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**CONTRACT FOR OWNER'S PROJECT MANAGEMENT SERVICES**

**CONTRACT # 185/042/24**  
**OPM SERVICES FOR ANDOVER HIGH SCHOOL**

This Contract is entered into on, or as of, this date by and between the Town of Andover (the "Town"), 36 Bartlet Street, Andover, MA 01810 and  
**Contractor: PMA Consultants, L.L.C.**

**Address: 35 Braintree Hill Office Park, Suite 300**  
**Braintree, MA 02184**

**Telephone Number: 844-727-0055**

**Email: SRusteika@pmaconsultants.com**

to provide the Project Management services required to complete the Basic Services herein for the Interim Approach Improvements to Andover High School ("the Project") as defined in RFQ #185/042/24.

The Owner's Project Manager is authorized to perform the services required by this Contract beginning with Phase 2 and detailed in the attached Schedule for Services. At the Owner's option, the Owner's Project Manager may be authorized to perform services for subsequent design phases and/or the Construction Phases and Completion Phase, at which time a mutually agreed upon amendment to this Contract will be executed between the Owner and The Owner's Project Manager. The remainder of the project phases will be authorized by an amendment to this contract after funding is secured. The initial fee for this contract is not to exceed \$125,210.00 and includes public and internal meetings, as indicated in Proposal dated April 11, 2025, and incorporated into this Contract hereto.

For the performance of the services required under this Contract for the Schematic Design Phase, including estimating services, the Owner's Project Manager shall be compensated by the Town for Basic Services in accordance with the Payment Schedule included as Attachment A.

IN WITNESS WHEREOF, the Town and the Owner's Project Manager have caused this Contract to be executed by their respective authorized officers.

THE TOWN  
Theresa Regnier 5/10/25  
Purchasing Agent Date

Janet Nucina 5/13/25  
Department Head Date

[Signature] 5/19/25  
Town Manager Date

Approved as to form:  
[Signature]  
Town Counsel

OWNERS PROJECT MANAGER  
[Signature] April 30, 2025  
Signature Date

Gui Ponce de Leon, CEO Emertis  
Print Name & Title

A+76 F424 65500-5700

CERTIFICATION OF AVAILABLE FUNDS  
[Signature]  
Town Accountant

## **ARTICLE 1: DEFINITIONS**

**APPROVAL** – a written communication from the Town approving either the work of the current Phase, as identified on Attachment A, or authorizing the Owner’s Project Manager to proceed to the next Phase or approving the scope and compensation for either Extra Services or Reimbursable Expenses.

**ARCHITECT/ENGINEER** – herein also referred to as the **DESIGNER** -- the person or firm with whom the Town has contracted to perform the professional designer services for this Project.

**BASIC SERVICES** – the minimum scope of services to be provided by the Owner’s Project Manager under this Contract, unless the Contract is otherwise terminated pursuant to Article 12.

**CERTIFICATE OF FINAL COMPLETION** – the form which contains the certification of the Designer, OPM and the Town that the Project has reached Final Completion.

**COMMISSIONING CONSULTANT** – a person or firm which may be engaged by the Town to provide building commissioning services, including advisory services during design and construction.

**CONTRACT** – this Contract, inclusive of all Attachments, between the Town and the Owner’s Project Manager; all written amendments to this Contract; and all Approvals issued pursuant to this Contract.

**CONTRACTOR or GENERAL CONTRACTOR** – the person or firm with whom the Town has contracted to perform the construction for this Project pursuant to the provisions of G.L. c. 149, §§44A-44J.

**CONSTRUCTION MANAGEMENT AT RISK or CONSTRUCTION MANAGEMENT AT RISK SERVICES or CONSTRUCTION MANAGEMENT AT RISK DELIVERY METHOD or CM at RISK DELIVERY METHOD** – a construction method described in M.G.L. c. 149A wherein a Construction Management at Risk firm provides a range of preconstruction services and construction management services which may include cost estimation and consultation regarding the design of a building project, the preparation and coordination of bid packages, scheduling, cost control, and value engineering, acting as the general contractor during the construction, detailing the Trade Contractor scope of work, holding the trade contracts and other subcontracts, prequalifying and evaluating Trade Contractors and subcontractors, and providing management and construction services, all at a Guaranteed Maximum Price, which shall represent the maximum amount to be paid by the public agency for the building project, including the cost of work, the general conditions and the fee payable to the Construction Management at Risk firm.

**CONSTRUCTION MANAGER AT RISK, CONSTRUCTION MANAGEMENT at RISK FIRM, or, CM at RISK-** a sole proprietorship, partnership, corporation, or other legal entity with

which the Town has contracted pursuant to G.L. c. 149A, § 6(e), to provide Construction Management at Risk Services.

**EXTRA SERVICES** – services requested by the Town to be performed by the Owner’s Project Manager but which are additional (or “extra”) to the services performed as Basic Services.

**FEE FOR BASIC SERVICES** – the fee to be paid to the Owner’s Project Manager for satisfactorily performing, in the Town’s sole discretion, the Basic Services required under this Contract, exclusive of the compensation to which the Owner’s Project Manager is entitled pursuant to Articles 9 and 10.

**FINAL COMPLETION** – The work has been completed in accordance with the Construction Contract Documents.

**GENERAL LAWS** – the Massachusetts General Laws as amended, including any rules, regulations and administrative procedures implementing said laws.

**GUARANTEED MAXIMUM PRICE or GMP-** The agreed total dollar amount for the Construction at Risk Management Services, including the cost of work, the general conditions and the fees charged by the Construction Management at Risk Firm.

**NON-TRADE CONTRACTOR-** for the purposes of a project utilizing the Construction Management at Risk Delivery Method only, a subcontractor, as defined in M.G.L. c. 149A, § 8(j), who is not a Trade Contractor, as defined herein, and who has a direct contractual relationship with a CM at Risk whether or not the work exceeds the threshold sum as identified in M.G.L. c. 149A, § 44F(1).

**NOTICE to PROCEED** – the written communication issued by the Town to the Contractor or the CM at Risk authorizing him to proceed with the services specified in the construction contract or the CM at Risk contract and establishing the date for commencement of the contract time.

**OWNER’S PROJECT MANAGER** – the individual, corporation, partnership, sole proprietorship, joint stock company, joint venture or other legal entity identified as such on page one of this Contract performing the professional Project Management Services under this Contract.

