

**SELECTMEN'S MEETING AGENDA\***

*Donn B. Griffin Room, Town Hall*

*732 Main Street, Harwich, MA*

*Executive Session 5:30 P.M.*

*Regular Meeting 6:30 P.M.*

*Monday, June 4, 2018*

*\*As required by Open Meeting Law, you are hereby informed that the Town will be video and audio taping as well as live broadcasting this public meeting. In addition, anyone in the audience who plans to video or audio tape this meeting must notify the Chairman prior to the start of the meeting.*

**I. CALL TO ORDER**

**II. EXECUTIVE SESSION** – Pursuant to M.G.L. c. 30A, § 21(a)(2) to conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel — Fire Chief ; Pursuant to MGL c.30A, §21(3) to conduct strategy sessions with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the public body and the Chair so declares – Fire Union Contract; Deputy Fire Chief re-classification; SEIU Manager's Union Contract and Compensation Survey; Pursuant to MGL c.30A, §21(3) to conduct strategy sessions with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the public body and the Chair so declares – HEA Union Contract - approve Executive Session minutes of April 2 & 9, 2018

**III. PLEDGE OF ALLEGIANCE**

**IV. WEEKLY BRIEFING**

**V. PUBLIC COMMENTS/ANNOUNCEMENTS**

**VI. CONSENT AGENDA**

- A. Approve Minutes – April 2 & 9, 2018 Executive Session
- B. Approve the Harwich Republican Town Committee's list of Election Workers
- C. Approve the appointment of Janet Evans as a full member of the Treasure Chest Committee
- D. Confirm the re-classification of the Library Director position
- E. Approve request by Verizon New England and Eversource Energy to relocate existing poles within the Town's right of way
- F. Approve the Award of Contract for the Brooks Library Exterior Restoration to Campbell Construction Group, LLC for the sum of \$698,500
- G. Approve application by Chamber of Commerce for Harwich 5K Road Race on June 23, 2018

**VII. PUBLIC HEARINGS/PRESENTATIONS (Not earlier than 6:30 P.M.)**

**VIII. NEW BUSINESS**

- A. Treasure Chest Sticker Parking
- B. Saquatucket Harbor Septic System Change Order #2
- C. USEPA Southern New England Estuaries Project Grant Program – letter of commitment
- D. Fire Chief's Performance Evaluation
- E. Fire Union Contract
- F. Re-classification of Deputy Fire Chief
- G. SEIU Managers Union Contract
- H. SEIU Compensation Survey (Phase 3)
- I. Appointment of members to the Affordable Housing Trust:
  - 1. Town Administrator
  - 2. One Member of the Board of Selectmen
  - 3. Members appointed by the Board of Selectmen (3)

**IX. OLD BUSINESS**

**X. TOWN ADMINISTRATOR'S REPORT**

**XI. SELECTMEN'S REPORT**

**XII. ADJOURNMENT**

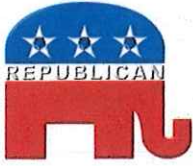
*\*Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business." If you are deaf or hard of hearing or a person with a disability who requires an accommodation contact the Selectmen's Office at 508-430-7513.*

**Authorized Posting Officer:**

**Posted by:** \_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Sandy Robinson, Admin. Secretary

**Date:** \_\_\_\_\_  
May 31, 2018



Harwich Republican Town Committee  
P O Box 1374  
Harwich, MA 02645

May 18, 2018

Board of Registrars  
Town of Harwich  
732 Main Street  
Harwich, MA 02645



Subject: List of Election Workers

Attached please find the List of Harwich Republican Town Committee Workers for 2018.

Best regards,

A handwritten signature in black ink, appearing to read "Peter Hughes", with a long horizontal flourish extending to the right.

Peter Hughes, Chairman  
Harwich Republican Town Committee

Attachment

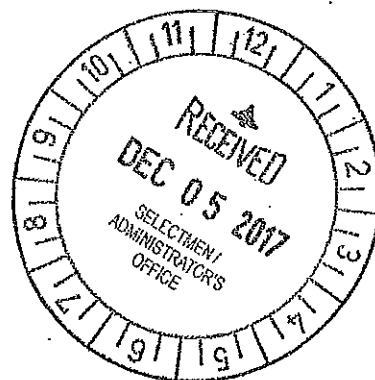
## 2018 Republican Election Workers

Ruth Barnett	18 Rainbow Way, Harwich	432-3648
David Bassett	8 Moody Road, Harwich Port	237-1514
Emily Brutti	28 Hillcrest Drive, Harwich	
Dorothy Hemmings-Bassett	8 Moody Road, Harwich Port	237-1514
Janet Bowers	142 Kendrick Rd, Harwich	432-8895
Richard Bowers	P O Box 244, Harwich	432-8895
Eric Carroll	434 Lower County Road, Harwich Port	432-9316
Gayle Carroll	434 Lower County Road, Harwich Port	432-9316
Judy Davis	170 Gorham Rd, Harwich Port	432-9312
John Eldredge	9 Forsythia Rd, Harwich	432-0965
Marjorie Frith	231 Route 28 23, West Harwich	430-1104
Richard Gomes	15 Ridgevale Rd, South Harwich	432-1431
Jeffrey Hadley	29 Scotlin Way, Harwich	432-3124
Sandra Hall	24 Intervale Ln, Box 426, South Harwich	432-1963
Linda Hughes	41 Martha Ln, Box 54, South Harwich	432-7512
Janet Kaiser	4 Spring Tide Lane, Harwich	432-3277
Ann Kaplan	154 Clearwater Dr, Harwich	432-9886
Barbara Madson	247 Church St, Harwich	432-2945
Beverly Millar	11 Carriage Lane, Harwich	432-3142
Sheila O'Toole (Eldredge)	990 Queen Anne Rd, Harwich	
MaryAnn Pina	3 Frances Road, Harwich	774-408-7471
Deborah Sementa	1 Captain Bearse Rd, Harwich	432-6147
Virginia Stark	105 Uncle Venies Road, P O Box, S. Harwich	430-2632
Judith Sullivan	4 Paddock Road, Harwich	432-5526
Pat Switchenko	3 Riley Road, Harwich	432-2458
Lou Urbano	152 Riverside Drive, West Harwich	858-922-4212
Sally Urbano	152 Riverside Drive, West Harwich	425-583-8494

2/12 Question ATA 71 Ann

COPY

Brooks Free Library  
Board of Trustees  
739 Main Street  
Harwich, MA 02645  
Phone: (508)430-7562  
Email: mvwarde@comcast.net



From: Mary Warde, Chairman *Mary Warde*

To: Christopher Clark, Town Administrator

CC: Charleen Greenhalgh, Assistant Town Administrator ✓  
Michael MacAskill, Chair, Board of Selectmen  
Julie Kavanagh, Liaison, Board of Selectmen  
Brooks Free Library Board of Trustees  
Virginia Hewitt, Library Director

Re: Reclassification of Library Director Position

Date: December 4, 2017

At the November 15th, 2017 Board of Trustees Meeting, the Board voted unanimously to seek reclassification of the Position of Library Director for the Town of Harwich from Pay Grade M4 within the Personnel ByLaw Management Pay Plan to Grade M7. At this time, the pay range at the M4 level is \$68,269 - \$85,270. At the M7 level, the range is \$88,422 - \$110,425. As an Elected Board, with personnel hiring authority over Library staff, the Trustees are pursuing this Pay Grade adjustment.

Attached, you will find documentation detailing the current pay ranges for Library Directors on Cape Cod for libraries comparable to Brooks Free Library. These libraries are those with an appropriation over \$500,000 and circulation over 150,000 per year. Any further documentation or meetings necessary to achieve this change in classification, will be promptly forwarded or scheduled by the Trustees upon your request.

The pay grade classification of M4 has been in place since 2003. We submit that the level of professional expertise and experience necessary to oversee and direct a modern, consumer oriented and technologically sophisticated municipal Library, requires a professional with not only an advanced degree, (Masters of Library Science), but also proven managerial, administrative, and municipal finance competencies that only a seasoned information professional can offer to the Town. The Trustees find it appropriate that the reclassification to M7 is warranted to properly compensate the incumbent at this time and to set in place a pay range that would attract and engage highly experienced candidates in the future.



Personnel By Law Compensation Plans as of July 1, 2018 – 2% increase

**NON-UNION COMPENSATION PLAN  
BY-LAW POSITIONS: FULL TIME MANAGEMENT**

Grade	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Contract	Police Chief										
	Finance										
	Director/Accountant										
	Fire Chief										
M-9	DPW Director	107,155	109,833	112,579	115,340	118,278	121,236	124,267	127,364	130,558	133,822
M-8		98,308	100,766	103,285	105,868	108,515	111,228	114,008	116,858	119,780	122,774
M-7	Assistant Town Administrator										
	Deputy Police Chief										
	Library Director	90,190	92,445	94,755	97,124	99,552	102,041	104,594	107,207	109,888	112,634
M-6	Water/Wastewater Superintendent	82,743	84,810	86,931	89,104	91,333	93,617	95,955	98,357	100,814	103,332
M-5	Town Clerk	75,910	77,809	79,755	81,749	83,792	85,887	88,033	90,233	92,490	94,803
M-4	Personnel Director	69,645	71,384	73,168	74,999	76,873	78,794	80,765	82,784	84,853	86,975
M-3		63,893	65,489	67,126	68,805	70,526	72,288	74,095	75,948	77,846	79,794
M-2		58,617	60,081	61,587	63,124	64,703	66,319	67,967	69,675	71,419	73,204
M-1		46,892	48,066	49,266	50,499	51,762	53,055	54,382	55,743	57,136	58,564



385 Myles Standish Blvd  
Taunton, MA 02780

May 10, 2018

Select Board  
Town of Harwich  
732 Main Street  
Harwich Center, MA 02645



Dear Select Board,

Attached is a petition for VERIZON NEW ENGLAND, INC. and NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY to relocate three poles (3/19, 3/20 and 3/21) on the easterly side of Orleans-Harwich Road (Route 39) in the Town of Harwich, Massachusetts as shown on the attached plan MA2018-19.

This petition does not require a hearing and notice to the abutters per MGL Chapter 166, Section 22, Paragraph 2, Sentence 1- "upon petition of the company without notice or hearing, by order permit an alteration in the location of the poles." A list of abutters has been provided for you convenience or use if the Board of Selectmen deems it necessary.

Sincerely,

Verizon New England Inc.  
Attn: Daryl Crossman - ROW  
385 Myles Standish Blvd  
Taunton, MA 02780

(774) 409-3191 - Office  
(774) 409-3930 - Fax  
daryl.crossman@verizon.com - Email

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

May 10, 2018

To the Select Board

in HARWICH, Massachusetts

VERIZON NEW ENGLAND INC. and NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY request permission to locate poles, wires, cables and fixtures including the necessary anchors, guys and other such sustaining and protecting fixtures to be owned and used in common by your petitioners, along and across the following public way or ways:

Orleans-Harwich Road (Route 39):

Relocate three (3) JO poles, 3/19, 3/20 and 3/21, located on the easterly side of Orleans-Harwich Road (Route 39) to a point approximately 12' from the edge of pavement.

The pole relocations have been requested by the Town of Harwich.

Wherefore they pray that after due notice and hearing as provided by law, they be granted joint or identical locations for and permission to erect and maintain poles, wires and cables, together with anchors, guys and other such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked-VZ N.E. Inc. Plan No. MA2018-19 Dated May 4, 2018.

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree that space shall be reserved and maintained for the limited purpose of attaching one-way low voltage fire and police signaling wires owned by the municipality or governmental entity for public safety purposes only.

VERIZON NEW ENGLAND INC.

By Daryl Crossman  
Daryl Crossman - Manager - Rights of Way

Dated this 10 day of MAY, 2018.

NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY

By [Signature]  
Right of Way Representative

Dated this 15th day of May, 2018.



AGREEMENT

THIS AGREEMENT, made this 4<sup>th</sup> day of June, 2018, by and between the party of the first part, the Town of Harwich, hereinafter called "OWNER," acting herein through its Board of Selectmen and the party of the second part, Campbell Construction Group, LLC doing business as a corporation located in the Town of Randolph, County of Norfolk, and State of Massachusetts, hereinafter called "CONTRACTOR."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the project described as follows: Brooks Free Library Restoration, hereinafter called the Project, for the sum of six hundred ninety eight thousand five hundred Dollars (\$698,500.00) and all extra work in connection therewith, under the terms as stated in the Contract Documents; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in Section 00300 FORM OF GENERAL BID, Section 00700 GENERAL CONDITIONS, and Section 00800 SUPPLEMENTAL GENERAL CONDITIONS, the plans, which include all maps, plates, prints, and the specifications and Contract Documents as prepared by the Owner.

The CONTRACTOR hereby agrees to commence work under this Contract on or before a date to be specified in written "Notice to Proceed" of the OWNER.

The CONTRACTOR further agrees to fully complete the project within 180 consecutive calendar days of the date of the notice to proceed.

The CONTRACTOR agrees not to discriminate against or exclude any person from participation herein on grounds of race, religion, color, sex, age or national origin; and that it shall take affirmative actions to insure that applicants are employed, and that employees are treated during their employment, without regard to race, religion, color, sex, age, handicapped status, or national origin.

The CONTRACTOR agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Section 2 of Chapter 151E of the Massachusetts General Laws.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in Section 00700 GENERAL CONDITIONS, and to make payments on account thereof as provided in the Estimates and Payments Paragraph of Section 00700 GENERAL CONDITIONS.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in two (2) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.



THE TOWN:

Town Administrator

\_\_\_\_\_

Company Name:

Campbell Construction Group, LLC

Signed By: Gregory Campbell



Title:

managing partner

Date:

May 29<sup>th</sup>, 2018

Harwich Board of Selectmen

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CERTIFICATE OF VOTE  
(to be filed if Contractor is a Corporation)

I, Gregory Campbell, hereby certify that I am the duly qualified  
(Secretary of the Corporation)

and acting Secretary of Campbell Construction and I further certify that a meeting of the  
(Name of Corporation) Group, LLC

Directors of said Company, duly called and held on May 29<sup>th</sup> 2018, at which  
(Date of Meeting)

all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower

Gregory Campbell

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: [Signature]  
(Secretary of Corporation)

A True Copy:

Attest: [Signature]  
(Notary Public)

My Commission Expires: 8-10-23  
(Date)



SECTION 00700

GENERAL CONDITIONS

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**GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

**ARTICLE 1**

**CONTRACT DOCUMENTS**

**1.1 DEFINITIONS**

**1.1.1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplemental and other Conditions), the Drawings, the Specifications, all Addenda issued prior to and all Modifications issued after execution of the Contract, and all applicable laws, ordinances and regulations. A Modification is (1) a written amendment to the contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the Owner or (4) a written order for a minor change in the Work issued by the Owner pursuant to Paragraph 12.3. The Contract Documents include Bidding Documents such as the Advertisement or Invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid or portions of Addenda relating to any of these, or any other documents, specifically enumerated in the Owner-Contractor Agreement. In the event of a conflict among the Contract Documents, they shall be construed according to the following priorities: first – Modifications; second – Agreement; third – Addenda; fourth – General Conditions; fifth – specifications; sixth – Drawings.

**1.1.2 THE CONTRACT**

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1.

**1.1.3 THE WORK**

The Work comprises the completed construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

#### 1.1.4 THE PROJECT

The project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

#### 1.1.5 "OR EQUAL"

The use of the words "Or Equal" following the name of any manufacturer, vendor or proprietary product shall be understood to mean that articles or materials may be substituted which, in the opinion of the Owner, are equal in quality, durability, appearance, strength, design and performance to the articles or materials named or described and will perform adequately in providing a first-class facility.

When submitting shop drawing information on articles or materials which are being proposed as substitutes for specified items, the Contractor shall clearly identify them as such. If the articles or materials are accepted as equal to those on which dimensions on the drawings are based, any dimensional variance from those shown and/or specified shall be shown on the shop drawings prepared by the Contractor, illustrating the manner in which conformity to dimensions and design is to be obtained. All such drawings shall be subject to the approval of the Owner and the installation of the article shall not proceed without first obtaining said approval.

#### 1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed in not less than quadruplicate by the Owner and Contractor.

1.2.2 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the

Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

1.2.4 The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

### 1.3 OWNERSHIP AND USE OF DOCUMENTS

1.3.1 All Drawings, Specifications and copies thereof furnished by the Owner are and shall remain the Owner's property. They are to be used only with respect to this Project and are not to be used on any other project without the prior written consent of the Owner. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Owner at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights.

## ARTICLE 2

### 2.1 ADMINISTRATION OF THE CONTRACT

2.1.1 The designated representative of the Owner will administer the Contract and visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Owner's Representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

2.1.2 The Owner's Representative and Project Manager shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the Owner may perform its functions under the Contract Documents.

2.1.3 Based on his observations and an evaluation of the Contractor's Applications for Payment, the Owner's Representative will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts, as provided in Paragraph 9.4.

