Supervise Teaching Assistants
- Assist in practical skill development and evaluation of EMT and Paramedic Students
- Provide feedback and remediation to EMT and Paramedic students to ensure practical skill success
- Develop/Conduct/Provide Continuing Education Courses
- Develop and Implement Course Syllabi
- Clinical and Field Placement of EMT and Paramedic Students
- Supervise Clinical and Field Internships of EMT and Paramedic Students
- Conduct Audits of Clinical and Field Internships of EMT and Paramedic Students

**Medstar Ambulance Service; Leominster, MA****01/2013 – 02/2018***Paramedic*

- Provide Advanced Life Support Care
- Provide routine and emergent care to individuals who require inter-facility transport (IFT) who may require and of the following; Mechanical Ventilators (Intubated, Trached, CPAP/BIPAP), Chemical Sedation, Multiple Medication Infusions and other advanced care interventions
- Provide Cardiac Monitoring, 12-Lead ECG Interpretation, Performing peripheral and intraosseous vascular access, medication administration, advanced airway management (ETT, King Airway & CPAP)
- Provide Primary 911 coverage for the City of Fitchburg, City of Gardner, Town of Grafton, Town of Sutton, and Town of Millbury
- One of the primary 911 mutual aid options for Worcester EMS
- Provide ALS Intercepts to the following Towns/Cities; Leominster, Groton, Devens, Harvard, Pepperell, Lancaster, Lunenburg, Bolton and other private services as requested
- Provide Primary 911 coverage for contracted facilities
- Medical Director: Dr Marc Restuccia (UMASS University, Worcester MA)

**EasCare Ambulance Service; Worcester, MA****03/2012 – 1/2013***Paramedic*

- Provide Advanced Life Support Care
- Provide routine and emergent care to individuals who require inter-facility transport (IFT) who may require and of the following; Mechanical Ventilators (Intubated, Trached, CPAP/BIPAP), Chemical Sedation, Multiple Medication Infusions and other advanced care interventions
- Provide Cardiac Monitoring, 12-Lead ECG Interpretation, Performing peripheral and intraosseous vascular access, medication administration, advanced airway management (ETT, Combi-Tube & CPAP)
- Provide Primary 911 coverage for contracted facilities
- Provide ALS Intercepts for both private and municipal ambulances
- One of the primary 911 mutual aid options for Worcester EMS
- Medical Director: Dr Juan P Vernon (St. Vincent Hospital, Worcester MA)

**Hopedale Fire Department; Hopedale, MA****07/2011 – 02/2013***Call Firefighter/Paramedic*

- Provide Basic Life Support Care
- Provide primary 911 coverage for the Town of Hopedale
- Respond to and mitigate Fire/Hazmat related emergencies
- Medical Director: Dr James Courtney (Milford Regional Medical Center, Milford MA)

**Metrowest Medical Center; Natick, MA**

**03/2011 – 08/2011**

*Emergency Department Technician*

- Provide Basic Life Support
- Assist nursing and physician staff with providing patient care
- Draw Labs
- Perform EKGs
- Patient transport
- Clean and restock patient care rooms

**Blackstone Police Department; Blackstone, MA**

**06/2010 – 04/2012**

*Emergency Communications Dispatcher*

- Operate a multi-line telephone console, alerting system and TTY system for the deaf and hearing-impaired
- Perform emergency medical dispatch and crisis intervention services
- Monitor and operate a radio console and computer equipment
- Dispatch and coordinate the responses of the Fire and Police Departments
- Conduct Prisoner Welfare checks

**Lincoln Fire Department; Lincoln, MA**

**09/2008 – 09/2009**

*Call Firefighter/EMT*

- Provide Basic Life Support Care
- Provide primary 911 coverage for the Town of Lincoln
- Respond to and mitigate Fire/Hazmat related emergencies

**Fallon Ambulance Service; Quincy, MA**

**10/2007 – 06/2011**

*EMT*

- Provide Basic Life Support Care
- Provide primary 911 coverage for Quincy, Brookline, Weymouth, Braintree, Dedham and Milton
- Provide primary 911 coverage for contracted facilities
- Provide routine and emergent care to individuals who require inter-facility transport (IFT)

**Sherborn Fire Department; Sherborn, MA**

**02/2007 – 11/2008**

*Call Firefighter/EMT*

- Provide Basic Life Support Care
- Provide primary 911 coverage for the Town of Sherborn
- Respond to and mitigate Fire/Hazmat related emergencies

**AmbCare Ambulance Service; Worcester, MA**

**12/2006 – 06/2007**

*EMT*

- Provide Basic Life Support Care
- Provide primary 911 coverage for contracted facilities
- Provide routine and emergent care to individuals who require inter-facility transport (IFT)

**Massachusetts Department of Mental Retardation; Waltham, MA**

**06/2006 – 08/2007**

*Mental Retardation Worker – I*

- Provide direct care/support to developmentally disabled individuals
- Assist developmentally disabled individuals with changing, toiletries and eating/drinking
- Provide crisis intervention as needed

## **CERTIFICATIONS & CREDENTIALS:**

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Emergency Medical Technician – Paramedic	02/2012 – Present
Emergency Medical Technician – Basic	11/2006 – 02/2012
Emergency Medical Technician – Instructor/Coordinator	03/2016 – Present
BLS for Healthcare Provider	03/2006 – Present
ACLS Provider	04/2009 – Present
PALS Provider	06/2010 – Present
AHA BLS Instructor	02/2008 – Present
AHA ACLS Instructor	11/2012 – Present
AHA PALS Instructor	08/2012 – Present
Firefighter I/II	2008 & 2013
Hazardous Materials Operations Level	2008 & 2013
Fire Instructor I	2015
Fire Instructor II	2020
Fire Officer I	2015
Fire Officer II	2018
Fire Prevention Officer – Level I	2019
Incident Safety Officer: Fire Suppression	2019
National Incident Management System / Incident Command System	
100	2007
100.b	2012 & 2017
200	2007
700	2007
700.a	2012 & 2018
800.b	2011

## **REFERENCES:**

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*Available Upon Request*

**EMPLOYMENT AGREEMENT BETWEEN THE  
TOWN OF LEICESTER, MASSACHUSETTS  
AND  
Brian D. Kelley  
as  
INTERIM EMS DIRECTOR**

Agreement made this 9th day of August, 2021, by and between the Town of Leicester, acting by and through its Select Board (hereinafter the "TOWN"), and Brian D. Kelley of Hopedale, Massachusetts, (hereinafter the "INTERIM DIRECTOR" or "EMS INTERIM DIRECTOR"), pursuant to Chapter 41, Section 108-O.

**WHEREAS**, the Town is desirous of securing the services of the Interim Director for the command of the EMS Department.

**WHEREAS**, the Interim Director is willing to perform the duties of the office of EMS INTERIM DIRECTOR according to the terms and conditions of this contract.

**NOW, THEREFORE**, the Town and the Interim Director hereby agree that the following terms and conditions shall govern the salary and fringe benefits payable under this contract and the conditions of employment to which said Interim Director shall be entitled as EMS Interim Director.

**1. TERM**

The term of this agreement shall run from August 9, 2021 to February 7, 2022, at which time it will be reviewed, and possibly amended and/or extended.

**2. DUTIES**

The administration of the EMS Department for the Town shall be the responsibility of the EMS Interim Director. The Interim Director shall be responsible to and work under the general supervision of the Select Board, through the Town Administrator, under the applicable Massachusetts General Laws, and the Town's By-Laws and rules and regulations.

The Interim Director's duties shall include but not be limited to the following:

- A. Head of the EMS Department.
- B. Supervision of the daily operation of the EMS Department.
- C. Command and Supervision of all departmental personnel.
- D. Preparation and submission of the EMS Department budget.



