

**SELECTBOARD MEETING
TUESDAY, MARCH 1, 2022
VIRTUAL AGENDA
7 P.M.**

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Note: Not all topics listed here may be reached for discussion. In addition, the topics listed are those which the chair reasonably expects will be discussed as of the date of this notice. This meeting may be audio and/or visually recorded.

1. CALL TO ORDER

2. APPROVAL OF MINUTES: Draft minutes of Feb. 15, 2022

3. ANNOUNCEMENTS/OPEN FORUM

4. TRI-ANNUAL APPOINTMENTS

- | | |
|-----------------------|---------------------|
| A. Richard Dunderdale | F. Emeile Lyszchyn |
| B. Jessica Schoendorf | G. Hattie Finkel |
| C. April Doroski | H. Kevin McCaffrey |
| D. Louise Croll | I. Robert Salthouse |
| E. Robert Judge | |

5. NEW BUSINESS

- A. Election Hours
- B. ARPA Requests
- C. Tighe and Bond Contract
- D. McCray's Farm Holiday Light Show Approval

6. OLD BUSINESS

- A. Fiscal Year 2023 Budget

7. COMMUNICATION

- A. Resignation of Barbara Erwin from the ZBA

8. TOWN ADMINISTRATOR'S REPORT

9. ADJOURN

**SELECTBOARD MEETING
TUESDAY, FEB. 15, 2022
MEETING MINUTES
VIRTUAL SELECTBOARD MEETING ROOM – 7 P.M.**

Present were Chair Jeff Cyr, Carol Constant, Member Chris Geraghty, and Town Administrator Lisa Wong. Vice Chair Sarah Etelman and Member Andrea Miles were absent.

CALL TO ORDER

Cyr called the meeting to order at 7 p.m.

MINUTES

Constant motioned to approve the draft minutes of Jan. 18, 2022 and Feb. 1, 2022. Geraghty seconded. All in favor.

ROLL CALL VOTE

Constant – Aye
Geraghty – Aye
Cyr – Aye

ANNOUNCEMENTS / OPEN FORUM

Constant noted tax help is available at the senior center.

RESIGNATION

Geraghty motioned to accept the resignation of Aldo Villani from the Conservation Commission as an associate member. Constant seconded. All in favor.

ROLL CALL VOTE

Constant – Aye
Geraghty – Aye
Cyr – Aye

TRI-ANNUAL INTERVIEWS

Selectboard members interviewed Robert Salthouse for the SEC, Hattie Finkel for the Historical Commission, Jessica Schoendorf for the Conservation Commission, April Doroski for the Conservation Commission, Louise Croll for the Conservation Commission, Kevin McCaffrey for MPIC and Richard Dunderdale for the Commission on Disabilities. Selectboard members deferred these appointments to their next meeting on March 1 when more members were in attendance.

Constant motioned to appoint M.P. Chevrette and Steven Lauridsen to a 2024 and 2023 term on the Bylaw Review Committee, respectively. Geraghty seconded. All in favor.

ROLL CALL VOTE

Constant – Aye
Geraghty – Aye

Cyr – Aye

ONE DAY BEER & WINE LICENSE REQUEST

Constant motioned to approve a One-Day Beer & Wine License Request from the Friends of SH Seniors for April 29. Geraghty seconded. All in favor.

ROLL CALL VOTE

Constant – Aye

Geraghty – Aye

Cyr – Aye

SEASONAL POPULATION

Constant motioned to certify that South Hadley has an increased seasonal population as of July 1, 2022 of 17,524 and to apply digital signatures. Geraghty seconded. All in favor.

ROLL CALL VOTE

Constant – Aye

Geraghty – Aye

Cyr – Aye

THE BOATHOUSE SEASONAL LICENSE AND BAR TRAILER

Constant motioned to accept the 2022 license renewal of The Boathouse seasonal alcohol license and allow renewal upon completion of the application, submittal of all fees, completing all required inspections, and any other laws, bylaws or regulations required for issuance, and the license shall include the ability to use a mobile bar. Geraghty seconded. All in favor.

ROLL CALL VOTE

Constant – Aye

Geraghty – Aye

Cyr – Aye

TOWN MEETING PLANNING

Wong said administration is looking at the senior center's multi-purpose room and the South Hadley High School auditorium as potential indoor locations for the spring town meeting. March 12 is the deadline to submit warrant articles to administration.

FIREWORKS

Geraghty motioned to approve July 2 at MESMS as the date for the fireworks event this year, with a rain date of July 5. Geraghty seconded. All in favor.

ROLL CALL VOTE

Constant – Aye

Geraghty – Aye

Cyr – Aye

SHARED SERVICES MEMO

Wong said town council is recommending the town enter into a memorandum of understanding with the school department related to public works and facilities for shared services. If a formal agreement is desired, town meeting and the school committee could pass G.L. c. 71, § 37M which is often a precursor to sharing resources. Members are in favor of entering into a MOU with the school department. Wong said she introduced the concept at the most recent tri-board leadership meeting.

CHIEF PROCUREMENT OFFICE DESIGNATION

Geraghty motioned to designate the town administrator position as CPO for the Town of South Hadley. CC second. All in favor.

ROLL CALL VOTE

Constant – Aye

Geraghty – Aye

Cyr – Aye

FY22 QUARTERY LREPORT

Wong discussed the report which included a listing of the departments whose expenditures exceeded 50.0% of the budget as of 12/31/21.

FY23 BUDGET

Wong reviewed the draft budget as a work in progress.

TA REPORT

Wong noted town hall will expand its public hours to 8:30 a.m. - 3:30 p.m. Monday through Thursday.

She said the Board of Health will meet March 1 to review the indoor mask mandate. Town buildings will follow the BOH lead.

She also said the town learned today it received \$19k to move forward with technical assistance to create an affordable housing trust or housing partnership board to help with affordable housing in town.

ADJOURN

Geraghty motioned to adjourn. Constant seconded. All in favor.

ROLL CALL VOTE

Constant – Aye

Geraghty – Aye

Cyr – Aye

The meeting adjourned at 8:35 p.m.

RESPECTFULLY SUBMITTED
Kristin Maher
Executive Assistant to Administration

Board / Committee	Total Members	Current Vacancies	Vacancy Terms	Candidates
Canal Park	7	4	2024 (2) 2023 (2)	
Comm. on Disab.	5	2	2024 2023	• Richard Dunderdale
Cons. Comm.	7, 2 Assoc	2 FT, 1 Assoc	2024 2022 2023 (Assoc)	• Jessica Schoendorf • April Doroski • Louise Croll
COA Board	11	2	2022 (2)	
Golf Comm	7, 1 Alt	1 Alt	2022	
Historical Comm	7	2	2024 2023	• Robert Judge • Emeile Lyszchyn • Hattie Finkel
Historic District	7	2	2024 2023	
MPIC	9	1	2024	• Kevin McCaffrey
SEC	5	1	2024	• Emeile Lyszchyn • Robert Salthouse
Old Firehouse Tr	9	1	2023	
ZBA	3, 2 Assoc	1 Assoc	2024	

Office of the Town Clerk
 116 Main Street, Room M11
 South Hadley, MA 01075
 (413) 538-5017 ext. 6115
 chamlin@southhadleyma.gov

CARLENE C. HAMLIN, Town Clerk

To: Lisa Wong, Town Administrator
 From: Carlene Hamlin, Town Clerk
 Date: February 24, 2022
 Re: Annual Town Election Hours

The following historic data is provided for discussion at the Selectboard Meeting, March 1st.

Election Date	Total Voted	Turnout (%)	AV/EV voted	Contested Ballot - major office
April 13, 2021	2,056	17%	506 B (4 %)	SB, SC, BOH & MLB – 5 separate precincts.
Nov 3, 2020	10,102	83%	8,053 B (82%)	Presidential Election – 32% in person. 5 separate precincts
March 3, 2020	4,591	38%	1,197 B (4%)	No contested races
April 9, 2019	1,657	14%	146 AV (11%)	SB and write in PB (Blodgett)
April 10, 2018	2,645	24%	157 AV (16%)	SB, SC write in BH & Cmty. Fair
April 11, 2017	1,552	14%	135 AV (11%)	SB, SC, LT, 2 questions & Cmty. Fair

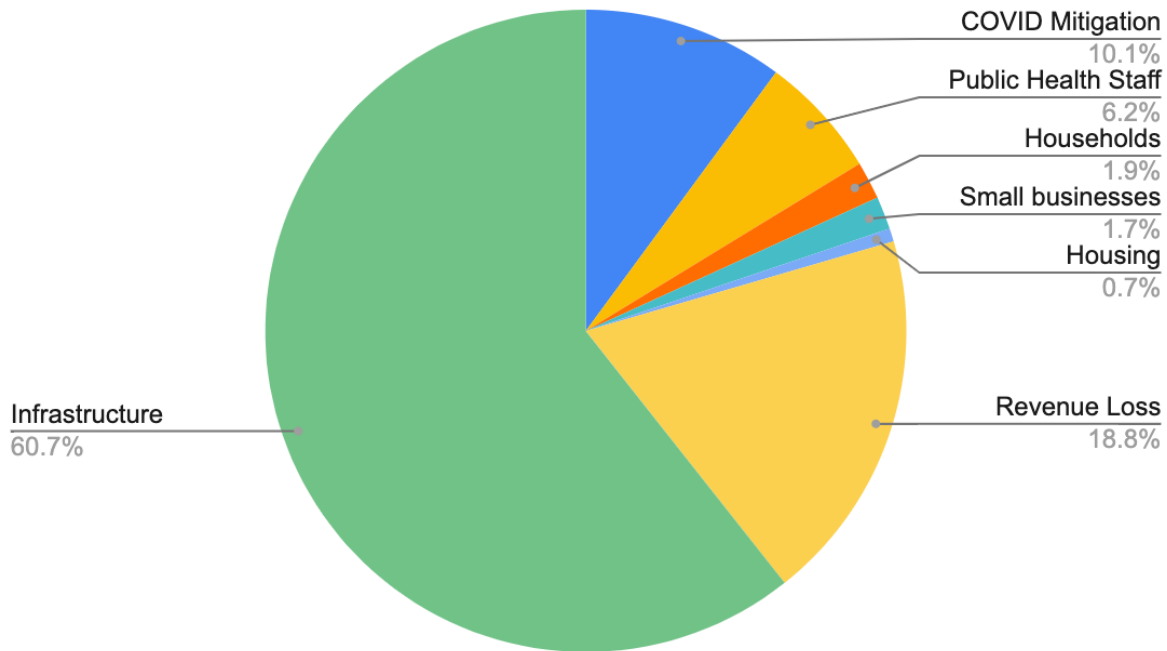
- Election hours for April 13, 2021 - 10:00 am – 6:00pm, all other elections 7:00am – 8:00pm



MEMO

To: Selectboard
 From: Town Administrator Lisa Wong
 Re: American Rescue Plan Act requests - Feb 2022 Round
 Date: February 25, 2022

Total ARPA Funding	\$5,268,233.00	
Approved as of 2/24/22	\$936,074.13	
Remaining Funding to be allocated	\$4,332,158.87	
Total Requests in this Round	\$7,434,490.56	
TA Determined Eligible Requests	\$6,057,340.00	
Requests also in 5 year Capital Plan	\$4,304,217.00	
COVID Mitigation	\$612,500.00	10.11%
Behavioral Health	\$0.00	0.00%
Public Health Staff	\$374,270.00	6.18%
Premium Pay	\$0.00	0.00%
Households	\$115,000.00	1.90%
Small businesses	\$100,000.00	1.65%
Housing	\$40,000.00	0.66%
Education	\$0.00	0.00%
Revenue Loss	\$1,141,772.00	18.85%
Infrastructure	\$3,673,798.00	60.65%