2.1.4 The Owner's Representative will render information necessary for the proper execution or progress of the Work within twenty (20) days of any request by the contractor or in accordance with any time limit agreed upon.

2.1.5 The Owner's Representative will have authority to reject Work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Subparagraph 7.7.2 whether or not such Work be then fabricated, installed or completed. Any such rejection of work shall not relieve the Contractor of the responsibility for maintaining protection of the Work and the Owner's property.

2.1.6 The Owner's Representative will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.1.7 The Owner's Representative will prepare Change Orders in accordance with Article 12 herein, and will have authority to order minor changes in the Work as provided in Subparagraph 12.4.1.

2.1.8 The Owner's Representative will conduct inspections to determine the date of Substantial Completion and Final Completion, will review written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of Paragraph 9.9.

### ARTICLE 3

#### OWNER

### 3.1 DEFINITION

3.1.1 The Owner is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner or, as applicable, the Owner's Representative authorized representative, which for this Project shall be the Architect.

### 3.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

3.2.1 The Owner shall, at the time of execution of the Agreement and any subsequent Change Orders, certify for the Contractor that financial arrangements have been made to fulfill the Owner's obligations under the Contract.

3.2.2 The Owner shall furnish all available surveys describing the physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.

3.2.3 Except as provided in Subparagraph 4.7.1, Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.4 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.

3.2.5 The Owner will furnish the Contractor with four (4) copies of all Drawings and Specifications and revisions issued during the progress of the Work; all additional copies will be furnished upon request at the cost of reproduction.

3.2.6 The Owner, through its designated agent, shall forward all instructions directly to the Contractor.

3.2.7 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Work by Owner or by Separate Contractors, Payments and Completion, and Insurance in Articles 6, 9 and 11 respectively.

### 3.3 OWNER'S RIGHT TO STOP THE WORK



3.3.1 If the Contractor fails to correct defective Work as required by Paragraph 13.2 or fails to carry out the Work in accordance with the Contract Documents or if the Owner shall for any other reason so require, the Owner, by a written order signed personally or by the Owner's Representative or Project Manager, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated or until further written notice from the Owner; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3. The Contractor shall resume the Work after such stoppage promptly upon written notice to do so from the Owner.

#### 3.4 OWNER'S RIGHT TO CARRY OUT THE WORK

3.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy he may have perform such work or cause such work to be performed and/or make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover the amount, the Contractor shall pay the difference to the Owner.

### ARTICLE 4

#### CONTRACTOR

##### 4.1 DEFINITION

4.1.1 The Contractor is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

4.2 REVIEW OF CONTRACT DOCUMENTS 4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner any error, inconsistency or omission he may discover. The Contractor shall not be liable to the Owner for any damage resulting from errors, inconsistencies or omissions in the Contract Documents which he discovers but shall be liable for damage to the extent he reasonably should have but failed to discover such errors, inconsistencies or omissions. The Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.

#### 4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the Premises during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.

4.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Contract, or by inspection, tests or approvals required or performed under Paragraph 7.7 by persons other than the Contractor.

4.3.4 The Contractor shall retain a registered professional engineer or registered land surveyor, acceptable to the Owner's Representative, to establish the exterior lines and required elevations for all buildings and structures to be erected, and to establish lines and grades for associated roads, utilities and grading. The engineer or surveyor shall certify the actual location of constructed elements of the Work.

#### 4.4 LABOR AND MATERIALS

4.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and service necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

4.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him including all persons on the Site controlled directly or indirectly by the Contractor. If requested by the Owner, the Contractor shall promptly remove from the Project any employee who fails to maintain good order and conduct or otherwise does not meet the requirements of this subparagraph.

#### 4.5 WARRANTY

4.5.1 The Contractor warrants to the Owner that all materials and equipment furnished under this Contract will be new and of recent manufacture unless otherwise permitted in writing by the Owner and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and, promptly after written notification of non-conformance, shall be repaired or replaced by the Contractor with Work conforming to such requirements. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Paragraph 13.2.

#### 4.6 TAXES

4.6.1 The Contractor shall pay all applicable sales, consumer, use and other similar taxes for the Work or portion thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective.

#### 4.7 PERMITS, FEES AND NOTICES

4.7.1 Unless otherwise expressly provided in the Supplemental General Conditions, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.

4.7.2 The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Contract.

4.7.3 If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, the Contractor shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate Modification.

4.7.4 If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, the Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto.

#### 4.8 SUPERINTENDENT

4.8.1 The Contractor shall employ a competent full time superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall

be confirmed in writing. Other communications shall be so confirmed on written request in each case. The Contractor shall remove the superintendent if requested to do so by the Owner and shall replace him with a competent person acceptable to the Owner.

#### 4.9 PROGRESS SCHEDULE

4.9.1 The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. The schedule shall be based on the critical path method and shall be updated regularly as requested by the Owner's Representative.

#### 4.10 DOCUMENTS AND SAMPLES AT THE SITE

4.10.1 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As-Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available to the Owner upon completion of the Work.

#### 4.11 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

4.11.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.11.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.

4.11.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

4.11.4 The Contractor shall review, approve and submit, with reasonable

promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

4.11.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.11.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.

4.11.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner or its Engineer on previous submittals.

4.11.8 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner or Engineer. All such portions of the Work shall be in accordance with approved submittals.

#### 4.12 USE OF SITE

4.12.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment. The right of possession of the site and any improvements made thereon by the Contractor shall remain at all times in the Owner. The Contractor's right to entry and use of the site is solely a matter of permission granted by the Owner under the Contract Documents.

#### 4.13 CUTTING AND PATCHING OF WORK

4.13.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

4.13.2 The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner and of such separate contractor. The Contractor shall not unreasonably withhold from the Owner or any separate contractor his consent to cutting or otherwise altering the Work.

#### 4.14 CLEANING UP

4.14.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work he shall remove all his waste materials and rubbish from and about the Project in full compliance with all applicable laws and regulations as well as all his tools, construction equipment, machinery and surplus materials and the Project shall be thoroughly cleaned and ready for immediate occupancy by the Owner.

4.14.2 If the Contractor fails to clean up at the completion of the Work, the Owner may do so as provided in Paragraph 3.4 and the cost thereof shall be charged to the Contractor.

#### 4.15 COMMUNICATIONS

4.15.1 The Contractor shall forward all communications to the Owner through the Owner's Representative.

4.15.2 The Owner may communicate to the Contractor through the Owner's Representative or the Project Manager. Should the Contractor receive a communication from the Owner's Representative that conflicts with or is inconsistent with a communication from the Project Manager, the Contractor shall immediately notify in writing the Owner's Representative.

#### 4.16 ROYALTIES AND PATENTS

4.16.1 The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on

account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.

#### 4.17 INDEMNIFICATION

4.17.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and(2) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 4.17.

4.17.2 In any and all claims against the Owner, its agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 4.17 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

4.17.3 The obligations of the Contractor under this paragraph 4.17 shall not extend to the liability of the Owner, its agents or employees, arising out of (1) the preparation or approval of



maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) written directions or instructions given by the Owner, its agents or employees, provided they are the sole cause of the injury or damage.

## ARTICLE 5

### SUBCONTRACTORS

#### 5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representatives. The term Subcontractor does not include any separate contractor or his subcontractors.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

#### 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Unless otherwise required by the General Laws, Contract Documents or the Bidding Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Owner in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Owner will reply to the Contractor in writing within twenty (20) days stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner has made reasonable objection under the provisions of Subparagraph 5.2.1.

The Contractor shall not be required to contract with anyone to whom he has a reasonable and legally permissible objection.

5.2.3 If the Owner has reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom the Owner has no reasonable objection.

5.2.4 The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner makes reasonable objection to such substitution.

### 5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By an appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors.

The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-subcontractors. The Contractor shall be fully responsible to the Owner for the acts and omissions of all Subcontractors and other entities or persons directly or indirectly employed by him to perform the Work. If requested by the Owner, the form and substance of any Subcontract with the Contractor shall be subject to the prior written consent of the Owner, which consent shall not be unreasonably withheld or delayed.

## ARTICLE 6

### WORK BY OWNER OR BY SEPARATE CONTRACTORS

## 6.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Contractor claims that delay or additional cost arises because of such action by the Owner, he shall make such claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3 The Owner will provide for the coordination of the work of his own forces and of each separate contractor with the Work of the Contractor, who shall cooperate therewith as provided in Paragraph 6.2.

## 6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents.

6.2.2 If any part of the Contractor's Work depends for proper execution or results upon the work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Owner any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the Owner's or separate contractors' work as fit and proper to receive his Work, except as to defects which may subsequently become apparent in such work by others.

6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

6.2.4 Should the Contractor cause damage to the work or property of the Owner, or to other work on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5.

6.2.5 Should the Contractor wrongfully cause damage to the work or property of any separate contractor, the Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates an arbitration proceeding against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings at the Owner's expense, and if any judgment or award against the Owner arises therefrom the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or arbitrations costs which the Owner has incurred.

### 6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.15, the Owner may clean up and charge the cost thereof to the contractors responsible therefor.

## ARTICLE 7

### MISCELLANEOUS PROVISIONS

#### 7.1 GOVERNING LAW

7.1.1 The Contract shall be governed by the law of the Commonwealth of Massachusetts. All applicable provisions of Federal, state, or local laws, by-laws, rules, or regulations are incorporated into the Contract as if fully set forth herein, and shall prevail over any conflicting provisions of the General or Supplemental General Conditions.

#### 7.2 SUCCESSORS AND ASSIGNS

7.2.1 The Owner and the Contractor each bind himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as

a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the previous written consent of the Owner.

### 7.3 WRITTEN NOTICE

7.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice. Written Notice to the Owner shall be delivered to the Harwich Town Hall, 732 Main Street, Harwich, MA, 02645.

### 7.4 CLAIMS FOR DAMAGES

7.4.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his employees, agents or others for whose acts he is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage. The reasonable time shall not exceed fourteen days.

### 7.5 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

7.5.1 The Contractor shall furnish a Performance Bond in an amount at least equal to one hundred percent (100%) of the Contract price as security for the faithful performance of this Contract and also a Payment Bond in an amount not less than one hundred percent (100%) of the Contract price as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. The Performance Bond and the Payment Bond may be in one or in separate instruments in accordance with local law, and in a form acceptable to the Owner, and shall remain in effect through the one-year warranty period.

### 7.6 RIGHTS AND REMEDIES

7.6.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties,

obligations, rights and remedies otherwise imposed or available by law, except as otherwise set forth therein.

7.6.2 No action or failure to act by the Owner, the Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## 7.7 TESTS

7.7.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall give the Owner timely notice of its readiness so the Owner may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities which are normal and customary for the type of work required by the Contract. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals. All testing methods, organizations, and personnel shall be approved by the Owner before the start of testing Work, without regard to what party will ultimately pay for such Work.

7.7.2 If the Owner determines that any Work requires special inspection, testing, or approval which Subparagraph 7.7.1 does not include, it will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.7.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Owner's additional services made necessary by such failure; otherwise the Owner shall bear such costs, and an appropriate Change Order shall be issued.

7.7.3 Required certificates of inspection, testing or approval shall be secured by the Contractor and promptly delivered by him to the Owner.

7.7.4 If the Owner is to observe the inspections, tests or approvals, he will do so promptly and, where practicable, at the source of supply.

## ARTICLE 8

## TIME

### 8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial and Final Completion of the Work as defined in Subparagraph 8.1.3, including authorized adjustments thereto. Time is of the essence with regard to completion of the Work required by the Contract.

8.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein.

8.1.3 The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Owner when construction is substantially complete, in accordance with the Contract Documents, other than only custom punch list items, the lack of or completion of which will not interfere with the Owner's use, so the Owner can lawfully occupy and utilize the Work or designated portion thereof for the use for which it is intended. The Date of Final Completion of the Work is the date on which the Owner issues its final Certificate for Payment in accordance with Paragraph 9.9.1 hereof.

8.1.4 The term day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

### 8.2 PROGRESS AND COMPLETION

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time, and Final Completion thereafter in accordance with the provisions of the Contract Documents. If the Contractor fails to keep pace with the progress schedule, as measured by the certificates for payment issued by the Owner's Representative, the Owner may require the Contractor, at the Contractor's sole cost, to accelerate the progress of the work by adding personnel or increasing the hours of work or by other means acceptable to the Owner.

### 8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the Owner or by any employee of the Owner, or by any separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unavoidable casualties, or any causes beyond the Contractor's or its Subcontractor's control, or by delay authorized by the Owner, then, provided such delay in no way results from the act or neglect of the Contractor or any of its Subcontractors, the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

8.3.2 Any claim for extension of time shall be made in writing to the Owner not more than seven (7) days after the commencement of the delay; otherwise it shall be waived. In the case of a continuing delay only one claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

8.3.3 If no agreement is made stating the dates upon which interpretations of the Contract Documents by the Owner's Representative shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretation until fifteen days after written request is made for them, and not then unless such claim is reasonable.

8.3.4 The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Owner on account of any delay in the commencement of the Work and/or any hindrance, delay or suspension of any portion of the Work, whether such delay is caused by the Owner, or otherwise, except as and to the extent expressly provided under M.G.L. c.30, §39O in the case of written orders by the Owner. The Contractor acknowledges that the Contractor's sole remedy for any such delay and/or suspension will be an extension of time as provided in this Article.

## ARTICLE 9

### PAYMENTS AND COMPLETION

#### 9.1 CONTRACT SUM



9.1.1 The Contract Sum is stated in the Owner-Contractor Agreement and, including authorized adjustments thereto, is the total amount payable by the Owner to the Contractor for the performance of the Work under the Contract Documents.

## 9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Owner a schedule of values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used only as a basis for the Contractor's Application for Payment.

## 9.3 APPLICATIONS FOR PAYMENT

9.3.1 The Contractor shall submit to the Owner an itemized Application for Payment supported by such data substantiating the Contractor's right to payment as provided elsewhere in the Contract Documents for the period ending the 25th day of each month within the Contract period. The Application shall contain a separate line item or section for each sub-trade category and a listing of the amount paid to each subcontractor as of the date of the Application

9.3.2 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the Owner, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site. The Contractor shall assume responsibility to protect all such materials from loss or damage at no cost to the Owner, until they are finally incorporated into the Work, whether or not they have been paid for by the Owner.

9.3.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or

upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

#### 9.4 CERTIFICATES OF PAYMENT

9.4.1 The Owner's Representative will, within ten days after the receipt of the Contractor's Application for Payment, issue a Certificate for Payment to the Contractor for such amount as the Owner determines is properly due, or notify the Contractor in writing his reasons for withholding a Certificate as provided in Subparagraph 9.6.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Owner's Representative, based on its observations at the site as provided in Subparagraph 3.2.7 and the data comprising the application for Payment, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Document upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents correctable prior to completion, and to any specific qualifications stated in his Certificate); and that the Contractor is entitled to payment in the amount certified. However, by issuing a Certificate for Payment, the Owner's Representative shall not thereby be deemed to represent that he has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that he has reviewed the construction means, methods, techniques, sequences or procedures, or that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

#### 9.5 PROGRESS PAYMENTS

9.5.1 After the Owner's Representative has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in General Laws Chapter 30, Section 39K and the Contract Documents. The Owner reserves the right to a 5% general retainage from each progress payment, which retainage shall be released to the Contractor upon substantial completion. 9.5.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his Sub-subcontractors in similar manner.

9.5.3 The Owner may, on request and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Owner on account of Work done by such Subcontractor.

9.5.4 The Owner shall not have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.

9.5.5 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

## 9.6 PAYMENTS WITHHELD

9.6.1 The Owner shall decline to certify payment and withhold its Certificate in whole or in part, to the extent necessary reasonably to protect itself. If the Owner is unable to certify payment in the amount of the Application, he will notify the Contractor as provided in Subparagraph 9.4.1. If the Contractor and the Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount for which it determines is properly due. The Owner may also decline to certify payment or, because of subsequently discovered evidence or subsequent observations, it may nullify the whole or any part of any

Certificate for Payment previously issued, to such extent as may be necessary in its opinion to protect itself from loss because of:

- .1 defective work not remedied,
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims,
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment,
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
- .5 damage to the Owner or another Contractor,
- .6 reasonable evidence that the Work will not be completed within the Contract Time, or
- .7 material failure to carry out the Work in accordance with the Contract Documents.

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made for amounts withheld because of them.

#### 9.7 FAILURE OF PAYMENT

9.7.1 If the Owner does not issue a Certificate for Payment, through no fault of the Contractor, within ten days after receipt of the Contractor's Application for Payment, then the Contractor may, upon ten additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the Contractor's reasonable and justifiable costs of shut-down, delay and start-up, which shall be affected by appropriate Change order in accordance with Paragraph 12.3.