- F. Submission of reports to the town either orally or in writing when requested or required to ensure the proper communication between the Town and the EMS Department.
- G. Being responsible for all departmental expenditures, as well as the property and receipt of funds for the Town Treasurer.
- H. Supervision and control of all Department equipment, motor vehicles and facilities belonging to or used by the EMS Department. In charge of fire vehicles and equipment in the absence of Fire supervisory personnel.
- I. Establishing uniforms, equipment, and vehicle specifications for the EMS Department.
- J. Overseeing all EMS personnel, as well as administrative personnel.
- K. Supervision and control of all training programs for department personnel and the assignment of personnel to such programs.
- L. Maintaining the discipline of department personnel; the issuing of orders, rules, regulations, policies, and procedures; and assignment of duties of all departmental personnel; being responsible for establishing, issuing, and updating orders, rules, and regulations.
- M. Being available for hearings before any Board of the Town at which the EMS Department is required to appear and before the Town Meeting when necessary.
- N. Being responsible for planning, organizing, staffing, directing, controlling and coordination of EMS operations.
- O. Being responsible for communications with the public, including the media, on matters related to EMS events, EMS operations and department policy.
- P. Serving as officer in charge of all staff within the EMS/EMS Department in the absence of Fire management staff, when on duty.

The Interim Director shall perform the duties and responsibilities of his office in a professional and competent manner.

### **3. HOURS OF WORK**

The Interim Director agrees to devote that amount of time and energy necessary for the Interim Director to faithfully perform the part-time duties of EMS Interim Director

It is recognized that the EMS Interim Director is a part time position, though the EMS Interim Director must devote a great deal of time to the business of the town. As such, the EMS Interim Director shall not have set work hours; but rather will work whatever time necessary to ensure that EMS Department operations meet the standards required to maintain public safety.

**4. INDEMNIFICATION**

The Town agrees that it shall defend, hold harmless and indemnify the Interim Director against any tort, professional liability claim or demand or other civil or criminal legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Interim Director's duties as EMS Interim Director of the Town provided that the Interim Director has acted in good faith. This section shall survive the termination of this agreement.

**5. INSURANCE**

The Town agrees to furnish at its expense, if available for purchase, professional liability insurance for the EMS Interim Director with liability limits of One Million (\$1,000,000.00) Dollars. This subsection shall survive the termination of this agreement for matters that may arise from the activities of the EMS Interim Director in his official capacity.

The EMS Interim Director shall be entitled to injured-on-duty benefits as provided in the Town's Workers Compensation program.

**6. BENEFITS**

The EMS Interim Director, as a part time employee, has no benefits beyond the compensation listed within this contract.

**7. DUES AND SUBSCRIPTIONS**

The Town agrees to budget and to pay for the professional dues and subscriptions of the EMS Interim Director for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional growth and advancement, and for the good of the Town.

**8. RESIDENCY**

The EMS Interim Director need not be a resident of the Town but must live in the Town or in a community with the County of Worcester and/or 30 air miles from the border of Leicester within 12 months following initial appointment.

**9. PROFESSIONAL DEVELOPMENT**

The Town recognizes its obligations to the professional development of the EMS Interim Director, and agrees that the Interim Director shall be given adequate opportunities to develop his skills and abilities as a director, a manager and an administrator; and shall be allowed to attend courses and conferences designed for this purpose; and shall be

reimbursed subject to the budget, by the Town for all expenses which are reasonable and necessary, (including travel expenses) incurred while attending or traveling to conferences, subject to appropriation.

The Town also agrees to budget and pay for travel and subsistence expense of the EMS Interim Director or courses, institutes, and seminars that, in the Interim Director's reasonable judgment, are necessary for his/her professional development.

#### **10. DEATH DURING TERM OF EMPLOYMENT**

If the EMS Interim Director dies during the term of his employment, the Town shall pay to the Interim Director's estate all the compensation which would otherwise be payable to the EMS Interim Director up to the date of the Interim Director's death. The Agreement shall terminate as of the date of the EMS Interim Director's death, except for provisions extended by this agreement.

#### **11. DISCIPLINE OR DISCHARGE**

- A. A unanimous vote of the Select Board shall be required before any discipline or discharge proceeding may begin. The EMS Interim Director may appeal to the Board within 10 days of receiving such notice. Upon appeal a hearing shall be held before the Board. If the discipline or discharge is affirmed by a unanimous vote of the Board, the action shall be sustained.
- B. All discipline or discharge will be governed by the Town's personnel bylaw, and applicable state and federal labor laws.
- C. The principle of progressive discipline will apply, and the Town recognizes its obligation to provide the Interim Director with periodic performance evaluations.

#### **12. COMPENSATION**

- A. The Town agrees to pay the EMS Interim Director for services rendered under this agreement the wage equivalent of Level IV, Step 2 of the Classification and Compensation Plan (which is \$29.78 per hour, based on an average 28-hour work week), subject to applicable withholdings and deductions.
- B. The Interim Director shall be eligible to work shifts on Ambulance duty when necessary and shall be paid at the rate of \$24.19 per hour.
- C. All wages shall be paid in regular installments according to the Town's payroll schedule.
- D. Upon agreement of both parties, this contract may be reopened for the purpose of renegotiating the terms of this contract.

**13. NO REDUCTION OF BENEFITS**

The Town agrees that it shall not at any time during the term of this Contract reduce the salary, compensation or other benefits of the EMS Interim Director, except to the extent that such reduction is evenly applied across-the-board for all non-union employees of the Town.

**14. MODIFICATION**

No change or modification of this Contract shall be valid unless it shall be in writing and signed by both of the parties.

**15. LAW GOVERNING**

This contract shall be construed and governed by the Laws of the Commonwealth of Massachusetts.

**16. SEVERABILITY OF PROVISIONS**

If any clause or provision of this contract shall be determined to be illegal by a court of competent jurisdiction, the remainder of this contract shall not be affected thereby.

**17. LENGTH OF CONTRACT**

- A. The term of this Contract shall be for a period commencing 08/09/2021 and ending 02/07/2023. However, this Contract may be extended as provided by its terms.
- B. In the event the EMS Interim Director intends to resign voluntarily before the natural expiration of any term of employment, then the EMS Interim Director shall give the Town thirty(30) days written notice in advance, unless the parties otherwise agree in writing.

**18. MISCELLANEOUS**

For the purposes of the Fair Labor Standards Act (FLSA), the EMS Interim Director shall be an exempt employee.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals to this instrument the date and year first above written.

**THE TOWN OF LEICESTER**  
**Acting by and through its**  
**Select Board**

\_\_\_\_\_  
Richard Antanavica – Chair

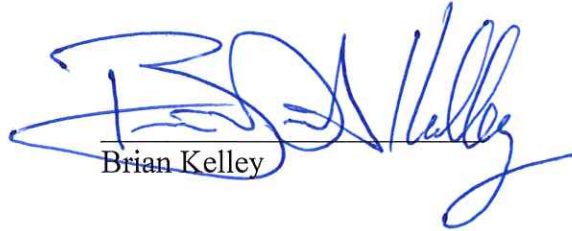
\_\_\_\_\_  
John Shocik – Vice Chair

\_\_\_\_\_  
Herb Duggan – 2<sup>nd</sup> Vice Chair

\_\_\_\_\_  
Diane Provencher – Member

\_\_\_\_\_  
Alan Phillips – Member

**FOR THE EMS INTERIM DIRECTOR**

  
\_\_\_\_\_  
Brian Kelley



# TOWN OF LEICESTER

## Council on Aging

40 Winslow Avenue • LEICESTER, MASSACHUSETTS 01524-1113

TELEPHONE: (508) 892-7016 • FAX: (508) 892-7506

[www.leicesterma.org](http://www.leicesterma.org)

August 2, 2021

**Rachelle Cyr-Cloutier, M.Ed.**

*Director of Elder Affairs*

*E-mail: [cloutierr@leicesterma.org](mailto:cloutierr@leicesterma.org)*

The Camosse Family Foundation  
10 E Baylies Road  
Charlton, MA 01507

Dear Henry and Family:

So many thanks are being sent your way for your generous donation of \$1,000.00 in support of our senior center. This money will help us purchase a much-needed freezer for our kitchen area. Throughout the time of the virus (and hopefully we will not see another closing because of Delta) we have been here working and helping out our seniors as much as we could. We had exercise programs outside using propane heaters. Our outreach program, our newsletter editor and I responded to all of the phone calls coming in from our local and sometimes distant senior population. We distributed food donated to us by Project New Hope to those in need. These many, many months have been very busy.