**PHASE** – a distinct portion of the work of this Contract and its associated duration, as identified on Attachment A. Prior Approval to proceed for each Phase is required from the Town.

**PRINCIPALS** – the owners and/or officers of the Owner’s Project Manager who are actively involved in the management of the Project.

**PROJECT** – all work that pertains to the study, planning, design, construction, reconstruction, installation, demolition, maintenance or repair, if any, as defined in the Project Contracts and/o Project Design/Construction Documents.

**PROJECT BUDGET** – a complete and full enumeration of all costs of the Project.

**PROJECT DIRECTOR** – the employee of the Owner’s Project Manager who has been designated in writing by the Owner’s Project Manager as its authorized representative, as approved by the Town, pursuant to the requirements of M.G.L. c.149 §44A½ or G.L. c. 149A, § 2, as the case may be, for an “owner’s project manager” and 963 CMR 2.00 et seq., and shall be the person who shall oversee and be responsible for all Project Management Services provided under this Contract. The Project Director shall be certified in the Massachusetts Certified Public Purchasing Official Program as administered by the Inspector General of the Commonwealth of Massachusetts.

**PROJECT REPRESENTATIVE** – the employee or a Sub-consultant of the Owner’s Project Manager, who shall be dedicated exclusively to the Project, on-site full-time during the Construction Phase in accordance with the requirements of Article 8.6.2.

**PROJECT SCHEDULE** – a complete list of all activities, time and sequence required to complete the Project.

**REIMBURSABLE SERVICES OR REIMBURSABLE EXPENSES** – the cost of services requested by the Town to be performed by the Owner’s Project Manager or the cost of expenses paid by the Owner’s Project Manager that are reimbursable pursuant to the provisions of Article 10.

**SUBCONTRACTOR** – for purposes of a project utilizing the design-bid-build construction delivery method pursuant to G.L. c. 149, a person or entity having a direct contractual relationship with the Contractor, who has the contract to perform the construction of the Project, except as otherwise specifically provided herein or as required by Law.

**SUBCONSULTANT** – any individual, company, firm, or business having a direct contractual relationship with the Owner’s Project Manager, who provides services on the Project.

**TRADE CONTRACTOR**- for purposes of a project utilizing the CM at Risk construction delivery method only, subcontractors having a direct contractual relationship with a CM at Risk pursuant to M.G.L. c. 149A § 8(a)-(i), to perform one or more so-called sub-bid classes of work listed in M.G.L. c. 149 § 44F and all other sub-bid classes of work selected by the public agency for the Project, provided the sub-bid work meets or exceeds the threshold sum identified in M.G.L. c. 149 § 44F(1).

## **ARTICLE 2: RELATIONSHIP OF THE PARTIES**

- 2.1 The Owner’s Project Manager shall act as an independent contractor of the Town in providing the services required under this Contract.
- 2.2 The Owner’s Project Manager warrants and represents to the T o w n that it has fully, completely and truthfully represented the qualifications and skills of the Owner’s Project Manager, its Sub-consultants, agents, servants and employees in the proposal submitted by the Owner’s Project Manager, the Contract documents and in all communications with the Town relative to this Contract and the services to be performed hereunder by the Owner’s Project Manager, its Sub-consultants, agents, servants and employees.

- 2.3 The Owner's Project Manager shall perform its services under this Contract with no less than that degree of skill and care ordinarily exercised by similarly situated members of the Owner's Project Manager's profession on projects of similar size, scope and complexity as is involved on the Project. The Owner's Project Manager's services shall be rendered in accordance with this Contract.
- 2.4 The Parties hereto agree that the Designer is solely responsible for the design requirements and design criteria for the Project (except to the extent specifically delegated to others) and for performing in accordance with the contract between the Town and Designer.
- 2.5 The Parties hereto agree that the Contractor or CM at Risk, as the case may be, shall be solely responsible for construction means, methods, techniques, sequences and procedures, the Contractor or CM at Risk's schedules, and for safety precautions and programs in connection with the Project and for performing in accordance with the Town-Contractor or Town-CM at Risk Agreement.. The Owner's Project Manager shall be responsible for the Owner's Project Manager's negligent acts or omissions but shall not have control over or charge over acts or omissions of the Contractors, Subcontractors, or the agents or employees of the Contractor, CM at Risk, Subcontractors, Trade Contractors or Non- Trade Contractors, the Designer, the Town or the Commissioning Consultant.
- 2.6 Nothing in this Contract shall be construed as an assumption by the Owner's Project Manager of the responsibilities or duties of the Contractor, or the CM at Risk, or the Designer. The Owner's Project Manager's services shall be rendered compatibly and in coordination with the services provided by the Designer. It is not intended that the services of the Owner's Project Manager and Designer be competitive or duplicative, but rather complementary. The Owner's Project Manager shall be entitled to rely upon the Designer and Contractor or CM at Risk for the proper performance of their obligations pursuant to their respective contracts with the Town.

### **ARTICLE 3: RESPONSIBILITIES OF THE TOWN**

- 3.1 The Town shall designate an individual or individuals who shall have the authority to act on behalf of the Town under this Contract and who shall be responsible for day-to-day communication between the Town and the Owner's Project Manager. The Town shall provide the necessary general direction and broad management coordination required to execute the Project.
- 3.2 Upon satisfactory completion of services performed, the Town shall make payments to the Owner's Project Manager as provided in Articles 7,8,9 and 10.
- 3.3 The Town shall be responsible for requiring the Contractor or CM at Risk and/or the Designer to comply with their respective contract obligations and to cooperate with the Owner's Project Manager.

- 3.4 The Town shall provide timely information with respect to its requirements relative to the Project Schedule and the Project Budget, and shall further give timely notice to the Owner's Project Manager of any changes or modifications to the same.
- 3.5 To the extent such data is available, the Town shall furnish to the Owner's Project Manager existing surveys of the Project site, building plans, borings, test pits, structural, mechanical, chemical or other test data, tests for air and water pollution and for hazardous materials, photographs and utility information. The Owner's Project Manager shall be entitled to reasonably rely upon the sufficiency and accuracy of the information furnished under this Article 3, provided that the Owner's Project Manager shall notify the Town in writing of any deficiencies in such data that the Owner's Project Manager becomes aware of.