#### 9.8 SUBSTANTIAL COMPLETION

9.8.1 When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for submission to the Owner a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Owner on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare for a Certificate of Substantial Completion which

shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein.

Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibility assigned to them in such Certificate.

9.8.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and Certification by the Owner, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

## 9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection and, when it finds the Work acceptable under the Contract Documents and the Contract fully performed, it will promptly issue a final Certificate for Payment stating that to the best of its knowledge, information and belief, and on the basis of its observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. The Owner's final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.9.2 have been fulfilled.

9.9.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Owner (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been fully paid or otherwise satisfied, (2) consent of surety, if any, to final payment and (3), if required by the Owner, other data establishing payment

or satisfaction of all such obligations, such as the written document described in Paragraph 13.2.2, receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

9.9.3 If, after Substantial Completion of the Work, final completion thereof is delayed for more than ninety (90) days through no fault of the Contractor or by the issuance of Change Orders affecting final completion, the Owner shall, upon application by the Contractor, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted, provided that the remaining balance for Work not fully completed or corrected shall not be less than the retainage stipulated in the Contract Documents, and if bonds have been furnished as provided in Paragraph 7.5, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Owner prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.9.4 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- .1 unsettled liens,
- .2 faulty or defective Work appearing after Substantial Completion,
- .3 failure of the Work to comply with the requirements of the Contract Documents, or
- .4 terms of any special warranties required by the Contract Documents.
- .5 obligations under the Payment Bond.

9.9.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled prior to the time of the final Application for Payment.

## ARTICLE 10

### PROTECTION OF PERSONS AND PROPERTY

#### 10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

#### 10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- .1 all employees on the Work and all other persons who may be affected thereby;
- .2 all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3., except damage or loss solely attributable to the acts or omissions of the Owner, the Engineer or anyone directly or indirectly employed by the Owner or Engineer, or by anyone for whose acts the Owner or Engineer may be liable, and not attributable to the acts or omissions of the Owner, the Engineer or anyone directly or indirectly employed by them, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligation under Paragraph 4.13.

10.2.6 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner.

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

### 10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.

## ARTICLE 11

### INSURANCE

#### 11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1 The Contractor shall purchase and maintain such insurance as will protect him and the Owner from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or



by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employees benefit acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 4.17.

11.1.4 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty days prior written notice has been given to the Owner. Certificates of renewal shall be delivered to the Owner at least fifteen (15) days prior to the expiration date of any insurance policy. The Contractor shall not commence the Work until all insurance required hereunder shall have been obtained and approved by the Owner, and the Contractor shall not permit any Subcontractor or Sub-

subcontractor to commence work until all insurance required of them shall have been similarly obtained and approved.

#### 11.2 OWNER'S LIABILITY INSURANCE

11.2.1 The Owner, at its option, may purchase and maintain such insurance as will protect it against claims which may arise from operations under the Contract.

#### 11.3 PROPERTY INSURANCE

11.3.1 The Owner may, at its option, purchase and/or maintain property insurance upon the Work at the site. The Contractor shall purchase and maintain builder's risk property insurance for the full value of the Work. If not covered under such builder's risk insurance, the Contractor shall effect and maintain property insurance on portions of the Work stored off the site or in transit when such portions of the Work are to be included in an Application for Payment under Subparagraph 9.3.2. This insurance does not cover any tools owned by mechanics, any tools, equipment, scaffolding, staging towers, and other property owned or rented by the Contractor, the capital value of which is not included in the cost of the Work.

11.3.2 The Owner as trustee shall have power to adjust and settle any loss with the insurers.

11.3.3 The construction site may be occupied by the Owner during the Work. Insurance shall not lapse or be canceled on account of this occupancy. The insurance certificates required under this contract shall include this requirement.

#### 11.4 LOSS OF USE INSURANCE

11.4.1 The Owner, at his option, may purchase and maintain such insurance as will insure him against loss of use of his property due to fire or other hazards, however caused.

### ARTICLE 12

#### CHANGES IN THE WORK

##### 12.1 CHANGE ORDER

12.1.1A Change Order is a written order to the Contractor signed by the Owner, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract

Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order.

12.1.2 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents and applicable General Laws.

12.1.3 The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

- .1 by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 by unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 by the method provided in Subparagraph 12.1.4.

12.1.4 If none of the methods set forth in Clauses 12.1.3.1, 12.1.3.2 or 12.1.3.3 is agreed upon, the Contractor, provided he receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Owner on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clauses 12.1.3.3 and 12.1.3.4 above, the Contractor shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: actual cost of materials, including sales tax and cost of delivery; labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; bond premiums, rental value of equipment and machinery; and the additional costs of

supervision and field office personnel directly attributable to the change. Pending final determination of cost to the Owner, payments on account shall be made on the Owner's Certificate for Payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

12.1.5 Unit prices are stated in the Bid Form and the Contract shall include all costs of the Contractor to the Owner as listed in Paragraph 12.1.4. No additional charges shall be allowed for these items under any circumstances.

## 12.2 CONCEALED CONDITIONS

12.2.1 Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract Sum shall be equitably adjusted by Change Order upon claim by either party made within twenty days after the first observance of the conditions.

## 12.3 CLAIMS FOR ADDITIONAL COST

12.3.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 10.3. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

12.3.2 If the Contractor claims that additional cost is involved because of, but not limited to, (1) any written interpretation by the Owner, (2) any order by the Owner to stop the Work pursuant to Paragraph 3.3 where the Contractor was not at fault, (3) any written order for a minor change in the Work issued pursuant to Paragraph 12.4, or (4) failure of payment by the Owner pursuant to Paragraph 9.7, the Contractor shall make such claim as provided in Subparagraph 12.3.1.

#### 12.4 MINOR CHANGES IN THE WORK

12.4.1 The Owner will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly, regardless of whether it objects to an absence of adjustment in the Contract Time or Contract Sum.

### ARTICLE 13

#### UNCOVERING AND CORRECTION OF WORK

##### 13.1 UNCOVERING OF WORK

13.1.1 If any portion of the work should be covered contrary to the request of the Owner or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Owner, be uncovered for his observation and shall be replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Owner has not specifically requested to observe prior to being covered, the Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs unless it be found that this condition was caused by the Owner or a separate contractor as provided in Article 6, in which event the Owner shall be responsible for the payment of such costs.

## 13.2 CORRECTION OF WORK

13.2.1 The Contractor shall promptly correct all Work rejected by the Owner as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Owner's additional services made necessary thereby.

13.2.2 The Contractor shall provide a document to the Owner certifying that if within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or requiring excessive service or maintenance or not in accordance with the Contract Documents, the Contractor shall correct it within seven (7) days after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such approval, which written acceptance shall specifically refer to such defect. This obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition. The provisions of this paragraph are in addition to, and not in limitation of, the Owner's other rights and remedies hereunder and in law and equity.

13.2.3 The Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected under Subparagraph 4.5.1, 13.2.1 and 13.2.2, unless removal is waived by the Owner in writing.

13.2.4 If the Contractor fails to correct defective or nonconforming Work as provided in Subparagraphs 4.3.1, 12.2.1 and 13.2.2, the Owner may correct it in accordance with Paragraph 3.4.

13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Owner, the Owner may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the

Owner may upon ten additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Owner's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

13.2.6 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.

13.2.7 Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligation other than specifically to correct the Work.

### 13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

13.3.1 If the Owner prefers to accept defective or nonconforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 14

### TERMINATION OF THE CONTRACT

#### 14.1 TERMINATION BY THE CONTRACTOR

14.1.1 If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a

decision of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, or if the Work should be stopped for a period of thirty days by the Contractor because the Owner has not issued a Certificate for Payment as provided in Paragraph 9.7 or because the Owner unjustifiably has not made payment thereon as provided in Paragraph 9.7, then the Contractor may, upon seven additional days written notice to the Owner, terminate the Contract and recover from the Owner payment for all Work executed.

#### 14.2 TERMINATION BY THE OWNER

14.2.1 To the extent permitted by law, if the Contractor is adjudged a bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he refuses or fails, repeatedly except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he fails to make prompt proper payment to Subcontractors for materials or labor, or disregards laws, ordinances, rules, regulations or order of any public authority having jurisdiction, or otherwise fails to comply with any provision of the Contract Documents, then the Owner may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven days' written notice, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method he may deem expedient.

14.2.2 If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Owner's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The obligation to pay said amount to the Contractor or to the Owner, as the case may be, shall survive the termination of the Contract.



SECTION 00800

SUPPLEMENTAL GENERAL CONDITIONS

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1. INTRODUCTION

The following supplements modify, change, delete from or add to Section 00700 GENERAL CONDITIONS. Where any Subsection of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these Supplemental General Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

2. In accordance with General Laws Chapter 149, Section 26 through 27D, the Contractor is obligated to comply with the prevailing wage rates established by the Commissioner of the Department of Labor and Workforce Development for mechanics, apprentices, chauffeurs, teamsters and laborers employed on the Project. The schedule of applicable prevailing wage rates for the Project, together with a Certificate of Compliance therewith, are set forth in Attachment A herein.
3. The Insurance provisions of Article 11 of The General Conditions are amended by adding the following requirements:

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified below and in such form as shall protect him performing work covered by this Contract, and the Owner and its employees, agents and officials, from all claims an liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. The Contractor covenants and agrees to hold the Owner and its employees, agents and officials harmless from loss or damage due to claims for personal injury and/or property damage arising from, or in connection with operations under this Contract.

Except as otherwise stated, the amounts of such insurance shall be for each policy, not less than:

(A) For commercial general liability:       \$3,000,000 general aggregate  
  \$1,000,000 per occurrence  
  \$1,000,000 aggregate, completed operations  
  \$1,000,000 personal injury

(B) For automobile liability:           \$1,000,000 combined single limit

(C) Umbrella Liability:   \$3,000,000 per occurrence  
                                  \$3,000,000 general aggregate

- 1.) Workers' Compensation insurance as required by the General Laws of the Commonwealth of Massachusetts.  
Employer's Liability: \$500,000 each accident  
                              \$500,000 each employee – Disease  
                              \$500,000 policy limit - Disease

- 2.) Bodily Injury Premise-Operations, Contractor's Protective and Completed Operations Public Liability Insurance in the amounts required in (A) above.
- 3.) Property Damage Premises-Operations, Contractor's Protective and Completed Operations Public Liability Insurance in the amounts required in (B) above.
- 4.) Bodily Injury Liability Insurance covering the operation of all motor vehicles owned by the Contractor and vehicles not owned by the Contractor, while such vehicles are being operated in connection with the prosecution of the work under this Contract, in the amounts required in (A) above.
- 5.) Property Damage Liability Insurance covering the operation of all motor vehicles owned by the Contractor and vehicles not owned by the Contractor while such vehicles are being operated in connection with prosecution of the work under this Contract, in the amounts required in (B) above.
- 6.) Contractual Liability Insurance covering the liability assumed by the Contractor in the amounts required under (A) and (B) above.
- 7.) Owner's Protective Insurance secured by the Contractor in behalf of the Owner which will directly protect the Owner and/or its employees, agents and officers from liability for bodily injuries, including accident death, in the amounts required in (A) above, and for property damage in the amounts required in (B) above.
- 8.) Builder's Risk Property Insurance in an amount equal to the full value of the Work.
- 9.) The Contractor shall also provide umbrella liability coverage in an amount not less than \$3,000,000 each occurrence, \$3,000,000 aggregate.

All policies shall be so written that the Owner will be notified of cancellation or restrictive amendment at least fifteen (15) days prior to the effective date of such cancellation or amendment. A certificate from the Contractor's Insurance Carrier showing at least the coverage and limits of liability specified above and expiration date shall be filed with the Owner before operations are begun.

Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Contract and shall state that such insurance is required by this Contract. The Contractor shall make no claims against the Owner or its officers for any injury to any of his officers or employees or for damage to his trucks or equipment arising out of work contemplated by this Contract.

SECTION 00850

**Excerpts from Chapter 149 and Chapter 30 of the  
Massachusetts General Laws**

**Certain provisions of the Massachusetts General Laws are applicable to Construction contracts. Attention is directed to the following Sections of Chapter 149 as amended:**

**Section 25.** "Every employee in public work shall lodge, board, and trade where and with whom he elects; and no person or his agents or employees under contract with the Commonwealth, a county, city or town, or with a department, board, commission or officer acting therefor, for the doing of public work shall directly or indirectly require, as a condition of employment therein, that the employee shall lodge, board or trade at a particular place or with a particular person. This section shall be made a part of the contract for such employment."

**Section 26.** "In the employment of mechanics and apprentices, teamsters, chauffeurs and laborers in the construction of public works by the Commonwealth, or by a county, town or district, or by persons contracting or subcontracting for such works, preference shall first be given to citizens of the Commonwealth who have been residents of the Commonwealth for at least six months at the commencement of their employment who are male veterans as defined in clause Forty-third of section seven of chapter four, and who are qualified to perform the work to which the employment relates; and secondly, to citizens of the Commonwealth generally who have been residents of the Commonwealth for at least six months at the commencement of their employment, and if they cannot be obtained in sufficient numbers, then to citizens of the United States, and every contract for such work shall contain a provisions to this effect..."

**Section 27B. Records and Reports to be Kept and Furnished by Public Works Contractors.**

Every contractor, subcontractor or public body engaged in said public works to which sections twenty-seven and twenty-seven A apply shall keep a true and accurate record of all mechanics and apprentices, teamsters, chauffeurs and laborers employed thereon, showing the name, address and occupational classification of each such employee on said works, and the hours worked by, and the wages paid to, each such employee, and shall furnish to the commissioner, upon his request, a copy of said record, signed by the employer or his authorized agent under the penalties of perjury. Such records shall be open to inspection by any authorized representative of the department at any reasonable time, and as often as may be necessary. Every contractor and subcontractor required to keep such a record shall submit a copy of said record to the awarding authority on a weekly basis.

Each such contractor, subcontractor or public body shall preserve its payroll records for a period of three years from the date of completion of the contract.

Each such contractor, subcontractor or public body shall furnish to the commissioner of labor and industries within fifteen days after completion of its portion of the work a statement, executed by the contractor, subcontractor or public body who supervises the payment of wages, in the following form:

STATEMENT OF COMPLIANCE

\_\_\_\_\_, 20\_\_

I, \_\_\_\_\_ (Name of signatory party), \_\_\_\_\_  
(Title) do hereby state:

That I pay or supervise the payment of the persons employed by \_\_\_\_\_  
\_\_\_\_\_ (Contractor, subcontractor or public body) on the  
\_\_\_\_\_ (Building or project) and that all mechanics and  
apprentices, teamsters, chauffeurs and laborers employed on said project have been paid  
in accordance with wages determined under the provisions of sections twenty-six and  
twenty-seven of chapter one hundred and forty-nine of the General Laws.

Signature \_\_\_\_\_

Title \_\_\_\_\_

The above-mentioned copies of payroll records and statements of compliance shall be available for inspection by any interested party filing a written request to the commissioner for such inspection.

**Section 34.** "Every contract, except for the purchase of material or supplies, involving the employment of laborers workmen, mechanics, foremen or inspectors, to which the Commonwealth or any county or any town, subject to section thirty, is a party, shall contain a stipulation that no laborer, workman, mechanic, foreman or inspector working within the Commonwealth, in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract, shall be required or permitted to work more than eight hours in any one-day or more than forty-eight hours in any one week, or more than six-days in any one week, except in cases of emergency, or in case any town subject to section thirty-one is a party to such a contract, more than eight hours in any one-day except as aforesaid..."

**Section 34A.** "Every contract for the construction, alteration, maintenance, repair or demolition of or addition to, any public building or other public works for the Commonwealth or any political subdivision thereof shall contain stipulations requiring that the contractor shall, before commencing performance of such contract, provide by insurance for the payment of compensation and the furnishing of other benefits under chapter one hundred and fifty-two to all persons to be employed under the contract, and that the contractor shall continue such insurance in full force and effect during the term of the contract. No officer or agent contracting in behalf of the Commonwealth or any political subdivision thereof shall award such a contract until he has been furnished with

sufficient proof of compliance with the aforesaid stipulations. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of the contract and shall operate as an immediate termination thereof. No cancellation of such insurance, whether by the insurer or by the insured, shall be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the officer or agent who awarded the contract at least fifteen-days prior to the intended effective date thereof, which date shall be expressed in said notice. Notice of cancellation sent by the party proposing cancellation by registered mail, postage prepaid, with a return receipt of the addressee requested, shall be a sufficient notice..."

**Section 34B.** "Every contract for the construction, alteration, maintenance, repair of demolition of, or addition to, any public works for the Commonwealth or any political subdivision thereof shall contain stipulations requiring that the contractor shall pay to any reserve police officer employed by him in any city or town the prevailing rate of wage paid to regular police officers employed by him in such city or town."