What is your project title?	Agency / organization name	Describe the project:	Total Cost:
Emergency PPE	Fire District No.1	Purchase PPE such as medical gloves, and masks are still needed. Fire District No.1 responds to over 2200 ambulance calls per year.	\$7,500.00
MESM HVAC Upgrade	South Hadley Public Schools	Control system upgrade for the HVAC system at Smith Middle School - give the system true WEB compliance and offer more robust speed and options and put all four schools on one common platform. 52 Univent controllers need to be upgraded prior to the control system upgrade.	\$105,000.00
High School HVAC Upgrade	South Hadley Public Schools	Upgrading the HVAC control system at the high school in order to make sure that the system will continue to be supported by the developer, true WEB compliance, more robust in speed and options and will allow all four schools to be on one common platform. Related to moisture, feasibility study in progress to figure out whether needs HVAC upgrade, individual AC units added or to lower the water table through a drainage system.	\$500,000.00
			\$0.00
Public Health Nurse	Town of South Hadley, Health Dept	Contact tracing and case investigation	\$11,520.00
Air Purifier Filter Replacement.	Town of South Hadley	Have in place replacement filters for 2 different models of air purifiers that were bought specifically for the COVID-19 outbreak.	\$12,000.00
Public Health Distinction	South Hadley Health Department	This project would employ one (1) contract employee, Public Health Nursing Coordinator, to identify and outreach to the environmental justice populations in the Town of South Hadley	\$253,750.00
Ledges Club House Sprinkler System	Ledges Golf Club/Recreation Dept/Golf Commission	Installing a fire sprinkler system in the Ledges Golf Club, which would allow for music to be played in the clubhouse and/or deck. The building code and fire code changed after the construction of the building, and know that Fire District #1 has communicated that with the Ledges staff.	\$97,000.00
Minibus Replacement Project	South Hadley Council on Aging	The project goal is to purchase a new 12-passenger minibus with a wheelchair lift to replace the COA's aging, 2014 minibus with a wheelchair lift.	\$85,000.00
Addressing Food Insecurity	Neighbors Helping Neighbors	The Food Bank of Western Massachusetts offers a limited amount of food items, therefore we must purchase the balance needed in order to provide adequate nutritional assistance to low and moderate income individuals. Monies would be used to purchase food.	\$30,000.00
Women and Minority Business Assistance	Town of South Hadley		\$50,000.00
Marketing for Businesses	Town of South Hadley		\$35,000.00
Technical Assistance for Businesses	Town of South Hadley		\$15,000.00
Housing Production Plan Update	Planning and Conservation Department		\$40,000.00

What is your project title?	Agency / organization name	Describe the project:	Total Cost:
Pickleball Courts at Buttery Brook Park	Recreation Department	Installing four pickleball courts at Buttery Brook Park in the area where the skate park was previously. This will include paving with tennis quality pavement, painting the surface, installing nets, fencing, a set of bleachers and benches. Also looking to get lights donated by SHEL.D.	\$20,000.00
Pneumatic Control Upgrade: Police Deferred Town Building Improvements	South Hadley Police Dept	The Police Facility heating/boiler system is controlled by a faulty, deficient, and costly pneumatic control system installed in 1992 upon construction of the police building. The TOSH is faced with an immediate \$19,000 repair costs to bring the existing system to a level of sufficient function, as the pneumatic parts have become corroded, out of spec, leaking and do not function as designed or economically. Even with this needed repair, the system remains a 30 year old inefficient system that will continue to be prone to mechanical breakdown. The quoting vendor estimates that the existing pneumatic system costs an additional \$10,000 per year in energy costs, due to constant running of the boiler and compressor, as compared to replacing with new direct digital controls. It is estimated that energy consumption reductions and costs savings for repairs, that a new digital control system will pay for itself in 7.9 years. The TOSH will continue to see efficiencies and cost savings for energy consumption by installing digital controls.	\$126,405.00
Police Facility LED Lighting system upgrade	South Hadley Police Dept		\$14,014.00
	Town Clerk	Create electronic filing cabinets by converting paper records to digital. These new systems remove the need for excessive storage and costs associated, secures critical documents with disaster	\$150,000.00
Library Accessibility Improvements	South Hadley Public Library	The South Hadley Public Library strives to be welcoming and accessible to all residents. The 2019 Town of South Hadley Self-Evaluation and Transition Plan identified numerous obstacles and issues at the library that did not conform to the Americans with Disabilities Act and other relevant building codes. The library-specific issues were identified on pages 52-56 of the plan and clearly represent a barrier to full use and enjoyment of the library building. This project would remedy those issues and make the building accessible to more community members.	\$20,000.00
Valley Bike Share	Planning and Conservation Department	South Hadley participates in the Valley Bike Share program currently with four bike stations. Annual dues for this program are \$5,444. In the established fund for this program, there remains enough funding for the 2022 annual dues. Thus, to continue to operate the bike share stations, the Town needs to allocate funds for dues for 2023+. I am recommending ARPA funding be allocated for the next five years totaling \$27,500.	\$16,332.00
Town Hall Repointing/Masonry	Town of South Hadley	Town Hall Repointing/Masonry Repair	\$236,000.00
Conservation Area Trail Improvements	Town of South Hadley	The Town of South Hadley owns over 1,100 acres of conservation land on sixteen properties. There has never been a budget for conservation land management and as a result, infrastructure (trails, foot bridges, parking areas, signage, etc.) have steadily declined. In recent years, the Town has been successful at getting grants to upgrade the trail systems at the Bachelor-Stony Brook Conservation Area, which included access to funding signage and new trailhead kiosks for several other properties. Due to the eligibility criteria for the few trail grant programs that exist, the remaining properties in need of improvements are not eligible and/or just not competitive for grant funding, and our grant applications have in fact been denied from the Mass Trails Grant program for the past two years. Therefore, this ARPA requests seeks \$30,000 for trail improvements at Black Stevens Conservation Area, Bagg-Pierce Conservation Area, Carver-Newton-Jones Conservation Area, and Leaping Well Nature Trail. A detailed land management report is available that outlines specific projects and costs.	\$30,000.00
Pearl Street Culvert at Elmer Brook Culvert Replacement	Town of South Hadley	The Town is applying to the Massachusetts Div. of Ecological Restoration's Culvert Replacement Municipal Assistance Grant for design and construction of the Pearl Street culvert at Elmer Brook. This request is for the \$50,000 match requirement for the grant. Elmer Brook is recognized as an area of high ecological value. Additionally, this culvert is in poor condition and poses a significant hazard to public safety. Localized flooding has occurred here in the past.	\$50,000.00
Lauzier Farm Agricultural Restriction Local Match	Town of South Hadley	Mass. Department of Agricultural Resources (MDAR) is working to permanently protect the 210-acre Lauzier farm on Alvord Street in South Hadley. This is one of the last farms of it's size in the Connecticut River Valley and thus, Kestrel Land Trust has partnered with the Town to raise the required \$190,000 local match on the Agricultural Preservation Restriction (APR) valued at \$1.9 million. At the May 2021 Town Meeting, the Town voted to appropriate the local match amount minus any amounts that could be raised through local fundraising. Currently, approximately \$60,000 has been raised, leaving the balance at \$130,000 needed.	\$130,000.00
Access to Lithia Springs	Town of South Hadley	Access to Lithia Springs in the Mount Holyoke Range has been a continuous problem for many years. People park typically on Lithia Springs Road and walk in across private property onto state land (DCR) to access trails to the reservoir. People can park in an area on Amherst Road owned by Fire District #2 Water Department, and walk north on Water Department Land until they reach Elmer Brook where there is no bridge to cross the river. This forces hikers to turn west onto private property, walk along the south side of Elmer Brook, ultimately reaching Lithia Springs Road where they turn north and cross the brook at an old dirt access road with a culvert crossing at the brook. Therefore, both existing options result in trespass on private property with a very disgruntled land owner. the Police Department is called to enforce on the illegal road parking and towing of vehicles is now required. This project seeks matching funds for 100% design and permitting of a bridge across Elmer Brook on Fire District #2 Water Department's land. MassDCR is in agreement with this approach which would result in DCR having to construct a new trail from their property which is on the north side of Elmer Brook to a connecting trail which would lead to Lithia Springs. The first step in this process is design and permitting of a pedestrian footbridge ad the funding from this request would be a match to a MassTrails Grant for that work. We would seek another MassTrails Grant or Land and Water Conservation fund construction of the bridge.	\$25,000.00
Deployment of Advanced Telemetry to Augment	Board of Assessors	Nearmap is an aerial mapping subscription service that many departments can utilize to view properties both "leaf on" and "leaf off" each year with historical imagery back to 2014.	\$60,650.00
GIS with Archival and Public Records Access	Board of Assessors	The purpose of this project is to implement a more robust GIS/mapping and information system to improve town operations and public access. Accessing various related databases is currently a challenge for internal and external users. At present, users must access multiple platforms to retrieve tax, permit and assessment related data or contact multiple departments to obtain such information. This project will expand access to historical property, deed, and permit information. With staff site already purchased, we can expand use of this across departments to have access to additional data layers and documents available to staff only through a secure login.	\$48,000.00

What is your project title?	Agency / organization name	Describe the project:	Total Cost:
Automation of Certain Application Processes	Board of Assessors	We would like to streamline processes and automate wherever possible. With a staff of two, it can be challenging at times to stay up to date, especially if anyone is out; no one does our tasks when we are away. Utilizing the assistance of a vendor and their software, we can streamline deed processing, Form of List (personal property tax information request) mailings, Motor Vehicle Excise Abatement Applications and Income and Expense mailings to name a few. Currently these mailings are completed via hard copy requiring printing of forms, cover letters, manually stuffing of envelopes and applying postage.	\$25,000.00
Police Department Roof Replacement	South Hadley Police Department	The police Department facility is 29 years old with the original roof. The Police Department is requesting funding to replace the roof.	\$50,000.00
Book Restoration and Preservation	Town Clerk	Establish a permanent preservation and restoration project for our historical record books. These books are handled often and in need of immediate preservation based on age, condition and type of record. Each book will be logged in it's original condition and a treatment process will be used. The log book is a permanent record and the process used follows archival restoration guidelines.	\$40,371.00
Owner Unknown Parcel Research/Land of Low Value	Town of South Hadley	Working with counsel to fund research to identify owners of parcels previously assessed to Owner Unknown. Some have been identified, however, the owner has passed and the heirs need to be identified and notified in order to move forward. We also have a few parcels in Tax Title where the assessed owner is in question and further research must be done to determine how to move forward to Land Court.	\$100,000.00
Morgan St. Pump Station Upgrade	DPW/WPC	Station upgrades to include conversion to submersible pumps with increased capacity, upgrade control systems and install instrumentation, as well as investigate inflow & infiltration (I/I) discovered as a result of heavy rains in 2021.	\$350,000.00
Judd Brook Interceptor Lining Project	DPW/WPC	Due to its location, the Judd Brook Interceptor (circa early 1950's) is highly susceptible to inflow and Infiltration (I/I), which has been well documented in several studies over the past 20+ years. This project has been talked about for many years, but never completed. The project is currently listed on the 5-year plan in the I/I Report submitted to MassDEP in 2017, and more recently part of the ACOP signed with MassDEP in 2021.	\$2,300,000.00
Comprehensive Waste Management Plan	DPW/WPC	Comprehensive Waste Management studies and resulting Plans are necessary to evaluate the current state of the POTW, which includes the sewer system, pump stations and the wastewater treatment facility, so the municipality can more effectively plan for future upgrades and repairs, and address community needs. The last study was completed in 2001.	\$380,000.00
WPC Security	IT Department	Recent years there has been an increase in security concerns at the Water Pollution Control plant. This request would look for a substantially larger investment in security, including implementing whatever changes would be necessary union or otherwise to have active monitoring at the plant.	\$150,000.00
Ledges: River & Irrigation Pump System	Recreation Dept/Ledges Golf Club	1) Replacing the actual river transfer pump and securing/cleaning the intake vault that pulls the water from the river. Estimated to be \$50,600 and was last done in 2016. The addition of the vault in 2016, has extended the life span of the pump by a two or three seasons. This part of the system	\$113,600.00
Parks Barn Siding and Roof	DPW	Replacing the failing roof and failing siding	\$83,198.00
DPW administration hvac	DPW	Replacing the office heat and ac roof top unit	\$24,000.00
Queensville Dam Removal - 100% Design and Permitting	Town of South Hadley	The Queensville Dam at Titus Pond on route 116/Newton Street is rated by the Mass Office of Dam Safety as a Significant Hazard, Intermediate Size dam located on buttery Brook and was evaluated as "Poor" condition in a Phase I assessment report in 2018. Cost estimates for repair of the dam were \$175,000-\$306,000. This cost is in addition to annual maintenance costs for the dam after repair in the order of \$10-\$20,000/year. The preferred option is dam removal and restoration of Titus Pond as a wetland. Also increase stormwater storage capacity in the upper watershed of BATTERY Brook and reduce the potential for downstream flooding in South Hadley Falls. Current MVP Action Grant is a dam removal feasibility study with 25% design and permitting coordination with state and federal agencies. The Town intends to apply for another MVP Action Grant for 100% design, engineering and permitting for dam removal. The match requirement for the grant is estimated at \$65,000 which is are ARPA request.	\$65,000.00
Dry Brook Well Aquifer Study	Town of South Hadley	Isotopic study of the Dry Brook Well aquifer. Dry Brook Well is the Fire District #2 Water Department's sole-source drinking water supply well. Located off of Sullivan Lane, west of Route 47, the Zone II to the well (recharge area) is mapped as an area contributing from the western end of the Holyoke Range as well as the Connecticut River. There has been a desire from the public as well as District 2 to refine the understanding of the well's recharge area to better inform land use decisions in this area. This project proposes to utilize current proven scientific methods known as isotopic tracing of subsurface water flow to identify the contributing recharge areas.	\$20,000.00
SCADA System Upgrade	South Hadley Water Dept. District No.2	The Water Department is badly in need of an upgrade of its Supervisory Control and Data Acquisition (SCADA) System. This system enables the water system to run automatically and remotely. The current system is about 20 years old and runs on Windows 7. The upgrade would also improve Cybersecurity to protect our water system.	\$78,000.00
South Hadley Fire District No. 2 Generator	South Hadley Fire District No 2 Fire Dept	The existing generator is a 1972 and parts are no longer available. The location is inside and requires a 275 gallon fuel tank (Diesel) that requires a containment area. This project would give us the space to properly decontaminate our first responders and their equipment.	\$110,000.00