This coming November we will be able to host a Veterans' breakfast. This is a very impressive event for us. It has been two years (nearly) since our last event. We are looking forward to this.

We are so thankful for your generosity. We cannot thank you enough.

Sincerely,

Rachelle S. Cloutier, M.Ed.  
Director of Elder Affairs

Cc: Board of Select persons/Town Administrator

**Comparative Evaluation Rating**

		<b>HiQ</b>	<b>ClearCom</b>	<b>Terminal</b>
1	<u>Quality of References.</u> Reference checks will be performed to evaluate the special skills, relevant expertise, the quality of past performance in comparable projects, and the ability to perform assigned tasks in a timely and accurate manner of the prospective Consultant, including all subcontractors, principals, and the project manager.			
	<b>Reviewer #1</b>	U	HA	NA
	<b>Reviewer #2</b>	U	HA	HA
	<b>Reviewer #3</b>	NA	HA	NA
2	<u>Type of Experience.</u> The Town shall evaluate the quality and depth of relevant experience in the areas of: (a) network administration and system engineering, (b) public sector IT system management expertise, (c) public management and public sector IT application experience within the Commonwealth of Massachusetts, and (d) appropriate educational background and special training relevant to the project.			
	<b>Reviewer #1</b>	A	HA	NA
	<b>Reviewer #2</b>	HA	HA	A
	<b>Reviewer #3</b>	A	HA	U
3	<u>Quality of the Statement of Proposed Level of Service.</u> <u>The Town of Leicester will carefully review the Statement contained within the proposal as required under Section C., I., B. Statement of Proposed Level of Services and Project Approach, 1 through 3, inclusive, to determine:</u> <u>(a.) the municipality-specific approach of the prospective Consultant best suited to the needs of the Town of Leicester,</u> <u>(b.) the quality of the prospective Consultant's written work, and</u> <u>(c.) the quality of expertise and skills necessary to undertake the tasks required for the project.</u>			
	<b>Reviewer #1</b>	A	A	A
	<b>Reviewer #2</b>	A	HA	A
	<b>Reviewer #3</b>	A	HA	NA
4	<u>Years of Experience.</u> The Town will review the number of years key members of the consulting team have in the appropriate fields of discipline required for successful implementation of the project. Five years of experience is the standard for the principals of the firm, subcontractor firms, and the project manager and three years is the standard for other professionals assigned to the project.			
	<b>Reviewer #1</b>	HA	HA	HA
	<b>Reviewer #2</b>	HA	HA	HA
	<b>Reviewer #3</b>	A	HA	NA
	<b>FINAL RATINGS</b>	A	HA	A

# Premium Support Services Agreement

This support services agreement (SSA) is by and between ClearCom IT Solutions, Inc. a Massachusetts Corporation (“we”, “us”, “CLEARCOM”, or “MSP”), and the person or entity signing below as a Client (“you” or “Client”) and is made and entered into as of the commencement date shown in the “Terms” section. This Agreement sets forth the terms and conditions upon which MSP will provide services (the “Services”) to Client.

## Managed Services Scope

The following services (collectively, “Services”) will be provided to Client:

### Technology Consulting & Strategy

#### Dedicated Solutions Architect

- As needed strategy meetings
- Strategic Technology Planning
- Technology Budget Review
- Business Impact Review of Technology Decisions
- Best Practices Alignment Audits
- Centralized Services Report Review

### Proactive Technology Management

#### Centralized Services

- Server & Network Monitoring
- Microsoft Patch Management
- Managed Anti-Virus
- Dark Web Monitoring & Alerts
- Anti-Phishing Campaigns with Pro-Active Training
- Monthly Reporting & Technology Documentation

### Reactive Support Services

#### Help Desk Support Team

- End-user Help Desk Support
- Remote Support
- On-Site Support
- Troubleshooting & Resolution
- Online Client Ticket Portal
- Report Support Tools

### Managed Server Backup

#### Monitoring, Management, and Support for Backup of Windows Servers

- Completion of Scheduled backup job
- Proper functioning and health of backup appliance (if applicable)
- Daily backup replication to offsite cloud storage
- Automated backup verification tests (if applicable)
- File & Folder backup
- Business Continuity Appliance (optional)

All backup plans are based on the amount of data, number of servers, number of locations, desired retention and frequency. Business continuity appliances are outlined in pricing proposal. Backup plan is based on the servers and data listed.



## Managed Equipment

The services will be applied to the following infrastructure/equipment (Managed Equipment”):

Quantity	Physical Items
	<b>Users</b>
86	Windows Workstations (Desktops, Laptops)
15	Windows Servers (Physical or Virtual)
22	Hypervisors/Hosts
	Storage Systems
7	Firewalls
10	Network Switches & Routers
16	Wireless Controllers & Access Points
	<b>SAAS Add-on Items</b>
	Hosted Exchanged Mailbox
	Office Apps
	Microsoft 365 – Basic
	Microsoft 365 – Standard
	Microsoft 365 – Premium
	VOIP Extensions
	Disaster Recovery Appliance
	Hosted Cloud Servers\ShareSync
	Advanced Spam Filter
	Cisco Umbrella Security Services
	Dark Web Monitoring and Anti-Phishing Campaign
	<b>Backup Data</b>
2,000	Space in GB
	<b>Property of CLEARCOM IT Hardware</b>
	External Hard Drive
	Router
	Management PC
	Other:

## Service Availability

CLEARCOM provides services during our normal business hours excluding company-recognized holidays. Emergency service is available for critical-business impacting issues on a 24/7 basis, including holidays. See Emergency Support section on next page for specific rates and terms.

### Business Hours - Subject to change

Office and On-Site Hours Monday-Friday 8:30am -5:00pm  
Remote/Desktop Support Monday-Friday 7:00am -5:00pm

### Holiday Schedule – Subject to change with prior notice to client

New Year's Day -May vary if Holiday falls on a weekend  
Memorial Day  
Independence Day- May vary if Holiday falls on a weekend  
Labor Day  
Columbus Day  
Thanksgiving Day  
Friday after Thanksgiving  
Christmas Day- May vary if Holiday falls on a weekend

## Emergency Support

All after hours or holiday support requests MUST be submitted via the client portal. If emergency service is requested, the priority must be set to "Critical".

### Remote Emergency Support Fee and Response Time (Available by Critical Ticket only)

	Hourly Rate	Response time
Holiday and After Hours	\$150/hr, 2-hour min.	5 hours

### On-Site Emergency Support Fee and Response Time (Available by Critical Ticket only)

	Hourly Rate	Response time
Holiday and After Hours	\$150/hr, 3-hour min.	8 hours

## Rates; Fees

All rates and fees are subject to change without notice. Current rate card provided at client request. Please refer to enclosed Quote for recurring amounts and description of services/rates.