#### **ARTICLE 4: RESPONSIBILITIES OF THE OWNER'S PROJECT MANAGER**

- 4.1 The Owner's Project Manager shall provide project management services to monitor procurement procedures, design, construction and other related activities and to facilitate, coordinate and manage the Project with respect to timely performance in accordance with the Project Schedule and monitor the quality of services and workmanship and shall recommend courses of action to the T o w n when respective contractual requirements are not being fulfilled. If the Owner's Project Manager is authorized to proceed with services beyond the Schematic Design Phase services shall continue through substantial use and occupancy by the Town, and Project closeout.
- 4.2 The Owner's Project Manager shall perform the services required under this Contract in conformance with applicable federal, state, and local laws, by-laws and regulations.
- 4.3 The Owner's Project Manager shall report to the Town any act or inaction in connection with the Project which the Owner's Project Manager believes creates a substantial health or safety risk. Notwithstanding the immediately preceding sentence, the Owner's Project Manager shall not assume responsibility for safety precautions and programs in connection with the Project, which shall remain the sole responsibility of the Contractor.
- 4.4 The Owner's Project Manager acknowledges the importance that the Owner attributes to the abilities and qualifications of the key members of the Owner's Project Manager's team, including Sub-consultants, and the continuity of key members' participation in the services to be provided under this Contract. This Contract has been entered into on the representation of the Owner's Project Manager that the individuals, consultants, assignments and responsibilities will be maintained throughout the duration of this engagement. No substitution or replacement of individuals or change in the Sub-consultants shall take place without the prior written approval of the T o w n , except when necessitated by causes beyond the Owner's Project Manager's control. If the Owner's Project Manager proposes to replace one of the key members of the Owner's Project Manager's team, the Owner's Project Manager shall propose a person or consultant with qualifications at least equal to the person or firm the Owner's Project Manager proposes to replace. The Town shall have the right to approve any substitution or replacement or change in status for the persons or Sub-consultants listed in Attachment B and such approval shall not be

unreasonably withheld. At the request of the Town, the Owner's Project Manager shall consult with the Town to resolve any situation in which the Town determines that a member of the Owner's Project Manager's team is failing to perform services in an acceptable manner to the Town. The Town shall have the right to direct the removal of any such person or consultant. No act or omission of the Town made or permitted under this Section shall relieve the Owner's Project Manager of its responsibility for the performance of the services specified in this Contract.

- 4.5 The Owner's Project Manager shall employ at all times professional and support personnel with requisite expertise and adequate numbers to assure the complete, timely and high-quality performance of the obligations of the Owner's Project Manager.
- 4.6 The Owner's Project Manager shall be and shall remain liable to the Town for all damages incurred by the Town as a result of the failure of the Owner's Project Manager to perform in conformance with the terms and conditions of this Contract.

#### **ARTICLE 5: SUBCONSULTANTS**

- 5.1 The Owner's Project Manager shall not employ consultants, sub-consultants, sublet, assign or transfer any part of its services or obligations under this Contract without the prior approval of and written consent of the Town. The employment of Sub-consultants shall not in any way relieve the Owner's Project Manager from its responsibilities under this Contract. Nor shall the Town's approval of a Sub-consultant in any way relieve the Owner's Project Manager from its responsibilities under this Contract.
- 5.2 Upon request, the Owner's Project Manager shall provide the Town copies of its agreements with Sub-consultants, including amendments thereto, and shall consult with the Town with respect to the inclusion therein of appropriate terms and conditions to assure timely, efficient and competent performance of the Sub-consultants.
- 5.3 The OPM shall be responsible for all compensation to be paid to a sub-consultant. No Sub-consultant shall have recourse against the Town for payment of monies alleged to be owed to the Sub-consultant by the Owner's Project Manager, and the Owner's Project Manager shall include in all contracts with its Sub-consultants' language so providing.
- 5.4 All contracts between the Owner's Project Manager and its Sub-consultants shall include a provision in which the Town's rights to initiate corrective action shall be stipulated.

#### **ARTICLE 6: TERM AND TIMELY PERFORMANCE**

- 6.1 The Owner's Project Manager acknowledges that expeditious completion of the Owner's Project Manager's services and the Project is of the utmost importance to the Town. The term of this Contract shall commence on the date stipulated in an Approval to proceed from the Town. The Owner's Project Manager shall complete the services required under this Contract in a prompt and continuous manner. The Owner's Project Manager shall perform

its services in a timely manner and shall not delay the work of the Designer or Contractor or CM at Risk.. The Owner's Project Manager shall monitor the performance of the Designer and the Contractor or CM at Risk in accordance with schedules of performance that are established under their contracts with the Town. The Owner's Project Manager shall immediately advise the Town, as well as the Designer or the Contractor or CM at Risk, in writing, any time the Owner's Project Manager determines that either the Designer or the Contractor or the CM at Risk's performance is jeopardizing the Project Schedule or the Project Budget.

- 6.2 Time is of the essence in the performance of the Owner's Project Manager's obligations under this Contract and under any amendment. The Owner's Project Manager agrees that no other work in its organization will be permitted to interfere with its timely performance of the work required under this Contract or any amendment.
- 6.3 The Owner's Project Manager's services are to be provided in accordance with the time schedule set forth in this Contract. If the schedule changes causing the need for revisions to the Owner's Project Manager's services, the Owner's Project Manager shall notify the Town of the revisions to its services. The Town shall have the right to extend the term of this Contract by amendment. All the rights and obligations of the parties for such extended periods shall be as set forth in this Contract or in the amendment.

#### **ARTICLE 7: COMPENSATION**

- 7.1 For the satisfactory performance of all services required pursuant to this Contract, excluding those services specified under Articles 9 and 10, the Owner's Project Manager shall be compensated by the Town in an amount up to the Not-to-Exceed Fee for Basic Services, identified on Attachment A. The Owner's Project Manager shall submit invoices on a monthly basis in accordance with the Payment Schedule included as Attachment A. The Town shall make payments to the Owner's Project Manager within 30 days of the Town's approval of the invoice, which approval shall not be unreasonably withheld or delayed.
- 7.2 The Fee for Basic Services shall include, but not necessarily be limited to, all labor, overhead, profit, insurance, legal services, transportation, communication expenses, reasonable printing and copying necessary for completion of the Project. The fee for Basic Services also shall include (a) the costs of rebidding and re-solicitation of proposals, bids, or qualifications if due to the fault of the Owner's Project Manager, and (b) assisting the Town in litigation or resolution of claims or other administrative proceedings associated with a bid protest arising out of the Designer contract or the construction contract and for assistance if such litigation or claims are due to the fault of the Owner's Project Manager. The OPM shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the OPM in the preparation of the bid documents as reasonably determined by the Town.
- 7.3 When the Owner's Project Manager receives payment from the Town, the Owner's Project Manager shall promptly make payment to each Sub-consultant whose work was included in the work for which such payment was received. The Town shall have the contractual right

to investigate any breach of performance of a Sub-consultant and to initiate corrective measures it determines are necessary and in the best interest of the Town. All contracts between the Owner's Project Manager and its Sub-consultants shall include a provision in which the Town's rights to initiate corrective action shall be stipulated.

