

**SELECTBOARD MEETING
TUESDAY, DEC. 18, 2018
SELECTBOARD MEETING ROOM – 7:00 P.M.
AGENDA**

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

1. CALL TO ORDER
2. Chief Parentela Transition Update and Appreciation/Recognition
3. State Representative–Elect Daniel Carey Introduction and Discussion
4. ANNOUNCEMENTS/OPEN FORUM
5. CONSENT AGENDA
6. NEW BUSINESS
 - A. Change of Address: Egg and I, Dave Simard (LLA)
7. RESIGNATIONS/APPOINTMENTS
 - A. Resignation of Robert David Baldwin from HCOG
8. OTHER BUSINESS
 - A. Colliers Contract for Senior Center OPM
9. TOWN ADMINISTRATOR'S REPORT
10. CHAIRMAN'S REPORT
11. ADJOURN

Robert David Baldwin
97 Pine Grove Drive
South Hadley, MA 01075

RECEIVED
TOWN OF SOUTH HADLEY
TOWN CLERK'S OFFICE

2018 DEC -3 AM 10:41

December 3, 2018

Carlene C. Hamlin
Town Clerk
116 Main Street
Room 108
South Hadley, MA 01075

Dear Carlene:

As I am relocating to St. Louis, Missouri, at the end of the month, I hereby resign my seat representing the Town of South Hadley on the Hampshire Council of Governments, effective December 14. I will also be stepping down as Town Meeting Member from Precinct E. It has been an honor serving the people of South Hadley in both capacities, and I appreciate the opportunity to have contributed to our town's governance.

If you have any questions, please do not hesitate to contact me at [REDACTED]

Sincerely,

Dave Baldwin

TOWN OF SOUTH HADLEY

CONTRACT

DATE: 12/18/18

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

Colliers International

135 New Road
Madison, CT 06443

860-395-0055
Fax +1 203-779-5661

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

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

3. Payment will be made as follows:

3.1

3.2 Fees and Reimbursable Costs combined shall not exceed \$ 392,500 as more fully set forth in the Contractors Response to the RFP.

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

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

4.1 In the event the contract price exceeds the sum of \$10,000.00, the Contractor must provide security in the form of a bond or otherwise, conditioned upon the faithful performance of this Contract.

Commented [CA1]: If this is required, please let us know and we can help arrange for it.

Commented [MS2R1]: It is required

5. Definitions:

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

6. Term of Contract and Time for Performance:

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

7. Subject to Appropriation:

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

8. Permits and Approvals:

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

9. Termination and Default:

9.1 Without Cause. The Town may terminate this Contract on thirty (30) calendar days notice when in the Town's sole discretion it determines it is in the best interests of the Town to do so, by providing notice to the Contractor, which shall be in writing and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Upon termination without cause, Contractor will be paid for services rendered to the date of termination.

9.2 For Cause. If the Contractor is determined by the Town to be in default and the Contractor fails to cure such default as described in Section 9.3 below, the Town may terminate this Contract. Upon termination, Contractor will be paid for services rendered prior to the date of termination.

9.3 Default. The following shall constitute events of a default under the Contract if not cured by Contractor within fourteen (14) business days following notice of default from the Town to the Contractor, which shall be in writing describing the applicable default and shall be deemed delivered and received when given in person to the Contractor, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the Contractor. Notwithstanding the foregoing, if such default is of such a nature that it cannot be remedied within the fourteen (14) day period provided for above, Contractor shall not be in default hereunder if it shall, in good faith, have commenced to remedy the default within such fourteen (14) day period, shall subsequently prosecute to completion with diligence and continuity the remedying of the default and shall remedy the default within a reasonable time thereafter. Upon termination, Contractor will be paid for services rendered to the date of termination. The Town may send notice of default to Contractor in the event of the following:

any material misrepresentation made by the Contractor to the Town; 2) any failure to perform any of its obligations under this Contract including, but not limited to the

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

10. Suspension or Delay

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

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

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

12. Statutory Compliance:

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

General Laws Chapter 30B – Procurement of Goods and Services.