## Locations Covered

Town Hall - 3 Washburn Square, Leicester, MA 01524  
Leicester Public Library - 1136 Main St, Leicester, MA 01524  
Fire Headquarters - 3 Paxton Street, Leicester, MA 01524  
Highway Department - 59 Peter Salem Rd., Leicester, MA 01524  
Senior Center - 40 Winslow Avenue, Leicester, MA 01524  
Police Department - 90 South Main Street, Leicester, MA 01524

## Authorized Contacts

Primary Financial Contact	Email:
Primary Technical Contact	Email:
Billing Contact	Email:

## Exclusions & Terms

### Exclusions; Limitations

The following services are expressly excluded under this SSA, and if required to be performed, will be billed to Client at CLEARCOM'S normal hourly rates:

- IT Equipment relocation, Moving of Equipment
- Assembly of furniture
- New server installs
- 201 CMR 17.00 compliance
- Software or hardware training
- Offboarding of client which includes consulting (CLEARCOM tools will be removed at no additional charge)
- Circumstances that could be reasonably said to be beyond CLEARCOM'S control, i.e., natural disasters, war, fires, etc.
- Customization of third-party applications, or programming of any kind.
- Support for operating systems, applications, or hardware no longer supported by the manufacturer.
- VOIP Install & Support
- Multi-Media Rooms
- Camera Systems Troubleshooting\maintenance\installation
- Email Migrations
- Multi-Factor Authentication Roll-Out
- Data/voice wiring or cabling services of any kind.

Note, services required or requested outside the scope of this SSA may not be exchanged for services within this SSA.

### Limitations of Liability

The liability of CLEARCOM for damages arising out of the furnishing of Service, including but not limited to mistakes, omissions, interruptions, delays, tortious conduct or errors, defects, representations, use of Service or arising out of the failure to furnish Service, whether caused by acts of commission or omission, shall be limited to the total agreement amount. CLEARCOM shall in no event be liable for any indirect, incidental, special, consequential, exemplary or punitive damages (including, but not limited to, damages for lost profits or revenues) Client may suffer, regardless of whether CLEARCOM has been informed of the possibility or likelihood of such damages. CLEARCOM assumes no liability for the content or quality of information accessed by Client.

### Term; Termination

The Services will commence, and billing will begin, on the date on which the Services are implemented and operational, which will be 8/1/2021 ("Commencement Date").

The Services shall continue for a minimum term of twelve (12) months from the Commencement Date (the "Initial Term") with two (2) additional one-year extensions, of which the city will have the sole option for exercising, cancelable by either party for any reason upon the provision of 90 days prior written notice.

Multi-Year agreements are subject to no more than a five percent (5%) increase per year. CLEARCOM may increase rates upon two (2) months written notice and no more than once per twelve (12) month period.

### Additional Terms

Additional terms, if any, are attached as Schedule A to this SSA.

## Schedule A: Additional Provisions

### Maintenance Services

Unless otherwise provided in this SSA, maintenance services will be applied in accordance with the recommended practices of the managed services industry. Client understands and agrees that maintenance services are not intended to be, and will not be, a warranty or guaranty of the functionality of any particular device, or a service plan for the repair or remediation of any particular managed hardware or software.

Managed IT Services are designed to provide virtually unlimited support. However, in order to avoid abuse, a maximum number of hours which can be used each month as an average per device are set forth herein (the "Maximum Hours"). Maximum number of hours is .5 hours per month per device, averaged among all devices. Any hours above the Maximum hours are not included in the Managed IT Service and are billed as hourly IT Services. For example, if a client has 30 devices, ten of which use 30 minutes and two use 1 hour in any given month, the average number of hours used per device is .23 hours, which is way below the .5 hour maximum for managed IT services. For a client with 30 devices, it allows for an average of 15 hours of service per month.

### Anti-Virus; Anti-Malware

CLEARCOM'S anti-virus / anti-malware solution will generally protect the Client's system from becoming infected with new viruses and malware ("Viruses"); however, Viruses that exist on the Client's system at the time that the security solution is implemented may not be capable of being removed without additional services, for which a charge may be incurred.

Any security solution may be circumvented and/or rendered ineffective if a user purposely or intentionally downloads or installs malware (such as a rootkit) onto the user's system. Client is strongly advised to refrain from downloading files that are sent by unknown users, and/or users or files whose origination cannot be verified. CLEARCOM does not warrant or guarantee that all Viruses and malware will be capable of being removed, or that all forms of Viruses and malware will be timely detected or removed.

In order to improve security awareness, you agree that CLEARCOM or its designated third-party affiliate may transfer information about the results of processed files, information used for URL reputation determination, security risk tracking, and statistics for protection against spam and malware. Any information obtained in this manner does not and will not contain any personal or confidential information.

Client assumes all risk of computer viruses and will not hold CLEARCOM responsible for any virus, malware, spyware, or any other infection that can occur.

Client agrees they are responsible for additional hourly cost for virus removal IF operating system no longer supported by Microsoft are present. i.e. Windows 3.1, Windows 2000, Windows Server 2003, and Windows XP. Windows 7 and Server 2008 EOL was January 2020.

### Patch Management

CLEARCOM shall keep all managed equipment and software current with critical patches and updates ("Patches") as such Patches are released generally by the manufacturers of the applicable hardware or software. Patches and updates are developed by third party vendors and, on rare occasions, may make the System, or portions of the System, unstable, or cause the managed equipment or software to fail to operate properly even when the Patches are installed correctly. CLEARCOM shall not be responsible for any downtime or losses arising from or related to the installation or use of any Patch, provided that the Patch was installed in accordance with manufacturer's instructions. CLEARCOM reserves the right, but not the obligation, to refrain from installing a Patch if CLEARCOM is aware of technical problems caused by a Patch, or believes that a Patch may render the System, or any portion of the System, unstable.

## **Backup (BDR) Services**

CLEARCOM's backup and disaster recovery ("BDR") solution uses industry-recognized products and software to help ensure the security and integrity of Client's data. However, Client understands and agrees that all data transmitted over the Internet may be subject to malware and computer contaminants such as viruses, worms and trojan horses, as well as attempts by unauthorized users, such as hackers, to access or damage Client's data. Neither CLEARCOM nor its designated affiliates will be responsible for the outcome or results of such activities. Data recovery time will depend on the speed and reliability of Client's Internet connection. BDR services require a reliable, always-connected Internet solution. Internet and telecommunications outages will prevent the BDR services from operating correctly. In addition, all computer hardware is prone to failure due to equipment malfunction, telecommunication-related issues, etc., for which CLEARCOM shall be held harmless.

Due to technology limitations, all computer hardware, including communications equipment, network servers and related equipment, has an error transaction rate that can be minimized, but not eliminated. As such, Client understands and agrees that any data sent to or stored by CLEARCOM may become corrupted or lost due to communication or hardware-related failures. CLEARCOM cannot and does not warrant that such data corruption or loss will be avoided, and Client agrees that CLEARCOM shall be held harmless if such data corruption or loss occurs. Unless otherwise expressly stated in the terms and conditions, BDR services do not permit archiving or retrieval of prior document or file versions; only the latest version of a stored document or file is recoverable.

Data Retention is set to 14 days. Additional retention time is available. Client must inquire for a quote.

## **Procurement**

Equipment and software procured by CLEARCOM on Client's behalf ("Procured Equipment") may be covered by one or more manufacturer warranties, which will be passed through to Client to the greatest extent possible. By procuring equipment or software for Client, CLEARCOM does not make any warranties or representations regarding the quality, integrity or usefulness of the Procured Equipment. Certain equipment or software, once purchased, may be not be returnable or, in certain cases, may be subject to third party return policies and/or re-stocking fees, all of which shall be Client's responsibility in the event that a return of the Procured Equipment is requested.