- 7.4 The Owner's Project Manager shall be paid the remainder of the Fee for Basic Services, less previous payments, upon acceptance by the Town of the Certificate of Final Completion and submission of evaluations.

## **ARTICLE 8: BASIC SERVICES**

The Owner's Project Manager shall perform the following Basic Services:

### 8.1 Project Management (For All Phases)

- 8.1.1 The Owner's Project Manager shall prepare a communication and document control procedure during the Design Phase and continue to update it as specified for the duration of the Project. This procedure shall detail the responsibilities and lines of communication among all Project participants (Town, Owner's Project Manager, Designer, Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors and other consultants, vendors or suppliers) and establish the procedure for correspondence, document control, designer and contractor or CM at Risk submittal logs, change order reporting logs and other tracking logs, as needed. A draft of the communication plan shall be submitted to the Town for approval within 30 days of the Approval to proceed with the Contract and be further updated (a) as needed to include the award of Construction Contract(s) and no later than 30 days after approval to proceed to the Construction Phase of the Project. The Owner's Project Manager shall include the Designer in its distribution of the Project Budget, Schedule, Monthly Progress Report and other reports as appropriate and as outlined in the Communications Plan.
- 8.1.2 The Owner's Project Manager shall attend meetings with representatives of the Town, municipal administration and the school department, and attend neighborhood or other public meetings relating to the Project, and participate as a member of the Town's Prequalification Committee. The Owner's Project Manager shall take minutes of all of the above-referenced meetings and promptly distribute minutes of these meetings to the Town.
- 8.1.3 The Owner's Project Manager shall review all applications for payments, requisitions and invoices relating to the Project as submitted by the Designer, equipment vendors and all other contractors and supplier and make recommendations to the Town relative to amounts due.

### 8.1.4 Project Control

During any phase of this Contract, the Owner's Project Manager shall monitor and report to the Town any changes to the Budget, Scope and Schedule.

#### 8.1.5 Project Budget

The Owner's Project Manager shall prepare a detailed baseline Project Budget in a form acceptable to the Town, which will be submitted to the Town for approval. The Owner's Project Manager shall monitor and compare all Designer estimates, contractor bids, and other cost information to this Project Budget and identify and report all variances to the Town. The Owner's Project Manager shall maintain and update the baseline Project Budget throughout the term of this Contract. The Owner's Project Manager shall report any variances to the baseline Project Budget as part of the Monthly Progress Report. The Owner's Project Manager shall prepare revisions to the baseline Project Budget, as needed, and submit them to the Town for approval.

#### 8.1.6 Cost Estimating

The Owner's Project Manager shall prepare detailed independent cost estimates at each Design phase, when required by the Town, or, at the request of the Town, shall review the Designer's cost estimates at each Design Phase. If the Town requires the Owner's Project Manager to prepare an independent cost estimate, the Town's Project Manager shall compare its cost estimate to that prepared by the Designer to identify and notify the Town of any variances.

In the event that the cost as estimated by the Designer exceeds the construction cost in the Project Budget at any of the Design phases, the Owner's Project Manager shall consult with the Designer and recommend to the Town appropriate revisions to the scope of work.

The Owner's Project Manager shall provide cost estimating services, as may be required, to develop cash flows, and provide updated cash flows with its Monthly Progress Report described in Article 8.1.8.

During the schematic design Phase, the Owner's Project Manager shall prepare a construction cost estimate with aggregated unit rates and quantities supporting each item.

#### 8.1.7 Project Schedule

The Owner's Project Manager shall prepare a Project Schedule in a form acceptable to the Town, which shall be submitted to the Town for approval.

The Owner's Project Manager shall prepare revisions to the Project Schedule, as needed, and submit them to the Town for approval.

#### 8.1.8 Monthly Progress Report

The Owner's Project Manager shall submit to the Town a written Monthly Progress Report summarizing activity during the preceding calendar month. The Monthly Progress Report shall be submitted in a format acceptable to the Town and shall describe work performed by all project participants (OPM, Designer, and Contractor or CM at Risk) during the reporting period and work planned for the next reporting period. The report shall also address matters of schedule adherence (Project Schedule as well as individual completion percentages for design and construction), costs to date (updated Project Budget and actual expenses incurred), change orders and potential change orders, cash flow projections, Contractor or CM at Risk's safety performance, Designer or CM at Risk's QA/QC, Contractor's compliance, community issues, Designer and Contractor or CM at Risk's MBE/WBE activities, any issues that could result in additional time and/or additional costs and any anticipated problems/concerns together with recommended solutions.

#### 8.1.9 MBE/WBE Compliance Monitoring (All Phases)

The Owner's Project Manager shall monitor and report on the Designer's and Contractor or CM at Risk's compliance with MBE/WBE requirements.

#### 8.1.10 Site Investigations and Environmental Testing

The Owner's Project Manager as required and at the request of the Town shall review previously completed existing site evaluations and test reports including but not limited to site surveys, wetland evaluation, environmental evaluations, hazardous materials evaluations, subsurface testing (percolation tests, test pits, borings, etc.), destructive testing and other investigative work related to a potential renovation option. The determination that any additional services or testing need to be performed shall rest with the Town or the Designer.

#### 8.1.11 Project Records and Reports (All Phases)

The Owner's Project Manager shall maintain a complete Project file including, but not necessarily limited to, a copy of the executed agreements of the Town-Owner's Project Manager, Town-Architect/Engineer and the Town-Contractor or Town-CM at Risk including copies of performance and payment bonds, a master list of permits, certificates of insurance, licenses and approvals for the Project, correspondence, daily reports, payment records, shop drawings, submittals, project schedules, requests for information, change orders/amendments, change directives and meeting minutes. The Owner's Project Manager shall assist the Town in responding to any public records request received by the Town.