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

General Laws Chapter 149, Section 44A, *et seq*: Public Buildings Contracts.

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

13. Conflict of Interest:

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

14. Certification of Tax Compliance

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

15. Non-Discrimination/Affirmative Action

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

The following provisions will not apply if the contract price is less than \$10,000.00 or where the Contractor employs fewer than six (6) persons. [The Town may, on a case by case basis, determine that the following provisions apply to contracts for less than \$10,000.00 or where the Contractor employs less than six (6) employees.]

- 15.1 As used in this section “affirmative action” means positive steps to ensure all qualified persons equal employment opportunity without regard to race, color, religion, sex or national origin at all stages of the employment process: recruitment, selection, placement, promotion, training, layoff and termination. It may include, but is not limited to, the following:
- (a) Inclusion in all solicitation and advertisements for employees of a statement that the Contractor is an “Equal Opportunity Employer”;
 - (b) Placement of solicitations and advertisements for employees in media that reaches minority groups;
 - (c) Notification in writing of all recruitment sources that the Contractor solicits the referral of applicants without regard to race, color, religion, sex or national origin;
 - (d) Direct solicitation of the support of responsible and appropriate community, state and federal agencies to assist recruitment efforts;
 - (e) Participation in, or establishment of, apprenticeship or training programs where outside programs are inadequate or unavailable to minority groups;
 - (f) Modification of collective bargaining agreements to eliminate restrictive barriers established by dual lines of seniority, dual rates of pay or dual lines of promotion or progression which are based on race, color, religion, sex or national origin; and
 - (g) Review selection, placement, promotion, training, layoff and termination procedures and requirements to ensure that they do not intentionally or unintentionally discriminate against qualified persons because of race, color, religion, sex or national origin.
- 15.2 The Contractor shall include in all compliance and progress reports submitted to the town a report which shall include: (a) A certificate stating that he or she is currently in compliance with the provisions of G.L. c. 152B and setting forth the Affirmative Action he or she is currently undertaking and will undertake during the contract period to provide equal employment opportunity for all qualified persons without regard to race, color, religion, sex or national origin; and (b) A statement in writing supporting information signed by an authorized officer or agent on behalf of any labor union or other agency which refers workers or provides or supervises apprenticeship or other training programs which the Contractor deals, to the effect that the union or other agency’s practices and policies do not discriminate on the basis of race, color, religion, sex or national origin; provided, in the event that the union or other agency shall refuse to execute such a statement, the Contractor need only so certify in writing.
- 15.3 A copy of any such report as described above, shall be filed in the office of the Town Clerk and shall upon said filing become a public record.
- 15.4 The Contractor will take Affirmative Action to ensure that employees are solicited and employed, and that employees are treated during employment, without regard to race, color, religion, sex or national origin.
- 15.5 The Contractor will in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

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

16. Assignment:

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

17. Condition of Enforceability Against the Town:

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

18. Corporate Contractor:

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

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

19. Contractor's Personnel:

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

20. Liability of Public Officials:

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

21. Indemnification:

- 21.1 With respect to professional services rendered by the Contractor, to the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner, and its officers and employees from and against all third-party claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Owner to the extent caused by the gross negligence of the Contractor, a person employed by the Contractor, or any of its Subcontractors.
- 21.2 With respect to non-professional services rendered by the Contractor, to the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner and its officers and employees from and against all third-party claims, damages, liabilities, injuries, costs, fees, expenses, or losses, including, without limitation, reasonable attorney's fees and costs of investigation and litigation, whatsoever which may be incurred by the Owner arising out of or resulting from the performance of its services provided that such claims, damages, liabilities, injuries, costs, fees, expenses, or losses are attributable to bodily injury or death or injury to or destruction of tangible property and to the extent caused by a grossly negligent act or omission of the Contractor, a person employed by the Contractor, or any of its Subcontractors.

The foregoing provisions shall not be deemed to be released, waived, limit or modified in any respect by reason of any surety or insurance provided by the Contractor under the Contract. Notwithstanding anything to the contrary herein, the maximum liability of Contractor, and its directors, members, managers, employees, agents, affiliates and officers, for damages for any and all causes whatsoever hereunder, regardless of the form of action, whether in contract, tort or otherwise, will be limited to an amount equal to the fees paid to Contractor pursuant to this agreement

22. Insurance

22.1 Insurance to be Maintained by the Owner.

The Owner shall maintain primary and non-contributory Commercial General Liability Insurance with per occurrence limits of \$10,000,000 and include coverage for bodily injury including death, medical payments, broad form property damage, personal injury and builder's risk property coverage providing all risk replacement cost coverage on Owner's property. Contractor shall be insured under the Owner's Commercial General Liability Insurance policy for actions within the scope of Contractor's authority as set forth in this Agreement. In any and all trade contracts and agreements between the Owner and its consultants, construction manager, contractors, architect and other service providers, Owner shall have both itself and Contractor named as additional insured with respect to all such liability insurance policies.

The Owner shall name Contractor as an additional insured on its Commercial General Liability Insurance policy and include a waiver of subrogation in favor of the Contractor.

The Owner will cause its other contractors involved in the construction of the Project to carry usual and customary commercial general liability insurance on a primary basis to the Owner and Contractor, (b) cause its consultants involved in the design of the Project to carry usual and customary professional liability insurance, and (c) will cause the Project construction work to be covered during the performance thereof by a usual and customary builder's risk property insurance policy (d) cause all such contractors to include the Owner and Contractor as an additional insured on such policies

22.2 Workers Compensation Insurance:

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

Interruption of Workmens Compensation insurance as described herein, during the period of this Contract may be deemed a material breach of this Contract if the breach is demonstrated to be intentional or willfully negligent, and Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article in the event of such an occurrence.

Commented [CA3]: Is it possible to soften this language?

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

22.3 Professional Liability Insurance

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

Failure to provide and continue in force such insurance during the period of this Contract may be deemed a material breach of this Contract, if the breach is demonstrated to be intentional or willfully negligent. Contractor shall indemnify the Town for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

22.4 Other Insurance Requirements

- a. Comprehensive commercial general liability insurance with limits (including excess/umbrella limits) of at least \$1 Million per occurrence and \$3 Million annual aggregate for property damage and \$1 Million per person and \$3 Million per occurrence for bodily injury, which shall include the Town of South Hadley as an additional insured, subject to the indemnity agreed in the Agreement, and which shall cover bodily injury, sickness or disease, or death of any person including employees and those persons other than the Contractor's employees, and claims insured by

usual personal liability coverage, death, or property damage arising out of the Work including injury or destruction of tangible property, including loss of use resulting therefrom.

- b. Motor vehicle insurance for any motor vehicles used in performing the Work, with limits of at least \$500,000 per person, and \$1 Million per accident or combined limits of \$1,000,000 per occurrence.
- c. The intent of the Specifications regarding insurance is to specify minimum coverage and minimum limits of liability acceptable under the Contract. However, it shall be the Contractor's responsibility to purchase and maintain insurance of such character and in such amounts as will adequately protect it and the Town from and against all claims, damages, losses and expenses resulting from exposure to any casualty liability in the performance of the work, including and not limited to Professional liability insurance where applicable.
- d. Subject to the indemnity agreed in the Agreement, all policies shall identify the Town as an additional insured (except Workers' Compensation and Professional Liability). The Contractor shall endeavor to notify the Town immediately upon the cancellation to any policy. Insurer(s) shall endeavor to provide Renewal Certificates to the Town at least ten (10) days prior to the expiration of the required policies. Certificates evidencing all such coverage shall be provided to the Town upon the execution of this Agreement, and upon the renewal of any such coverage. Each such certificate shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. **Failure to provide the notice of cancellation required in this Section or to continue in force such insurance shall be deemed a material breach of this Contract and may be grounds for immediate termination.** Said insurance shall include: Workers Compensation/Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, personal injury, contractual liability. All Certificates of Insurance shall be on the "MIIA" or "ACORD" Certificate of Insurance form, authenticated by the proper officer of the Insurer, evidencing in particular those insured, the extent of coverage, the operations to which the insurance applies, the expiration date and the above-mentioned notice clauses. Coverage's shall be maintained without interruption from date of the Contract until date of final payment and termination of any coverage required to be maintained after payment.
- e. The Contractor shall obtain and maintain during the term of this Contract the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts and acceptable to the Town.

Commented [CA4]: Is this referring to notice of cancellation only??

Commented [MS5R4]: Yes

Commented [CA6]: We have vicarious liability for independent contractors.

Commented [CA7]: Workers Comp and Professional Liability are written on claims made basis.

23. Documents, Materials, Etc.

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

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

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

24. No Employment

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

25. Audit, Inspection and Recordkeeping

At any time during normal business hours after reasonable notice (no shorter than 24 hours), and as often as the Town may deem it reasonably necessary, there shall be available in the office of the Contractor for the purpose of audit, examination, and/or to make excerpts or transcript all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

26. Payment

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

27. Waiver and Amendment

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

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

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

28. Severability

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

29. Forum and Choice of Law

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

30. Notices

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

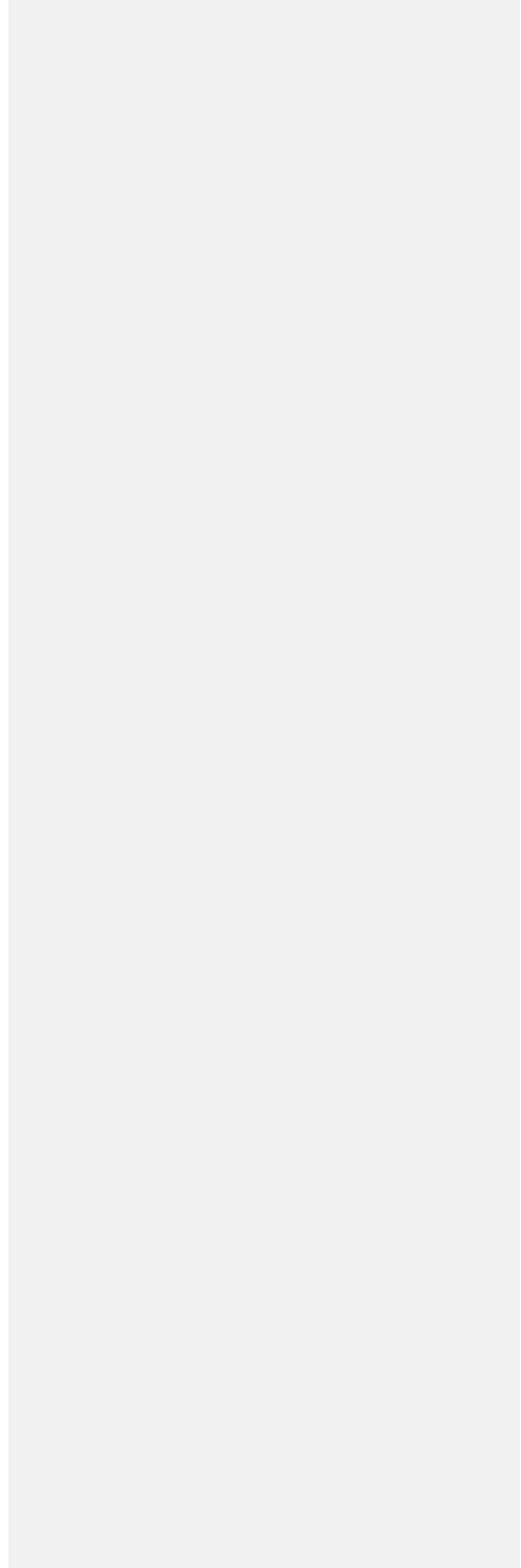
31. Binding on Successors:

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

32. Entire Agreement:

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

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK]



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

The Town of South Hadley by:

The Contractor by:

Ira Brezinsky Chair, Selectboard 12/18/18

Signature Date

Andrea Miles, Vice Chair

Print Name & Title

Jeffery Cyr, Clerk

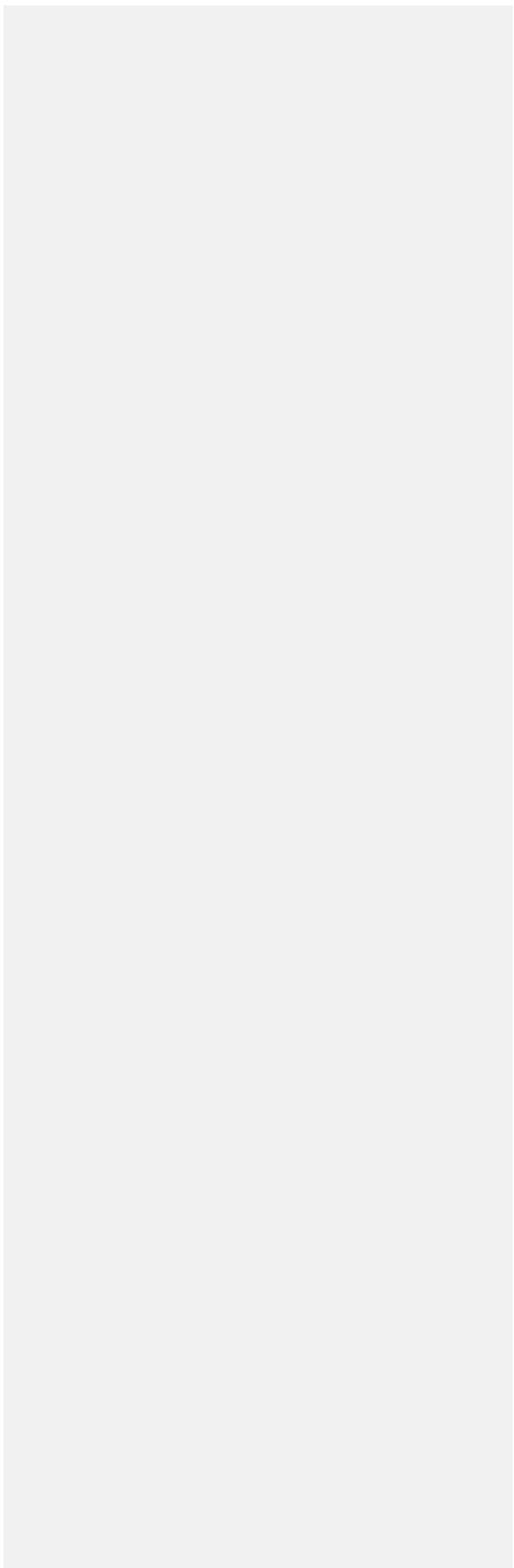
Sarah Etelman, Member

Bruce C. Forcier, Member

Michael J. Sullivan, Town Administrator

Certified as to
Appropriation/Availability of Funds:

Town Accountant Date



Ira Brezinsky, Chair
Andrea Miles, Vice-Chair
Jeff Cyr, Clerk
Sarah Etelman
Bruce Forcier

Michael J. Sullivan
Town Administrator

Dec. 13, 2018

Honorable Selectboard,

Please accept this abridged version of the projects and initiatives I, and the outstanding municipal staff, have been working on over the last two weeks. It has certainly has been an incredibly busy period as the calendar year comes to a close. As always I greatly appreciate your continued support.

Website Update: There continues to be momentum building on the website thanks to the hard work of Kristin Maher and Jaime Doolittle. I got a quick glimpse of the color palette and the new look - it does elicit excitement. The new logo is featured prominently and the colors emanate from there, creating a clean look.

The features and content changes continue to be developed, including the "New Resident" page. The "team" is continuing to look at innovations on other municipal sites, as well as dissecting the process of access to information on our pages. It is not always easy to try and translate what we are saying into common straightforward language

Town Hall Projects: There has been a great deal of activity this past week around town hall. The sewer pipe replacement has begun but may stretch into next week as it was discovered there is a need to cut into the sidewalk and the road to complete the replacement project. The old clay pipe goes about 15 feet farther than originally suspected.

The walkway leading to the new assembly area portion will not be completed until spring as this is not a recommended concrete season. They also discovered more of the root system left behind by the tree.





Once this project is complete, ATA Wolowicz will have the work start on the conference room - where the former IT office was housed - to replace Conference Room One.

On the other end of the building, the entrance closest to the police department is experiencing a significant makeover as well.

The new colors at this entrance will serve as a template for the first floor hallway renovation projects. We have some of the remaining items in the hallway listed on MuniBid and look forward to having the kiosks and message boards installed. We will also have a directional tablet which will help clients find their way to offices.

O-Zone Conference: Town Planner Richard Harris and I recently attended the DHCD Opportunity Zone Conference in Lowell. It was attended by planners, tax accountants,

lawyers, developers, investors and government types who know very little, like me. The picture shows EOEA Secretary Jay Ash addressing the gathering.

As with all attendees of this conference there was plenty of questions left unanswered by the presenters and panelists - not because they did not try and certainly not because they did not want to answer those lingering questions. Simply put, there are still a lot of unknowns with the legislation as it is presently written. An interesting side note: DHCD staff was on a national teleconference during this conference getting more detailed answers.

Suffice to say there is a great deal of interest in O-Zones. The room was overflowing and there are numerous



communities asking why they were not included as an opportunity zone. South Hadley is one of the 79 Massachusetts communities out of 351 cities and towns accepted in the program for the next 10 years. It should be noted the target area accepted by the State and Feds in SoHa is the census tract which is largely the Falls.

Investors who have a taxable realized gain from an investment will be allowed to take those gains and invest them in a project in an O-Zone and have any tax payment deferred or under some other measures (after 10 years) dismissed altogether. These investments can be in housing, commercial industries, manufacturing, intellectual properties, retail or just about anything which will produce jobs or profit. Needless to say it is much more complicated than I can describe. But judging by the real money in the room, or at least the smell of it, there are people ready to invest.

I believe it will be important for anyone thinking of buying, investing or starting a project in South Hadley to make sure they know SoHa is an O-Zone and they should consult their accountants/lawyers to see the advantages. Learn more at www.mass.gov/opportunity-zone-program and check out the cut sheet on South Hadley and the 78 other communities.

Budget 2020: The budget process continues and it is highly unlikely we will be able to match the reduction we experienced last year. However, I will do my level best to offer a budget which keeps our core responsibilities (public education, safety, government services) at the forefront.

In a conversation last week with the Superintendent about the rapidly increasing special needs for the students attending South Hadley Public Schools, and the challenge of Charter Schools which often systemically exclude students who require increased services from their "mix," he revealed the need for a substantial increase in the school budget. I will do my best to meet the requirements, but admittedly, I will be the first to say our best may still fall short.

The Superintendent can and will likely make an argument about the need for as much as a \$1.4 million increase in funding for the schools. We both agree that amount would be crippling for town, especially as we try to make more capital investments in the school district. He has committed to go back and work with his staff and faculty to find ways to reduce the amount to something more sustainable and would not cause significant harm to other core services. I appreciate his willingness to scale that wall.