**Section 44D.** (1)(a) Every bid or offer submitted for a contract subject to section forty-four A shall be accompanied by a copy of a certificate of eligibility issued by the commissioner showing that the bidder or offeror has the classification and capacity rating to perform the work required. The bid or offer shall also be accompanied by an update statement in such form as the commissioner shall prescribe. A blank copy of such form shall be furnished by the awarding authority to every person or business entity requesting a copy. The update form shall provide space for information regarding all projects completed by the bidder or offeror since the date of certification of eligibility, all projects which the bidder or offeror currently has under contract including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's or offeror's, financial position or business organization since the date of certification of eligibility, and such other relevant information as the commissioner shall prescribe. Any bid or offer submitted without the appropriate certificate and update statement shall be invalid.

(b) The applicant shall certify under penalties of perjury at the conclusion of the application to bid that there have been no substantial changes in his/her financial position or business organization other than those changes noted within the application since the applicant's most recent prequalification statement and that the bid to be made will be in all respects bona fide, fair and made without collusion or fraud with any other person. "Person" here means any natural person, joint venture, partnership, corporation or other business or legal entity which sells materials, equipment or supplies used in or for, or engages in the performance of, the same or similar construction, reconstruction, installation, demolition, maintenance or repair work or any part thereof.

**Attention is directed to the following sections of Chapter 30 of the General Laws of Massachusetts as amended to date:**

**Section 39F.** "(1) Every contract awarded pursuant to sections forty-four A to L inclusive, of chapter one hundred and forty-nine shall contain the following subparagraphs (a) through (i) and every contract awarded pursuant to section thirty-nine M of chapter

thirty shall contain the following subparagraphs (a) through (h) and in each case those subparagraphs shall be binding between the general contractor and each subcontractor."

"(a) Forthwith after the general contractor receives payment on account of a periodic estimate, the general contractor shall pay to each subcontractor the amount paid for the labor performed and the materials furnished by that subcontractor, less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general contractor.

"(b) Not later than the sixty-fifth-day after each subcontractor substantially completes his work in accordance with the plans and specifications, the entire balance due under the subcontract less amounts retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work, shall be due the subcontractor; and the awarding authority shall pay that amount to the general contractor. The general contractor shall forthwith pay to the subcontractor the full amount received from the awarding authority less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the subcontractor by the general contractor.

"(c) Each payment made by the awarding authority to the general contractor pursuant to subparagraphs (a) and (b) of this paragraph for the labor performed and the materials furnished by a subcontractor shall be made to the general contractor for the account of that subcontractor; and the awarding authority shall take reasonable steps to compel the general contractor to make each such payment to each such subcontractor. If the awarding authority has received a demand for direct payment from a subcontractor for any amount which has already been included in a

payment to the general contractor or which is to be included in a payment to the general contractor for payment to the subcontractor as provided in subparagraphs (a) and (b), the awarding authority shall act upon the demand as provided in this section.

"(d) If, within seventy-days after the subcontractor has substantially completed the subcontract work, the subcontractor has not received from the general contractor the balance due under the subcontract including any amount due for extra labor and materials furnished to the general contractor, less any amount retained by the awarding authority as the estimated cost of completing the incomplete and unsatisfactory items of work, the subcontractor may demand direct payment of that balance from the awarding authority. The demand shall be by a sworn statement delivered to or sent by certified mail to the awarding authority, and a copy shall be delivered or sent by certified mail to the general contractor at the same time. The demand shall contain a detailed breakdown of the balance due under the subcontract and also a statement of the status of completion of the subcontract work. Any demand made after substantial completion of

the subcontract work shall be valid even if delivered or mailed prior to the seventieth-day after the subcontractor has substantially completed the subcontract work. Within ten-days after the subcontractor has delivered or so mailed the demand to the awarding authority and delivered or so mailed a copy to the general contractor, the general contractor may reply to the demand. The reply shall be by a sworn statement delivered to or sent by certified mail to the awarding authority and a copy shall be delivered to or sent by certified mail to the subcontractor at the same time. The reply shall contain a detailed breakdown of the balance due under the subcontract including any amount due for extra labor and materials furnished to the general contractor and of the amount due for each claim made by the general contractor against the subcontractor.

- "(e) Within fifteen-days after receipt of the demand by the awarding authority, but in no event prior to the seventieth-day after substantial completion of the subcontract work, the awarding authority shall make direct payment to the subcontractor of the balance due under the subcontract including any amount due for extra labor and materials furnished to the general contractor, less any amount (i) retained by the awarding authority as the estimated cost of completing the incomplete or unsatisfactory items of work, (ii) specified in any court proceedings barring such payment, or (iii) disputed by the general contractor in the sworn reply; provided, that the awarding authority shall not deduct from a direct payment any amount as provided in part (iii) if the reply is not sworn to, or for which the sworn reply does not contain the detailed breakdown required by subparagraph (d). The awarding authority shall make further direct payments to the subcontractor forthwith after the removal of the basis for deductions from direct payments made as provided in parts (i) and (ii) of this subparagraph.
- "(f) The awarding authority shall forthwith deposit the amount deducted from a direct payment as provided in part (iii) of subparagraph (e) in an interest-bearing joint account in the names of the general contractor and the subcontractor in a bank in Massachusetts selected by the awarding authority or agreed upon by the general contractor and the subcontractor and shall notify the general contractor and the subcontractor of the date of the deposit and the bank receiving the deposit. The bank shall pay the amount in the account, including accrued interest, as provided in an agreement between the general contractor and the subcontractor or as determined by decree of a court of competent jurisdiction.
- "(g) All direct payments and all deductions from demands for direct payments deposited in an interest-bearing account or accounts in a bank pursuant to subparagraph (f) shall be made out of amounts payable to the general contractor at the time of receipt of a demand for direct payment from a subcontractor and out of amounts which later become payable to the general contractor and in the order of receipt of such demands from subcontractors. All direct payments shall discharge the obligation of the awarding authority to the general contractor to the extent of such payment.



- "(h) The awarding authority shall deduct from payments to a general contractor amounts which, together with the deposits in interest-bearing accounts pursuant to subparagraph (f), are sufficient to satisfy all unpaid balances of demands for direct payment received from subcontractors. All such amounts shall be earmarked for such direct payments, and the subcontractors shall have a right in such deductions prior to any claims against such amounts by creditors of the general contractor.
- "(i) If the subcontractor does not receive payment as provided in subparagraph (a) or if the general contractor does not submit a periodic estimate for the value of the labor or materials performed or furnished by the subcontractor and the subcontractor does not receive payment for same when due less the deductions provided for in subparagraph (a), the subcontractor may demand direct payment by following the procedure in subparagraph (d) and the general contractor may file a sworn reply as provided in that same subparagraph. A demand made after the first-day of the month following that for which the subcontractor performed or furnished the labor and materials for which the subcontractor seeks payment shall be valid even if delivered or mailed prior to the time payment was due on a periodic estimate from the general contractor. Thereafter the awarding authority shall proceed as provided in subparagraph (e), (f), (g), and (h)."

**Section 39K.** "Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building by the Commonwealth, or by any county, city, town, district, board, commission or other public body, when the amount is more than five thousand dollars in the case of the Commonwealth and more than two thousand dollars in the case of any county, city, town, district, board, commission or public body, shall contain the following paragraph: Within fifteen-days (twenty-four-days in the case of the Commonwealth) after receipt from the contractor, at the place designated by the awarding authority if such a place is so designated, of a periodic estimate requesting payment of the amount due for the preceding month, the awarding authority will make a periodic payment to the contractor for the work performed during the preceding month and for the materials not incorporated in the work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the contractor has title or to which a subcontractor has title and has authorized the contractor to transfer title to the awarding authority, less (1) a retention based on its estimate of the fair value of its claims against the contractor and less (2) a retention for direct payments to subcontractors based on demands for same in accordance with the provisions of section thirty-nine F, and less (3) a retention not exceeding five percent of the approved amount of the periodic payment. After the receipt of a periodic estimate requesting final payment and within sixty-five-days after (a) the contractor fully completes the work or substantially completes the work so that the value of the work remaining to be done is, in the estimate of the awarding authority, less than one percent of the original contract price, or (b) the contractor substantially completes the work and the awarding authority takes possession for occupancy, whichever occurs first, the awarding authority shall pay the contractor the entire balance due on the contract less, (1) a retention based on its estimate of the fair value of its claims against the contractor and of the cost of completing the incomplete and

unsatisfactory items of work less (2) a retention for direct payments to subcontractors based on demand for same in accordance with the provisions of section thirty-nine F, or based on the record of payments by the contractor to the subcontractors under this contract if such record of payment indicates that the contractor has not paid subcontractors as provided in section thirty-nine F. If the awarding authority fails to make payment as herein provided, there shall be added to each such payment daily interest at the rate of three percentage points above the rediscount rate then charged by the Federal Reserve Bank of Boston commencing on the first-day after said payment is due and continuing until the payment is delivered or mailed to the contractor; provided, that no interest shall be due, in any event, on the amount due on a periodic estimate for final payment until fifteen-days (twenty-four-days in the case of the Commonwealth) after receipt of such a periodic estimate from the contractor, at the place designated by the awarding authority if such a place is so designated. The contractor agrees to pay to each subcontractor a portion of any such interest paid in accordance with the amount due each subcontractor.

"The awarding authority may make changes in any periodic estimate submitted by the contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, but such changes or any requirement for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided, that the awarding authority may, within seven-days after receipt, return to the contractor for correction, any periodic estimate which is not in the required form or which contains computations not arithmetically corrected and, in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form with arithmetically correct computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter. The provisions of section thirty-nine G shall not apply to any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building to which this section applies.

"All periodic estimates shall be submitted to the awarding authority, or to its designee as set forth in writing to the contractor, and the date of receipt by the awarding authority or its designee shall be marked on the estimate. All periodic estimates shall contain a separate item for each filed subtrade and each subtrade listed in sub-bid form as required by specifications and a column listing the amount paid to each filed subcontractor and Sub-subcontractor as of the date the periodic estimate is filed. The person making payment for the awarding authority shall add the daily interest provided for herein to each payment for each day beyond the due date based on the date of receipt marked on the estimate. "A certificate of the architect to the effect that the contractor has fully or substantially completed the work shall, subject to the provisions of section thirty-nine J, be conclusive for the purposes of this section."

"Notwithstanding the provisions of this section, at any time after the value of the work remaining to be done is, in the estimation of the awarding authority, less than 1 per cent of the adjusted contract price, or the awarding authority has determined that the contractor has substantially completed the work and the awarding authority has taken possession for occupancy, the awarding authority may send to the general contractor by certified mail, return receipt requested, a complete and final list of all incomplete and unsatisfactory

work items, including, for each item on the list, a good faith estimate of the fair and reasonable cost of completing such item. The general contractor shall then complete all such work items within 30 days of receipt of such list or before the contract completion date, whichever is later. If the general contractor fails to complete all incomplete and unsatisfactory work items within 45 days after receipt of such items furnished by the awarding authority or before the contract completion date, whichever is later, subsequent to an additional 14 days' written notice to the general contractor by certified mail, return receipt requested, the awarding authority may terminate the contract and complete the incomplete and unsatisfactory work items and charge the cost of same to the general contractor and such termination shall be without prejudice to any other rights or remedies the awarding authority may have under the contract. The awarding authority shall note any such termination in the evaluation form to be filed by the awarding authority pursuant to the provisions of section 44D of chapter 149."

**Section 39L.** "Public Construction work by foreign corporations; restrictions and reports." The Commonwealth and every county, city, town, district, board, commission or other public body which, as the awarding authority, request proposals, bids or sub-bids for any work in the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or other public works (1) shall not enter into a contract for such work with, and shall not approve as a subcontractor furnishing labor and materials for a part of any such work, a foreign corporation which has not filed with such awarding authority a certificate of the state secretary stating that such corporation has complied with sections three and five of chapter one hundred and eighty-one and the date of such compliance, and (2) shall report to the state secretary and to the department of corporations and taxation any foreign corporation performing work under such contract or subcontract, and any person, other than a corporation, performing work under such contract or subcontract, and residing or having a principal place of business outside the Commonwealth.

**Section 39M(b).** "Specifications for such contracts, and specifications for contracts awarded pursuant to the provisions of said sections forty-four A to forty-four L of said chapter one hundred and forty-nine, shall be written to provide for full competition for each item of material to be furnished under the contract; except, however, that said specifications may be otherwise written for sound reasons in the public interest stated in writing in the public records of the awarding authority or promptly given in writing by the awarding authority to anyone making a written request therefor, in either instance such writing to be prepared after reasonable investigation. Every such contract shall provide that an item equal to that named or described in the said specifications may be furnished; and an item shall be considered equal to the item so named or described if (1) it is at least equal in quality, durability, appearance, strength and design, (2) it will perform at least equally the function imposed by the general design for or the public work being contracted for or the material being purchased, and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the said specifications.

"For each item of material the specifications shall provide for either a minimum of three named brands of material or a description of material which can be met by a minimum of three manufacturers or producers, and for the equal of any one of said named or described materials."

**Section 39N.** "Every contract subject to section forty-four A of Chapter one hundred and forty-nine or subject to section thirty-nine M of chapter thirty shall contain the following paragraph in its entirety and an awarding authority may adopt reasonable rules or regulations in conformity with that paragraph concerning the filing, investigation and settlement of such claims:

"If, during the progress of the work, the contractor or the awarding authority discovers that the actual subsurface or latent physical conditions encountered at the site differ substantially or materially from those shown on the plans or indicated in the contract documents either the contractor or the contracting authority may request an equitable adjustment in the contract price of the contract applying to work affected by the differing site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible after such conditions are discovered. Upon receipt of such a claim from a contractor, or upon its own initiative, the contracting authority shall make an investigation of such physical conditions, and, if they differ substantially or materially from those shown on the plans or indicated in the contract documents or from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and contract documents and are of such a nature as to cause an increase or decrease in the cost of performance of the work or a change in the construction methods required for the performance of the work which results in an increase or decrease in the cost of the work, the contracting authority shall make an equitable adjustment in the contract price and the contract shall be modified in writing accordingly."

**Section 39O.** "Every contract subject to the provisions of section thirty-nine M of this chapter or subject to section forty-four A of chapter one hundred forty-nine shall contain the following provisions (a) and (b) in their entirety....

"(a) The awarding authority may order the general contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of the awarding authority; provided however, that if there is a suspension, delay or interruption for fifteen-days or more due to a failure of the awarding authority to act within the time specified in this contract, the awarding authority shall make an adjustment in the contract price for any increase in the cost of performance of this contract but shall not include any profit to the general contractor on such increase; and provided further, that the awarding authority shall not make any adjustment in the contract price under this provision for any suspension, delay, interruption or failure to act to the extent that such is due to any cause for which this contract provides for an equitable adjustment of the contract price under any other contract provisions.

"(b) The general contractor must submit the amount of a claim under provision (a) to the awarding authority in writing as soon as practicable after the end of the suspension, delay, interruption or failure to act and, in any event, not later than the date of final payment under this contract and, except for costs

due to a suspension order, the awarding authority shall not approve any costs in the claim incurred more than twenty-days before the general contractor notified the awarding authority in writing of the act or failure to act involved in the claim.

**Section 39P.** "Every contract subject to section thirty-nine M of this chapter or section forty-four A of chapter one hundred forty-nine which requires the awarding authority, or any official, its architect or engineer to make a decision on interpretation of the specifications, approval of equipment, material or any other approval, or progress of the work, shall require that the decision be made promptly and, in any event, no later than thirty-days after the written submission for decision; but if such decision requires extended investigation and study, the awarding authority, the official, architect or engineer shall, within thirty-days after the receipt of the submission, give the party making the submission written notice of the reasons why the decision cannot be made within the thirty-day period and the date by which the decision will be made."

**Section 39R**

(a). "The words defined herein shall have the meaning stated below whenever they appear in this section:

- (1) "Contractor" means any person, corporation, partnership, joint venture, sole proprietorship, or other entity awarded a contract pursuant to section thirty-nine M of chapter thirty, sections forty-four A through H, inclusive, of chapter one hundred and forty-nine and sections thirty B through thirty P, inclusive, of chapter seven.
- (2) "Contract" means any contract awarded or executed pursuant to sections thirty B through thirty P, inclusive, of chapter seven and any contract awarded or executed pursuant to section thirty-nine M of chapter thirty, or sections forty-four A through H, inclusive, of chapter one hundred and forty-nine, which is for an amount or estimated amount greater than one hundred thousand dollars
- (3) "Records" means books of original entry, accounts, checks, bank statements and all other banking documents, correspondence, memoranda, invoices, computer printouts, tapes, discs, papers and other documents or transcribed information of any type, whether expressed in ordinary or machine language.
- (4) "Independent Certified Public Accountant" means a person duly registered in good standing and entitled to practice as a certified public accountant under the laws of the place of his/her residence or principal office and who is in fact independent. In determining whether an accountant is independent with respect to a particular person, appropriate consideration should be given to all relationships between the accountant and that person or any affiliate thereof. Determination of an accountant's independence shall not be confined to the relationships existing in connection with the filing of reports with the awarding authority.