CLEARCOM is not a warranty service or repair center. CLEARCOM will facilitate the return or warranty repair of Procured Equipment; however, Client understands and agrees that the return or warranty repair of Procured Equipment is governed by the terms of the warranties (if any) governing the applicable Procured Equipment, for which CLEARCOM shall be held harmless.

## **IT Strategic Planning**

Suggestions and advice rendered to Client are provided in accordance with relevant industry practices, based on Client's specific needs. By suggesting a particular service or solution, CLEARCOM is not endorsing any particular manufacturer or service provider. CLEARCOM is not a warranty service or repair center, and does not warrant or guarantee the performance of any third-party service or solution. Any advice and suggestions provided by CLEARCOM will be for Client's informational and/or educational purposes only. CLEARCOM will not hold an actual director or officer position with Client, and CLEARCOM will neither hold nor maintain any fiduciary relationship or position with Client. Under no circumstances shall Client list or place CLEARCOM on Client's corporate records or accounts. At all times the CLEARCOM will be an independent contractor of Client.

## **Unsupported Configuration Elements or Services**

If Client requests a configuration element (hardware or software) or hosting service in a manner that is not customary at CLEARCOM, or that is in "end of life" or "end of support" status, CLEARCOM may designate the element or service as "unsupported," "non-standard," "best efforts," "reasonable endeavor," "one-off," "EOL," "end of support," or with like term in the service description (an "Unsupported Service"). CLEARCOM makes no representation or warranty whatsoever regarding any Unsupported Service, and Client agrees that CLEARCOM will not be liable to



49 Main St.  
Sturbridge, MA 01566  
508-892-5555

Client for any loss or damage arising from the provision of an Unsupported Service. Deployment and service level guaranties shall not apply to any Unsupported Service.

## Acceptance

### Jurisdiction

The laws of United States of America and the State of Massachusetts shall govern this agreement, its terms and conditions. Client agrees that the proper forum for any claim arising under this agreement shall be in Massachusetts.

### **Enforceability of Surviving Parts**

Modification or Amendment – No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties hereto.

Entire Understanding – This document and any exhibit attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings and representations are hereby terminated and canceled in their entirety and are of no further force and effect.


Unenforceability of Provisions – If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

### **Payment**

CLEARCOM will invoice the Client monthly per the fees stated in this agreement. Payments for all recurring and excluded services are due upon receipt.

### **Approval**

Please initial each page, & sign below to indicate your approval.

<u>ClearCom Acceptance</u>			
	Robert Cleary	President	08 / 03 / 2021
Signature	Printed Name	Title	Date

<u>Client Acceptance</u>			
Signature	Printed Name	Title	Date



# Q U O T E

**Number** AAAQ2131

**Date** Aug 3, 2021

## Sold To

**Town of Leicester**

Kristen Forsberg  
3 Washburn Sq.  
Leicester, MA 01524

**Phone** 508-892-7077

## Ship To

**Town of Leicester**

Kristen Forsberg  
3 Washburn Sq.  
Leicester, MA 01524

**Phone** 508-892-7077

Qty	Description	Unit Price	Ext. Price
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### MANAGED SERVICE ITEMS

86	Windows Workstations Premium (Desktops, Laptops)	\$80.00	\$6,880.00
8	Windows Servers Premium (Physical with up to 2 Virtual)	\$175.00	\$1,400.00
1	Existing Partner Pricing Adjustment	-\$4,580.00	-\$4,580.00

### DATA BACKUP PLANS

2,000 ClearCom IT Basic Back-up File\Folder Server

SubTotal	\$3,700
Tax	
<b>Total One Time</b>	<b>\$0.00</b>
<b>Monthly Recurring</b>	<b>\$3700.00</b>

Town of Leicester – Bid Opening  
Crack Sealing – July 28, 2021

Company Name	Company Address	Bid Form Signed?	Bid Bond and Payment Bond?	Signed Certificate of Non-Collusion?	Acknowledgement of Addendums?	Total Bid
Indus	825 Granite St. Braintree MA	✓	✓	✓	NA	\$ 72,940.00



**TOWN OF LEICESTER**  
**HIGHWAY DEPARTMENT**  
**BID FORM FOR**  
**RANDOM CRACK SEALING-POLYMER & CRUMB RUBBER MODIFIED ASPHALT COMPOUND WITH REINFORCING FIBERS**

TO: The Office of the Select Board  
Leicester, MA. 01524

We, the undersigned, submit our proposal for furnishing the attached indicated service in accordance with the Town of Leicester's Notice of Bid and Specifications. All products to be supplied will meet the Commonwealth of Massachusetts Department of Public Works Standard Specifications

INSTRUCTIONS TO BIDDERS: Please complete all requested information. The items you are bidding on must be filled in on this proposal sheet. Only items completed in ink or typewritten will be considered. A company official must sign the proposal sheet. \*Crack sealing window of application would be early August.

<u>Item</u>	<u>Units</u>	<u>U/M</u>	<u>Unit Price</u>	<u>Extended Price</u>
PCRM Crack Seal 6,000	Gallons		\$ <u>11.74</u> /gal	\$ <u>\$70,440.00</u>
Police Allowance 1	LS		\$ <u>2,500.00</u>	\$ <u>2,500.00</u>
TOTAL BID PRICE:				\$ <u>\$72,940.00</u>

Total Bid price in writing \$ \_\_\_\_\_  
**Seventy Two Thousand Nine Hundred Forty Dollars**

The Town of Leicester reserves the right to waive any informalities and accept or reject any bids, or portions thereof, if thought to be in the best interest of the Town of Leicester. The Town of Leicester reserves the right to cancel the contract, with a 30-day notice, for failure of contractor to meet the terms and conditions of this contract. The Town of Leicester reserves the right to alter the street list due to availability of funding. Police detail will be ordered and paid for by the contractor as needed and reimbursed through the police allowance item above.

Bids will be received, in a sealed envelope with contents so marked, to the Office of the Select Board. Bids will be publicly opened and read on July 28 at 3:00pm in the Office of the Select Board, 3 Washburn Square, Leicester, MA 01524.

TERMS: \_\_\_\_\_

DATE: July 26, 2021

COMPANY: Sealcoating, Inc. d/b/a indus

BY: 

Company Official

ADDRESS: 825 Granite Street

Braintree, MA 02184

Richard L. Goodick, Vice President

# TOWN OF LEICESTER

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DATE: AUGUST 9, 2021  
CONTRACT

This contract for FY 2022 Crack Sealing is entered into on, or as of, this date by and between the Town of Leicester, 3 Washburn Square, Leicester, MA 01524 (the "Town"), and

Sealcoating, Inc. d/b/a Indus  
825 Granite Street  
Braintree, MA 02184

1. This is a Contract for the procurement of the following:

In compliance with the Town's Notice of Bid and Specifications, the Contract will provide all products and services to furnish as needed crack sealing.

2. The Contract price to be paid to the Contractor by the Town is:

\$11.74 per gallon. Contract price not to exceed \$72,940.00

3. Payment will be made as follows:

3.1 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.2 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

4. Security

4.1 The Contractor must provide security in the form of a payment bond in the amount of 50% of the contract price in the forms attached to this Contract, conditioned upon the faithful performance of this Contract. The surety company(ies) issuing such bonds must be qualified to do business under the laws of the Commonwealth of Massachusetts and must be satisfactory to the Town. Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated copy of the Power of Attorney.