#### 8.1.12 Construction Delivery Method

The Owner's Project Manager shall assist the Town in determining the appropriate construction delivery method for the Proposed Project. In providing such assistance, the Owner's Project Manager, in conjunction with the Designer, shall advise the Town on the relative advantages and disadvantages associated with each of the construction delivery methods provided on M.G.L. Chapters 149 and 149A. The services provided by the Owner's Project Manager in assisting and advising the Town in its determination of the appropriate construction delivery methodology shall be included in Basic Services.

If the Town elects to proceed with the CM at Risk construction delivery method, when directed the by the Town, the Owner's Project Manager shall, in a timely manner, assist and advise the Town in properly preparing and submitting to the Office of the Inspector General, the application to proceed with the CM at Risk construction delivery method and in obtaining notice to proceed, in accordance with M.G.L. c. 149A § 4, and the applicable regulations and procedures promulgated by the Inspector General. The Owner's Project Manager shall assist the Town in correcting and resubmitting the application to proceed, as necessary, and in responding to any requests for additional information from the Office of the Inspector General. The services provided by the Owner's Project Manager in assisting and advising the Town with the preparation and submission of the application to proceed with the CM at Risk construction delivery method shall be included in Basic Services.

If the Inspector General issues a notice to proceed with the CM at Risk construction delivery method, and if the Town, at its option, authorized the Owner's Project Manager to perform services for subsequent design phases and/or the Construction Phases and Completion Phase, the Parties will enter into a mutually agreed upon amendment to this Contract using the amended Contract language for CM at Risk delivery method. In the event that the Inspector General does not issue a notice to proceed with the CM at Risk delivery method, the Town, at its option, may elect to construct the project in accordance with the provisions of M.G.L. c. 149.

## 8.2 Feasibility Study/Schematic Design Phase

### 8.2.1 Design

The Owner's Project Manager shall monitor the activities and responsibilities of the Designer during this phase and assist the Town in the review of the proposed scope, schedule and budget, developed by the Designer, including the review of the Designer's preliminary drawings. The Owner's Project Manager shall:

- a. Review Designer's cost estimates and, if required by the Town, prepare independent construction cost estimates as provided in to Section 8.1.6 of this Contract for comparison with the Designer's cost estimates.
- b. Work with the Town and Designer to prepare the Project Schedule.

8.2.1.1 The Owner's Project Manager shall review the design to recommend Value Engineering Changes (VEC) to the Town. A Value Engineering Change shall include an analysis of the constructability, cost, quality and schedule impact. The Designer will be responsible for a thorough review and recommendation on the technical merit of any VEC.

8.2.1.2 The Owner's Project Manager shall lead design coordination meeting between the Designer and the Town to provide for review and discussion of design/engineering related issues. The Owner's Project Manager shall provide technical assistance to the Town.

8.2.1.3 The Owner's Project Manager shall assist in the implementation of additional site evaluation and testing as required by the Designer, including, but not necessarily limited to, site surveys, wetlands evaluation, environmental evaluations, hazardous materials evaluation, subsurface testing (percolation tests, test pits, borings, etc.), destructive testing and other investigative work in the case of renovation projects.

8.2.1.4 The Owner's Project Manager shall monitor the status of the Designer contract including monitoring the schedule of the Designer, provide review and comment of Designer's work product and make recommendations to the Town when, in the opinion of the Owner's Project Manager, requirements of the Designer's contract with the Town are not being fulfilled.

8.2.1.5 The Owner's Project Manager shall meet with the Town, Designer and other project participants as necessary.

8.2.1.6 The Owner's Project Manager shall assist the Town with the completion of grant applications for funding for the study of green design strategies and assist by identifying green strategies, as appropriate, for study during this phase.

**INTENTIONALLY LEFT BLANK FOR INSERTION OF ARTICLES 8.3 THROUGH 8.8 FOR EITHER DBB OR CM AT RISK CONSTRUCTION DELIVERY METHOD AT THE ELECTION OF THE OWNER AND BY AMENDMENT TO THE CONTRACT**

**ARTICLE 9: EXTRA SERVICES**

9.1 General

9.1.1 Extra Services are those services requested by the Town to be performed by the Owner's Project Manager but which are additional (or "extra") to the services performed as Basic Services. Such services are not included in the Fee for Basic Services and shall be invoiced and paid for separately. Extra services shall not be

deemed authorized until a written Approval is received from the Town and funds have been formally encumbered.

- 9.1.2 The proposed cost, scope and schedule of all Extra Services shall be presented to and approved by the Town in writing prior to the performance of any Extra Services.
- 9.1.3 Cost proposals for Extra Services shall be computed in accordance with the Hourly Rate Schedule established in Attachment A.
- 9.2 Unless specifically prohibited elsewhere and with the prior written Approval of the Town, the Owner's Project Manager shall perform any of the following services as Extra Services:
  - 9.2.1 Preparing special studies, reports, or applications at the written direction of the Town, other than those specifically required herein as part of Basic Services;
  - 9.2.2 Assisting in the appeals process of permitting boards or commissions;
  - 9.2.3 Rebidding, re-solicitation, or re-advertising for bids, proposals, or qualifications unless made necessary by the fault of the Owner's Project Manager, in which events such rebidding shall be deemed part of Basic Services, and subject to the limitation in Article 7.2;
  - 9.2.4 Furnishing services in connection with a bid protest filed in court or with the Office of the Attorney General, provided such activities did not arise due to the fault of the Owner's Project Manager;
  - 9.2.5 Furnishing services in excess of Basic Services made necessary by the termination of the General Contractor or CM at Risk;
  - 9.2.6 Providing consultation with respect to replacement of work damaged by fire or other casualty during construction;
  - 9.2.7 Assisting the Town in litigation, claims resolution or non-binding mediation arising out of the Designer contract or the construction contract, provided such litigation or claims did not arise due to the fault of the Owner's Project Manager; and
  - 9.2.8 Providing other services requested by the Town that are not included as Basic Services pursuant to this Contract.
- 9.3 Invoices for Extra Services shall be accompanied by a complete breakdown listing the name, payroll title, date, number of hours by day, hourly rate and extended amount, per specified task of Extra Services performed. Hourly rates shall be in accordance with the Hourly Rate Schedule in Attachment A.