- (5) "Audit," when used in regard to financial statements, means an examination of records by an independent certified public accountant in accordance with generally accepted accounting principles and auditing standards for the purpose of expressing a certified opinion thereon, or, in the alternative, a qualified opinion or a declination to express an opinion for stated reasons.
- (6) "Accountant's Report," when used in regard to financial statements, means a document in which an independent certified public accountant indicates the scope of the audit which he/she has made and sets forth his/her opinion regarding the financial statements taken as a whole with a listing of noted exceptions and qualifications, or an assertion to the effect that an overall opinion cannot be expressed. When an overall opinion cannot be expressed the reason therefor shall be stated. An accountant's report shall include as a part thereof a signed statement by the responsible corporate officer attesting that management has fully disclosed all material facts to the independent certified public accountant, and that the audited financial statement is a true and complete statement of the financial condition of the contractor.
- (7) "Management," when used herein, means the chief executive officer, partners, principals or other person or persons primarily responsible for the financial and operational policies and practices of the contractor.
- (8) Accounting terms, unless otherwise defined herein, shall have a meaning in accordance with generally accepted accounting principles and auditing standards.

(b) Subsection (a)(2) hereof notwithstanding, every agreement or contract awarded or executed pursuant to sections thirty B through thirty P, inclusive, of chapter seven, and pursuant to section thirty-nine M of chapter thirty or to section forth-five A through H, inclusive, of chapter one hundred and forty-nine, shall provide that:

- (1) The contractor shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the contractor, and
- (2) Until the expiration of six years after final payment, the awarding authority, office of inspector general, and the deputy commissioner of Capital Asset Management shall have the right to examine any books, documents, papers or records of the contractor or of his/her subcontractors that directly pertain to, and involve transactions relating to, the contractor or his/her subcontractors, and
- (3) If the agreement is a contract as defined herein, the contractor shall describe any change in the method of maintaining records or recording transactions which materially affect any statements filed with the awarding

authority, including in his/her description the date of the change and reasons therefor, and shall accompany said descriptions with a letter from the contractor's independent certified public accountant approving or otherwise commenting on the changes, and

- (4) If the agreement is a contract as defined herein, the contractor has filed a statement of management on internal accounting controls as set forth in paragraph (c) below prior to the execution of the contract, and
- (5) If the agreement is a contract as defined herein, the contractor has filed prior to the execution of the contracts and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in paragraph (d) below.

(c) Every contractor awarded a contract shall file with the awarding authority a statement of management as to whether the system of internal accounting controls of the contractor and subsidiaries reasonably assures that:

- (1) Transactions are executed in accordance with management's general and specific authorization;
- (2) Transactions are recorded as necessary:
  - i. To permit preparation of financial statements in conformity with generally accepted accounting principles, and
  - ii. To maintain accountability for assets;
- (3) Access to assets is permitted only in accordance with management's general or specific authorization; and
- (4) The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any difference.

Every contractor awarded a contract shall also file with the awarding authority a statement prepared and signed by an independent certified public accountant, stating that he/she has examined the statement of management on internal accounting controls, and expressing an opinion as to:

- (1) Whether the representations of management in response to this paragraph, and paragraph (b) above are consistent with the result of management's evaluation of the system of internal accounting controls; and
- (2) Whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the applicant's financial statements.

- (d) Every contractor awarded a contract by the Commonwealth or by any political subdivision thereof shall annually file with the awarding authority and the deputy commissioner of Capital Asset Management during the term of the contract a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by an accountant's report. Such statements shall be made available to the awarding authority upon request.
- (e) The office of inspector general, the deputy commissioner for Capital Asset Management and any other awarding authority shall enforce the provisions of this section. The deputy commissioner of Capital Asset Management may after providing an opportunity for the inspector general and other interested parties to comment, promulgate pursuant to the provisions of chapter thirty A such rules, regulations and guidelines as are necessary to effectuate the purposes of this section. Such rules, regulations and guidelines may be applicable to all awarding authorities. A contractor's failure to satisfy any of the requirements of this section may be grounds for debarment pursuant to section forty-four C of chapter one hundred and forty-nine."
- (f) Records and statements required to be made, kept or filed under the provisions of this section shall not be public records as defined in section seven of chapter four and shall not be open to public inspection; provided, however, that such records and statements shall be made available pursuant to the provisions of clause (2) of paragraph (b).

**Section 39S.** "(a) As used in this section the word "person" shall mean any natural person, joint venture, partnership corporation or other business or legal entity. Any person submitting a bid for, or signing a contract to work on, the construction, reconstruction, alteration, remodeling or repair of any public work by the Commonwealth, or political subdivision thereof, or by any county, city, town, district, or housing authority, and estimated by the awarding authority to cost more than \$10,000, and any person submitting a bid for, or signing a contract to work on, the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency, estimated to cost more than \$10,000, shall certify on the bid, or contract, under penalties of perjury, as follows:

(1) that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (2) that all employees to be employed at the worksite will have successfully completed a course in construction safety and health



approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and (3) that all employees to be employed in the work subject to this bid have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

(b) Any employee found on a worksite subject to this section without documentation of successful completion of a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration shall be subject to immediate removal.

(c) The attorney general, or his designee, shall have the power to enforce this section including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts in all cases where, after investigation of the facts, he has made a finding that the award or performance has resulted in violation, directly or indirectly, of subsection (b), and he shall not be required to pay to the clerk of the court an entry fee in connection with the institution of the proceeding.”

**Section 40.** "Bonds given to the Commonwealth, any county, city, town or political subdivision to secure the performance of contracts for the construction or repair of public buildings or other public works may be discharged or released by the awarding authority, upon such terms as it deems expedient, after the expiration of one year from the time of completion, subject to section thirty-nine K, of the work contracted to be done; provided that no claim filed under said bond is pending, and provided further, that no such bonds shall be discharged or released prior to the expiration of all special guarantees provided for in the contract unless new bonds in substitution therefor specifically relating to the unexpired guarantees shall be taken.

**"ATTACHMENT A"**  
**Wage Rates**



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732 MAIN STREET  
HARWICH, MA 02645  
Telephone: (508) 430-7513



APPLICATION FOR LICENSE/PERMIT

PLEASE CHECK

ROAD RACE

CRAFT FAIR

OTHER

IN ACCORDANCE WITH THE PROVISIONS OF THE STATUTES RELATING THERETO, APPLICATION AS STATED ABOVE IS HEREBY MADE BY:

NAME OF BUSINESS Harwich 5K Road Race 508-430-1165  
PHONE

BUSINESS ADDRESS Harwich Chamber of Commerce Charitable Foundation

MAILING ADDRESS c/o Harwich Chamber of Commerce - 1 Schoolhouse Rd.  
Harwich Port, MA 02646

PLEASE STATE THE PURPOSE FOR WHICH LICENSE/PERMIT IS REQUESTED 94th Annual

Harwich 5K Road Race

DESCRIPTION OF ROAD RACE/CRAFT FAIR/OTHER EVENT TO BE LICENSED, PLEASE LIST DATE, TIME, LOCATION/ROUTE, ETC.

DATE Saturday - June 23, 2018

TIME 9:30 am

ROUTE/LOCATION See attached

(please use reverse side if necessary)

Cynde Williams  
Signature of Applicant

Executive Director - Harwich Chamber  
Title

\_\_\_\_\_  
Social Security Number of Federal Identification Number

27-210610  
Tax Exempt ID (for non-profit organizations)

\_\_\_\_\_  
Signature of Individual or Corporate Name

\_\_\_\_\_  
By Corporate Officer (if applicable)

# Harwich Recreation Department Youth, Park, Beach, & Commission



## USE OF FACILITY FORM

DATE 5-29-18

Schoolhouse Rd Parking Lot  
 \_\_\_\_\_ BEACH or PARK  
 \_\_\_\_\_ BROOKS PARK & GAZEBO  
 \_\_\_\_\_ BROOKS FIELD / COURT  
 \_\_\_\_\_ VETERAN'S MEMORIAL FIELD COMPLEX  
 \_\_\_\_\_ BASEBALL \_\_\_\_\_ SOFTBALL \_\_\_\_\_ MULTI

### LOCATION REQUEST

\_\_\_\_\_ SR MEMORIAL FIELD  
 \_\_\_\_\_ WHITEHOUSE FIELD  
 \_\_\_\_\_ J McPHEE SOCCER FIELD  
 \_\_\_\_\_ POTTER SOFTBALL FIELD  
 \_\_\_\_\_ NON-PROFIT Y / N

CONTACT PERSON Cyndi Williams ORGANIZATION Lee Charitable Foundation

MAILING ADDRESS 1 Schoolhouse Road CITY, ST, ZIP Harwich Port, MA 02646

EMAIL Cyndi@harwichcc.com CELL PHONE 508-615-0124

PURPOSE OF REQUEST Annual Road Race # OF ATTENDEES 1000

DATE(S) REQUESTED\* June 23, 2018

\*ALL DATES ARE SUBJECT TO AVAILABILITY

HOURS OF USE 6am-12pm AREA REQUESTED Schoolhouse Road Parking Lot

### SPECIAL REQUESTS OR NEEDS

- ❖ Use of temporary tents larger than 12'x12' require location approval and a separate Town TENT PERMIT
- ❖ Use of tent stakes over 8" requires ADDITIONAL PERMISSIONS
- ❖ Activities dispensing food to the PUBLIC requires Harwich Board of Health PERMIT
- ❖ Approval pending all other required Town permits and approvals
- ❖ APPLICATION DEADLINE FOR FIELD USE FOR ANY YEAR IS FEBRUARY 1ST

USE	FEE	CAP	REFUNDABLE DEPOSIT	TOTAL DUE
FIELD OR COURT USE - ONE GAME	\$20.00	\$1000	\$50.00*	_____
WHITEHOUSE FIELD USE - ONE GAME	\$50.00	\$1000	\$50.00*	_____
FIELD/WHF MULTI DAY USE	\$150/FIELD/DAY		\$50.00-\$500*	_____
PARK OR BEACH USE - FULL DAY, WEDDING, FAMILY FUNCTION, OR SPECIAL EVENT	\$150.00		\$50.00-\$500*	_____
USE OF ELECTRICITY - PARKS	\$25/DAY		\$50.00*	_____
FIELD, PARK, BEACH USE - MULTI DAY EVENT	\$150.00/DAY		\$50.00-\$500*	_____
WHF LIGHT USAGE CHARGE/PER USE (BILLABLE IN ¼ HOUR INCREMENTS)	\$65.00/HOUR		\$500.00*	_____
BEACH COOK FIRE	\$ 20.00		\$50.00*	_____

\* <100 people \$50 deposit required, >100 people \$100 deposit required, >200 people \$300 deposit required, > 500 people \$500 deposit required. DEPOSITS WILL BE REFUNDED AFTER A SITE INSPECTION HAS BEEN COMPLETED AND/OR APPLIED TO USE OF FACILITY INVOICES WITH ANY UNUSED BALANCE RETURNED.



I HAVE READ THE ATTACHED RULES AND REGULATIONS REGARDING USE OF THIS RECREATION FACILITY AND AGREE THAT I/OUR ORGANIZATION WILL ABIDE BY THEM.

Initials

APPLICANT SIGNATURE: Cyndi Williams

TITLE Executive Director

BY: \_\_\_\_\_  
 RECREATION REPRESENTATIVE

DATE 5-29-18





**Harwich 5K Road Race- Saturday June 24, 2017 Location Harwich Port 3.34 miles**

**Start:** In front of Georges Pizza 564 Main St., Harwichport.

- Take Main St. (rt.28) to South Street and take a right onto South.
- Follow South to Sisson Road and take a right onto Sisson.
- Follow Sisson to Forest Road and take a right onto Forest.
- Forest will merge with South Street and then turns into South Street.
- Take South Street 10 yards and then take a hard left onto Miles Street.
- Follow Miles until Cross Street and take a right onto Cross.
- Take Cross until Pleasant Street and take a right onto Pleasant
- Go 100 yards and take a left into the back entrance of the Municipal parking lot where the race will **finish**.

\*\*\*REGULATORY COMPLIANCE FORM\*\*\*

THE EVENT(S) TO BE LICENSED AS DESCRIBED HEREIN HAVE BEEN REVIEWED AND APPROVED BY:

Ki Adm 5/29/18  
Police Department Date

\_\_\_\_\_  
Building Commissioner Date

[Signature] 5/31/18  
Recreation & Youth Commission Date

\_\_\_\_\_  
Board of Health Date

[Signature] 5/29/18  
Fire Department Date

\*\*\*Required signatures are to be obtained by the Applicant prior to submission of application with the Selectmen's Office.

\_\_\_\_\_  
\_\_\_\_\_  
For Office Use Only

FEE \_\_\_\_\_ CASH \_\_\_\_\_ CHECK \_\_\_\_\_

FOR \_\_\_\_\_

REVIEWED BY \_\_\_\_\_

DATE LICENSE ISSUED \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

# EVENT NOTIFICATION FORM

Date: 5-29-18

Ms. Mary-Joe Perry  
District Highway Director, District Five  
MassDOT, Highway Division  
1000 County Street  
Taunton, MA 02780

Dear Sir:

Please be advised that the City/Town of Hansick has notified the Board of Selectmen/City Council, Local Police Department, Local Fire Department and if applicable the State Police of its intention to conduct **road work/parade/race**/or other events impacting State Highways on Route(s) 28 in or through the City/Town(s) of Hansick

benefiting Hansick Chamber of Commerce Charitable Foundation

The Board of Selectmen/City Council understands that it must give the Police and Fire Departments at least 48 hours notice before the commencement of the proposed work or event.

The Grantee must supply a Traffic Management Plan when the roadway is occupied and for all detours associated with said events to this Department and to all officials listed below. The Grantee(s) must notify the local and/or state police to set up a detour of this area with appropriate signs and barricades. The local Fire Department must be notified of the detour to ensure that measures will be taken to minimize disruption to the Fire Department's emergency service during the event. The Grantee(s) must also notify local media (newspapers, radio) of this proposed event.

The following signatures are required prior to the issuance of the Permit. All officials listed below shall assume all responsibility and liability for all activity associated under their jurisdiction.

• **LOCAL POLICE DEPARTMENT**

Signed: K. Adin  
Title: Lt.  
City/Town: Hansick PD

• **FIRE DEPARTMENT**

Signed: [Signature]  
Title: DEPUTY CHIEF  
City/Town: HALEWELLY

• **BOARD OF SELECTMEN/CITY COUNCIL**

Signed: \_\_\_\_\_  
Title: \_\_\_\_\_  
City/Town: \_\_\_\_\_

**STATE POLICE DEPARTMENT**

Signed: \_\_\_\_\_  
Title: \_\_\_\_\_  
City/Town: \_\_\_\_\_



## Application for Permit to Access State Highway

*This Access Permit Application, including the attached Access Permit Submittal Checklist, must be completed in full by the Applicant. Instructions for this page are located on page 2. Descriptions of the two types of access permits and related categories are located on page 6. MassDOT will make the final determination regarding Access Permit Application type and category.*

1. Town/City: Harwich
2. State Highway route number and/or name: Route 28
3. Locus/Property Address: \_\_\_\_\_
4. Description of property and/or facility for which access is sought (attach additional sheets if necessary):  
N/A - Route 28

5. Description of work to be performed within State Highway Layout (attach additional sheets if necessary):  
N/A - 5K Road Race - no alteration of street

**Telecommunications** (wireless or wireline) or **Renewable Energy** (Solar, Wind, etc) – Agreement Process and OREAD\* coordination required. (\*see pg 2 Instruction)

6. Dig Safe number: \_\_\_\_\_

7. Applicant Information <sup>1</sup> (See footnote below.)
  - Name Harwich Chamber of Commerce  
Charitable Foundation
  - Mailing Address 1 Schoolhouse Road  
Harwich MA, MA 02646
  - Telephone 508-430-1165
  - Fax \_\_\_\_\_
  - E-Mail cyndi@harwichcc.com
  - Signature Cyndi Williams
  - Print Name Cyndi Williams
  - Date 5-29-18

8. Property Owner
  - Name CHRISTOPHER CLARK  
TOWN ADMINISTRATOR - HARWICH
  - Mailing address 722 MAIN ST.  
HARWICH, MA. 02645
  - Telephone 508-430-7513
  - Fax 508-430-
  - E-Mail cc1@town.harwich.ma.us
  - Signature [Signature]
  - Print Name CHRISTOPHER CLARK
  - Date 5/29/18

*Return completed application, including Submittal Checklist, to the District Highway Director for your town/city. Refer to reverse side for appropriate address.*

**For office use only. Do not write below this line.**

- |  |  |
|--|--|
| 1. Application number: _____           | 6. Section 61 Finding date: _____                    |
| 2. Date received: _____                | 7. Mass. Historic Action (yes or no): _____          |
| 3. Fee amount (non-refundable): _____  | 8. Plans returned to DHD: _____                      |
| 4. Completeness Pre-Review date: _____ | 9. Permit Type/Category: _____                       |
| 5. MEPA required (yes or no): _____    | 10. Application complete date: _____                 |
| ENF-EOEEA Cert. # _____                | 11. Permit written date: _____                       |
| EIR-EOEEA Cert. # _____                | 12. Permit issued date: _____                        |
| Other-EOEEA Cert. # _____              | 13. Permit denied: _____                             |
|  | 14. Permit Recording date at Registry of Deeds _____ |

<sup>1</sup> If an agent is representing an Applicant, the application must include a notarized letter from the Applicant outlining the specified duties and responsibilities of the agent. Where work is proposed on a utility, the utility department must sign the application as the Applicant(s).