Green - Also in the Capital Planning Requests
Red - Recommend passing immediately due to deadlines

TOWN OF SOUTH HADLEY ¹

CONTRACT # _____

STATE CONTRACT # (if applicable) _____

DATE: 01/21/2022

This Contract is entered into on, or as of, this date by and between the Town of South Hadley, 116 Main Street, South Hadley, MA 01075 (the "Town"), and

Tighe ~~and~~ & Bond, Inc.
["Contractor"]

Joseph Viamari
[Contact Name for Responsible Person]

53 Southampton Rd _____

Westfield, MA 01085

[Address of the Contractor]

413-562-1600 _____
[Telephone Number]

413-562-5317 _____
[FAX Number]

DJBoulais@tighebond.com
[email address]

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

See attached RFQ post closure services and Tighe & Bond's Statement of Qualifications and Price Proposal for Landfill Post Closure Services dated January 5, 2022.

2. The Contract price to be paid to the Contractor by the Town is: \$22,000.00 per month, \$ 264,000.00 per year

3. Payment will be made as follows:

3.1 If any portion of the contract price is to be paid by a private citizen(s) no work shall be performed until a sum has been deposited with the Town Treasurer, upon an estimate made by the board, committee or officer having charge of the work, sufficient to cover the payment for the portion of the said work chargeable to the private citizen(s). Contractor shall be notified prior to performing services if payment is subject to a third-party payment.

3.2 Fees and Reimbursable Costs combined shall not exceed \$264,000.00 as more fully set forth in the Contractor's Response to the RFQ Contractor Documents.

¹ Contract Long Form_Engineer and Architect Services – not for building

3.3 There shall be no further costs, fees or reimbursable charges due the Contractor under this Contract unless said services are for “Unforeseen Circumstances”, such as repairs, as described in the RFQ and the costs, fees, and reimbursable charges are agreed to by the Town before the work is done.~~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.~~

3.4 Payments shall be made monthly at the rate of \$22,000 per month. Final payment including any unpaid balance of the Contractor’s compensation shall be due and payable when the project is completed and the services are complete and/or the goods are delivered and accepted.

4. Security: N/A

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 ensure 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) Request for Proposals 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 purpose of the Contract Documents is to include all labor and materials, equipment and transportation necessary for the proper performance of the ~~Contract~~services defined in Section 1 of this 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 12/30/2022, 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. Contractor shall be entitled for payment for services authorized by the Town up to the date of termination. 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 shall notify the Contractor of default; if the Contractor does not correct such default to the Town's reasonable satisfaction within a period of seven (7) working days after receipt of notice setting forth such failure; the Town may terminate this Contract on the seventh day~~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:
 - (1) 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 not meeting the standard of care, 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 a material breach of this Contract, and the Town of South Hadley 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, reasonable attorney's fees or other direct 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~~ in 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 30B – Procurement of Goods and Services.

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

General Laws Chapter 149, Section 44A, *et seq.* Public Buildings 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 applicable Federal, State and local laws, rules, regulations, policies and orders applicable in effect at the time ~~to~~ the Work is 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 hereby agrees to 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. The Contractor hereby agrees to, at all times, itself observe and comply with all such applicable existing and future laws, by-laws, regulations, orders and decrees; and hereby agrees to 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. The Town agrees to make reasonable effort to notify the Contractor of any duty arising out of this paragraph, but failure to make timely notice will not relieve the Contractor of any duty under this paragraph.

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 Contract 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.

16. Assignment:

The Contractor shall not assign, sublet or otherwise transfer this Contract, 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 Town Administrator or a majority of the Select Board if \$250,000 or over; 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 South Hadley 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 of Massachusetts.

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 South Hadley shall be individually or personally liable on any obligation of the Town under this Contract.

21. Standard of Care

The Contractor agrees to perform its services consistent with that degree of care and skill ordinarily exercised under similar circumstances by members of the profession practicing in the same or similar locality the highest professional skill and care provided by architects practicing in Western Massachusetts under the same or similar circumstances. The Contractor shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the project.

22. Indemnification:

22.1 With respect to professional services rendered by the Contractor, to the fullest extent permitted by law, the Contractor hereby agrees to ~~defend~~, indemnify and hold harmless the Owner, 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 Owner~~ to the extent caused by the ~~negligence-negligent acts, errors or omissions~~ of or breach of any provision of this Contract by the Contractor, a person employed by the Contractor, or any of its Subcontractors.

22.2 With respect to non-professional services rendered by the Contractor, to the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify and hold harmless the Owner 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 Owner~~ 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 and to the extent caused by an act or omission of the Contractor, a person employed by the Contractor, or any of its Subcontractors.

- 22.3 The Town agrees to make reasonable effort to notify the Contractor of any duty arising out of this paragraph, but failure to make timely notice will not relieve the Contractor of any duty under this paragraph.

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.

23. Insurance

23.1 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 a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor hereby agrees to indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article. The Town agrees to make reasonable effort to notify the Contractor of any duty arising out of this paragraph, but failure to make timely notice will not relieve the Contractor of any duty under this paragraph.

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.

23.2 Professional Liability Insurance

Liability of \$1 million per claim and \$3 million aggregate.

Failure to provide and continue in force such insurance during the period of this Contract shall be a material breach of this Contract, shall operate as an immediate termination thereof, and Contractor hereby agrees to indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article. The Town agrees to make reasonable effort to notify the Contractor of any duty arising out of this paragraph, but ~~failure to make timely notice will not relieve the Contractor of any duty under this paragraph.~~

Risk Allocation - For any claim, loss, damage, or liability resulting from error, omission, or other professional negligence in the performance of services, the liability of CONTRACTOR to all claimants with respect to this project will be limited to an aggregate sum not to exceed \$1,000,000; provided, however, that this limitation of liability shall not apply to: (i) any loss or damage arising out of CONTRACTOR's (or its lower tier subcontractors') gross negligence, fraud, willful misconduct or illegal or unlawful acts, or (ii) CONTRACTOR's indemnification obligations under the Agreement to the extent any claim is made against CONTRACTOR.

23.3 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of South Hadley as an additional insured, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.
- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of ~~at least \$500,000 per person, and \$1 Million per accident~~ Combined Single Limit.
- c. 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.
- d. All policies shall identify the Town as an additional insured (except Workers' Compensation and Professional Liability). The Contractor shall notify the Town immediately upon the cancellation or material 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 Contract, 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 necessary notice required in this Section or to continue in force such insurance shall be 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 with the exclusion of Professional Liability which may be written on a claims-made basis. Coverage 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.

- e. 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.
- f. Damages – Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Town nor Contractor, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement.

24. 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.

All reports, drawings, specifications, computer files, field data, notes, and other documents, whether in paper or electronic format or otherwise (“documents”), are instruments of service and shall remain the property of Contractor, which shall retain all common law, statutory and other reserved rights including, without limitation, the copyright thereto. Town acknowledges Contractor’s documents, including electronic files, as the work papers of Contractor and Contractor’s instruments of professional services. Nevertheless, the final documents prepared under this Agreement shall become the property of Town upon completion of the services and payment in full of all monies due to Contractor. Under no circumstances shall the transfer of ownership of Contractor’s documents, electronic files or other instruments of services be deemed a sale by Contractor and Contractor makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. Town’s payment to Contractor of the compensation set forth in the Agreement shall be a condition precedent to the Town’s right to use documents prepared by Contractor. In no case shall ownership of documents include Contractor’s logo, signature, professional stamps, templates, base plans, specifications or design details. It is understood that Town may be required to make copies of documents available to the public under the Freedom of Information Act or Massachusetts Public Records Laws prior to receipt of payment by Contractor.

Documents provided by Contractor are not intended or represented to be suitable for reuse by Town or others on any extension or modification of this project or for any other projects or sites. Reuse of documents by Town or others on extensions or modifications of this project or on other sites or use by others on this project, without Contractor’s written permission and mutual agreement as to scope of use and as to compensation, if applicable, shall be at the user’s sole risk, without liability on Contractor’s part.

Electronic Documents - Contractor cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format. If Contractor provides documents in electronic format for Town’s convenience, Town agrees to waive any and all claims against Contractor resulting in any way from the unauthorized use, alteration, misuse or reuse of the electronic documents.

~~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 issuing any material for publication through any medium.

25. 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.

26. 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 Contract.

27. 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.

28. 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 Contract, 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.

29. Severability

If any term or condition of this Contract or any application thereof shall to any extent be held invalid, illegal or unenforceable by a 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.

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

31. 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.

32. 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.

33. 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.

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 South Hadley by:

The Contractor by:

Town Administrator² Date

Signature Date

Print Name

Print Name & Title

Certified as to
Appropriation/Availability of Funds:

Town Accountant Date

Department Head Date

Print Name

Chief Procurement Officer:

Date

Certified as to Form

Town Counsel Date

² Select Board Signatures required on Contracts \$250,000.00 and over.

BOTH CERTIFICATIONS ON THIS PAGE MUST BE EXECUTED

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 paid all

name of contractor

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.

Signature

Date

Name

Federal Tax ID # or Social Security #

BOTH CERTIFICATIONS ON THIS PAGE MUST BE EXECUTED

EXAMPLE CLERK'S CERTIFICATE

Action of Shareholders
Written Consent

(Date)

The undersigned, being the Shareholders of _____, a Massachusetts Corporation (the "Corporation") entitled to vote on the action, hereby consent to the adoption of the following votes:

VOTED: That the [President and/or the Vice President or named individual], each of them acting singly is, authorized to execute any and all Contract Documents and to enter into and negotiate the terms of all contracts and to accomplish same and to execute any and all documents, instruments, and agreements in order to effectuate the transaction and that said transaction shall be valid, binding, effective, and legally enforceable.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of the Corporation to take or cause to be taken all such action(s) as s/he or they, as the case may be, deem necessary, appropriate or advisable to effect the foregoing votes, as may be shown by the officer or officers execution or performance which shall be conclusive evidence that the same is authorized by the directors of this Corporation.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time, in the name and on behalf of this Corporation, under its corporate seal, if desired, attested by an appropriate officer, if desired, to execute, make oath to, acknowledge, deliver and file any and all of the agreements, instruments, certificates and documents referred to or related to the foregoing votes.