## **ARTICLE 10: REIMBURSABLE EXPENSES**

10.1 For coordination and responsibility for the work described in the following paragraphs 10.1.1 and 10.1.2, the Owner's Project Manager shall be reimbursed its actual costs and those of its Sub-consultants, supported by invoices or receipts. The following are reimbursable expenses:

10.1.1 Certain out of pocket expenses paid by the Owner's Project Manager such as filing fees, and permit fees that are normally paid by the Town; travel to fabrication or manufacturing locations to identify completed, identified, and stored materials or equipment specifically for the Project; field office furnishings.

10.1.2 Any other specially authorized reimbursement deemed essential by the Town, in the Town's sole discretion, in writing.

10.2 Non-Reimbursable Items: The Town shall not reimburse the Owner's Project Manager or its Sub-consultants for travel expenses, sustenance, telephone, facsimiles, electronic mails, postage and delivery expenses, unless specifically required elsewhere in this Contract.

10.3 The Owner's Project Manager shall not be entitled to compensation under this Article for the services of Sub-consultants hired to perform Basic Services under this Contract. If a Sub-consultant hired to perform Basic Services performs Extra Services approved by the Town, compensation for such Extra Services shall be made under Article 9.

#### **ARTICLE 11: RELEASE AND DISCHARGE**

11.1 The acceptance by the Owner's Project Manager of the last payment under the provisions of Article 7 or Article 12 in the event of termination of the Contract, shall in each instance, operate as and be a release to the Town and their employees and agents, from all claims of the Owner's Project Manager and its Sub-consultants for payment for services performed and/or furnished, except for those written claims submitted by the Owner's Project Manager to the Town with, or prior to, the last invoice.

#### **ARTICLE 12: ASSIGNMENT, SUSPENSION, TERMINATION**

12.1 Assignment:

The Owner's Project Manager shall not assign or transfer any part of its services or obligations under this Contract (other than as specified in Article 5), without the prior written approval of the Town. Likewise, any successor to the Owner's Project Manager must first be approved by the Town before performing any services under this Contract. Such written consent shall not in any way relieve the Owner's Project Manager or its assignee from its responsibilities under this Contract.

12.2 Suspension

The Town may, at any time, upon seven (7) days written notice to the Owner's Project Manager, suspend this Contract. If the Town provides such written notice, the Owner's

Project Manager shall be compensated for work satisfactorily performed in accordance with the Contract terms prior to the effective date of such suspension for which invoices have been properly submitted.

### 12.3 Termination

12.3.1 By written notice to the Owner's Project Manager, the Town may terminate this Contract at any time with or without cause. If such termination shall occur through no fault of the Owner's Project Manager, all compensation and reimbursement due to the Owner's Project Manager in accordance with the Contract terms, for work satisfactorily performed up to the date of termination, including proportionate payment for portions of the work started but incomplete at the time of termination, shall be paid to the Owner's Project Manager, provided no payment shall be made for work not yet performed or for anticipated profit on unperformed work. If such termination is for cause then no further payment shall be due to the Owner's Project Manager beyond the date of termination.

12.3.2 By written notice to the Town, the Owner's Project Manager may terminate this Contract:

- a) If the Town, within thirty (30) days following written notice from the Owner's Project Manager of any material default by the Town under the Contract, shall have failed to cure such default; or
- b) if, after the Owner's Project Manager has performed all services required during any phase prior to construction, at least six (6) months have elapsed without receipt by the Owner's Project Manager of Approval to proceed with the next Phase of the Project, provided the delay was not the fault of the Owner's Project Manager. This provision shall not apply to an Owner's Project Manager who has received a notice of suspension pursuant to Article 12.2.
- c) Upon a proper termination by the Owner's Project Manager, the Owner's Project Manager shall be compensated as provided in 12.3.1 above regarding termination without cause.

## **ARTICLE 13: NOTICES**

13.1 Any notice required to be given by the Town to the Owner's Project Manager, or by the Owner's Project Manager to the Town, shall be deemed to have been so given, whether or not received, if mailed by certified or registered mail to the Owner's Project Manager or the Town at the addresses indicated on page one.

## **ARTICLE 14: INDEMNIFICATION OF TOWN**

14.1 With respect to professional services rendered by Owner's Project Manager, to the fullest extent permitted by law, Owner's Project Manager shall defend (except as to professional liability claims), indemnify and hold harmless the Town, and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred

by the Town to the extent caused by the negligence of or the breach of any of the provisions of this Contract by the Owner's Project Manager, a person employed by the Owner's Project Manager, or any of its Sub-consultants.

- 14.2 For all other claims, to the fullest extent permitted by law, Owner's Project Manager shall defend, indemnify and hold harmless the Town, and its officers and employees from and against all claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Town to the extent arising out of or resulting from the performance of its services provided that such claims, damages, liabilities, injuries, costs, fees, expenses, or losses are attributable to bodily injury or death or injury to or destruction of tangible property caused by an act or omission of the Owner's Project Manager, a person employed by the Owner's Project Manager, or any person or Sub-consultants for whom the Owner's Property Manager is responsible under this Contract.
- 14.3 The indemnification obligation in this Article shall be in addition to, and not a limitation of, any other rights and remedies available to the Town under this Contract or at law.

#### **ARTICLE 15: INSURANCE**

- 15.1 The Owner's Project Manager shall obtain and maintain at its sole expense all insurance required by law and as may be required by the Town under the terms of this Contract. The insurance required hereunder shall be provided at the sole expense of the Owner's Project Manager or its Sub-consultant, as the case may be, and shall be in full force and effect for the full term of this Contract between the Town and the Owner's Project Manager or for such longer period as otherwise required under this Contract.
- 15.2 All policies shall be issued by companies lawfully authorized to write that type of insurance under the laws of the Commonwealth of Massachusetts with a financial strength rating of "A" or better as assigned by A.M. Best Company, or an equivalent rating assigned by a similar rating agency acceptable to the Town.
- 15.3 The Owner's Project Manager and its sub-consultants, shall submit to the Town original certificates of insurance evidencing the coverage required hereunder, together with evidence that all premiums for such insurance have been fully paid simultaneously with the execution of this Contract. Certificates shall show each type of insurance, insurance company, policy number, amount of insurance, deductibles/self-insured retentions, and policy effective and expiration dates. The Owner's Project Manager shall submit updated certificates to the Town prior to the expiration of any of the policies referenced in the certificates so that the Town shall at all times possess certificates indicating current coverage. Failure by the Owner's Project Manager to obtain and maintain the insurance required by this Section, to obtain all policy renewals, or to provide the respective insurance certificates as required shall constitute a material breach of the Contract and shall be just cause for termination of the services of the Owner's Project Manager under this Contract.