# Instructions for Completing Application for Permit to Access State Highway

## General Instructions

MassDOT's Highway Division is granted authority to issue State Highway Access Permits by M.G.L. Chapter 81, Sec. 21. MassDOT adopted 720 CMR 13.00 under the authority of M.G.L. c. 81, § 21 and M.G.L. c.85 §2. 720 CMR 13.00 supersedes the Standard Operating Procedures for Review of State Highway Access Permits dated November 30, 1971, and board vote of September 17, 1991.

**ACCESS is generally defined, but not limited to:**  
Any physical work performed within the State Highway Layout.

This Application governs issuance of the two types of access permit Applications, Non-Vehicular and Vehicular, which are issued under three categories:

<b>Category I</b>	Minor Vehicle Access Permits
<b>Category II</b>	Major Vehicular Access Permits
<b>Category III</b>	Complex Vehicular Access Permits

Please refer to the **MassDOT Highway Access Permit Submittal Checklist** for details regarding permit types and submittals required.

### FEES:

A Check payable to **MassDOT** for the appropriate permit application fee must accompany the permit application. Fees are non-refundable.

### Fee schedule for access and Utility Payments:

<b>Residential Access Permits</b>	
5 Units or less .....	\$25.00
From 6 to 49 Units .....	\$100.00
Greater than 49 Units .....	\$2000.00

<b>Non-Residential Access Permits</b>	
Less than 25,000 square feet .....	\$500.00
From 25,000 to 300,000 square feet .....	\$1000.00
From 300,000 to 750,000 square feet .....	\$2000.00
Greater than 750,000 square feet .....	\$3000.00

### Non-Municipal Utility Permits not in conjunction With Access Permits:

Annual blanket utility permit .....	\$500.00
Capital improvements to a utility .....	\$500.00

## Specific Instructions (print or type)

**Line 1:**  
List name of municipality in which access is sought.

**Line 2:**  
List name or number of State Highway Route(s) to which access is sought.

**Line 3:**  
List Locus/Property address.

**Line 4:**  
Describe property and/or facility. If access is sought under Category II above, briefly describe facility for which access is sought.

*Example 1:* Private single family residence at 100 State Road. Approximate size of proposed building 2,500 s.f. Approximate lot size 0.75 acres.

*Example 2:* 500,000 s.f. enclosed shopping mall adjacent to State Route I-290 and Route 20. Approx. lot size 67 acres.

**Line 5:**  
Briefly describe the proposed work to be performed within the State Highway Layout.

\*Office of Real Estate and Development (OREAD)

*Example 1:* Remove 50 feet of existing granite curb on south side of highway in order to construct driveway access and modify the roadway geometry to accommodate left-hand turn.

*Example 2:* Excavate 10 foot x 10 foot section of roadway at Station 100+00 in westbound lane in order to install water service to residence at 100 State Street.

**Line 6:**  
A Dig Safe number must be provided if the work will commence within 30 days of the filing of the permit. **NOTE:** A Dig Safe number must be obtained by calling **1-888-DIG-SAFE** (1-888-344-7233). If construction within the State Highway Layout does not commence within the period allowed by Dig Safe, a new number must be obtained prior to beginning construction. ([www.digsafe.com](http://www.digsafe.com))

**Line 7:**  
Individual or business making application must complete the required information, including application date and signature.

**Line 8:**  
Complete this section only if the individual or business making application is other than the property owner of the land for which the permit applies.

**Return completed application, submittal checklist and fee to appropriate District Office listed below. Please contact the Permit Engineer at this address if additional information is required.**

### District One

270 Main Street  
Lenox, MA 01240  
Tel. (413) 637-5700  
Fax. (413) 637-0309

### District Two

811 North King Street  
Northampton, MA 01060  
Tel. (413) 582-0599  
Fax. (413) 582-0596

### District Three

403 Belmont Street  
Worcester, MA 01604  
Tel. (508) 929-3800  
Fax. (508) 799-9763

### District Four

519 Appleton Street  
Arlington, MA 02174  
Tel. (781) 641-8300  
Fax. (781) 646-5115

### District Five

1000 County Street  
Taunton, MA 02780  
Tel. (508) 824-6633  
Fax. (508) 880-6102

### District Six

185 Kneeland Street  
Boston, MA 02111  
Tel. (857) 368-6100  
Fax. (857) 368-0106

### Highway Division Website:

[www.massdot.state.ma.us/highway](http://www.massdot.state.ma.us/highway)

## Access Permit Submittal Checklist

GREY:  
DOT  
USE  
ONLY

This checklist provides the Applicant with a list of required submittals to obtain an Access Permit. However, additional submittals may be required to issue an Access Permit. All Applicants must fill out Part A and one additional part that correlates to the selected application type. To help identify the application type, please see the descriptions on page 6. Check each box that pertains to your application. MassDOT will make the final determination regarding Access Permit Application type and category.

### PART A: ALL APPLICANTS MUST FILL OUT

#### 1. APPLICATION TYPE – CHECK ONE

**NON-VEHICULAR:**

Non-Vehicular – Fill out Part B

**VEHICULAR**

**Category I** – Minor Vehicle Access Permits: Fill out Part C-I

**Category II** – Major Vehicle Access Permits: Fill out Part C-I and Part C-II

**Category III** – Complex Vehicle Access Permits: Fill out Part C-I and Part C-III

#### 2. APPLICATION TYPE (Check all applicable boxes)

Application Complete

Permit corresponds to appropriate MassDOT District

Non-refundable check or money order on correct amount payable to: **MassDOT**

Evidence certifying property owner(s) consent

Notarized Applicant Letter outlining agent's duties and responsibilities (if applicable)

Utility department sign-off as the Applicant(s) (if applicable)

### PART B: NON-VEHICULAR PERMITS

**IF NO PHYSICAL MODIFICATION to state highway layout – i.e. parade, road race, traffic counts, etc.**

*Required submittals:*

Map of route

Traffic Management Plan (designed in accordance with the Road Flagger & Police Regulations: 701 CMR 7.00)

Detour Plan(s) with municipal approval (if applicable)

**IF DRAINAGE:**

If requesting connection or discharge to any MassDOT drainage system, contact District Personnel for additional information regarding required submittals.

**IF CONSTRUCTION, RELOCATION OR REPAIR OF UTILITIES:**

*Required submittals:*

**EXISTING PROJECT:** reference(s) to the documents and plans already filed with MassDOT for the affected project

**NEW PROJECT/UTILITY WORK:**

*Required submittals:*

Engineered Plan(s) including method of crossing Highway

Traffic Management Plan (if applicable)

(Designed in accordance with the Road Flagger & Police Regulations: 701 CMR 7.00)

Detour Plan(s) with municipal approval (if applicable)

Tree Cutting or Landscaping Plan (if applicable)

Vegetative Plan including plant species and maturity size (if applicable)

Blasting Plan (contact District Personnel for additional information)

## PART C-I: VEHICULAR PERMITS

### CATEGORY I – Minor Vehicular Access Permits

*Required submittals:*

- Engineering Plans
- ENF - (Environmental Notification Form) Certificate (if applicable)

#### IF RESIDENTIAL DRIVEWAY:

- Detailed plan/sketch showing the drive location in relation to the property lines, MassDOT baselines, distance from nearest mile marker, and an easily identifiable fixed object (distance from telephone poles, mail boxes, other drives, etc.).
- If severe topographic conditions exist, an engineered plan showing the driveway layout, profile and storm water management may be necessary to show that the edge of the proposed drive is protected during and after construction to prevent sediment and debris from entering upon the State Highway Layout (SHLO).

#### IF COMMERCIAL DRIVEWAY: (where no MEPA review is required)

*Required submittals:*

- Two (2) 40 scale plans that include:
  - A. Route Number, Road Name, Property Address
  - B. Property Corners and Bounds
  - C. Lot Line Dimensions, Bearings and Distances
  - D. State Highway Layout Lines (both sides) and Nearest Massachusetts Highway Bounds (if found).
  - E. State Highway Baseline and both edges of roadway including any sidewalks and type of edging, if any, and shoulder information (grass, gravel etc.).
  - F. Any existing drive to be altered or closed shall be indicated. Existing and proposed dimensions should be included for altered drives.
  - G. Information on all proposed drives including radii, widths, handicap ramps, etc. must be shown.
  - H. All existing and proposed buildings, utilities, trees, stonewalls, fences etc., should be labeled and shown in their correct location.
  - I. It is required that all stands, buildings, gasoline pumps and structures of any kind be placed at least 12 feet back from the State Highway Layout Line, since conducting of business within a State Highway Layout is forbidden.
  - J. Complete detail on drainage; all drives should be constructed on a downgrade from the edge of the highway surface or shoulder to the State Highway Layout Line.
  - K. Engineered plans will be required to show that storm flows are not directed into the SHLO, using contour lines, where applicant/owner property elevations are raised from the edge of the highway.
  - L. The plans should identify measures to protect the edge of the proposed drive during and after construction to prevent sediment and debris from entering upon the SHLO.

#### IF NEW STREET / SUBDIVISION ROAD:

*Minor Intersection and Roadway Reconstruction (where no MEPA review is required)*

*Required submittals:*

- All Commercial Driveway requirements (above) apply in addition to the following: Evidence of acceptance, including its line, grade and proposed drainage, by a local planning board, or other City of Town official with such authority.
- A street/road profile from its nearest high point and plan of drainage.

*Please be advised:*

- It will be required that all such future street approaches be constructed on a downgrade, where possible, from the edge of highway surface or shoulder to the State Highway Layout Line.
- Common driveway criteria may apply and must be shown on plans as mentioned above.

## PART C-II: VEHICULAR PERMITS

### CATEGORY II – Major Vehicular Access Permits

*Required submittals:*

- Engineering Plans based on the standards in the Manual On Uniform Traffic Control Devices (MUTCD), MassDOT's Project Development & Design Guide or its successor, MassDOT's Standard Specifications for Highway and Bridges, and any current technical policies or engineering directives issued by MassDOT. All PS&E design submissions must be both in hard copy (one set) and electronic format. Electronic format includes PDF files transmitted to DHD or designee via USB Flash Drive, CD or posted to a FTP site.
- In cases where a proposed access is to be shared by multiple development sites, the Applicant(s) will provide evidence of the rights of access between the parties involved prior to the issuance of the Access Permit.
- MEPA Certificate
- Section 61 Finding

## PART C-III: VEHICULAR PERMITS

### CATEGORY III – Complex Vehicular Permits

*Required submittals:*

- Engineering Plans based on the standards in the Manual On Uniform Traffic Control Devices (MUTCD), MassDOT's Project Development & Design Guide or its successor, MassDOT's Standard Specifications for Highway and Bridges, and any current technical policies or engineering directives issued by MassDOT. All PS&E design submissions must be both in hard copy (one set) and electronic format. Electronic format includes PDF files transmitted to DHD or designee via USB Flash Drive, CD or posted to a FTP site.
- In cases where a proposed access is to be shared by multiple development sites, the Applicant(s) will provide evidence of the rights of access between the parties involved prior to the issuance of the Access Permit.
- MEPA Certificate
- Section 61 Finding

#### Recording of Access Permits

Applicants must record any Vehicular Access Permit and plans or any Non-Vehicular Access Permit and plans involving drainage at the appropriate Registry of Deeds. Any Permit issued by MassDOT that requires recording will not be effective until recorded at the appropriate Registry of Deeds and a notice of recording is submitted to the District Highway Director (DHD). Changes may require the re-recording of permits and related documents. In those cases, permits will not be effective until re-recorded at the Registry of Deeds and a notice of recording is submitted to the DHD.

## **THERE ARE TWO TYPES OF ACCESS PERMIT APPLICATIONS: VEHICULAR, ISSUED UNDER THREE CATEGORIES & NON-VEHICULAR:**

### **1. VEHICULAR ACCESS PERMITS:**

#### **Category I – Minor Vehicular Access Permits:**

Access Permits for Projects that require entry to the State Highway Layout (SHLO), require little to no non-signalized modifications, and do not significantly alter the operating characteristics of traffic. These Projects ordinarily do not exceed the Massachusetts Environmental Policy Act (MEPA) transportation thresholds beyond the filing of an Environmental Notification Form (ENF).

#### **Category II - Major Vehicular Access Permits:**

Access Permits for Projects that require significant non-signalized modifications that may alter the operating characteristics of traffic at residential or commercial driveway intersecting with the SHLO; that require significant non-signalized modifications that may alter the operating characteristics of traffic at or upon any other intersection or roadway under the jurisdiction of MassDOT; that require the installation of a new traffic signal at a residential or commercial driveway intersecting with the SHLO or at any other intersection or roadway under the jurisdiction of MassDOT; or that require modification of structures, equipment, or hardware at an existing traffic signal at a residential or commercial driveway and its intersection with the SHLO or at any other intersection or roadway under the jurisdiction of MassDOT.

#### **Category III – Complex Vehicular Permits**

Access Permits for Complex Projects requiring actions similar to major Projects, but which require a new or altered SHLO; that require significant non-signalized and/or signalized modification within the SHLO over an extended distance or at a number of intersections that significantly alters the operating characteristics of traffic along a corridor; or that require the construction of a new, or modifications to an existing, bridge. These Projects generally require MEPA review and may require Federal review.

### **2. NON-VEHICULAR ACCESS PERMITS:**

Access Permits for Projects that require access to the SHLO that do not involve physical modifications such as a parade or road race; construction, relocation or repair of utilities within the SHLO; tree cutting or landscaping within the SHLO; the use of explosives to remove material from within 250 feet of the SHLO; or connection to or discharge to any MassDOT drainage system (in cases where it can be shown that no practical alternative exists).

---

## **CONDITIONS REQUIRING AN ACCESS PERMIT**

#### **Vehicular Access Permits are required for:**

- New residential or commercial driveways or streets intersecting the SHLO; or,
- Physical modifications to existing residential or commercial driveways or streets at their intersection with the SHLO; or,
- Change in use of an existing residential or commercial driveway onto SHLO that results in a **Substantial Increase in or Impact on Traffic** (as defined below) over the current use; or
- Construction of new or change in use of existing, residential or commercial driveway from properties that abut the SHLO to serve a building or facility, or expansion of a building or facility, that generates a Substantial Increase in or Impact on Traffic.

#### **Substantial Increase in, or Impact on, Traffic as referenced above is defined as:**

A Project that meets or exceeds any of the following thresholds:

- (i) Generation of 2,000 or more new ADT on roadways providing access to a single location; or,
- (ii) Generation of 1,000 or more new ADT on roadways providing access to a single location and construction of 150 or more new parking spaces at a single location; or,
- (iii) Construction of 300 or more new parking spaces at a single location; or
- (iv) Creation of a change in the type, pattern, or timing of traffic that is determined by MassDOT to generate a significant impact on traffic flow and safety.

#### **Non-vehicular Access Permits are required for:**

- Access to the SHLO for Projects that do not involve physical modifications; or
- Connection to or discharge to any MassDOT drainage system (in cases where it can be shown that no practical alternative exists); or
- Construction, relocation or repair of utilities within the SHLO; or
- Tree cutting or landscaping within the SHLO; or
- The use of explosives to remove material from within 250 feet of the SHLO.

**In cases where a particular Project or activity may seek both vehicular and non-vehicular access, separate and distinct Permit Applications must be filed.**



# TOWN OF HARWICH

## DEPARTMENT OF PUBLIC WORKS


273 Queen Anne Road • P.O. Box 1543 • Harwich, MA 02645

Telephone (508) 430-7555

Fax (508) 430-7598

### MEMORANDUM

**TO:** Board of Selectmen

**FROM:** Lincoln S. Hooper, Director 

**DATE:** May 30, 2018

**RE:** Recommendation to Restrict Treasure Chest Usage to Harwich Residents Only

---

Tom Caruso, Treasure Chest Chairman, met with me today to request restricting access to the Treasure Chest to Harwich residents only. The impetus of this request is the fact that the Town of Dennis has closed their swap shop indefinitely and caused an influx of non-residents to utilize our facility. This increased business has stretched the volunteers too thin and Mr. Caruso is concerned about losing some if something isn't done to address the sheer volume of patrons.

To address this, I would like to recommend that the Town adopt a Treasure Chest sticker to be given to residents when they purchase a Disposal Area permit or beach sticker. Residents that do not purchase either would be provided a Treasure Chest sticker free of charge with documentation of residency. This sticker would allow an easy way to determine residency at the Treasure Chest.

We would like this change to become effective July 1, 2018, to coincide with issuance of other permits and to allow some time to notify current patrons of the Treasure Chest of the new policy. Although Mr. Caruso feels enforcement of this restriction can be conducted entirely by volunteers, I feel allocating a Town employee for the first two weekends of July is warranted. That is, patrons from other towns are going to feel aggrieved and angry when they are told they cannot use the Treasure Chest and having a full time uniformed staff member deliver the news will generate less potential acrimony than if delivered by a volunteer.

Thank you for your consideration in this matter.

CC: Chris Clark, Town Administrator  
Tom Caruso, Treasure Chest Chairman

# HARWICH TREASURE CHEST



#

XXXXXX

FY- 2019

REG. #

NOT TRANSFERABLE  
ATTACH TO DRIVER SIDE WINDSHIELD

Begin forwarded message:

**From:** Carole Ridley <[cr@ridleyandassociates.com](mailto:cr@ridleyandassociates.com)>

**Subject:** SNEP

**Date:** May 23, 2018 at 1:40:54 PM EDT

Good Afternoon,

The Pleasant Bay Alliance has been invited to submit a full proposal for funding under the USEPA Southern New England Estuaries Project grant program to fund watershed permit implementation activities. The successful pre-proposal is attached. Please note that the budget numbers in the final proposal are expected to change from what is in the pre-proposal. In the pre-proposal we are requesting approximately \$270,000 from SNEP. There is a local match of \$366,000, which consists of in-kind staff time and technical support from the Towns, Alliance and County (\$116,000) and a proposed town appropriation subject to town meeting approval (\$250,000). In the final proposal, we expect the town appropriation portion to be about half what is in the pre-proposal, and the request to SNEP may increase.

The grant requires a letter of commitment for all match contributions. I have attached a draft letter. The grant is due June 8th, and I want to be sure we provide you with the information you need within the timeframe needed to ensure that we obtain a letter of match commitment from each town.

Please let me know if there are any procedural steps or deadlines for providing information in order to obtain the letters by June 7th.

Thanks,

Carole

**Ridley & Associates, Inc.**

115 Kendrick Road

Harwich, MA 02645

(508) 430 2563 (office)

(508) 221 8941 (cell)

(508) 432 3788 (fax)

[www.ridleyandassociates.com](http://www.ridleyandassociates.com)



Mr. Thomas Ardito  
Director  
Southeast New England Watershed Grants Program  
PO Box 476, Saunderstown, RI 02874

June 4, 2018

Re: Pleasant Bay Watershed Permit Implementation Project

Dear Mr. Ardito:

With this letter the Town of Harwich is confirming its strong support of and financial commitment to the Pleasant Bay Watershed Permit Implementation Project.

The Town of Harwich is a member community of the Pleasant Bay Alliance. Along with the other three Alliance towns, the Town of Harwich is seeking a Watershed Permit from Massachusetts Department of Environmental Projects. The permit consists of: (1) a targeted watershed management plan (TWMP); (2) general and specific conditions of a watershed permit; and (3) an inter-municipal agreement necessary to obtain the permit. The Watershed Permit Implementation Project will provide important guidance to assist the towns with implementing activities called for under the Watershed Permit and thereby attain the nitrogen reductions necessary to meet targeted maximum daily loads for total nitrogen in Pleasant Bay.

Accordingly, the Town of Harwich is committing in-kind professional staff support over the 30-month term of the project as described in the attached proposal, to ensure the success of the Project. The commitment of staff time will be funded through the Town's annual operating budget. In addition, subject to Board of Selectmen approval and Town Meeting appropriation, the Town will provide cash match needed to conduct ecosystem monitoring and modeling.

The commitment of in-kind and cash support leverages the considerable cash and staff resources the Town has already contributed to our community's efforts to reduce nitrogen in Pleasant Bay. This commitment includes recent votes by Town Meeting to participate in the Pleasant Bay Watershed Permit, and to fund the construction of sewers in the Town's portion of the Pleasant Bay watershed.

Thank you for your consideration of this important Project.

Sincerely,

AMEND THE CODE OF HARWICH GENERAL BYLAWS – CHAPTER 140  
HARWICH AFFORDABLE HOUSING TRUST

ARTICLE 40: To see if the Town will vote to accept the provisions of M.G.L. ch.44, §55C to establish an Affordable Housing Trust Fund; and further to amend the Code of the Town of Harwich to add a new Chapter 140 “Harwich Affordable Housing Trust” to read as follows:

**Affordable Housing Trust**

**Section 140-1 – Appointments** – As authorized by Chapter 44, §55C, the Board of Selectmen shall appoint 5 Trustees, one of whom shall be the Town Administrator or designee, and one of whom shall be a member of the Board of Selectmen; the remaining three (3) Trustees shall be appointed by the Board of Selectmen for two-year staggered terms.

**Section 140-2 – Duties and Responsibilities**

- A. The Trust shall possess all of the powers and authority set forth in M.G.L. c.44, §55C. The Selectman member of the Trust shall report to the full Board of Selectmen on purchases or sales of real property.
- B. In addition, the Affordable Housing Trust shall work with the Harwich Housing Committee to develop an affordable housing plan, which shall be updated each year and a copy presented to the Board of Selectmen.

**Section 140-3 – Removal** – A member may be removed from the Trust by the Board of Selectmen by a majority vote for cause after a public meeting or by failure to reappoint.

And to act fully thereon. By request of Town Administrator and Board of Selectmen.

*Explanation: The Affordable Housing Trust, allowed under MGL Chapter 44, Section 55 C, would expedite the Town’s ability to partner with private developers and convert existing housing to affordable housing. The purpose of the Trust is to provide a public benefit and a suitable living environment by increasing the access to and availability of safe and decent affordable housing to Harwich residents, while maintaining quality of life for all. Additionally, the Trust will provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate-income households. Yarmouth, Norwell, Lincoln, Dartmouth, Cambridge, Upton, Sudbury, Georgetown and Scituate are some examples of successful Affordable Housing Trusts.*

*A key part in establishing the Trust and one of the most effective ways our community can jump-start a housing effort is to fund the hiring of a part time Housing Coordinator. Funding for this has been requested through a CPA request. The Housing Coordinator would work closely with the Trust to provide support services for housing-related programs, projects, and affordable housing initiatives.*

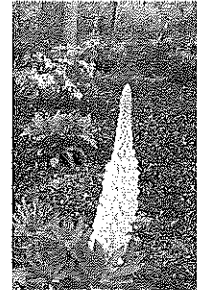
## Cemetery Administrator's Weekly Report

Week ending May 26, 2018

- Went with Amy Usowski to select plants for the Butterfly/Pollinator Garden for Island Pond Cemetery. Planted garden on Wednesday with Nicki Smith from



Conservation and Emma Forbes with AmeriCorps. The DPW dropped mulch on Wednesday late afternoon and I spread the mulch on Thursday.



- Email from Amy Usowski on Island Pond inventory. Amy and Nicki went to the Cemetery to identify additional species of Trees and Shrubs within Island Pond and on the Conservation piece for the Arboretum Project. I updated list and sent email to David Gonsalvi, Cape Cod Technical High School we have 33 species of Trees and 7 species of Shrubs.
- Request for burial on Lot #26 in North Harwich the Harding/Craig Lot. Surveyed the lot for existing burials and emailed information to family members. Funeral for Wednesday the 23<sup>rd</sup> met with Casper Funeral Director at cemetery for the burial and directed funeral procession thru Dennis as Depot Street was closed for construction. Island Pond Burial for Saturday May 26<sup>th</sup> on the Gonsalves lot two pine trees on the lot needed to be removed before burial was to take place. DPW assisted with the tree removal, I met with funeral director at gravesite and marked out space for burial.
- Worked with Tom Blute of Crosby Monuments for the placement of New Veterans Memorials.
- Attending the Department Head Meeting discussion of Town Meeting Articles that were approved.
- Planted at the entrance of Evergreen Cemetery and started weeding around the stone wall.
- Email from Dan Pelletier, Water Superintendent on water leak at Mount Pleasant Cemetery. He believes that there are additional leaks on the property and he advised the DPW.
- On Vacation Thursday and Friday.

Respectfully Submitted

Robbin Kelley  
Cemetery Administrator

Channel 18 Weekly Report  
w/e May 26, 2018

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- Filmed weekly updates with:
  - Chamber of Commerce
  - Recreation Department
  - Garden Club
- Filmed Board of Selectmen
- Filmed Planning Board
- Filmed Community Journal
- Prepared Flyer for Memorial Day by request of Veteran Agent
- Assisted the Community Center with TV equipped exercise equipment
- Ordered replacement Cameras and cabling
- Met with summer volunteers on schedule
- Agendas and Minutes posted
- All clips and meetings transferred and posted to YouTube
- Video file maintenance

Please Follow Channel 18 on YouTube for frequent video updates/meetings

[www.youtube.com/harwichchannel18](http://www.youtube.com/harwichchannel18)

And Facebook for additional info

[www.facebook.com/harwichchannel18](http://www.facebook.com/harwichchannel18)

Respectfully Submitted,

Jamie Lee Goodwin

[jgoodwin@town.harwich.ma.us](mailto:jgoodwin@town.harwich.ma.us) 508-430-7569

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## Weekly Update for the Community and Cultural Centers

May 20 –May 26

I am pleased to provide a report on my work at both the Community Center and the Cultural Center for the week running 5/20 to 5/26.

- The Cultural Center hosted the speaker from the Historical Society on Saturday in the auditorium.
- New weight room equipment arrived and was installed. I am working with Ch 18 director to help us get connected to Comcast for the new equipment.
- The new passport equipment arrived and the Channel 18 Director helped to set up the camera and printer for passport services.
- The elevator inspection took place on Tuesday and we had a problem with the emergency phone that I am working with Foster and Sean Libby to fix. Also on sight for inspection was the generator company and the Fire alarm company.
- I attended the monthly department head meeting.
- I set up the Cultural Center for the programs that we needed to displace from the Community Center gym. This included Charlie Abate's Senior fit classes, volleyball and over 55 basketball.
- The Community Center resurfacing project began on Tuesday and we are watching to make sure the project stays on time as we have several events scheduled in the gym for June.
- I conducted a meeting with the Program Aide for the Cultural Center to go over reservations, new ideas and bookings for the year and room rental agreements from some of our renters.
- I gathered information for our summer programs and posted the monthly calendar in the Chronicle Newspaper.
- I am working on job description for the event staff position at the Cultural Center. With the additional bookings in the center we need an additional 19 hour a week person to oversee night and weekend events as we try to continue to grow both the inside and outside of the building.
- I worked with Veterans affairs office to provide a back- up in the event of rain on memorial day celebration.

Should you need further information on these weekly activities, please do not hesitate to get in touch with me.

Carolyn Carey, Community Center Director



TOWN OF

HARWICH

*732 Main Street  
Harwich, MA 02645*

CONSERVATION COMMISSION

(508)-430-7538 FAX (508)430-7531

May 30, 2018

To: Harwich Board of Selectmen  
From: Amy Usowski, Conservation Administrator

### **Weekly Report of the Conservation Department**

- Met with potential applicants both in the office and onsite to discuss conservation issues on properties, visited sites currently under construction, issued permits, worked on meeting minutes.
- Assisted with phones and walk-in customers at Community Development window.
- Addressed issues with the irrigation system at the community gardens with the maintenance department.
- Identified more tree/shrub species at the Island Pond Cemetery and Island Pond Conservation Area to include in the Arboretum information.
- Conducted site visits in preparation for 6/6 Cons Comm meeting.
- Started putting together packets and doing site summaries for 6/6 Conservation Commission meeting.
- Monitored for Piping Plovers every morning on Saquatucket Bluffs because we are doing sand nourishment there and are required to do bird monitoring.
- Assistant Conservation Agent Nicki Smith and AmeriCorps Member Emma Forbes assisted Cemetery Director Robbin Kelley with the planting of the Butterfly Garden at Island Pond Cemetery.
- Attended Community Development team meeting on 5/24.
- Met with Chris Clark and Diane from the Garden Club regarding the Habitats for Wildlife program that was endorsed by the BOS a week ago.
- Removed downed/hazard trees across some trails in the Bells Neck Conservation Area.
- Assisted with Herring Count at Hinckley Pond.
- Started looking at department financial status as we are approaching the end of the fiscal year.



# TOWN OF HARWICH

## DEPARTMENT OF PUBLIC WORKS

273 Queen Anne Road • P.O. Box 1543 • Harwich, MA 02645

Telephone (508) 430-7555

Fax (508) 430-7598

### **DPW Activity for period of May 20, 2018 through May 26, 2018**

Please note that nearly all DPW staff was allocated to the mowing and weckwacking of cemeteries, parks, memorial squares and Town buildings in preparation of the Memorial Day Weekend.

#### **Highway Maintenance**

- Preparing cemeteries, parks, beaches, Town buildings and memorial squares for the Memorial Day Weekend
- 5 days of trash pick up
- Continued coordinating with RH White and National Grid

#### **Vehicle Maintenance**

- Performed three minor services, two Water Department vehicles and one Fire Department vehicle
- Performed twenty-one repairs on vehicles, small and heavy equipment
- One road call to Bourne for a trailer repair
- Performed maintenance and repairs on sanders

#### **Cemetery Maintenance**

- Mow cemeteries, Town buildings, parks, and memorial squares

#### **Parks Maintenance**

- Mowed and prepped 7 ball fields for games
- Mow cemeteries, Town buildings, parks, and memorial squares

#### **Facility Maintenance**

- Received 6 new work orders and completed 4 work orders from back log
- Continued with repairs to the Saquatucket Harbor sheds, they will get new roofing, siding, Azek trim, windows and doors over the next few weeks
- Finalizing the installation of new 10 ton A/C system for Fire Department Headquarters

- Removed Art Week letters from Cultural Center wall and inspected damaged gutter on the interior courtyard

### **Disposal Area**

- C&D: 19 loads, 326.42 tons
- MSW: 8 loads, 196.81 tons
- Recycling: 6 loads, 27.09 tons
- Vehicles Recorded: 7,941
- Revenue: \$52,676.45

### **Reception**

- Head Clerk was on vacation, so statistics were not kept for phone calls, walk ins or work orders processed





**TOWN OF HARWICH  
FINANCE DIVISION**

**732 MAIN STREET, HARWICH, MA 02645  
TEL: 508-430-7518 FAX: 508-430-7504**

**Carol Coppola  
Finance Director/Town Accountant**

**Wendy Tulloch  
Assistant Town Accountant**

*Report of the*

**Finance Director/Town Accountant – Weeks Ending 5/18/18 & 5/25/18**

Undertakings within the Finance Department during the past two weeks include the following initiatives/tasks:

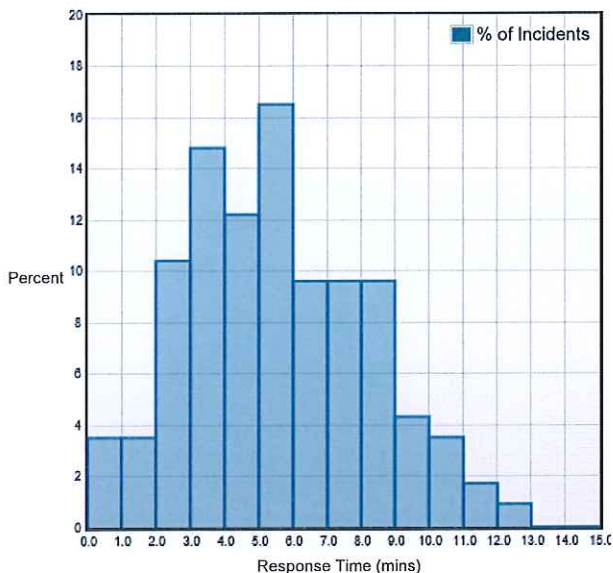
- Prepare documentation for and attend S&P Rating call,
- Various discussions with departments re: capital projects and cash flows,
- Attend Open Gov demonstration,
- Meetings with staff members,
- Prepare schedule of BANs and Bonds for upcoming sale,
- Research useful life for SAQ project components,
- Reconcile transfers due to/fr general cash to trust funds,
- Prepare indirect/direct cost schedules for building department,
- Finalize documentation for upcoming BAN/Bond sale,
- Various conversations and meetings with department heads,
- Meeting and discussions with Harbormaster and Fire Chief re: capital projects,
- Various conversations with engineers and architects re: cash flow for capital projects,
- Discussions with water department re: FY 18 budget and A/R reconciliations,
- Meetings with Cemetery Administrator,
- Attend Department head meeting,
- Attend Town Accountants meeting,
- Set up new account numbers in Munis for FY 19 articles,
- Meeting with CPC chairman,
- Prepare grant agreements for CPA recipients,
- Audit and process cash receipts,
- Audit, process and approve payroll transactions,
- Audit, process and approve vendor transactions.