VOTED: That the officers are, and each of them acting singly is, authorized, from time to time and on behalf of this Corporation, under its corporate seal, if desired, to execute, acknowledge and deliver any and all agreements, instruments, certificates and documents referred to or related to the foregoing votes, with such changes as the officer or officers so acting may deem necessary or desirable, and the signature of such officer or officers to be conclusive evidence that the same is authorized by the directors of this Corporation.

Clerk of Corporation Certificate

I, _____ the Clerk of the foregoing corporation, do hereby certify that the above vote was taken at a duly called meeting of the shareholders of the Corporation on _____, 20__.

Clerk of Corporation

SEAL

CONTRACT CHECKLIST

FOR TOWN'S INTERNAL USE ONLY. DO NOT ATTACH TO EXECUTED CONTRACTS

- | | Initials |
|---|----------|
| 1. Certification of Signatures | _____ |
| • For Corporation: need President's signature or Clerk's Certificate dated no more than 2 years ago With Corporate Seal affixed (see attached form) | |
| • For LLC: need Manager signature or signed vote of the LLC | |
| 2. Certificate of Good Faith & Non-collusion | _____ |
| 3. Insurance Certificate (showing Town as additional insured) | _____ |
| • Matches amount of insurance required under contract | |
| 4. Certificate of Tax Compliance | _____ |
| 5. Signed by Contractor | _____ |
| • Matches certification by Corp officer of authority. | |
| 6. Certificate of Good Standing for Corporation or Certificate of Legal Existence for LLC both from the Secretary of State | _____ |

Contract Reviewed by: _____
Signature

Name, Title

FOR TOWN'S INTERNAL USE ONLY. DO NOT ATTACH TO EXECUTED CONTRACTS

Massachusetts Department of Agricultural Resources APR Program
APPLICATION FOR DEPARTMENT APPROVAL

Application must include Part I General Section and this section to be considered complete.

PART II. G. SPECIAL PERMIT FOR A NON-AGRICULTURAL USE

APR Owner: STEPHEN MCCRAY

APR Project ID: _____

Non-Agricultural Activity Proposed: CHRISTMAS LIGHT SHOW

1. If the answers to the following questions are "yes", do not proceed with the application. Instead contact your APR Field Agent for information on how to proceed.

	Yes	No
a. Do you have a contract in place with a third party to manage the proposed non-ag. use ?		X
b. Do you intend to construct any new structures for the proposed non-ag. use ?		X
c. Will the proposed non-ag. use have an adverse impact on soil resources ?		X
d. Will the proposed non-ag use require any excavation ?		X
e. Has the area where the proposed non-ag. use will be sited been converted from active agricultural use to non-agricultural use in the preceding five years ?		X

2. List the non-agricultural use, the types of associated activities, dates, attendance, admission charge:

Non- Agricultural Use	Activities	Date(s)	Attendance	Cost
CHRISTMAS LIGHT SHOW	WALK THROUGH LIGHT SHOW	END NOV. TO BEGIN JAN	5000/NIGHT	15.00

3. Draw on the attached map/sketch/plan where the proposed non-ag. use/event/activity will be occurring on the APR and specifically describe here:

GO THROUGH THE ZOO, OUT BACK BEHIND THE ZOO AND THE MILK PLANT. DOWN BEHIND THE HAUNTED HOUSE. DOWN THE PATH THROUGH THE TUNNEL, CONTINUING ON THE PATH UP THE HILL TO MINI GOLF. WALK THROUGH MINI GOLF TO THE END

4. Describe all current agricultural operations in detail (include type of operation, seasonality factors, commercial sales/vending agreements/retail/cooperative ventures):

PUMPKIN PICKING AND HAYRIDES IN THE FALL SEASON FROM MID SEPT TO MID NOV.

5. What is the direct relationship between the proposed non-ag. use and the current existing agricultural operations (if none exists, what is justification of need for non-ag. use/event/activity): _____

THERE IS NO RELATION TO ANYTHING WE CURRENTLY DO. WE JUST WANT TO START SOMETHING NEW AND COOL FOR PEOPLE TO GET EXCITED ABOUT

6. Describe how the proposed non-ag. use will benefit the existing agricultural operations: _____

WILL BRING IN FUNDS TO HELP SUPPORT THE FARM AND HOPEFULLY ALLOW US TO DO FUTURE UPDATES UPGRADES AND PROJECTS

7. Describe any changes you need to make to existing structures to accommodate the activity? _____

WE WILL NOT BE MAKING ANY PERMANENT CHANGES

8.

Gross income derived from the farm in the preceding two tax years (with most recent first)	1. \$ 459,503	2. \$ 440,361
Anticipated gross income from proposed non-ag. use:	\$ 100,000	
Explain by type of activity any anticipated increase in sales of farm products as a result of the permitted activity: THE ACTIVITY WOULD BE UNDER THE CREAMERY BUT OUR PLAN IS TO MAKE A PROFIT JUST FROM THE LIGHT SHOW POSSIBLY WANT HAVE THE SHOP OPEN UNLESS WE CHOOSE TO SELL HOT CHOCOLATE AND SNACKS		

NOTE: Upon further review, you may be asked to provide the following: a business plan, projected agricultural uses plan, Natural Resources Conservation Service Farm Management Plan, a surety bond, letter of credit or other form of performance insurance of an amount or value commensurate with potential damages and need for restoration .

All Department Approvals may be subject to specific binding conditions as stated in the final Approval document issued by MDAR. This Special Permit Application will not be complete until a field visit has been scheduled with either your Field Representative or the Stewardship Planner, either alone or in combination with a Department approved, experienced soil expert

Application will not be considered complete without the attachment of a map/sketch/plan showing area of impact/location of proposed non-agricultural use.

Commonwealth of Massachusetts
Department of Agricultural Resources
Agricultural Preservation Restriction Program

APPLICATION FOR CERTIFICATE OF APPROVAL (COA)
AND/OR SPECIAL PERMIT

PART I.

GENERAL SECTION

Before completing this application, review the terms and conditions of your APR agreement. If you do not have a copy of the APR document, we can provide it

NOTE: Applicant must submit the appropriate completed Part II. Section(s) with this Application.

Application must include all owner(s) of record – add additional sheet if needed.

Owner(s): STEPHEN McRAE
Street and Number 55 ALVORD ST
City or Town SOUTH HADLEY State MA Zip Code 01075
Telephone Number (413) 531 8717 Fax () _____
Email address SMcRAE846@YAHOO.COM

If more than one Applicant is listed, please Identify primary contact for MDAR to work with:

Name: MANDI CARROLL
Telephone: 413-234-1422
E-mail: 1kool:9037@gmail.com

APR property location and name of original owner who recorded the APR (if different from above)

Street Address of APR property 55 ALVORD ST

Town SOUTH HADLEY

County HAMPSHIRE COUNTY

Who was the Owner that first placed this property under an APR (if known)?

STEPHEN MORAN

Date property was placed in APR: DEC 24 2010

Registry of Deeds information for recorded APR: Book 10431 Page 1271

Please make early contact with the city or town in which your APR(s) property is located to determine what, if any, local permits are required for the proposed activity.

Work related to this application may not begin prior to obtaining a recordable Certificate of Approval from the Department.

NOTE: APPLICANT MAY BE REQUIRED TO PROVIDE ADDITIONAL INFORMATION PERTINENT TO THE REQUESTED APPROVAL(S) BEING SOUGHT AS THE DEPARTMENT CONDUCTS ITS REVIEW.

I/we certify the statements contained in this Application are true and correct.

Signature(s) of all owner(s)

Stephen M. Kelly Date 11/25/22

This General Section (Part I) of the application must be accompanied by the appropriate completed Part II section(s). Applicant must attach a separate completed Part II section for each approval being requested. Incomplete applications, particularly those without adequate maps, sketches or visual representations of the scope and location of the work requested will be returned.

Please return completed application to your regional APR staff person :

CAROLINE RAISLER

or to the Boston MDAR office:

**APR PROGRAM, ATTN: DELIA DELONGCHAMP
MASSACHUSETTS DEPARTMENT OF AGRICULTURAL RESOURCES
251 CAUSWAY STREET – SUITE 500
BOSTON, MA 02114-2151**

ALL THE WAY AROUND THE CIRCLE

WALK THE COURSE

DEAD END WALK DOWN AND BACK

UP THIS WAY TO MINI GOLF

THIS WAY FIRST

FINISH

START



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

KATHLEEN A. THEOHARIDES
Secretary

JOHN LEBEAUX
Commissioner

Co-Holder Approval Form for Department Approvals

(To be completed by landowner of Agricultural Preservation Restriction [APR] or municipalities that co-hold an APR)

APR Landowner: Stephen McCray

APR Address: 55 Alvord Street South Hadley, MA 01075

APR Recording Information: Hampshire County Registry of Deeds Book 10431 Page 284

Co-Holding Municipality Name: South Hadley

Request Type (circle one): Certificate of Approval/ **Special Permit**

APR Landowner requests to conduct the following activities on APR land as further described in the attached Department Approval application. By affixing a signature below, the municipality of

South Hadley hereby finds that the requested activities, as authorized by this APR General Laws Chapter 184 and 132A, are

Approved

Approved with conditions

Denied

Signature: _____, authorized signatory on behalf of _____

Date: _____

(Please send completed form back to APR landowner)

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



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Commissioner

*FAQs for Municipalities Considering Approval of a
Special Permit or Certificate of Approval on an APR*

1. Why are we being asked to sign this?

Your city/town is a Co-Holder of an Agricultural Preservation Restriction (“APR”) granted to MDAR. That means that when the Commonwealth acquired the APR, the municipality made a contribution of funds towards the purchase; this gives the municipality certain rights and responsibilities under the terms of the APR document and the APR Statute (M.G.L. c. 20, Section 23(b)). Some APR documents require approval of any Co-Holder in order for MDAR to issue a Certificate of Approval. Many APR documents, as well as the APR statute, require the approval of the Co-Holder for a Special Permit.

2. Why does the landowner need permission for this?

The APR restricts the use of the land in question for agricultural purposes and requires the landowner to seek approval from MDAR for certain structures and/or activities on the APR land. For more information about the APR program and the related Special Permits and Certificates of Approval, visit <https://www.mass.gov/service-details/agricultural-preservation-restriction-apr-program-details>.

3. Who should sign the Approval form on behalf of the city/town?

That may depend on each municipality’s rules, regulations or bylaws. In many cases, the executive branch would be the signatory (Select Board for a town or Mayor for a city). However, you should check with your municipality’s legal counsel to determine proper authority.

4. What are you asking us to approve?

The approval form should have both a copy of the application detailing the request and a copy of the APR document attached to it. If it does not, contact the landowner to request these documents.

5. On what basis are we making this decision?

First look to the APR document to determine if there are any required findings necessary in order to give approval. If none, the municipality may have previously determined criteria. In any event, your municipality’s legal counsel should be able to advise you.

THE COMMONWEALTH OF MASSACHUSETTS
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Commissioner

6. By signing this form are we giving approval under any zoning bylaw, building code or other municipal approvals?

No. The APR landowner is still required to obtain any zoning, building or other permits required under the local bylaws. The Department's Approval is conditional upon the owner obtaining any relevant municipal approvals. This approval is only the municipality's approval as the Co-Holder of the APR document.

7. Whom should we contact if we have other questions about the APR or this approval process?

Please contact MDAR. We are here to answer your questions! Please call or email the Stewardship Planner for your region, Caroline Raisler at 857-276-1285 or caroline.raisler@mass.gov.