## 5. Definitions:

- 5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.
- 5.2 Contract Documents: All documents relative to the Contract including (where used) Invitation for Bids and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.
- 5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.
- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

## 6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before June 30, 2020, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

## 7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

## 8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

## 9. Termination and Default:

- 9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.
- 9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.
- 9.3 Default. The following shall constitute events of a default under the Contract:  
any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform

this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

#### 11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Leicester shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

#### 12. Statutory Compliance:

- 12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30, Sec. 39, *et seq.* - Public Works Contracts.

- 12.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).

15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes,

rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

15.2 The Contractor, if applicable, shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency’s practices and policies do not discriminate on the basis of race, color,

religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.

15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.

15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.

15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

#### 16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

#### 17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

#### 18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Leicester unless and until the Contractor complies with this section.



The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Leicester shall be individually or personally liable on any obligation of the Town under this Contract.

21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act,

omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.

- 21.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 22. Insurance

### 22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

22.2 The Contractor shall purchase and maintain broad form general liability coverage on the ISO form CG 00 01 or equivalent, including products and completed operations, on an occurrence basis. The form must be amended to state that the aggregate limit applies on a per location/project basis. The policy shall provide the following minimum coverage to protect the Contractor from claims with respect to the operations performed by Contractor and any employee, subcontractor, or supplier, or by anyone for whose acts they may be liable:

Bodily Injury &	\$1,000,000 each occurrence
Property Damage	\$2,000,000 general aggregate per project
Products & Completed Operations	\$2,000,000 annual aggregate
Personal & Advertising Injury	\$1,000,000 each occurrence
Medical Expenses	\$10,000

- a. This policy shall include coverage relating to explosion, collapse, and underground property damage.
- b. This policy shall include contractual liability coverage.
- c. The completed operations coverage shall be maintained for a period of three (3) years after Substantial Completion and acceptance by the Town.
- d. This policy shall include the Town and anyone else requested by the Town as an additional insured via endorsements CG 20 10 for ongoing operations and CG 20 37 for completed operations. This policy shall be primary and non-contributory with respect to any other insurance available to additional insureds.
- e. The policy shall include endorsement CG 24 04, a Waiver of Subrogation in favor of the Town.

### 22.3 Other Insurance Requirements

- a. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1,000,000 per accident, with the Town named as an additional insured.
- b. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.

- c. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- d. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

### 23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

#### 24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### 26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach of a similar or different matter.

#### 28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.

#### 32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document

executed by the parties hereto.

### 33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Leicester shall be a party.

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

The Town of Leicester by:

The Contractor by:

## Select Board

Signature

Date \_\_\_\_\_

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Print Name & Title

Certified as to  
Appropriation/Availability of Funds:

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Town Accountant

Date \_\_\_\_\_

## **CERTIFICATION OF GOOD FAITH**

The undersigned certifies under pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

The Contractor by:

---

Print Name

---

Title/Authority



## CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A  
\_\_\_\_\_, authorized signatory for  
name of signatory \_\_\_\_\_, whose  
name of contractor \_\_\_\_\_  
principal place of business is at \_\_\_\_\_,  
\_\_\_\_\_ does hereby certify under the pains and penalties of  
perjury that \_\_\_\_\_ has  
name of contractor \_\_\_\_\_  
paid all Massachusetts taxes and has complied with all laws of the Commonwealth of  
Massachusetts relating to taxes, reporting of employees and contractors, and withholding  
and remitting child support.

\_\_\_\_\_

Town of Leicester – Bid Opening  
Line Painting – July 28, 2021

Company Name	Company Address	Bid Form Signed?	Bid Bond and Payment Bond?	Signed Certificate of Non-Collusion?	Acknowledgement of Addendums?	Total Bid
Atlantic Pavement Marking	15 Industrial Rd Prospect CT	✓	✓	✓	NA	\$ 34,135.60

TOWN OF LEICESTER

BID FOR LINE PAINTING

TO: The Office of the Select Board  
Leicester, MA. 01524

We, the undersigned, submit our proposal for furnishing the attached indicated service in accordance with the Town of Leicester's Notice of Bid and Specifications. All products to be supplied will meet the Commonwealth of Massachusetts Department of Public Works Standard Specifications.

INSTRUCTIONS TO BIDDERS: Please complete all requested information. The items you are bidding on must be filled in on this proposal sheet. Only items completed in ink or typewritten will be considered. A company official must sign the proposal sheet. \*Line painting window of application would be mid to end of August.

4" Yellow Double line cost \$ 0.096 /running ft. x 234,850 est. ft. = \$ 22,545.60 Bid Price.

4" White edge line cost \$ 0.047 /running ft. x 174,000 est. ft. = \$ 8,178.00 Bid Price.

8" White stop lines at intersections approx. 390 running ft. \$ 312.00 Bid Price.

5' width Crosswalks white w/green center, green center approx. 3,250 sq. ft. white edges, approx. 975sq. ft.  
\$ 3,100.00 Bid Price.

Total Bid Price \$ 34,135.60

The Town of Leicester reserves the right to waive any informalities and accept or reject any bids, or portions thereof, if thought to be in the best interest of the Town of Leicester. The Town of Leicester reserves the right to cancel the contract, with a 30-day notice, for failure of contractor to meet the terms and conditions of this contract.

Bids will be received, in a sealed envelope with contents so marked, to the Office of the Select Board. Bids will be publicly opened and read on July 28 at 1:00pm in the Office of the Select Board, 3 Washburn Square, Leicester, MA 01524.

TERMS: Net 30 Days

DATE: 07/23/21

COMPANY: Atlantic Pavement Marking Inc.

BY:   
Company Official

ADDRESS: 15 Industrial Rd.

Prospect, CT 06712

Vice President

Title

# TOWN OF LEICESTER

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DATE: AUGUST 9, 2021  
CONTRACT

This Contract for Line Painting is entered into on, or as of, this date by and between the Town of Leicester, 3 Washburn Square, Leicester, MA 01524 (the "Town"), and

Atlantic Pavement Marking Inc.  
15 Industrial Road  
Prospect, CT. 06712

1. This is a Contract for the procurement of the following:

In compliance with the Town's Notice of Bid and Specifications, the Contract will provide all products and services to furnish roadway line painting.

2. The Contract price to be paid to the Contractor by the Town is:

4" Yellow double line Cost	\$0.096/ running ft. x 234,850 est. ft. = \$22,545.60
4" White Double Line Cost	\$0.047/ running ft. x 174,000 est. ft. = \$8,178.00
8" White stop lines	390 running ft. = \$312.00
5' Crosswalks	975 est. ft. = \$3,100

Total length of lines are estimated. This contract shall not exceed \$34,135.60.

3. Payment will be made as follows:

3.1 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said fees and/or costs are so set forth in writing. The Town will not pay any surcharge or premium on top of the direct out of pocket expenses, if any.

3.2 Final payment including any unpaid balance of the Contractor's compensation shall be due and payable when the Project/Goods/Services is/are delivered to the Town when the project is completed and the services are complete and/or the goods are delivered and accepted.

4. Security

4.1 The Contractor must provide security in the form of a payment bond in the amount of 50% of the contract price, conditioned upon the faithful performance of

this Contract. The surety company must be qualified to do business under the laws of the Commonwealth of Massachusetts and must be satisfactory to the Town. Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated copy of the Power of Attorney.