Sincerely,

Carol Coppola  
Finance Director/Town Accountant

**Incident Response Time Analysis**  
 Date Range 05/20/2018 to 05/26/2018  
 Total # of Runs Fitting Criteria 115 runs  
 Average Response Time 5 mins  
 Service(s) Harwich Fire Department  
 Incident Type(s) All

Response Time	# of Incident Responses	% of Incident Responses
0 mins	4	3.5%
1 mins	4	3.5%
2 mins	12	10.4%
3 mins	17	14.8%
4 mins	14	12.2%
5 mins	19	16.5%
6 mins	11	9.6%
7 mins	11	9.6%
8 mins	11	9.6%
9 mins	5	4.3%
10 mins	4	3.5%
11 mins	2	1.7%
12 mins	1	0.9%
13 mins	0	-
14 mins	0	-
15 mins	0	-



[Report Description](#)

[Back To Filters](#)




Incident Type Report (Summary)  
 From 05/20/18 To 05/26/18  
 Report Printed On: 05/29/2018

Incident Type	Count	% of Incidents	Est. Property Loss	Est. Content Loss	Total Est. Loss	% of Losses
<b>1 Fire</b>						
Mobile property (vehicle) fire, other (130)	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
<b>3 Rescue &amp; Emergency Medical Service Incident</b>						
EMS call, excluding vehicle accident with injury (321)	64	68.82%	\$0.00	\$0.00	\$0.00	0.00%
Motor vehicle accident with injuries (322)	2	2.15%	\$0.00	\$0.00	\$0.00	0.00%
Motor vehicle accident with no injuries. (324)	2	2.15%	\$0.00	\$0.00	\$0.00	0.00%
	68	73.12%	\$0.00	\$0.00	\$0.00	0.00%
<b>4 Hazardous Condition (No Fire)</b>						
Power line down (444)	3	3.23%	\$0.00	\$0.00	\$0.00	0.00%
	3	3.23%	\$0.00	\$0.00	\$0.00	0.00%
<b>5 Service Call</b>						
Service Call, other (500)	5	5.38%	\$0.00	\$0.00	\$0.00	0.00%
Lock-out (511)	4	4.30%	\$0.00	\$0.00	\$0.00	0.00%
Public service (553)	2	2.15%	\$0.00	\$0.00	\$0.00	0.00%
	11	11.83%	\$0.00	\$0.00	\$0.00	0.00%
<b>6 Good Intent Call</b>						
Good intent call, other (600)	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
Dispatched and cancelled en route (611)	2	2.15%	\$0.00	\$0.00	\$0.00	0.00%
	3	3.23%	\$0.00	\$0.00	\$0.00	0.00%
<b>7 False Alarm &amp; False Call</b>						
Smoke detector activation due to malfunction (733)	2	2.15%	\$0.00	\$0.00	\$0.00	0.00%
Alarm system sounded due to malfunction (735)	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
Smoke detector activation, no fire - unintentional (743)	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
Alarm system activation, no fire - unintentional (745)	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
	5	5.39%	\$0.00	\$0.00	\$0.00	0.00%
<b>9 Special Incident Type</b>						
Special type of incident, other (900)	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
<b>Not Recorded</b>						
Not Recorded	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
	1	1.08%	\$0.00	\$0.00	\$0.00	0.00%
<b>Total Incident Count:</b>	<b>93</b>			<b>Total Est. Loss:</b>	<b>\$0.00</b>	

<b>Search Criteria</b>	
<b>Dates</b>	From 05/20/2018 To 05/26/2018 (mm/dd/yyyy)
<b>Service</b>	Harwich Fire Department

Staff	All
Apparatus	All
Station	All
Alarm Type	All
Zone/District	All

 **Report Description**



# Harwich Fire Department



*Fire Suppression*

*Prevention*

*Emergency Services*

Norman M. Clarke Jr., Chief of Department

David J. LeBlanc, Deputy Fire Chief

## Fire Prevention – Inspections Week of May 20 through 26

Inspection Type	
Resale	12
Annual	7
Final	1
Lockbox	2
Liquid Propane	3
Oil Burner	
Oil Tank	
Pre-Inspection	1
Re-Inspection	
Safety Inspection	
Town Hall – Plans (hours)	5
Town Hall – Meeting (hours)	
Tank Truck	
Fire Drills	1
Meetings – Misc	
Joint Inspection	

## **Sandy Robinson**

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**From:** John Rendon  
**Sent:** Tuesday, May 29, 2018 3:12 PM  
**To:** Sandy Robinson; Ann Steidel  
**Cc:** William Neiser; Michelle Morris  
**Subject:** Harbormaster Department Weekly Report 14-27 May

### **Operations:**

- Set Round Cove channel and no wake buoys and Pleasant Bay swim area buoys.
- Coordinated with the Highway Department to have the old Wixon Landing dock taken to the Transfer Station.
- Removed winter floats from the Long Pond moorings and replaced the buoys and pennants.
- Brought Marine 77 from Allen Harbor to Saquatucket Harbor (SAQ). Checked depths and distances in the SAQ channel and around the new docks.
- Hooked up a radio and set up needed supplies in the temporary office trailer at SAQ.
- Launched 77B at Round Cove and 77C at Long Pond for the season.
- Towed a dead seal off the beach near Zylpha Road. The seal was towed to Allen Harbor; loaded on a trailer; taken to the Transfer Station.

### **Admin:**

- Sent CO #5 for BTT Marine project and CO #13 & CO #14 for Eastward Companies to Accounting for processing.
- Updated Laptop with all Harbor Documents and Lists required for the Summer Season.
- Onsite IT work at Commercial Trailer with Foster, setting up Laptop, printer, etc.
- Ordered number plates for docks.
- Contacted Boat Haulers to go over dates Saquatucket Ramp would be available for boat launch.
- Provided Accounting with a copy of FY19 CVA Contract for Pumpout Reimbursements.
- Prepared and submitted Grant Reimbursement Requests for Landside and Waterside Projects; provided Accounting with copy.
- Coordinated temporary slip placement for Friday 5/25 with many slip holders normally located on East Side.
- Submitted paperwork for new hire.
- Provided Insurance Agent (Benson Young and Downs) with replacement costs for new dock system at Saquatucket Harbor, also provided information to add Long Pond Moorings/Ramps.
- Prepared Personnel Action Forms for 7/1 for Full Time/Part Time/Seasonal Staff.
- No charge for daily ramp passes until 6/1 due to construction.

### **Meetings:**

- BOS Meeting - Transfer of Freedom Ferry slip approved by BOS to new owner.
- SAQ Marina Replacement project progress meeting; discussed plan to finish outstanding items needed to open the west docks and public ramp for Memorial Day weekend.
- Meeting with TA & Town Engineer on SAQ septic system; provided project update.
- WWC meeting.
- SAQ Landside Renovation project progress meeting, discussed plans to make site safe for Memorial Day weekend.

### **Maintenance:**

- The shore side pump-out station at Saquatucket Harbor (SAQ) was made operational for the season.
- Cut up and removed two dead trees that had fallen across the walkway between the Downey property and SAQ.
- Portable Potties and Dumpster delivered to Saquatucket on 5/24/18.

### **Training:**

- Reviewed temporary procedures at work site with seasonal staff.

## Health Director Weekly Report Week ending May 12, 2018

Projects-

Gave 2 Septic Installer Exams.  
 Attended Town Meeting.  
 Prepared Site Summaries for hearing for the upcoming BOH meeting  
 Attended the Weekly Community development Meeting  
 Met with BOH Chair to review upcoming meeting agenda

<u>REAL ESTATE TRANSFER INSPECTION REPORTS</u> 702 Route 28 67 Long Road 85 Division Street 16 Harding Lane 64 Smith Street 11 Arbutus Ave 15 Archibald Circle 1 Northwind Lane 3A Kimberly Way 20 Six Penny Lane 3 Alexander's Chase 1 Paddock Drive	<u>FOOD INSPECTIONS</u> Good Times Ice Cream J Bar Irish Pub Weatherdeck Local Flavor Moonshine Liquors Luke's Liquors HJT- Division
<u>SEPTIC SYSTEM PERMITS</u> 675 Route 28 801 Depot St. 13 Tuckers Way 22 Vacation Ln. 5 Meredith Way 45 Main Street Extension 11 Oliver Snow Rd. 55 Obed Brooks Rd. 10 Middle Rd.	<u>Well Permit</u> 1193 Orleans Road 16 Saquatucket Bluffs

<u>FINAL SEPTIC INSPECTIONS</u> 31 Fairways Dr. 27 Sea St. 26 Kimberley Way 82 Courtney Rd. 7 Red River Road 17 Old Wharf Road 26 Ocean Ave 41 Deacons Folly Road 1280 Orleans Road 68 Lovers Lane	<u>BUILDING PERMIT REVIEWS</u> 16 Osbourne Rd. 100 Church St. 13 Tuckers Way 22 Vacation Ln. 22 Main St. 8 Ruth Ln. 24 Wychmere Harbor Dr. 651 Route 28 10 Nickerson Rd 19 Cahoon Ln. 27 Wilmas Way
<u>COMPLAINT INSPECTIONS</u> 235 South Westgate Rd. (Well Water) 12 Pleasant Valley (Trash in Boat) 9 Williams Rd. (Possible Shed Habitation) Depot Street	<u>CONSULTATIONS</u> 100 Church Street-walk through for post construction Grey Gull inspection with Fire 4 ZBA referrals Met with new owner of Harwich Inn and Tavern

Meggan Eldredge

## Health Director Weekly Report Week ending May 19, 2018

Projects-

- Attended the Monthly Board of Health meeting.
- Staff inventoried all public beaches for required signage.
- Successfully completed the emergency call down drill required quarterly.
- Coordinated with the County for Summer Beach Sampling. We will be sampled on Wednesdays.

<u>REAL ESTATE TRANSFER INSPECTION REPORTS</u> 1280 Orleans Road 1 Belmont Road (incomplete) 64 Birch Drive 995 Route 28/ 28 Deer Run 31 Fairways Drive 108 Clearwater Drive 86 Captain Bears Lane 25 Grey Neck Road 26 Beach Road	<u>FOOD INSPECTIONS</u> Pineapple Caper Café- Food Truck (Temporary Permit) Capeside Kitchen
<u>SEPTIC SYSTEM PERMITS</u> 10 Middle Rd. 55 Obed Brooks Rd. 632 Route 28	<u>CERTIFICATES OF COMPLIANCE</u> 41 Deacons Folly Road 31 Fairways Drive 91 Headwaters Drive
<u>FINAL SEPTIC INSPECTIONS</u> 6 Brothers Way 31 Fairways Drive 27 Sea Street	<u>BUILDING PERMIT REVIEWS</u> 12 Pine Orchard Rd. 27 Wilmas Way 316 Bank St. 11 Oliver Snow Rd. 58 Uncle Venies Rd. 231 Church St. 2 Walton Rd. 715 Route 28 87 Route 28 10 Middle Rd. 72 Julian Rd.
<u>COMPLAINT INSPECTIONS</u> 235/237 South Westgate- Well Close-Out 588 Depot Street- Septic "Leaking" Close-Out 10 Old County Road 9 Williams Way 12 Pleasant Valley Road 908 Queen Anne Road 216 Route 28 (Fully Baked Smoke Shop)	<u>CONSULTATIONS</u> 54 Chatham Rd.- Septic Question 71 Nor'East Dr.- Septic Question 41 Archibald Circle. – Septic Question 72 Hawksnest Rd.- Septic Question 10 Nickerson –compliance walk through 2 Haromar Health-compliance walk through
<u>WELL PERMITS</u> 13 Tuckers Lane	<u>INTERDEPARTMENTAL REFERRALS</u>

Meggan Eldredge



## Health Director Weekly Report Week ending May 26, 2018

Met with inspectional services and Police Chief regarding Code Compliance checks for Liquor License Holders. Chief Guillemette would like Health, Fire and Building to accompany an officer to establishments on a weekend evening to perform code compliance checks. These checks will look at overcrowding, off-set seating plan compliance and fire code compliance as well as liquor license compliance. We met with the license holders and went over expectations.

Collected public beach water quality samples at 3 beaches. The County will begin collecting these samples the first week in June, until then, we need to collect them ourselves.

Attended the monthly department head meeting.

Reviewed BOH decision letters and minutes from the May meeting.

Attended the weekly community development meeting

<p><u>REAL ESTATE TRANSFER INSPECTION REPORTS</u> 276 Chatham Road 9 Lakeview 7 Cross 30 Dogwood 5 Lantern 586 Route 28 885 Queen Anne Road 3 Little Shaver Lane 40 Glenwood Drive</p>	<p><u>FOOD INSPECTIONS</u> Commodore Inn Georges Fish Market Cape Side Kitchen Sundae School Ice Cream Perks Perry's Ice Cream Platinum Pebble Tern Inn</p>
<p><u>SEPTIC SYSTEM PERMITS</u> 119 Sisson Rd. 74 Depot St. West 5 Arthur's Way 7 Arthur's Way 108 Clearwater Dr. 20 Bayberry Rd. 22 Vacation Ln. 10 Sandy Shore Way 85 Earle Grey Rd. 43 Whidah Dr.</p>	<p><u>SWIMMING POOL INSPECTIONS</u> A Beach Breeze Inn Commodore Inn Handkerchief Shoals Belmont Harwichport Resort Club Allen Harbor Pool Platinum Pebble Pool Tern Inn Pool Wyndemere Condo Pool</p>
<p><u>FINAL SEPTIC INSPECTIONS</u> 9 Herring Run Road 14 Rainbow Way 97 Chatham Road 715 Route 28 2 River Road 36 Northern Ave 165 Pleasant Bay</p>	<p><u>BUILDING PERMIT REVIEWS</u> 1006 Main St. 5 Arthur's Way 7 Arthur's Way 16 Samoset Dr. 501 Long Pond Dr. 10 Middle Rd. 22 Hiawatha Rd. 8 Ruth Ln. 22 Vacation Ln.</p>
<p><u>COMPLAINT INSPECTIONS</u> 12 Herring Run</p> <p><u>INTERDEPARTMENTAL REFERRALS</u> 2 Planning board referrals</p>	<p><u>CONSULTATIONS</u> Dave Clark-pre variance Cape Verdean Festival 86 Capt. Barse-walk through 19 Cahoon Lane-walk-through Brax-tobacco sales</p>

Meggan Eldredge

## Sandy Robinson

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**From:** Heinz Proft  
**Sent:** Tuesday, May 29, 2018 3:22 PM  
**To:** Sandy Robinson  
**Cc:** Ann Steidel  
**Subject:** : Natural Resources Weekly report of 05/30/18

### Natural Resources Weekly report 05/30/2018

- \* Shellfish patrols completed on Open Days – WED, SAT, SUN and over 220 Shellfish permits have been sold YTD. In June, this will change to WED & SAT.
  
- \* Shellfish permits now being sold at Saquatucket Harbor. This change has been noted on the Town Natural Resources web site.
  
- \* Herring count with electronic counter >775,000 fish have passed – that already exceeds both the 2016 and 2017 totals.
  
- \* Purchased 30 copies of Marine Habitats of Cape Cod (book) for 2018 water sampling volunteers.
  
- \* Long Pond water level is dropping (good) - planning to install DMF aluminum chute.
  
- \* Began receiving Shellfish lab internship applications – due date is June 4<sup>th</sup>.
  
- \* Compiled Aunt Edies historical water quality data and provided it to potential homeowner.
  
- \* Began office transition from 204 Sisson Rd to Saquatucket Harbor. Harbormaster and Natural Resources now functioning primarily out of the mobile trailer unit at Saquatucket until landside office is completed.
  
- \* Set water sampling schedule for 2018 and began reaching out to sampling volunteers for both the Harwich and the Pleasant Bay Alliance sampling programs.

Heinz Proft  
*Nat. Resources Director*



# **HARWICH**Police

DEPARTMENT

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**DAVID J. GUILLEMETTE**  
Chief of Police

**THOMAS A. GAGNON**  
Deputy Chief

## WEEKLY ACTIVITY REPORT FOR WEEK OF 5/13/18 THROUGH 5/19/18

### PATROL

- 223 Calls and patrol-initiated activity logged
  - 5 arrests
  - 1 Protective custody (alcohol)
  
- 30 motor vehicle stops resulting in:
  - 20 Verbal warnings
  - 19 Written warnings
  - 1 Investigation
  
- 6 Motor vehicle accidents investigated

### ADMINISTRATION

- Lt. Considine attended a mentor luncheon for end of year intern program. Harwich PD had two high school interns this year both interested in law enforcement careers
- Chief attended dedication of First Responders bridge and flag pole at route 149 overpass
- Chief attended Mass Chiefs annual meeting