Hampshire County - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 2/14/2022 8:36:30 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
29921	AGREEMENT		10431/284	12/31/2010	
Property-Street Address and/or Description					
ALVORD ST, RIVERLODGE RD					
Grantors					
MCCRAY STEPHEN D, MASSACHUSETTS COMM AGRICULTURAL RESOURCES, USA AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE, SOUTH HADLEY TOWN, USA NATURAL RESOURCES CONSERVATION SERVICE					
Grantees					
AGRICULTURAL PRESERVATION RESTRICTION WITH OPTION TO PU					
References-Book/Pg Description Recorded Year					
01213/47 DEED 1955, 10852/43 AFF 2012					
Registered Land Certificate(s)-Cert# Book/Pg					



2010 00029921

Bk: 10431Pg: 284 Page: 1 of 23
Recorded: 12/31/2010 09:58 AM

See Book 1213 Page 47

COMMONWEALTH OF MASSACHUSETTS

**AGRICULTURAL PRESERVATION RESTRICTION
WITH OPTION TO PURCHASE AT AGRICULTURAL VALUE**

I, Stephen D. McCray of South Hadley, Hampshire County, Massachusetts (the "Grantor"), for consideration paid and in full consideration of One Million Four Hundred Thirty Thousand Dollars (\$1,430,000), receipt of which is hereby acknowledged, do hereby grant to the Commonwealth of Massachusetts, acting through the Commissioner of the Department of Agricultural Resources, (the "Grantee" or the "Commissioner") with an address at 251 Causeway Street, Suite 500, Boston, Massachusetts 02114-2151, its successors and assigns, an Agricultural Preservation Restriction in perpetuity (the "Restriction" or the "Agreement") together with an Option to Purchase at Agricultural Value as set forth in Section IV, herein, on approximately 100 acres of land as hereinafter defined in Section II, G hereof, (the "Premises") in accordance with the following terms and conditions. The (City)(Town) of South Hadley ("Co-Holder") shall hold title to this Restriction jointly with the Commonwealth, pursuant to Massachusetts General Laws ("General Laws"), Chapter 20, Section 23. The Grantor covenants that he/she is vested with good title to the Premises, and will warrant and defend the same on behalf of the Grantee and Co-Holder against all claims and demands. Consideration mentioned above has been negotiated and agreed to be based upon the difference between full fair market value and full fair market agricultural land value. The United States of America ("United States"), acting by and through the United States Department of Agriculture Natural Resources Conservation Service ("NRCS") on behalf of the Commodity Credit Corporation holds a Right of Enforcement in this Restriction that is described in Exhibit B.

By making such grant, the Grantor grants to the Grantee all non-agricultural rights in the Premises except as otherwise described in Section III, A, hereof. Grantor retains all agricultural rights in the Premises except as otherwise limited by the terms and conditions of this Agreement.

I. STATEMENT OF PURPOSE

By obtaining this Agricultural Preservation Restriction with Option to Purchase at Agricultural Value, it is the primary intent of the Commonwealth to perpetually protect and preserve agricultural lands, encourage sound soil management practices in accordance with normally accepted agricultural practices, preserve natural resources, maintain land in active commercial agricultural use, and ensure resale of the Premises at Fair Market Agricultural Value

Alford Street, South Hadley, MA

("FMAV")¹. In addition, this Restriction is intended to regulate and control activities and/or uses which may be detrimental to the actual or potential agricultural viability of the Premises, or detrimental to water conservation, soil conservation, or to good agricultural and/or forestry management practices or which may be wasteful of the natural resources of the Premises.

II. DEFINITIONS

When used throughout this Restriction, the words or phrases listed below shall have the following meanings:

A. ABANDONED: land that has not been actively utilized for commercial agricultural activities or uses for a period exceeding two years unless the non-utilization is recommended in a current USDA/NRCS plan as approved by the Grantee.

B. AGRICULTURAL USE: the raising of animals, including but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market, as defined in General Laws, Chapter 61A, §1, as amended. Also horticultural uses, the raising of fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a program certified by the state forester to be a planned program to improve the quantity and quality of a continuous crop for the purpose of selling such products in the regular course of business; or when primarily, directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products and preparing them for market, as defined in General Laws, Chapter 61A, §2, as amended.

C. CONDITION: including, but not limited to, an easement, restriction, covenant, right, option to purchase at agricultural value plus value of improvements, land exchange, or any other requirement or use prohibition.

D. DEPARTMENT: the Department of Agricultural Resources of the Commonwealth of Massachusetts, 251 Causeway Street, Suite 500, Boston, MA 02114-2151.

E. GRANTOR: the party, or parties, or entity who own the Premises and executes this Restriction, or the party, or parties, or entity who hold record title to the Premises and are duly authorized to execute this Restriction and execute this Restriction, together with all successors in title, including but not limited to, transferees, assigns, heirs, devisees and legal representatives ("Successors in Title"). All rights and obligations of the Grantor hereunder shall inure to and be binding upon Grantor and all Successors in Title.

F. PERMANENT STRUCTURE: any structure that requires the grading of soil or excavation for footings or foundations or which substantially alters or otherwise affects the soil profile.

G. PREMISES: approximately 100 acres of land and buildings and structures thereon located at

¹ NOTE: One of the goals of the APR Program, from the outset in 1976, was to ensure the availability of farmland and that APR land would be sold at its value as a farm, thereby permitting those entering or currently engaged in commercial agriculture to be able to acquire farmland at an investment level that is supported by the farming operation. The 1977 enabling statute provided that consideration of the non-agricultural bundle of rights in a property would not be a part of or included in any future transfers of such agricultural land and that all future transfers would be made at prices consistent with current farmland values, whether or not those values had appreciated or depreciated. Simply stated, the Commonwealth acquired all value of the land over and above its agricultural value. By maintaining the land at its full and fair market agricultural value, the Commonwealth insures the perpetuation of the land in agriculture at farm sustainable prices. The full fair market agricultural value includes all agricultural improvements such as agricultural business value, goodwill, infrastructure, and other such related agricultural business factors. APR landowners are then in a position to foster successful and viable agricultural enterprises.

Alvord Street (street address) in the Municipality of South Hadley, in Hampshire County, Massachusetts as more fully described in Exhibit A, attached hereto and incorporated by reference into this Agreement.

H. TEMPORARY STRUCTURE: any structure that does not have a permanent foundation, or does not substantially alter or otherwise affect the soil profile.

I. FAIR MARKET AGRICULTURAL VALUE ("FMAV"): the combined total of the Fair Market Agricultural Land Value ("FMALV") and the Fair Market Agricultural Business Value ("FMABV") and the Fair Market Agricultural Dwelling Value ("FMADV").

J. FAIR MARKET AGRICULTURAL DWELLING VALUE ("FMADV"): the appraised replacement value of a dwelling(s) on the APR land.

K. FAIR MARKET AGRICULTURAL LAND VALUE ("FMALV"): the value based upon the highest and best use of the land for agricultural purposes, including such considerations as location, types of soil, and climate, but excluding buildings or uses thereof. Permanently installed agricultural improvements, such as in-ground irrigation or drainage systems, are considered part of the land. Agricultural land value is solely the value of the land, which value the landowner retains following the sale of the Restriction to the Commonwealth. FMALV is applicable at both the time of the Commonwealth's purchase of the Restriction and at the time of subsequent sale. The FMALV may rise and fall commensurate with market conditions and/or inflation or other valuation factors such as upkeep of the land, and/or improvements in the condition of the soil or its productivity. It is understood that land improvements may increase the FMALV.

L. FAIR MARKET AGRICULTURAL BUSINESS VALUE ("FMABV"): the value based upon the ongoing agricultural business including agricultural buildings, infrastructure, goodwill and other related agricultural business factors. FMABV is relevant only upon the subsequent sale of the Premises and is not applicable at the time of original purchase of the Restriction by the Commonwealth. The FMABV appraisal includes agricultural business potential and is based upon activities and circumstances existing at the time of the sale of the Premises. The appraisal is not intended to contemplate speculative business potential that is dependent on management, investment or other prospective activities. FMABV may, when applicable, consider the value of ongoing agricultural business including agricultural buildings, infrastructure, goodwill and other related agricultural business factors on land owned by Grantor, but excluded from the APR ("non-APR land"), when such business on non-APR land is integral to the agricultural business on the Premises.

M. FAIR MARKET VALUE ("FMV"): the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title to a buyer under conditions whereby: 1) buyer and seller are typically motivated; 2) both parties are well informed or well advised, and acting in what they consider their own best interests; 3) a reasonable time is allowed for exposure in the open market; 4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

III. TERMS AND CONDITIONS

A. OWNERSHIP RIGHTS

In addition to the Grantor's retained agricultural rights hereinbefore mentioned, the Grantor to and for himself/herself and his/her Successors in Title, agrees that certain other rights pertaining to care, custody and control of the Premises not inconsistent with the terms and conditions of this Restriction or with General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26; and the rules, regulations and policies thereunder; and normally associated with ownership, including the right to privacy and to carry out regular farming practices, shall remain with Grantor.

B. PROHIBITED USES; ACTS; STRUCTURES

The Grantor covenants for himself/herself, and his/her Successors in Title, that the Premises will at all times be held, used and conveyed subject to, and not in violation of, the following restrictions:

1. No use shall be made of the Premises, and no activity thereon shall be permitted, which is inconsistent with the intent of this Restriction or with General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26; and the rules, regulations and policies thereunder.
2. No residential dwelling, tennis court, in-ground swimming pool, commercial recreational horse riding or boarding facility, golf course, golf range, airport landing strip, cell tower, or other such non-agriculturally related temporary or permanent structure shall be constructed, placed or permitted to remain on the Premises, except structures existing on the Premises at the time of the execution of this Restriction.
3. No refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, oil, radio-active or hazardous waste, or other such substance or material whatsoever shall be placed, stored, dumped, or permitted to remain on the Premises, except as required for the use of the Premises for normal agricultural activities.
4. The Premises may not be used for:
 - a. Transferring property rights to any property, whether or not adjacent to the Premises;
 - b. Calculating permissible lot yield of the Premises, or of any other property;
 - c. Any calculations involving development of any other property, whether or not adjacent to the Premises, in any manner whatsoever.

C. USES; ACTS; STRUCTURES THAT REQUIRE PRIOR WRITTEN APPROVAL

The following uses, acts or structures (hereinafter "uses" or "activities") are allowed only with the prior written approval of the Grantee. Requests for such approvals, and the granting thereof, shall be governed by the procedures set forth in Section III, D of this Restriction:

1. The construction or placing of permanent structures for housing seasonal agricultural employees or for other agriculturally related uses, including related retail sales, where the need for such structures is not a result of the use of existing structures for approved non-agricultural uses or activities.
2. The excavation, dredging, depositing on, or removal from the Premises of loam, peat, gravel, soil, sand, rock other mineral resources, or natural deposits.
3. The maintenance or improvement of a septic or other underground sanitary system which exists on the Premises, or the construction of a septic or other underground sanitary system, for the benefit of existing agriculturally related structures on the Premises.

4. The subdivision, recording of a subdivision plan, partition, or any other division of the Premises, or any portion thereof, into two or more parcels, even in the event that the Premises is comprised of one or more deeded parcels at the date of this Restriction. No subdivision shall be approved without the condition that the current updated Agricultural Preservation Restrictions be recorded on the subdivided, partitioned, or otherwise divided parcels.
5. The construction or placement of an asphalt driveway, road, parking lot, utility pole, conduit or line in support of a temporary or permanent structure or improvement to the Premises, for the benefit of the Premises only.

D. APPROVAL PROCESS FOR PERMITTED USES; ACTS; STRUCTURES

The Grantee maintains policies and procedures governing this Restriction including making application to obtain approval for permitted uses, acts and/or structures. Grantor should obtain from Grantee the appropriate application and copies of all applicable policies and procedures in effect at time of seeking approval.

1. The Grantor covenants for himself/herself, and his/her Successors in Title, that prior to undertaking any uses or acts, or undertaking construction of any structures described in Section III, C, the following procedure, and the policies of the Department, as amended, shall be followed:
 - a. The Grantor shall complete and file a written application with the Grantee on a form provided by the Grantee. Grantor shall not secure other applicable permits required by local or state law and not incur any expense prior to Grantee's approval of the application unless otherwise requested by Grantee.
 - b. Grantor's application shall include:
 - i. a copy of a current Farm Conservation Plan, prepared by the USDA/ Natural Resource Conservation Service, when requested by the Grantee; and
 - ii. any other information and plans as the Grantee of this Restriction reasonably requires to determine that the intended use, act, or structure is consistent with the intent and purpose of this Restriction, as stated in Section I, herein, in the Statement of Purpose.
2. Within 90 days of receipt of the completed application, the Grantee may approve the application, with or without conditions, only upon finding that:
 - a. the proposed use, act, or structure is authorized by this Restriction, General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26; and the rules, regulations and policies thereunder.
 - b. the proposed use, act, or structure shall not defeat nor derogate from the intent of this Restriction, and General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and the rules, regulations and policies thereunder.
3. If Grantee approves, or approves with conditions, the Grantor's application, Grantee shall issue a certificate, suitable for recording, approving, in whole or in part, the application and setting forth any conditions, ("Certificate of Approval") and mail a copy to Grantor within said ninety (90) day period.
4. If the Grantee does not approve Grantor's application, Grantee shall state in writing its reasons for denial of the application and shall mail a copy of the denial to Grantor

within ninety (90) days of receipt of the completed application.

5. At any time within the said ninety (90) day period the parties may mutually agree to extend the length of said period.

E. SPECIAL PERMIT PROCESS

The Grantee, with the approval of the Co-Holder, if any, upon request and application of Grantor, may issue a special permit approving certain commercial non-agricultural uses and activities on the Premises, providing that the Premises is being actively utilized for full-time commercial agriculture, and that such uses and activities are ancillary and subordinate to the agricultural use of the Premises ("Special Permit"). In addition, such uses and activities shall not be inconsistent with the intent and purpose of this Restriction. Further, commercial non-agricultural uses and activities for which the Grantor receives payment, compensation, or any other type of monetary or non-monetary remuneration require issuance of a Special Permit granted by the Grantee. A Special Permit for commercial non-agricultural uses and activities shall be approved only upon a finding by the Agricultural Lands Preservation Committee that the requirements under Section III, D (2) (b) above have been met. Any approval shall be conditioned upon the Special Permit being:

1. limited to the current owner(s) who applied for and obtained the Special Permit;
2. limited to a period no longer than five (5) years, renewable at the discretion of the Grantee for an additional term(s) of no longer than five (5) years, upon reapplication;
3. terminated upon transfer of ownership;
4. limited to uses and activities ancillary and subordinate to the agricultural use;
5. limited to uses and activities that will not impair the agricultural viability of the soil;
6. limited to uses and activities occurring in existing structures;
7. limited to existing structures requiring only minor renovations; and
8. limited to uses and activities requiring no new construction.

F. ENFORCEMENT OF THIS RESTRICTION

1. The Grantor grants to the Grantee, and to the Co-Holder as applicable, and their Successors in Title, the right to enter upon the Premises in a reasonable manner and at reasonable times, for the purposes of inspecting the Premises to determine compliance with this Restriction, any Certificate of Approval, Special Permit, or General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and rules, regulations and policies thereunder; the right to enforce this Restriction, any Certificate of Approval, Special Permit, or General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and rules, regulations and policies thereunder; and the right to take any other action which may be necessary or appropriate in the determination of Grantee, with or without order of court, to remedy or abate any violation of this Restriction, or of any Certificate of Approval, Special Permit, or of General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and rules, regulations and policies thereunder.
2. In the event of a violation of the terms of this Restriction, Certificate of Approval, Special Permit, or General Laws, Chapter 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and rules, regulations and policies thereunder, the Grantee reserves the right to pursue any remedy available at law and equity, including

injunctive relief.

3. The enforcement rights hereby granted shall be in addition to, and not in limitation of any other rights and remedies available to the Grantee for enforcement of this Restriction, Certificate of Approval, Special Permit, or General Laws, Chapters 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and rules, regulations and policies thereunder.
4. The Grantor and its Successors in Title, shall be jointly and severally liable for any violation of the terms of this Restriction, Certificate of Approval, Special Permit, or General Laws, Chapters 184, Sections 31 through 33 and Chapter 20, Sections 23 through 26, and rules, regulations and policies thereunder.

G. AFFIRMATIVE COVENANT

The Grantor agrees for itself, and its Successors in Title, that the Premises shall be maintained in active commercial agricultural use, and the land shall not be abandoned. Discontinuance of commercial agricultural use shall only be allowed in accordance with a USDA Natural Resource Conservation Service Farm Management Plan and with the Grantee's approval. Failure to maintain the Premises in active commercial agricultural use shall be a violation of this Restriction.

IV. OPTION TO PURCHASE PREMISES AT AGRICULTURAL VALUE

A. Grantee shall have an option to purchase the Premises at Fair Market Agricultural Value ("Option") in accordance with the provisions of this section. This Option has been granted as an integral part of this Restriction, the full consideration for which is set forth above. This Option constitutes a restriction that runs with the land and is binding in the event of a foreclosure of said Premises.

1. The intent of this Option is to ensure resale of the Premises at Fair Market Agricultural Value. Accordingly, the parties hereto agree to a process as follows:
 - a. In the event that Grantor proposes to sell the Premises and enters into a bona fide Purchase and Sale Agreement with a third party for the sale of the Premises, Grantee, at its election, shall have the right to purchase or assign the right to purchase (see subsection G, below) the Premises from the Grantor at FMAV. Said FMAV shall be determined by:
 - i. an appraisal paid for and obtained by Grantor conducted and in accordance with the "Guidelines for Agricultural Appraisals" prepared by the Department and as in effect at such time, and the terms pertaining to appraisal set forth therein. Grantee shall have the right to disagree with the appraisal and, at its own expense, obtain its own appraisal. If the two appraisals differ, there shall be a third appraisal, the expense of which shall be equally shared between Grantee and Grantor, to determine the FMAV in accordance with the said "Guidelines for Agricultural Appraisers"; or, at the election of Grantor,
 - ii. an amount equal to the FMALV of the Premises as determined by the appraisal relied upon for the acquisition of this APR ("Governing Appraisal") which sum shall then be multiplied by the Inflation Rate. The Inflation Rate shall be equal to 1 plus the fractional increase in the Consumer Price Index for all Urban Consumers, Boston, All Items (1982-1984 equals 100) published by the Bureau of Labor Statistics,

United States Department of Labor, or successor index published by the United States government appropriately correlated to the prior index by a published conversion factor, where indicated, from date of Governing Appraisal for this Restriction to the date of execution of the bona fide Purchase and Sale Agreement.

2. In the event that the sale price as set forth in the bona fide Purchase and Sale Agreement is less than the FMAV determined by the procedures set forth in either a.i or a.ii above, Grantee shall have the right to purchase the Premises from Grantor, or assign its right to purchase the Premises from Grantor, for this lesser amount.
3. In the event of a subdivision, recording of a subdivision plan, partition, or any other division of the Premises, or any portion thereof, into two or more parcels, as approved by Grantee, the FMAV shall be determined pursuant to paragraph a.i above.

B. Upon executing a bona fide Purchase and Sale Agreement for the sale of Premises with a third party purchaser the following procedures shall be followed:

1. The Grantor shall provide, at a minimum, to the Grantee:
 - a. written notice stating Grantor's intent to sell the Premises ("Notice");
 - b. a true, correct, complete and fully executed copy of the bona fide Purchase and Sale Agreement including any offer executed from a third party to purchase the Premises;
 - c. a copy of the current deed;
 - d. the FMAV and any appraisals related thereto; or
 - e. FMALV as determined pursuant to A.1.a.ii above.
2. Upon receipt of this Notice, the Grantee shall have one hundred twenty (120) days to notify the Grantor of its election to purchase the Premises at FMAV (or any lesser sale price set forth in the Purchase and Sale Agreement) or to waive its rights under the Option. The Grantor shall be notified of Grantee's election by written notice ("Notice of Election").

C. In the event that the Grantee elects to exercise this Option to purchase the Premises, the deed shall be delivered and the consideration paid at the Hampshire County Registry of Deeds before 4 o'clock p.m. on or before the one-hundred-twentieth (120) day after the date of mailing by the Grantee of the Notice of Election or, if a Saturday, Sunday or holiday, on the next business day thereafter, and the deed shall convey a good and clear record and merchantable title to the Premises free of all encumbrances, and the Premises shall be in the same condition as at the time of the Notice of Election, reasonable wear and tear and use thereof excepted. The date and time of the transfer may be amended by written mutual agreement of the parties.

D. The Grantor may sell the Premises, to the third party purchaser who entered into the bona fide Purchase and Sale Agreement referred to in Paragraph A.1.a above, only in the event that Grantee:

1. declines in writing to exercise its rights under this Option within the specified time period; or
2. fails to waive its rights under the Option in writing within the specified time period; or
3. having elected to exercise its rights under the Option, fails to complete the purchase within the specified time period.

Said sale of the Premises must take place within one (1) year of the date of the Grantee's receipt of Notice, and be only upon the same terms and conditions as contained in said bona fide

Purchase and Sale Agreement.

E. The obligations of the Grantor under this Option shall not apply where the transfer of ownership of the Premises will be a result of:

1. a conveyance by deed to the Grantor's spouse, parent, children or grandchildren (whether by blood, marriage or adoption), siblings and/or their children or grandchildren (whether by blood, marriage or adoption);
2. a devise of said Premises by will or intestacy of the Grantor;
3. a conveyance of an interest in the Premises to a co-owner.

F. Any notices required by this Option shall be in writing and shall be deemed delivered if delivered in hand or mailed, postage prepaid by certified mail return receipt requested, addressed in the case of the Grantor to such address as may be specified in the Notice or if none, then to the Premises, and in the case of the Grantee, to the Commissioner of the Department of Agricultural Resources, 251 Causeway Street, Suite 500, Boston, MA 02114-2151.

G. The Grantee may assign its right to purchase under this Option after providing the Grantor with a Notice of Election exercising its right to purchase, provided that the right to purchase may only be assigned to a party that, in the Grantee's opinion, will use or facilitate the use of the Premises for commercial agriculture. Any assignment shall only be effective when made in writing, signed by the Commissioner, and duly recorded with the appropriate registry of deeds.

H. Any waiver of the Grantee's rights under this Option shall be in writing, signed by the Commissioner, and in a form and format suitable for recording in the appropriate registry of deeds. This waiver shall serve to satisfy the Grantor's obligations to the Grantee under this Option with regard to the third party purchaser who entered into the bona fide Purchase and Sale Agreement referred to in Paragraph A.1.a, above.

I. The rights and obligations of the Grantor hereunder shall inure to and be binding upon the Grantor and all Successors in Title.

V. AUTHORIZATION

The foregoing Restriction is authorized by Massachusetts General Laws, Chapter 184, Sections 31 through 33, and Chapter 20, Sections 23 through 26, and otherwise by law, and is intended to ensure the protection and preservation of agricultural lands as expressed herein.

This Restriction shall be administered and enforced by the Commissioner as in his/her sole discretion he/she may decide and on behalf of the Co-Holder by the Conservation Commission, the Board of Selectmen, or as otherwise provided in Section 23 of Chapter 20 of the General Laws. Nothing herein shall impose upon the Grantee any duty to maintain or require that the Premises be maintained in any particular state or condition, notwithstanding the Grantee's acceptance hereof.