## 5. Definitions:

- 5.1 Acceptance: All Contracts require proper acceptance of the described goods or services by the Town. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance for services by authorized representatives of the Town to insure that the goods or services are complete and are as specified in the Contract.
- 5.2 Contract Documents: All documents relative to the Contract including (where used) Invitation for Bids and all attachments thereto, Instructions to Bidders, Proposal Form, General Conditions, Supplementary General Conditions, General Specifications, Other Specifications included in Project Manual, Drawings, all Addenda issued during the bidding period and Contractor's Response to the Request for Proposal. The Contract documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the document is to include all labor and materials, equipment and transportation necessary for the proper performance of the Contract.
- 5.3 The Contractor: The "other party" to any Contract with the Town. This term shall (as the sense and particular Contract so require) include Vendor, Contractor, Engineer, or other label used to identify the other party in the particular Contract. Use of the term "Contractor" shall be understood to refer to any other such label used.
- 5.4 Date of Substantial Performance: The date when the work is sufficiently complete, the services are performed, or the goods delivered, in accordance with Contract documents, as modified by approved Amendments and Change Orders.
- 5.5 Goods: Goods, Supplies, Services or Materials.
- 5.6 Subcontractor: Those having a direct Contract with the Contractor. The term includes one who furnished material worked to a special design according to the Drawings or Specifications of this work, but does not include one who merely furnishes material not so worked.
- 5.7 Work: The services or materials contracted for, or both.

## 6. Term of Contract and Time for Performance:

This Contract shall be fully performed by the Contractor in accordance with the provisions of the Contract Documents on or before June 30, 2019, unless extended, in writing, at the sole discretion of the Town, and not subject to assent by the Contractor, and subject to the availability and appropriation of funds as certified by the Town Accountant. Time is of the essence for the completion of the Contract.

#### 7. Subject to Appropriation:

Notwithstanding anything in the Contract documents to the contrary, any and all payments which the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant. In the absence of appropriation or availability as certified herein, this Contract shall be immediately terminated without liability for damages, penalties or other charges to the Town. In the event this is a multi-year contract, this Contract shall be subject to annual appropriation and in the event funds are not so appropriated, this Contract shall terminate immediately without liability for damages, penalties or charges to the Town.

#### 8. Permits and Approvals:

Permits, Licenses, Approvals and all other legal or administrative prerequisites to its performance of the Contract shall be secured and paid for by the Contractor.

#### 9. Termination and Default:

- 9.1 Without Cause. The Town may terminate this Contract on seven (7) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.
- 9.2 For Cause. If the Contractor is determined by the Town to be in default of any term or condition of this Contract, the Town may terminate this Contract on seven (7) days notice by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor.
- 9.3 Default. The following shall constitute events of a default under the Contract:  
any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the following: (i) failure to commence performance of this Contract

at the time specified in this Contract due to a reason or circumstance within the Contractor's reasonable control, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Town, (iv) failure to promptly re-perform within a reasonable time the services that were rejected by the Town as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the Contractor's reasonable control, (vi) failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance and non-discrimination, (vii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination of this Contract, and (viii) failure to comply with any and all requirements of state law and/or regulations, and Town bylaw and/or regulations.

#### 10. Suspension or Delay

The Town may order the Contractor, in writing, to suspend, delay or interrupt all or any part of the Services without cause for such period of time as the Town may determine to be appropriate for its convenience. In the event of any such suspension, delay or interruption, the Contractor's compensation shall be equitably adjusted. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Services, or if another provision of this Contract is applied to render an equitable adjustment.

#### 11. The Contractor's Breach and the Town's Remedies:

Failure of the Contractor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Leicester shall have all the rights and remedies provided in the Contract documents, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity or other proceedings with respect to a breach of this Contract, including "Damages" including but not limited to costs, attorney's fees or other damages resulting from said breach ("Damages") as well as specific performance, and the right to select among the remedies available to it by all of the above.

From any sums due to the Contractor for services, the Town may keep the whole or any part of the amount for expenses, losses and Damages incurred by the Town as a consequence of procuring services as a result of any failure, omission or mistake of the Contractor in providing services as provided in this Contract.

#### 12. Statutory Compliance:

- 12.1 This Contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the Contract or Contract documents shall conflict with any provision or

requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of the General Laws are incorporated by reference into this Contract, including, but not limited to, the following:

General Laws Chapter 30, Sec. 39, *et seq.*: - Public Works Contracts.

- 12.2 Wherever applicable law mandates the inclusion of any term and provision into a municipal contract, this Section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.
- 12.3 The Contractor shall comply with all Federal, State and local laws, rules, regulations, policies and orders applicable to the Work provided pursuant to this Contract, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the supply of such Work.

The Contractor shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of the Contractor to comply with the previous sentence. If any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Town. It shall, at all times, itself observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Town, and its duly appointed agents against any claim or liability arising from or based on any violation whether by him or its agents, employees or subcontractors of any such law, by-law, regulation or decree.

### 13. Conflict of Interest:

Both the Town and the Contractor acknowledge the provisions of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Contractor shall be deemed to have investigated the application of M.G.L. c. 268A to the performance of this Contract; and by executing the Contract documents the Contractor certifies to the Town that neither it nor its agents, employees, or subcontractors are thereby in violation of General Laws Chapter 268A.

### 14. Certification of Tax Compliance

This Contract must include a certification of tax compliance by the Contractor, as required by General Laws Chapter 62C, Section 49A (Requirement of Tax Compliance by All Contractors Providing Goods, Services, or Real Estate Space to the Commonwealth or Subdivision).



## 15. Non-Discrimination/Affirmative Action

The Contractor shall carry out the obligations of this Agreement in compliance with all requirements imposed by or pursuant to federal, State and local ordinances, statutes, rules and regulations and policies prohibiting discrimination in employment, including but not limited to, Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973 and Mass. G. L. c. 151B, and any other executive orders, rules, regulations, requirements and policies relating thereto enacted by the Commonwealth of Massachusetts and the Town as they may be amended from time to time. Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation.

15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:

- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
- (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
- (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
- (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
- (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
- (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
- (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.

15.2 The Contractor, if applicable, shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex

or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency's practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.

15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.

15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.

15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

15.6 In determining whether steps taken by the Contractor constitute Affirmative Action, the Town shall take into account the relevant characteristics of the Contractor including, but not limited to, the number of employees and the location of the principal and branch offices.

#### 16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town, and shall not assign any of the moneys payable under this Contract, except by and with the written consent of the Town.

#### 17. Condition of Enforceability Against the Town:

This Contract is only binding upon, and enforceable against, the Town if: (1) the Contract is signed by the Board of Selectmen or its designee; and (2) endorsed with approval by the Town Accountant as to appropriation or availability of funds; and (3) endorsed with approval by the Town Counsel as to form.

#### 18. Corporate Contractor:

If the Contractor is a corporation, it shall endorse upon this Contract (or attach hereto) its Clerk's Certificate certifying the corporate capacity and authority of the party signing this Contract for the corporation. Such certificate shall be accompanied by a letter or other instrument stating that such authority continues in full force and effect as of the date the

Contract is executed by the Contractor. This Contract shall not be enforceable against the Town of Leicester unless and until the Contractor complies with this section.

The Contractor, if a foreign corporation, shall file with the Commissioner of Corporations a Power of Attorney and duly authenticated copies of its Charter or Certificate of Incorporation; and said Contractor shall comply with all the laws of the Commonwealth.

19. Contractor's Personnel:

The Contractor shall utilize only its employees and shall not utilize any third-party contractors without prior written approval of the Town.

20. Liability of Public Officials:

To the full extent permitted by law, no official, employee, agent or representative of the Town of Leicester shall be individually or personally liable on any obligation of the Town under this Contract.

21. Indemnification:

The Contractor shall indemnify, defend and save harmless the Town, the Town's officers, agents and employees, from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, expenses, recoveries and judgments of every nature and description (including attorneys' fees) that may arise in whole or in part out of or in connection with the work being performed or to be performed, or out of any act or omission by the Contractor, its employees, agents, subcontractors, material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by any party indemnified hereunder. The Contractor further agrees to reimburse the Town for damage to its property caused by the Contractor, its employees, agents, subcontractors or material men, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, including damages caused by his, its or their use of faulty, defective, or unsuitable material or equipment, unless the damage is caused by the Town's gross negligence or willful misconduct.

- 21.1 The Contractor further agrees to indemnify and hold harmless the Town, including the agents, employees and representatives of either, from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

- 21.2 The Contractor shall be responsible for all damage or injury to property of any character during the prosecution of the work resulting from any act, omission, neglect, or misconduct in the manner or method of executing the work or due to the non-execution of the work or at any time due to defective work or materials.
- 21.3 In any and all claims against the town or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in anyway by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's Compensation Acts, disability benefit acts or other employee benefit acts.
- 21.4 The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any or all persons, including the Contractor's employees, and for any and all damage to property caused by, resulting from or arising in whole or in part out of any act, omission, or neglect on the part of the Contractor or of any Subcontractor or of anyone directly or indirectly employed by any of them, or of anyone for whose acts any of them may be liable in connection with operations under the Contract.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract.

## 22. Insurance

### 22.1 Workers Compensation Insurance:

The Contractor shall provide by insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the Contractor who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this Contract shall be deemed a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the Town a certificate evidencing such insurance prior to the execution of this Contract before the same shall be binding on the parties thereto, except if specifically waived by the Town.

## 22.2 Professional Liability Insurance

22.2 The Contractor shall purchase and maintain broad form general liability coverage on the ISO form CG 00 01 or equivalent, including products and completed operations, on an occurrence basis. The form must be amended to state that the aggregate limit applies on a per location/project basis. The policy shall provide the following minimum coverage to protect the Contractor from claims with respect to the operations performed by Contractor and any employee, subcontractor, or supplier, or by anyone for whose acts they may be liable:

Bodily Injury &	\$1,000,000 each occurrence
Property Damage	\$2,000,000 general aggregate per project
Products & Completed Operations	\$2,000,000 annual aggregate
Personal & Advertising Injury	\$1,000,000 each occurrence
Medical Expenses	\$10,000

- a. This policy shall include coverage relating to explosion, collapse, and underground property damage.
- b. This policy shall include contractual liability coverage.
- c. The completed operations coverage shall be maintained for a period of three (3) years after Substantial Completion and acceptance by the Town.
- d. This policy shall include the Town and anyone else requested by the Town as an additional insured via endorsements CG 20 10 for ongoing operations and CG 20 37 for completed operations. This policy shall be primary and non-contributory with respect to any other insurance available to additional insureds.
- e. The policy shall include endorsement CG 24 04, a Waiver of Subrogation in favor of the Town.

## 22.3 Other Insurance Requirements

- a. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1,000,000 per accident, with the Town named as an additional insured.
- b. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the

Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.

- c. All policies shall identify the Town as an additional insured (except Workers' Compensation). The Contractor shall notify the Town immediately upon the cancellation or amendment to any policy. Renewal Certificates shall be filed with the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notices required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and shall be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent Contractors, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, shall contain true transcripts from the policies, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the location and operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. All insurance shall be written on an occurrence basis. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- d. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

### 23. Documents, Materials, Etc.

Any materials, reports, information, data, etc. given to or prepared or assembled by the Contractor under this Contract are to be kept confidential and shall not be made available to any individual or organization by the Contractor (except agents, servants, or employees of the Contractor) without the prior written approval of the Town, except as otherwise required by law. The Contractor shall comply with the provisions Chapter 66A of the

General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this Contract shall not be subject to copyright, except by the Town, in the United States or any other country. The Town shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize others to use, in whole or in part, any reports, data or other materials prepared under this Contract.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the Town shall vest in the Town at the termination of this Contract. The Contractor shall at all times, during or after termination of this Contract, obtain the prior written approval of the Town before making any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium.

#### 24. No Employment

The Contractor acknowledges and agrees that it is acting as an independent Contractor for all services rendered pursuant to this Contract, and neither the Contractor, nor its employees, agents, servants nor any person for whose conduct the Contractor is responsible shall be considered an employee or agent of the Town for any purpose and shall not file any claim or bring any action for any worker's compensation unemployment benefits and compensation for which they may otherwise be eligible as a Town employee as a result of work performed pursuant to the terms of this Contract.

#### 25. Audit, Inspection and Recordkeeping

At any time during normal business hours, and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

#### 26. Payment

The Town agrees to make all reasonable efforts to pay to the Contractor the sum set forth in the Contractor's bid or proposal within thirty (30) days of receipt of an invoice detailing the work completed and acceptance from the Town of the work completed.

#### 27. Waiver and Amendment

Amendments, or waivers of any additional term, condition, covenant, duty or obligation contained in this Contract may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

To the extent allowed by law, any conditions, duties, and obligations contained in this Contract may be waived only by written Agreement by both parties.

Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach of a similar or different matter.

#### 28. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Contract shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

#### 29. Forum and Choice of Law

This Contract and any performance herein shall be governed by and be construed in accordance with the laws of the Commonwealth. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth or the federal district court sitting in the Commonwealth, which shall have exclusive jurisdiction thereof. This paragraph shall not be construed to limit any other legal rights of the parties.

#### 30. Notices

Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Contractor shall be deemed sufficient if sent to the address set forth on page 1 or furnished from time to time in writing hereafter.

#### 31. Binding on Successors:

This Contract is binding upon the parties hereto, their successors, assigns and legal representatives (and where not corporate, the heirs and estate of the Contractor). Neither the Town nor the Contractor shall assign or transfer any interest in the Contract without the written consent of the other.



32. Entire Agreement:

This Contract, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Contract supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

### 33. Supplemental Conditions:

The foregoing provisions apply to all contracts to which the Town of Leicester shall be a party.

IN WITNESS WHEREOF the parties have hereto and to two other identical instruments set forth their hands and executed this as an instrument under seal this the day and year first above written.

## The Town of Leicester by:

The Contractor by:

## Select Board

Signature

Date \_\_\_\_\_

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Print Name & Title

Certified as to  
Appropriation/Availability of Funds:

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Town Accountant

Date \_\_\_\_\_

## **CERTIFICATION OF GOOD FAITH**

The undersigned certifies under pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

The Contractor by:

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Print Name

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Title/Authority

## CERTIFICATE OF STATE TAX COMPLIANCE

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A  
\_\_\_\_\_, authorized signatory for  
name of signatory \_\_\_\_\_, whose  
name of contractor  
principal place of business is at \_\_\_\_\_,  
\_\_\_\_\_ does hereby certify under the pains and penalties of  
perjury that \_\_\_\_\_ has  
name of contractor  
paid all Massachusetts taxes and has complied with all laws of the Commonwealth of  
Massachusetts relating to taxes, reporting of employees and contractors, and withholding  
and remitting child support.

\_\_\_\_\_

## **TOWN ADMINISTRATOR PROPOSED GOALS FOR FY22**

- 1) Continue to develop both and long-term financial plans based on current and anticipated future revenues, including OPEB, Stabilization, capital planning and collective bargaining.
- 2) Work with private groups, state agencies, & other interested parties to assemble a redevelopment plan for the former Becker College campus, should it be approved at Town Meeting.
- 3) Work to implement directives issued by the Select Board regarding recommendations regarding the water/sewer districts.
- 4) Develop systems that further training and performance of department heads; factor in succession planning where applicable and possible; continue department head reviews and goaling processes.
- 5) Continue economic development strategies, including obtaining grant funding for business development and future growth.
- 6) Develop a building needs assessment plan to better determine improvements/maintenance issues that need to be addressed.
- 7) Develop a spending plan for ARPA funds that meets priorities established by the Select Board.