Although the most recent Consumer Price Index would suggest there is no inflation, central cost for government are on the rise. The effects of a new minimum wage, more required training/certifications, rising health insurance costs and the low unemployment rate are all making it more difficult to attract, compensate and retain qualified staff at

all levels, thereby increasing the cost of delivering services or alternatively cutting services.

The municipal budget has historically been about 85% costs related to personnel in South Hadley and nearly every other community. That does not change in good times or bad. I believe we need to continue to encourage more employees to seek tech and efficiency solutions to weather the storm. I understand the "do more with less" is a tired phrase, but still applicable to our strategy and needs.

It goes without saying that having an understanding citizenry is critical to making it all work, along with elected leaders who are committed. Luckily South Hadley has both components. Thank you to the Selectboard and Town Meeting for providing excellent leadership and a positive outlook for the town.

OSHA 7500: As I previously mentioned we were well represented at the recent training on Tuesday, Dec. 4 in East Longmeadow. As my last report was written in anticipation of the meeting, we now can say we were there ... all day. Jennifer Wolowicz, Jim Reidy, DPW Assistant Superintendent Viv Price and Parks Superintendent Bill Simard attended the full eight-hour course and have successfully become OSHA 7500 certified.

The course was a real eye-opener. It was easy to recognize defects and deficiencies in both process and physical plant throughout the municipal workplace. Just the requirements for using ground fault indicators on nearly every electrical power device to meet OSHA is daunting.

The issues of heavy equipment operations, trench safety, harnesses, what qualifies by OSHA standards for reflective clothing, where we must use eyewear protection, the requirements for reading and understanding those manuals which we get with every piece of equipment (I am guessing one manual may have been partially read), and a volumes of other actions we need to consider to protect our most valuable investment - our employees. This is a costly change in operations, but it is one we need to start the planning process and in some situation taking immediate action to employ.

South Hadley will be hosting a "hot works" training for 100 or more people from communities all over Massachusetts with MIIA in March, hopefully at MHC. "Hot works" is soldering, welding, saw cutting or any other procedure which requires or creates a spark during the process. These processes cause injuries and deaths across the and Massachusetts each year.

Representative Scibak Reception: Thank you to KYT for hosting and coordinating a nice evening for the retiring state representative. It was well attended. Selectboard Member Sarah Etelman did an excellent job at bringing the greetings of the board. John (Scibak) made some sincere and emotional remarks about his time representing the

district and how important the Town of South Hadley's support was for him during his term.

Representative-elect Dan Carey was in attendance and stayed, engaging all who approached him in conversation. I am confident he is aware of the shoes he will need to fill and I am equally confident he will succeed in doing so.

I was very impressed with the culinary program students from South Hadley High School at the event. They were extremely professional and worked tirelessly throughout the event. Thank you Linda Young and the other KYT members.

Best of Luck John Scibak!

The Holiday Stroll was at nearly the same time as the reception. I did make my way up the town common briefly and was delighted to see the South Hadley/Granby Chamber of Commerce receiving so much community support. I appreciate they included the Town of South Hadley in their expression of gratitude for supporters. Their appreciation is appreciated.

The line to see Santa was well formed with at least fifty parents and children in line to put a final "nice" word in with the jolly old soul. Chief Parentela was there lending a hand as always, and I heard the incoming chief was in attendance with her children, as well.

The cost of providing police for the event was more than \$700. I did send an invoice to the Chamber with a note acknowledging that the SB was supportive of the event, and would continue the practice of waiving the cost for this year. However, as we know, that may not be possible in the future if the budget continues to tighten.

Just a reminder, town hall will be closed Dec. 24, 25, 31 and Jan. 1. I would encourage citizens to use our online services or plan their visit accordingly. Offices are, in most cases, fully operational between 9 and 4 most other weekdays. And, as always, it never hurts to email or call ahead.

I wish everyone a prosperous New Year!

Respectfully submitted,

Michael J Sullivan
Town Administrator, South Hadley