Except as otherwise provided herein, this Restriction does not grant to the Grantee, the Co-Holder, the public, or any other person any right to enter upon the Premises. This Restriction is in gross, exists in perpetuity, and is not for the benefit of or appurtenant to any particular land and shall not be assignable except to another governmental or charitable corporation or trust which has power to acquire interests in land and whose purposes include conservation of agricultural land and natural areas. The burden of this Restriction shall run with the Premises and shall be binding upon all future owners of any interest therein. This Restriction may be released, in whole or in part, only by the Grantee through the procedures established in Section 32 of Chapter 184 of the General Laws, as amended, and by Article 97 of the Amended Articles of the Massachusetts Constitution and otherwise by law.

If any section or provision of the Restriction shall be held to be unenforceable by any court of competent jurisdiction, this Restriction shall be construed as though such section had not been included in it. If any section or provision of the Restriction shall be subject to two constructions, one of which would render such section or provision invalid, then such section or provision shall be given the construction that would render it valid. If any section or provision of this Restriction is ambiguous, it shall be interpreted in accordance with the rules, regulations and policies, as amended, of the Grantee and the provisions of General Laws, Chapter 184, Sections 31 through 33, and Chapter 20, Sections 23 through 26, as amended.

VI. OTHER

See Exhibit B (Terms And Conditions Required For Funding By the Farm and Ranch Land Protection Program) attached hereto and incorporated herein.

No Massachusetts deed excise stamps are affixed hereto as none are required by law.

WITNESS the execution hereof under seal this 6th day of December, 2010.

Stephen D McCray

Stephen D. McCray
Printed Name

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss

12/6, 2010

On this 6th day of December, 2010, before me, the undersigned Notary Public, personally appeared the above-named,

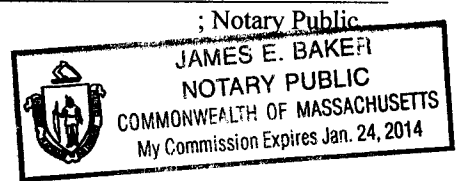
Name:

Evidence of Identification:

Stephen D. McCray MA. Drivers License

and proved to me through satisfactory evidence of identification as noted above, to be the person whose name is signed on this document (namely, Agricultural Preservation Restriction and Option to Purchase at Agricultural Value) and acknowledged to me that, he/she signed it voluntarily for its stated purpose.

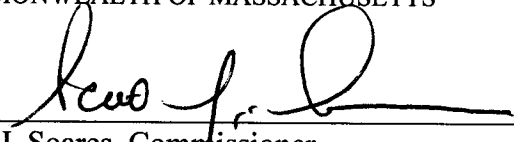
[Signature]
My Commission Expires:



APPROVAL OF THE COMMONWEALTH OF MASSACHUSETTS

The undersigned Scott J. Soares of Agricultural Resources of the Commonwealth of Massachusetts hereby certifies that the foregoing Agricultural Preservation Restriction with Option to Purchase at Agricultural Value granted by Stephen D. McCray to the Commonwealth of Massachusetts with respect to the Premises located in South Hadley, Hampshire County, Massachusetts and more particularly described in Exhibit A attached hereto, has been approved in the public interest pursuant to General Laws, Chapter 184, Sections 32 through 33 and Chapter 20, Sections 23 through 26.

COMMONWEALTH OF MASSACHUSETTS


By: 
Scott J. Soares, Commissioner
Department of Agricultural Resources

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss

December 13, 2010.

On this *13th* day of *Decem*, 2010, before me, the undersigned Notary Public, personally appeared the above-named Scott J. Soares who proved to me through satisfactory evidence of identification, namely personal knowledge, to be the person whose name is signed on this approval document, and acknowledged to me that he signed it voluntarily for its stated purpose.


; Notary Public
My Commission Expires: *6-2-2011*

APPROVAL OF THE MUNICIPALITY
MUNICIPALITY OF South Hadley

We, the members of the Board of Selectmen of the Municipality of South Hadley, hereby approve the acceptance of the foregoing Agricultural Preservation Restriction granted by Stephen D. McCray, to the Commonwealth of Massachusetts (with the Municipality of South Hadley holding the Restriction jointly with the Commonwealth), with respect to Premises, as described therein, in the public interest pursuant to Massachusetts General Laws, Chapter 184, Sections 31 through and including 33 and, Chapter 20, Sections 23 through 26.

Date:

Board of Selectmen (Name of Municipal Body)

<u><i>W. H. [Signature]</i></u> , Chair	<u><i>[Signature]</i></u>
<u><i>Robert Judge</i></u>	_____
<u><i>Frank DeToma</i></u>	_____
<u><i>Marilyn [Signature]</i></u>	_____

COMMONWEALTH OF MASSACHUSETTS

, ss

, 2010.

On this *15* day of *November*, 2010, before me, the undersigned Notary Public, personally appeared the above-named,

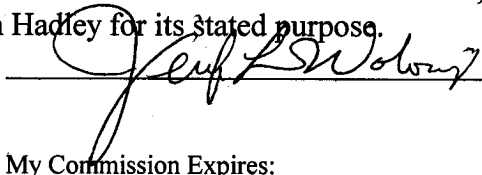
Name:

Evidence of Identification:

<u><i>John Hine</i></u>	<u><i>Personally known to me</i></u>
<u><i>Robert Judge</i></u>	<u><i>Personally known to me</i></u>
<u><i>Frank DeToma</i></u>	<u><i>Personally known to me</i></u>
<u><i>Marilyn Ishler</i></u>	<u><i>Personally known to me</i></u>
<u><i>Bruce MacCollagh</i></u>	<u><i>Personally known to me</i></u>
_____	_____
_____	_____

and proved to me through satisfactory evidence of identification as noted above, to be the persons whose names are signed on this document (namely, Agricultural Preservation Restriction) and acknowledged to me that as duly elected or appointed members of the

South Hadley Board of Selectmen/Conservation Commission, they signed it voluntarily for (name of Municipality) South Hadley for its stated purpose.



; Notary Public

My Commission Expires:



JENNIFER L. WOLOWICZ
Notary Public
Commonwealth of Massachusetts
My Commission Expires
January 26, 2012

EXHIBIT "A"

That certain tract or parcel of land situated on the Southerly side of Riverlodge Road and the Westerly side of Alvord Street, South Hadley, Hampshire County, Massachusetts, being shown and designated as **AREA TO BE PUT INTO APR PROGRAM** on a plan of land entitled, "AGRICULTURAL PRESERVATION RESTRICTION, Plan of Land in SOUTH HADLEY, MASSACHUSETTS prepared for STEPHEN D. McCRAY " dated November 17, 2010, and prepared by Harold L. Eaton, Professional Land Surveyor, as recorded in the Hampshire County Registry of Deeds in Plan Book 224 Page 74 being further bounded and described as follows:

Beginning at an iron pin located on the Westerly side of Alvord Street, said iron pin being 693.33 feet southeast of the northeasterly corner of the parcel to be conveyed, thence running,

- | | |
|-------------------|--|
| S. 83° 59' 53" W. | a distance of 126.82 feet to an iron pin, thence turning and running |
| N. 76° 09' 19" W. | a distance of 257.59 feet to an iron pin, thence turning and running |
| S. 24° 47' 58" E. | a distance of 74.37 feet to an iron pin, thence turning and running |
| S. 05° 06' 42" W. | a distance of 188.44 feet to an iron pin, thence turning and running |
| S. 21° 09' 14" E. | a distance of 203.57 feet to an iron pin, thence turning and running |
| S. 08° 30' 40" W. | a distance of 211.49 feet to an iron pin, thence turning and running |
| S. 06° 44' 50" E. | a distance of 266.79 feet to an iron pin, thence turning and running |
| N. 88° 03' 37" E. | a distance of 392.28 feet to an iron pin, the last eight courses being along other land, now or formerly, of Donald McCray, thence turning and running |
| S. 04° 56' 10" E. | a distance of 123.16 feet along land, now or formerly of Linda McCray, to an iron pin, thence turning and running |
| N. 84° 37' 58" W. | a distance of 149.33 feet to an iron pin, thence running |
| N. 84° 37' 58" W. | a distance of 964.69 feet to an iron pin, thence turning and running |

- N. 00° 07' 36" W. a distance of 291.06 feet to an iron pin, the last three courses being along land, now or formerly, of John T. Gormally, thence running
- N. 00° 07' 36" W. a distance of 70.00 feet to an iron pin, thence turning and running
- N. 85° 06' 40" W. a distance of 154.03 feet to an iron pin, the last two courses being along land, now or formerly, of Keith R & Deidre A. Smith, thence running
- N. 85° 06' 40" W. a distance of 225.00 feet along land, now or formerly, of Judith A. & James M. Murphy, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 190 feet along land, now or formerly, of J. Michael Brandts & Katherine Brandts, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 190.00 feet along land, now or formerly of J. Curtis Shumway & Elaine L. Shumway, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 220.00 feet along land, now or formerly, of Anita & Donald Rondeau, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 190.00 feet along land, now or formerly, of Michael S. & Robbin A. Lussier, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 165.57 feet along land, now or formerly, of Michael & Meredith Brown, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 120.00 feet to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 120.00 feet to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 120.00 feet to an iron pin, the last three course running along land, now or formerly, of the Town of South Hadley Conservation Commission, thence turning and running
- N. 13° 13' 55" E. a distance of 218.17 feet to an iron pin, thence turning and running
- N. 32° 01' 17" W. a distance of 51.44 feet to an iron pin, thence turning and running
- N. 85° 34' 42" W. a distance of 138.82 feet to an iron pin, thence turning and running
- S. 55° 30' 35" W. a distance of 44.86 feet to an iron pin, thence turning and running
- S. 26° 33' 09" W. a distance of 244.68 feet to an iron pin, the last five courses being along

- land, now or formerly, of Donald McCray, thence turning and running
- N. 85° 06" 40" W. a distance of 265.70 feet along land, now or formerly, of Elaine Forbes, to an iron pin, thence running
- N. 85° 06' 40 " W. a distance of 110.00 feet along land, now or formerly, of John E. & Patti A. Stanton, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 200.00 feet along land, now or formerly, of Richard N. Levrault, Jr. & Kristie A. Levrault, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 189.86 feet along land, now or formerly, of Gail C. Szostkiewicz, to an iron pin, thence running
- N. 85° 06' 40" W. a distance of 190.00 feet along land, now or formerly, of Steven & Sharon Barbacki, to an iron pin, thence running
- N. 85 06' 40 " W. a distance of 24.55 feet along land, now or formerly, of Stephen W. & Jane E. Gawron, to an iron pin, thence turning and running
- N. 06° 35" 54" E. a distance of 673.72 along land, now or formerly, of Jennifer L. & Jason L. Yellin, David J. & Joyce M. Motroni and Scott D. & April L. Marion, to an iron pin, thence turning and running
- S. 89° 19' 09" E. a distance of 386.50 feet to an iron pin, thence turning and running
- N. 03° 13' 51" E. a distance of 327.95 feet to an iron pin, the last two courses being along land, now or formerly, of Scott D. & April L. Marion, thence turning and running
- S. 84° 39' 27" E. a distance of 643.38 feet to an iron pin, thence turning and running
- N. 03° 13' 51" E. a distance of 200.03 feet to an iron pin located on the southerly side of Riverlodge Road, the last two courses being along land, now or formerly, of Stephen D. McCray, thence turning and running
- S. 84° 39' 27" E. a distance of 24.52 feet to a point, thence running
- S. 85° 59' 27" E. a distance of 680.19 feet to a point, thence running
- S. 85° 16' 27" E. a distance of 1119.45 feet to a point, thence running
- S. 84° 44' 27" E. a distance of 750.05 feet to an iron pin located on the westerly side of Alvord Street, the last four courses being along the southerly side of

Riverlodge Road, thence turning and running

S. 18° 38' 59" E. a distance of 32.29 feet to a point, thence running

S. 18° 45' 49" E. a distance of 661.04 feet to an iron pin at the point of beginning.

SUBJECT TO:

1. Agricultural / Horticultural Land Tax Lien, dated April 15, 1975, and recorded in the Hampshire County Registry of Deeds in Book 1831, Page 227.
2. Agricultural / Horticultural Land Tax Lien, dated March 29, 1976, and recorded in the Hampshire County Registry of Deeds in Book 1878, Page 134.
3. Special Permit issued by the South Hadley Planning Board in document dated May 11, 2004, and recorded in the Hampshire County Registry of Deeds in Book 7836, Page 18. See also Modification of Planning Board Special Permit in document dated April 29, 2009 and recorded in the Hampshire County Registry of Deeds in Book 10363, Page 138.
4. Easement Plan Connecticut River Interceptor adopted by the Town of South Hadley in document dated, May 2, 1978, and recorded in the Hampshire County Registry of Deeds in Book 2019, Page 264.

Containing 101.054 acres, more or less.

EXHIBIT B

TERMS AND CONDITIONS REQUIRED FOR FUNDING BY THE FARM AND RANCH LANDS PROTECTION PROGRAM

AUTHORIZATION

Funding provided by the Farm and Ranch Lands Protection Program (FRPP) is authorized by the Food, Conservation, and Energy Act of 2008 (Public Law 110-234). The FRPP provides funding for the purchase of Conservation Easements to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land (16 USC 3838h and 3838i).

CONSERVATION PLAN

As required by Section 1238I of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct agricultural operations on highly erodible land on the Premises in a manner consistent with a conservation plan prepared in consultation with the NRCS and approved by the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date of the Restriction. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. The NRCS shall have the right to enter upon the Premises, with advanced notice to the Grantor, in order to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, the NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, the NRCS will inform the Commonwealth of Massachusetts' Department of Agricultural Resources of the Grantor's noncompliance. The Commonwealth of Massachusetts' Department of Agricultural Resources shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from the NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) the NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of the Restriction to which this Exhibit B is attached and incorporated, based on an Act of Congress, the NRCS will work cooperatively with the Grantor as may be required to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resource conservation requirements to which the Grantor may be or become subject.

Section II of the Restriction, to which this Exhibit B is attached and incorporated within, is hereby amended by inserting therein the following:

Add at the end of B. AGRICUTURAL USE

“Agricultural use does not include the harvest of sod and nursery stock (such as balled and burlapped or balled and bagged) which involves removal of soil with the roots, unless the average annual soil loss for the crop rotation is less than the soil loss tolerance for the soil in the field from which the sod or nursery stock is removed, as established by the USDA, Natural Resources Conservation Service, through the conservation planning process evaluating soil loss.”

Section III of the Restriction, to which this Exhibit B is attached and incorporated within, is hereby amended by inserting therein the following:

B. PROHIBITED USES: ACTS; STRUCTURES

Add after subsection 4, the following new subsection:

5. *Impervious surfaces shall not exceed 5 acres or 5 percent of the total area of the Premises, whichever is less. An impervious surface amount greater than 2% must be justified by a waiver granted by NRCS. For the purpose of this Restriction, the impervious surface amount is 5%; and “Impervious Surface” shall mean: surfaces upon which are located residential structures, agricultural structures (with and without flooring), and paved areas. Impervious surfaces include permanent, non-seasonal rooftops, concrete and asphalt surfaces.*

C. USES; ACTS; STRUCTURES THAT REQUIRE WRITTEN APPROVAL

Add at the end of 4. Subdivision: “The minimum size of parcels created by subdivision shall be the size of the average farm in the county in which the parcel is located in the 2007 USDA Census of Agriculture. Or, if the parcel size is smaller, it must be within three miles of protected agricultural land that meets the average size criteria, or create viable farming units justified by a waiver granted by NRCS who will consider at a minimum the quality of the parcel’s soils, their ability to support existing and planned agricultural enterprises, the strength and nature of the area’s agricultural industry and the economic viability of the resulting parcels”

Section III of the Restriction, to which this Exhibit B is attached and incorporated within, is hereby amended by inserting therein the following subsection:

“H. GENERAL INDEMNIFICATION

Grantor shall indemnify and hold harmless the United States, its employees, agents, and assigns from any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which Grantee may be subject or incur relating to the Premises, which may arise from, but are not limited to, Grantor’s negligent acts or omissions or Grantor’s breach of any representation, warranty, covenant, agreements contained in this Restriction, or violations of any applicable Federal, State, or local laws.”

Section III of the Restriction, to which this Exhibit B is attached and incorporated within, is hereby amended by inserting therein the following subsection:

“I. ENVIRONMENTAL WARRANTY

Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys’ fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor’s indemnification obligation shall not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

“Environmental Law” or “Environmental Laws” means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing

standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.”

Wherever the term “Grantee” appears in the provisions of the Restriction, to which this Exhibit B is attached and incorporated within, said term shall mean the Commonwealth of Massachusetts, acting through the Commissioner of the Department of Agricultural Resources.

RIGHT OF ENFORCEMENT

Under this Restriction, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary), or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Department of Agricultural Resources of the Commonwealth of Massachusetts fails to enforce any of the terms of this Restriction, as determined in the sole discretion of the Secretary.

ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES
CONSERVATION SERVICE

The Natural Resources Conservation Service (NRCS), an agency of the United States Government, hereby accepts and approves the foregoing Agricultural Preservation Restriction and the rights conveyed therein, on behalf of the United States of America.

Barbara P. Miller
Authorized Signatory for the NRCS
451 West Street, Suite 1
Amherst, MA 01002-2953

State Resource Conservationist
Title


Commonwealth of Massachusetts
Hampshire County

On this 10th day of November, 2010, before me, the undersigned, a Notary Public in and for the Commonwealth of Massachusetts, personally appeared Barbara P. Miller known to me to be the person whose signature appears above, and who being duly sworn before me, did say that s/he is a/the Assistant State Conservationist of the Natural Resources Conservation Service in Massachusetts, United States Department of Agriculture, is authorized to sign on behalf of the agency, and acknowledged and accepted the rights conveyed by the restriction to be her/his voluntary act and deed.

In witness whereof, I have hereunto set my hand and official seal the day and year written above.

Richard M. Chandler
Notary Public for the Commonwealth of Massachusetts

My Commission Expires:

 RICHARD M. CHANDLER
Notary Public
Commonwealth of Massachusetts
My Commission Expires
April 7, 2014

Exh.B-Revised thru November 6, 2009_ FRPP Non-Pre-Acq. as of FY 2009-2010

ATTEST: HAMPSHIRE, Marianne L. Donohue REGISTER
MARIANNE L. DONOHUE

Jeff Cyr, Chair
Sarah Etelman, Vice-Chair
Carol Constant, Clerk
Chris Geraghty
Andrea Miles

Lisa Wong
Town Administrator

**Town Administrator's Report to Selectboard
March 1, 2022**

Administration, Finance and Operations

- The Capital Planning Committee will begin meeting with departments to review their five-year capital plans on Mondays, March 14, 21 and 28 from 5-7pm.
- The Mass Municipal Association is urging legislators to increase Unrestricted General Government Aid by 7.3%, not the 2.7% that is in the Governor's budget.

Community Highlights

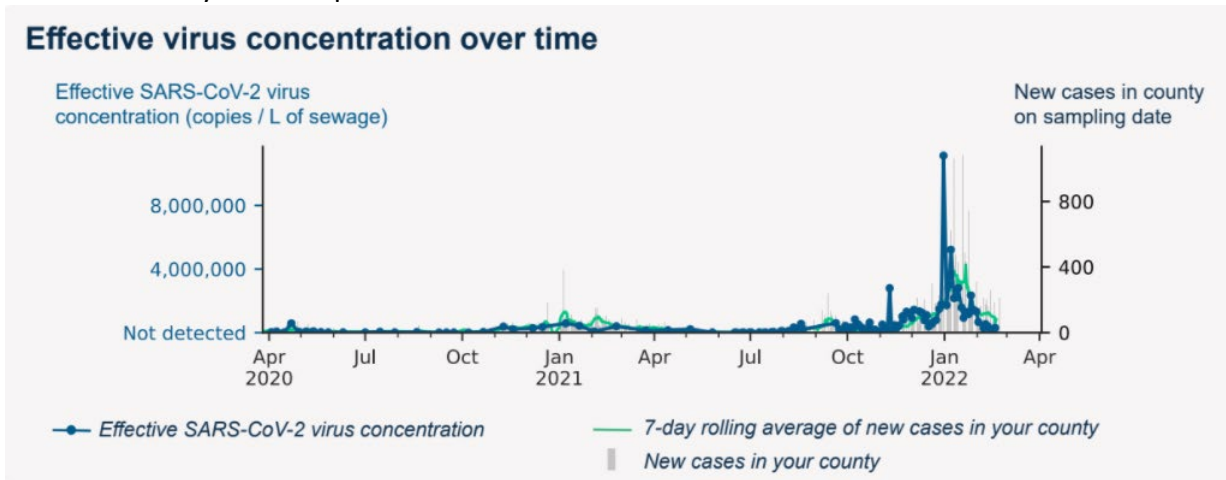
- The Town Hall hours open to the public have been expanded to 8:30am to 3:30pm Mondays through Thursdays starting March 1.

Planning and Economic Development

- The Town has submitted two REDO grants to the Western Mass EDC to fund projects outlined in the Local Rapid Recover Program document. The applications include \$70k for a façade improvement program in the Falls and \$35,000 to work with local businesses to install flexible outdoor furniture (removable) and games to draw people to gather within the Village Commons District—e.g. chairs, picnic tables, planters; host public art and seasonal offerings within the Village Commons District; and add free mesh wifi system for the Village Commons District to enable access to the internet by people of all incomes.
- The Pioneer Valley Planning Commission has awarded a technical assistance grant to the town for the purposes of exploring the formation of a Housing Partnership Board, developing a framework for creating an Affordable Housing Trust, and conducting public education programming and workshop series about housing affordability.
- The Small Business Grant Program funded through the ARPA legislation in December just launched. The application may be accessed at: empoweringsmallbusiness.org. It will be open until April 4, 2022. The program is organized around two buckets:
 - \$50M is available to small businesses impacted by COVID-19, especially businesses that focus on reaching markets predominantly made up of socially and economically disadvantaged and historically underrepresented groups, and those owned by minorities, women, veterans, individuals with disabilities, or those that identify as part of the LGBTQ+ community.
 - The other \$25M is restricted to those businesses that have not previously received financial relief from MGCC's previous relief programs.

Public Health

- 26 active confirmed cases as of 2/22. This brings the total number of confirmed cases to date in South Hadley to 3001.
- The Massachusetts Department of Public Health (DPH) reminded residents that free treatment options are available that can be used to prevent severe illness and hospitalization from COVID-19. Several treatments, including monoclonal antibody infusions and oral therapeutics, are widely available across the Commonwealth. Treatment is available for people who are at increased risk of severe disease, test positive for COVID-19 and have any symptoms, even mild ones (such as runny nose or cough). Residents who think they may be eligible and have questions on if treatment is right for them should contact their medical provider or call the COVID-19 Self-Referral Treatment Line operated by Gothams. The Gothams call line is a free resource that can help refer individuals to sites for monoclonal antibody treatments. These treatment options have been authorized by the FDA for the treatment of COVID-19 in individuals ages 12 and over who are at higher risk for severe COVID-19 illness. Referrals for monoclonal antibody treatment can be provided by the Gothams call center by calling (508) 213-1380, Monday – Saturday 8:00 a.m.-6:00 p.m., or by an individual’s healthcare provider.
- BioBot data has been showing a general downward trend in February, with the latest figures from a February 18th sample.



Public Safety

- In order for the South Hadley Police Department to be recognized as an accredited agency, there will be an on-site assessment by the Massachusetts Police Accreditation Commission. Gaining state Accreditation is a highly prized recognition of law enforcement professional excellence. A team of assessors is scheduled to arrive on Tuesday March 8th, 2022 to begin the two day assessment. The team is comprised of five local law enforcement officials, all of whom have been specially trained by the Commission to conduct the assessment.

Public Works

- The snow and ice budget of \$101k has been exceeded with \$137k in expenditures so far, not including the Febr 25 storm events.