- 15.4 Termination, cancellation, or material modification of any insurance required by this Contract, whether by the insurer or the insured, shall not be valid unless written notice thereof is given to the Town at least thirty days prior to the effective date thereof, which shall be expressed in said notice.
- 15.5 The Owner's Project Manager shall require by contractual obligation, and shall ensure by the exercise of due diligence, that any Sub-consultant hired in connection with the services to be provided under this Contract shall obtain and maintain all insurance required by law and as may be required by the Town under the terms of this Contract.
- 15.6 The Owner's Project Manager or its Sub-consultant, as the case may be, is responsible for the payment of any and all deductibles under all of the insurance required by this Contract. The Town shall not be responsible for the payment of deductibles, self-insured retentions or any portion thereof.
- 15.7 Workers' Compensation, Commercial General Liability, Automobile Liability, and Valuable Papers

The Owner's Project Manager shall purchase and maintain at its own expense during the life of this Contract, or such other time period as provided herein, the following types and amounts of insurance, at a minimum:

- 15.7.1 Workers' Compensation Insurance in accordance with MGL c152. The policy shall be endorsed to waive the insurer's rights of subrogation against the Town.
- 15.7.2 Commercial General Liability Insurance (including Premises/Operations; Products/Completed Operations; Contractual; Independent Contractors; Broad Form Property Damage; and Personal Injury) with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 aggregate. The Owner's Project Manager shall maintain such insurance in full force and effect for a minimum period of one year after final payment and shall continue to provide evidence of such coverage to the Town. The Town shall be added as an additional insured on this policy. The policy shall be endorsed to waive the insurer's rights of subrogation against the Town.
- 15.7.3 Comprehensive Automobile Liability Insurance (including owned, non-owned and hired vehicles) at limits of not less than:  
\$1,000,000 Each Person for Bodily Injury;  
\$1,000,000 Each Accident for Bodily Injury; and  
\$1,000,000 Each Accident for Property Damage.
- 15.7.4 Valuable Papers insurance in an amount sufficient to assure the restoration of any plans, drawings, computations, field notes, or other similar data relating to the work covered by this Contract or by the Contract between the Town and the Designer in the event of loss or destruction while in the custody of the Owner's Project Manager until the final fee payment is made or all data is turned over to the Town, and this coverage

shall include coverage for relevant electronic media, including, but not limited to, documents stored in computer-aided design drafting (CADD) systems.

#### 15.8 Professional Liability

The Owner's Project Manager shall maintain professional liability insurance covering errors and omissions and negligent acts of the Owner's Project Manager and of any person or entity for whose performance the Owner's Project Manager is legally liable at all times while services are being performed under this Contract. Certificates of professional liability insurance evidencing such coverage shall be provided to the Town on or before the effective date of this Contract and for a period of at least six years after the earlier of: (1) the date of official acceptance of the completed Project by the Town; (2) the date of the opening of the Project to public use; (3) the date of the acceptance by the general contractor of a final pay estimate prepared by the Town pursuant to M.G.L. chapter 30; or (4) the date of substantial completion of the Construction Contract and the taking of possession of the Project for occupancy by the Town. The certificates shall indicate a retroactive date that is no later than the effective date of this Contract and a limit of not less than \$1,000,000.

In the event that the Town terminates this Contract at or before the completion of the Design Phase "without cause" as provided in Article 12.3.1; or the Contract term ends pursuant to its own provisions at the completion of the Design Phase and the Contract is not amended to authorize the Owner's Project Manager to perform services for subsequent design phases, Construction Phases and/or Completion Phase; or the Town otherwise elects not to proceed with the Project beyond the Design Phase, either because the Town lacks sufficient funding for the Project or for any other reason, the Town may, amend this Article 15.8.

#### 15.9 Liability of the Owner's Project Manager

Insufficient insurance shall not release the Owner's Project Manager from any liability for breach of its obligations under this Contract. Without limitation, the Owner's Project Manager shall bear the risk of any loss if its' valuable papers insurance coverage is insufficient to cover the loss of any work product covered by this Contract.

#### 15.10 Waiver of Subrogation

To the extent damages are covered by property insurance, the Owner and the Owner's Project Manager waive all rights against each other and against the General Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors, consultants, agents, and employees of the other for damages caused by fire or other causes of loss, except such rights as they may have to the proceeds of such insurance as set forth in the Owner-Contractor Agreement or the Owner-CM at Risk Agreement. The Owner shall require of the General Contractor or CM at Risk, Subcontractors, Trade Contractors, Non-Trade Contractors Owner's Project Manager, consultants, Subconsultants, and agents and employees, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such

waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

## **ARTICLE 16: OWNERSHIP OF DOCUMENTS**

16.1 Unless provided otherwise by law, ownership and possession of all information, data, reports, studies, designs, drawings, specifications, materials, documents, models, and any other documentation, product or tangible materials authored or prepared, in whole or in part, or purchased, obtained, created by the Owner's Project Manager pursuant to this Contract (collectively, the "Materials"), other than the Owner's Project Manager's administrative communications, records, and files relating to this Contract, shall become the sole property of, and shall vest in, the Town as "works made for hire" or otherwise, upon the receipt of payment by Owner's Project Manager. The Town will own the exclusive rights, worldwide and royalty-free, to and in all Materials prepared and produced by the Owner's Project Manager pursuant to this Contract, including, but not limited to, United States and International patents, copyrights, trade secrets, know-how and any other intellectual property rights, and the Town shall have the exclusive, unlimited and unrestricted right, worldwide and royalty-free, to publish, reproduce, distribute, transmit and publicly display all Materials prepared by the Owner's Project Manager. At the completion or termination of the Owner's Project Manager's services, all original Materials shall be promptly turned over to the Town. Any use or reuse of the Materials of Owner's Project Manager, without the professional involvement of Owner's Project Manager, other than for their intended use and project, shall be at the Town's sole risk, and without liability to Owner's Project Manager.

## **ARTICLE 17: REGULATORY AND STATUTORY REQUIREMENTS**

17.1 Truth-in-Negotiations Certificate: If the Owner's Project Manager's fee is negotiated, by signing this Contract, the Owner's Project Manager hereby certifies to the following:

17.1.1 Wage rates and other costs used to support the Owner's Project Manager's compensation are accurate, complete, and current at the time of contracting; and

17.1.2 The Contract price and any additions to the Contract may be adjusted within one year of completion of the Contract to exclude any significant amounts if the Town determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

17.2 The person signing this Contract certifies, as a principal or director of the Owner's Project Manager, that the Owner's Project Manager has not given, offered or agreed to give any person, corporation, or other entity any gift, contribution or offer of employment as an inducement for, or in connection with, the award of this Contract; no consultant to or Sub-consultant for the Owner's Project Manager has given, offered or agreed to give any gift, contribution or offer of employment to the Owner's Project Manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the Owner's Project Manager or Sub-consultant of a contract by the Owner's Project Manager; and no person, corporation or other entity, other than a bona fide full-time employee of the

Owner's Project Manager, has been retained or hired by the Owner's Project Manager to solicit for or in any way assist the Owner's Project Manager in obtaining this Contract upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Contract .

- 17.3 Revenue Enforcement and Protection Program (REAP): Pursuant to Massachusetts General Laws, Chapter 62C, §49A, the undersigned certifies under the penalties of perjury that to the best of his/her knowledge and belief that the Owner's Project Manager and the principals thereof are in compliance with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.
- 17.4 Interest of Owner's Project Manager: The Owner's Project Manager hereby certifies that it is in compliance with the provisions of General Laws Chapter 268A whenever applicable. The Owner's Project Manager covenants that 1) he/she presently has no financial interest and shall not acquire any such interest direct or indirect, which would conflict in any manner or degree with the services required to be performed under this Contract or which would violate M.G.L. Chapter 268A, as amended from time-to-time; 2) in the performance of this Contract, no person having any such interest shall be employed by the Owner's Project Manager; and 3) no partner or employee of the firm is related by blood or marriage to any officer, official, or employee of the Town, unless approved by the State Ethics Commission.
- 17.5 Equal Opportunity: The Owner's Project Manager shall not discriminate in employment against any person on the basis of race, color, religion, national origin, sex, sexual orientation, age, ancestry, disability, marital status, veteran status, membership in the armed forces, presence of children, or political beliefs. The Owner's Project Manager shall comply with all provisions of Title VI of the Civil Rights Act of 1964 and M.G.L c.151B.
- 17.6 Certification of Non-Collusion: The Owner's Project Manager certifies under penalties of perjury that its proposal has been made in and submitted 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.
- 17.7 Governing Law: This Contract shall be governed by the laws of the Commonwealth of Massachusetts.
- 17.8 Dispute Resolution: If a dispute arises between the parties related to this Contract, the parties agree to use the following procedures to resolve the dispute: (a) Negotiation. A meeting shall be held between representatives of the parties with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute; such meeting shall be held within fourteen calendar days of a party's written request for such a meeting; (b) Mediation. If the parties fail to negotiate a resolution of the dispute, they shall submit the dispute to mediation as a condition precedent to litigation and shall bear equally the costs of the mediation. The parties shall jointly appoint a mutually acceptable mediator; they shall seek assistance from an independent third party in such appointment if they have been unable to agree upon such appointment within 30 days of the meeting just noted in (a)

above; (c) Litigation. If the parties fail to resolve the dispute through mediation, or are unable to convene mediation within 90 days of first attempting to do so, then either party may file suit in accordance with Article 17.9; and (d) This paragraph of dispute resolution provisions shall survive termination of this Contract.

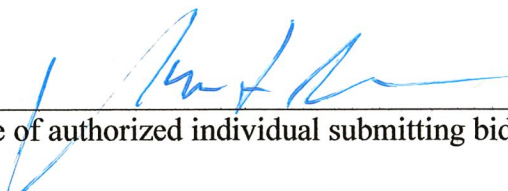
17.9 Venue: Any suit by either party arising under this Contract shall be brought only in a court of competent jurisdiction in the county where the Project is located. The parties hereto waive any argument that this venue is improper or that the forum is inconvenient.

**CERTIFICATION OF GOOD FAITH & NON-COLLUSION**

The undersigned certifies under pains and penalties of perjury that this bid has been made and submitted 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.

**CERTIFICATE OF STATE TAX COMPLIANCE**

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

  
\_\_\_\_\_  
Signature of authorized individual submitting bid/proposal

\_\_\_\_\_  
Gui Ponce de Leon  
Printed Name

\_\_\_\_\_  
PMA Consultants LLC  
Name of Business (if applicable)

\_\_\_\_\_  
38-3327768  
Social Security or Federal Tax Identification Number

**MANAGER CERTIFICATE**

**Limited Liability Company**

The undersigned certifies that s/he is the manager of PMA Consultants LLC under a Certificate of Formation and recorded with the Commonwealth of Massachusetts (the "Manager") and further certifies that the following actions have been duly authorized and directed by 100% of the members under the PMA Consultants LLC as follows:

1. That s/he is authorized, empowered and directed,, acting singly, to execute a contract with the Town of Andover. The execution of this contract shall be conclusive evidence of such approval.

2. That s/he is further authorized, empowered and directed, acting singly, to take such other actions and to execute and to deliver such further documents as, in his/her sole discretion, s/he shall deem necessary or appropriate to effectuate the transaction described above, with the signature of said Manager appearing upon such documents to be conclusive evidence that the execution of each such document is within the powers of the Manager and the purposes of the Manager, that it has been authorized and directed by all necessary action of the members of PMA Consultants LLC, and that it is binding.

The undersigned further certifies that the PMA Consultants LLC has not been altered, amended or rescinded since its date of establishment; that it continues in full force and effect; and that the foregoing statements are true and correct, all as of the date hereof.

Witness the execution hereof under seal of this 30<sup>th</sup> day of April, 2025.

By: [Signature]  
Manager

STATE OF Michigan

County of Washtenaw

On this 30<sup>th</sup> day of April, 2025, before me, the undersigned notary public, personally appeared Gui Ponce de Leon, Manager as aforesaid and proved to me through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

BARBARA F CABLE  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF WASHTENAW  
My Commission Expires October 17, 2027  
Acting in the County of Washtenaw

[Signature]  
Notary Public  
My Commission Expires: